

**ROGACIANO L. OROPEZA AND AMELDA S. OROPEZA, PETITIONERS,
VS. ALLIED BANKING CORPORATION (NOW PHILIPPINE NATIONAL
BANK) AND REGISTER OF DEEDS FOR CITY OF DAVAO,
RESPONDENTS.**

G.R. No. 222078. April 01, 2019

Ponente: PERALTA, J.

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PERALTA, J.:

This is to resolve the Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court, dated December 21, 2015, of petitioners Rogaciano L. Oropeza and Amelda S. Oropeza that seeks to reverse and set aside the Decision[2] dated August 27, 2014 and the Resolution[3] dated November 25, 2015 of the Court of Appeals (CA) in CA-G.R. CV No. 02451-MIN denying petitioners' "Petition for Cancellation of Derivative Titles and Their Reversion/Reinstatement to the Original Registered Owner/s and the Cancellation of Annotations on the Title of their Original Owners and/or Issuance of New Title In Lieu of Cancelled Ones, Clean and Clear of Subject Annotations" on the basis of laches.

The facts follow.

Petitioners, on November 30, 2006, filed a "Petition for Cancellation of Derivative Titles and Their Reversion/Reinstatement to the Original Registered Owner/s and the Cancellation of Annotations on the Title of their Original Owners and/or Issuance of New Title In Lieu of Cancelled Ones, Clean and Clear of Subject Annotations" against respondents Allied Banking Corporation (now Philippine National Bank) and Register of Deeds for City of Davao, with the following allegations:

2.0 That PETITIONERS were two of the defendants in Civil Case No. 19,634-89 entitled ALLIED BANKING CORPORATION vs. ROGACIANO OROPEZA, et al[.], which pended and was tried before the Regional Trial Court, Branch 9, Davao City;

3.0 That on October 26, 1992[,] the Honorable Regional Trial Court, Branch 09, Davao City rendered a Decision, in the above- mentioned case in favor of herein PETITIONERS and against the RESPONDENT x x x;

3.01 That RESPONDENT BANK appealed the abovementioned Decision to the Court of Appeals which rendered its Decision on May 2, 2000, dismissing the appeal and affirming the said judgment in toto x x x;

3.02 The RESPONDENT BANK moved for the reconsideration of the above-mentioned Decision of the Court of Appeals, which DENIED said motion for reconsideration in its Resolution dated February 16, 2001 x x x;

3.03 That per ENTRY OF JUDGMENT issued by the Division Clerk of Court of the Court of Appeals, the said Decision on May 2, 2000, "has on March 18, 2001 become final and executory and is hereby recorded in the Book of Entries of Judgments."

4.0 But, a twin or companion Complaint/case for Sum of Money was also filed by RESPONDENT BANK (which

under the present rules would have been a violation of the Non-forum Shopping Rule), which was docketed as Civil Case No. 19,325-88 before the Regional Trial Court, Branch 15, Davao City.

4.01 This second case was based on the same Promissory Note, dated October 12, 1982, which was declared VOID and of NO FORCE AND EFFECT by the Regional Trial Court, Branch 9, Davao City, in Civil Case No. 19,634-89. It is worthy to note that this second case was not denominated as a case for deficiency judgment. It was simply a complaint for a "Sum of Money."

4.02 This second case was ultimately rightly and judiciously DISMISSED by the said Regional Trial Court, Branch 15, on February 21, 1994 x x x;

4.03 On appeal by RESPONDENT BANK to the Court of Appeals, however, said decision was reversed by the First Division, Court of Appeals in CA-G.R. CV No. 4775, on March 13, 1997. PETITIONERS moved for the reconsideration of the said decision of the Court of Appeals. Said PETITIONERS' motion for reconsideration, however, was DENIED.

4.04 But on a petition for review on appeal by certiorari to the Supreme Court, PETITIONERS' petition was granted on December 3, 2002 by the Second Division, Supreme Court in G.R. No. 129788, setting aside the said Decision and Order of the Court of Appeals x x x;

4.05 That per ENTRY OF JUDGMENT in G.R. No. 129788 issued by the Clerk of Court, Second Division, Supreme Court, that the above decision has on January 24, 2003 become final and executory as is hereby recorded in the Book of Entries of Judgments.

5.0 That by virtue of the Judgment of the Regional Trial Court of Davao City, Branch 9, in Civil Case No. 19634-89 (which was AFFIRMED AND REITERATED by the Court of Appeals and cited/adjudged as "conclusive upon the parties" by the Supreme Court in G.R. No. 129788) that -

(2) Individual defendants' accounts have been satisfied, paid and set-off by their deposit and receivables from General Banking Corporation evidenced by Exhibits "46", "46-A" and "46-B";

(3) The promissory note dated October 12, 1982 executed by the defendants spouses is declared void and of no force and effect;

the annotations of the necessary contract of mortgage securing then the accounts with General Bank and Trust Corporation and, as importantly, the alleged principal obligation under the Promissory Note of October 12, 1982, on the back of or on the Memorandum of Encumbrances on the thirty-seven (37) Transfer Certificates of Title, hereinafter enumerated, registered in the name of [PETITIONERS], should be NULLIFIED and CANCELLED.

6.0 But, apparently, the RESPONDENT BANK had surreptitiously caused the foreclosure of the said mortgages and, eventually, succeeded in transferring and registering the foreclosed properties in its name, in the meantime. Because of this fact, PETITIONERS cannot simply and directly request of the RESPONDENT REGISTER OF DEEDS to cancel the entries in relation to the accounts with General Banking Corporation and, as importantly, the alleged principal obligation under the Promissory Note of October 12, 1982 and the alleged mortgage/s that secured it, on the back of or on the Memorandum of Encumbrances on the thirty-seven (37) Transfer Certificates of Title, hereinafter enumerated, registered in the name of PETITIONERS;

7.0 That because of the adjudged nullity of the Promissory Note, dated October 12, 1982, and necessarily the nullity, too, of the accessory contract/s of mortgage, there was no existing obligation to pay, neither mortgage to breach, nor mortgaged property to foreclose. Any foreclosure of the said void and inexistent mortgages as well as the proceedings conducted thereon were, and still are, completely without legal basis, unauthorized, illegal and also void. The extrajudicial foreclosure, therefore, of the properties subject hereof, as hereinunder enumerated, as

well as all the proceedings taken thereon, should be DECLARED illegal and void ab initio. As a necessary consequence, the transfer certificates of title over said real properties now in the name of RESPONDENT BANK should be CANCELLED and REVERTED to their respective original registered owner/s or that PETITIONERS should be REINSTATED therein, as the original owner/s.

[8.0] To accomplish the above-stated REVERSION and REINSTATEMENT, it is most respectfully moved and prayed of this Honorable Court to ORDER the RESPONDENT BANK to immediately SURRENDER and DELIVER all the above-mentioned thirty-seven (37) derivative Transfer Certificates of Title to this Honorable Court or to the REGISTER OF DEEDS FOR THE CITY OF DAVAO;

[8.01] And thereafter for this Honorable Court to further issue an ORDER to the RESPONDENT REGISTER OF DEEDS to CANCEL, VOID, and NULLIFY said derivative transfer certificates of title in the name of RESPONDENT BANK and/or such other derivative title/s and to RESTORE and REINSTATE "[ROGACIANO] L. OROPEZA, of legal age, single, and a resident of Davao City" and "[ROGACIANO] L. OROPEZA, of legal age, married to AMELDA S. OROPEZA, and residing at Davao City, Philippines", as the case may be, as registered owners thereof, and/or to ISSUE the corresponding new Transfer Certificate of Title in their names, as above-specified;

[8.02] To, furthermore, ORDER the RESPONDENT REGISTER OF DEEDS to CANCEL the x x x the entries annotated at the back of or on the Memorandum of Encumbrances portion of the aforementioned thirty-seven (37) Transfer Certificates of Title x x x;

[9.0] That very clearly, the foregoing circumstances had been brought about due to the fault, improvidence, gross negligence, evident bad faith, and fraudulent acts of the RESPONDENT BANK;

[10.0] That in view of the foregoing precipitate, malicious, fraudulent and iniquitous acts of RESPONDENT BANK, the PETITIONERS have been compelled to engage the services of counsel at an agreed fee of Two Hundred Thousand (P200,000.00) Pesos on top of the Two Thousand Five Hundred (P2,500.00) Pesos appearance fee per scheduled incident in court, and have otherwise been placed into unnecessary expenses of litigation, which stand at One Hundred Thousand (P100,000.00) Pesos, as of the filing hereof.[4]

In its Answer, respondent bank claimed that petitioners have no cause of action as they are precluded from asserting the claims subject of the complaint on the ground of forum shopping. It also argued that the circumstances obtaining in the case show that petitioners have already sought the judicial remedies of declaration of illegality of foreclosure and recovery of ten foreclosed properties. It further asserted that the Decision[5] dated October 26, 1992 of the Regional Trial Court (RTC), 11[th] Judicial Region, Branch 9, Davao City, did not provide any declaration of illegality of foreclosure, neither did it provide for the return of the ten parcels of land; and that petitioners did not appeal nor seek reconsideration of the said decision. Lastly, respondent bank alleged that the extrajudicial foreclosure sale of the subject properties transpired twenty years ago; thus, petitioners are already barred by laches for their failure to promptly assail the said sale. Respondent bank, by way of counterclaim, prayed for the award of moral damages, exemplary damages and attorney's fees.

On June 4, 2010, the RTC, 11[th] Judicial Region, Branch 16, Davao City, dismissed petitioners' complaint and compulsory counterclaim, thus:

PREMISES TAKEN, judgment is hereby rendered DISMISSING:

1. The COMPLAINT; and
2. The COMPULSORY COUNTERCLAIM.

SO ORDERED.[6]

In dismissing the complaint and counterclaim, the RTC cited the following reasons:

THE EXTRAJUDICIAL FORECLOSURE IS VALID AND CAN NO LONGER BE ANNULLED FOR THE FOLLOWING REASONS:

1. Plaintiff already admitted that he had several obligations with the Bank, and that some of these obligations were not paid by him. As a result, foreclosure proceedings [were] initiated. The declaration of nullity of one of the promissory notes dated October 12, 1982 does not necessarily render the other obligations as null and void in the light of the Continuing Guaranty/Comprehensive Surety and the Subsequent Real Estate Mortgage executed by plaintiff in favor of the defendant.

2. The Court notes that plaintiff has already raised in his counterclaim before [the] RTC[,] Branch 9 the issue of declaration of nullity of foreclosure proceedings. However, said court neither granted nor denied categorically the counterclaim leading this Court to believe that it has the effect of dismissing the same. Let it be noted further that plaintiff never raised nor called the attention of [the] RTC[,] Branch 9 regarding his counterclaim neither did he elevate the matter to the higher Court. This constitutes a waiver on his part with respect [to] the issue of illegality of the foreclosure proceedings. To stress, at the time the 1989 case was filed, the properties involved in the instant case were already foreclosed and sold at public auction.

3. From:

a. August 22, 1984 date of the extrajudicial foreclosure sale to the filing of the instant suit on November 30, 2006, TWENTY-TWO (22) LONG YEARS had already elapsed;

b. September 12, 1986 date of issuance of new certificate of titles in defendant's name to the filing of the instant suit on November 30, 2006, TWENTY (20) LONG YEARS had also already elapsed; and finally;

c. October 26, 1992 date of the Decision of RTC[,] Branch 9 to the filing of [the] instant suit on November 30, 2006, FOURTEEN YEARS or a considerable length of time had already elapsed.

THUS, plaintiff in the Court's mind is guilty of laches defined as -

"Laches - the failure or neglect for an unreasonable and unexplained length of time, to do that which by exercising due diligence could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it." (Republic of the Philippines v. CA, 301 SCRA 366).

Turning now on defendant's compulsory counterclaim, in the absence of malice or bad faith in the filing of the complaint, said counterclaim cannot be given due course.[7]

Petitioners elevated the case to the CA and, on August 27, 2014, it denied petitioners' appeal, thus:

WHEREFORE, premises considered, the instant appeal is DENIED. The Decision dated June 4, 2010 of the Regional Trial Court, 11th Judicial Region, Branch 16, Davao City, in Civil Case No. 31,700-07, is AFFIRMED.

SO ORDERED.[8]

According to the CA, the right of the petitioners is already a stale demand and, thus, is barred by laches. Petitioners' motion for reconsideration was eventually denied on November 25, 2015.[9]

Hence, the present petition.

Petitioners raise the following issues:

- WHETHER OR NOT [THE] COURT OF APPEALS ERRED IN APPLYING THE PRINCIPLE OF LACHES DESPITE THAT THE DECISION IN CIVIL CASE NO. 19634-89 WHICH DECLARED THE

NULLITY OF THE PROMISSORY NOTE (THE FOUNDATION OF THE REAL ESTATE MORTGAGE OF THE SUBJECT PROPERTIES) BECAME FINAL AND EXECUTORY ONLY ON 18 MARCH 2001 AS ACKNOWLEDGED BY THE SUPREME COURT IN THE OROPEZA CASE AND THE ACTION FOR THE NULLITY OF THE FORECLOSURE WAS FILED [IN] 2006.

- WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT FAILED TO HOLD THE NULLITY OF THE EXTRAJUDICIAL FORECLOSURE AND ORDER THE RECONVEYANCE OF SUCH PROPERTIES IN PETITIONERS' FAVOR CONSIDERING THE FINALITY OF THE DECISION IN CIVIL CASE NO. 19634-89 ADJUDGING THAT THE PROMISSORY NOTE (THE FOUNDATION OF THE REAL ESTATE MORTGAGE OF THE SUBJECT PROPERTIES) AS NULL AND VOID WHICH WAS ACKNOWLEDGED BY THE SUPREME COURT IN THE OROPEZA CASE[.][10]

According to petitioners, the principle of laches does not apply in this case because there was no delay for an unreasonable length of time and that it cannot be said that respondent bank did not anticipate that its possession of the subject properties will be assailed. Petitioners also point out that respondent bank unjustly enriched itself and the same bank did not acquire any prejudice or injury. Thus, with no laches having been attached, petitioners argue that the extrajudicial foreclosure of the subject properties must be nullified and, consequently, the same properties must be reconveyed in their favor because the real estate mortgage purportedly executed by them is void for lack of principal obligation.

The petition lacks merit.

Laches has been defined as the failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier.[11] It should be stressed that laches is not concerned only with the mere lapse of time.[12]

The Court ruled in *Heirs of Anacleto B. Nieto v. Municipality of Meycauayan, Bulacan*[13] that:

[L]aches is not concerned only with the mere lapse of time. The following elements must be present in order to constitute laches:

- (1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which complaint is made for which the complaint seeks a remedy;
- (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice, of the defendant's conduct and having been afforded an opportunity to institute a suit;
- (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and
- (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred.[14] (Citations omitted.)

This Court agrees with the CA and the RTC that the elements of laches are present in this case. Certificates of title on the subject properties have already been issued in the name of respondent bank after a valid extrajudicial foreclosure on August 22, 1984 and after the period to redeem the same properties had already elapsed. It was only after the lapse of twenty-two years from the date of the extrajudicial foreclosure that petitioners sought to annul the sale. The respondent bank, apparently, did not anticipate that petitioners would assail the former's possession of the subject properties as it continued to pay taxes due thereon. And clearly, respondent bank would be prejudiced if the present action is not barred by laches as it will incur a loss in its assets.

As aptly held by the CA:

First, the subject properties had been extra-judicially foreclosed on August 22, 1984. After the expiration of the period to redeem, respondent bank consolidated the ownership of the subject properties in its name; and, consequently, certificates of title were issued in its name. From then on up to the present, respondent bank is in possession of the subject properties as registered owners thereof.

Second, it was only after twenty-two years from the date of the extrajudicial foreclosure sale that appellants filed the instant action to annul the said sale. Owing to their long inaction, the instant action is already barred by laches. Laches is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to it has either abandoned or declined to assert it.

Third, the records bear out that respondent bank did not anticipate that its possession of the subject properties will be later on assailed by the appellants. In fact, it dutifully paid the taxes due thereon and included the same as part of its acquired assets.

Fourth, the facts clearly show that respondent bank would be gravely prejudiced if the present action is not barred by laches considering that it would result in loss of profit opportunity for respondent bank.

Verily, the application of laches is addressed to the sound discretion of the court as its application is controlled by equitable considerations. In fine, the Court finds that the right of the appellants is already a stale demand and, thus, is barred by laches. Accordingly, the Court finds no reason to reverse the findings of the court a quo.[15] (Citations omitted.)

As a general rule, an action to recover registered land may not be barred by laches; however, this Court, in certain cases, allowed laches as a bar to recover a registered property under the Torrens system. Thus, this Court ruled in *Akang v. Municipality of Isulan, Sultan Kudarat Province*:^[16]

As a general rule, an action to recover registered land covered by the Torrens System may not be barred by laches. Neither can laches be set up to resist the enforcement of an imprescriptible legal right. In exceptional cases, however, the Court allowed laches as a bar to recover a titled property. Thus, in *Romero v. Natividad*, the Court ruled that laches will bar recovery of the property even if the mode of transfer was invalid. Likewise, in *Vda. de Cabrera v. CA*, the Court ruled:

In our jurisdiction, it is an enshrined rule that even x x x registered owners of property may be barred from recovering possession of property by virtue of laches. Under the Land Registration Act (now the Property Registration Decree), no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession. The same is not true with regard to laches.^[17] (Citations omitted.)

To reiterate, the RTC has ruled that the extrajudicial foreclosure on the subject properties was valid as it was brought about by petitioners' inability to pay their obligations with the respondent bank. The RTC rightly held that:

Plaintiff [Rogaciano] Oropeza x x x [has] several obligations with the defendant Allied Bank (Exhibit 117, TSN in Civil Case No. 19,634-89, p. 227); [t]o secure the obligation, plaintiffs executed in favor of the defendant:

(a)

Continuing Guaranty/Comprehensive Surety acknowledged before a Notary Public on October 3, 1980; and

(b)

a Real Estate Mortgage dated October 8, 1982 covering the following [TCTs]:

x x x x

Plaintiff admitted in Civil Case No. 19,634-89[,] p. 227 of the TSN dated June 28, 1991 (Exh. 117) that he was

not able to pay his obligations with the bank, as a result foreclosure proceedings were initiated against him; on August 22, 1984 the extrajudicial foreclosure sale was conducted by the Sheriff and for failure to redeem the properties sold at public auction, the sheriff issued the Final Certificate of Sale on February 20, 1986 (Exhs. "37" to "73"); [b]y virtue of the final certificate of sale, new certificate of titles were issued on September 12, 1986 in the bank's name (Exhs. "78" to "114").

The bid price for the properties foreclosed was insufficient to cover plaintiffs total obligation, hence[,] defendant filed sometime in 1989 a Civil Case No. 19,634-89 before RTC Branch 9; in the Answer of plaintiff for said case, he by way of Counterclaim prayed "to declare the foreclosure illegal" (Exh[.] "115-A") and for the "return x x x of TCT Nos. 34061, 34059, 34058, 34055, 34054, 34053, 27933, 25612, 25661 and 23977" (Exh. 115-B); [o]n October 26, 1992, the RTC Branch 9 rendered its decision, the dispositive portion of which was earlier quoted (Exh. "A", "A-1"); because of the declaration of nullity of the promissory note, plaintiff on November 30, 2006 filed the instant suit.

THE EXTRAJUDICIAL FORECLOSURE IS VALID AND CAN NO LONGER BE ANNULLED FOR THE FOLLOWING REASONS:

1. Plaintiff already admitted that he had several obligations with the Bank and that some of these obligations were not paid by him. As a result, foreclosure proceedings [were] initiated. The declaration of nullity of one of the promissory notes dated October 12, 1982 does not necessarily render the other obligations as null and void in the light of the Continuing Guaranty/Comprehensive Surety and the Subsequent Real Estate Mortgage executed by plaintiff in favor of the defendant;

2. The Court notes that plaintiff has already raised in his counterclaim before [the] RTC[,] Branch 9 the issue of declaration of nullity of foreclosure proceedings. However, said court neither granted nor denied categorically the counterclaim leading this Court to believe that it has the effect of dismissing the same. Let it be noted further that plaintiff never raised nor called the attention of [the] RTC[,] Branch 9 regarding his counterclaim neither did he elevate the matter to the higher Court. This constitutes a waiver on his part with respect [to] the issue of illegality of the foreclosure proceedings. To stress, at the time the 1989 case was filed, the properties involved in the instant case were already foreclosed and sold at public auction.[18]

As such, due to the above disquisitions, this Court finds it just to rule that the rule on laches applies in this case. There is no absolute rule as to what constitutes laches or staleness of demand; each case is to be determined according to its particular circumstances,[19] and after due consideration, this Court finds it just to rule that petitioners' present action is already barred by laches. The essence of laches or "stale demands" is the failure or neglect for an unreasonable and unexplained length of time to do that which, by exercising due diligence, could or should have been done earlier, thus, giving rise to a presumption that the party entitled to assert it either has abandoned or declined to assert it.[20] It is not concerned with mere lapse of time; the fact of delay, standing alone, being insufficient to constitute laches.[21]

WHEREFORE, the Petition for Review on Certiorari under Rule 45 of the Rules of Court, dated December 21, 2015, of petitioners Rogaciano L. Oropeza and Amelda S. Oropeza is DENIED. Consequently, the Decision dated August 27, 2014 and the Resolution dated November 25, 2015 of the Court of Appeals in CA-G.R. CV No. 02451-MIN are AFFIRMED.

SO ORDERED.

Leonen, A. Reyes, Jr., Hernando, and Carandang,[*] JJ., concur.

[*] Designated as additional member per Special Order No. 2624 dated November 28, 2018.

- [1] Rollo, pp. 7-32.
- [2] Id. at 35-44; penned by Associate Justice Oscar V. Badelles, and concurred in by Associate Justices Romulo V. Borja and Edward B. Contreras.
- [3] Id. at 61-62.
- [4] Id. at 36-39.
- [5] Id. at 63-86; penned by Judge Leonor T. Sumcad.
- [6] Id. at 344; penned by Presiding Judge Emmanuel C. Carpio.
- [7] Id. at 343-344.
- [8] Id. at 44.
- [9] Id. at 61-62.
- [10] Id. at 13-14.
- [11] *Akang v. Municipality of Isulan, Sultan Kudarat Province*, 712 Phil. 420, 439 (2013), citing *Jandoc-Gatdula v. Dimalanta*, 528 Phil. 854 (2006); and *Isabela Colleges, Inc. v. The Heirs of Tolentino-Rivera*, 397 Phil. 955, 969 (2000).
- [12] *Pineda v. Heirs of Eliseo Guevara*, 544 Phil. 554, 562 (2007).
- [13] 564 Phil. 674 (2007).
- [14] Id. at 681.
- [15] Rollo, p. 43.
- [16] *Supra* note 11.
- [17] Id. at 439.
- [18] Rollo, pp. 342-343.
- [19] *Sps. Santiago v. CA*, 343 Phil. 612, 627 (1997).
- [20] *Insurance of the Philippine Island Corp. v. Sps. Gregorio*, 658 Phil. 36, 41 (2011), citing *Heirs of Emilio Santioque v. Heirs of Emilio Calma*, 536 Phil. 524, 545-546 (2006).
- [21] Id., citing *GF Equity, Inc. v. Valenzona*, 501 Phil. 153, 166 (2005).

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