

DEPARTMENT OF EDUCATION, CULTURE AND SPORTS, (NOW DEPARTMENT OF EDUCATION), REPRESENTED BY ITS REGIONAL DIRECTOR, TERESITA DOMALANTA, PETITIONER, VS. HEIRS OF REGINO BANGUILAN, ...

G.R. No. 230399. June 20, 2018

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REYES, JR., J:

Nature of the Petition

Before the Court is a Petition for Review on Certiorari[1] filed by the Department of Education, Culture and Sports, now Department of Education (DepEd) through its Regional Director Teresita Domalanta, assailing the Decision[2] dated February 24, 2017 of the Court of Appeals (CA) in CA-G.R. CV No. 100288. The assailed Decision granted the appeal of the heirs of Regino Banguilan (Regino), namely, Benigna Gumabay, Filomena Banguilan, Ester Kummer, Aida Banguilan, and Elisa Mallillin and declared them as the lawful possessors of the contested property.

The Antecedent Facts

On October 24, 2001, the heirs of Regino Banguilan (respondents) instituted a Complaint[3] for recovery of possession against the Department of Education (petitioner) with the Regional Trial Court (RTC) of Tuguegarao City, Cagayan. Respondents claim that as the heirs of Regino, the original registered owner, and by virtue of the Extra-Judicial Settlement and Partition executed by and among themselves upon the latter's death, they are the absolute owners of the subject parcel of land situated in Caritan Norte, Tuguegarao City covered by Original Certificate of Title (OCT) No. 10728.[4] They alleged that sometime before the Second World War, the petitioner, through the officials of Caritan Norte Elementary School (CNES), sought permission from Regino to build temporary structures in the contested land to be used as classrooms for students. Since Regino did not have any immediate need of the land, he consented to the construction of said temporary structures and allowed the conduct of classes in the premises.[5]

Over time, the temporary structures were gradually improved to concrete ones until the permanent building of CNES was established. After Regino's death in 1961, respondents alleged that their predecessors-in-interest demanded from the school officials that they be paid reasonable rent for the use of their property and for the petitioner to purchase the same if it so desired. Respondents claim that the officials of CNES assured them that they would pay reasonable rent for occupying the subject lot and that they would eventually purchase it. However, no purchase or payments were ever made. Respondents now claim that the petitioner's non-adherence to the agreement prejudiced them because they were deprived of the use and enjoyment of the subject property since 1950.[6]

Accordingly, the respondents prayed for the following: (1) to declare the school's possession of the property illegal or unlawful; (2) to order DepEd, its assigns and those acting in its behalf, to vacate the property presently occupied by CNES and to surrender peaceful possession thereof to the respondents; (3) to demand from DepEd

for payment of reasonable rent for the use of the property at a rate of P500.00 per month since 1950, litigation expense of P30,000.00 and P50,000.00 as attorney's fees.[7]

In its Answer,[8] the petitioner admitted that sometime before the war, it had established CNES on land located in Caritan Norte, Tuguegarao City and constructed school buildings on the said school site. However, it denied respondents' claim of ownership and demands for payment of reasonable rent since the school's occupation and possession over the property was in the concept of an owner for more than fifty (50) years until 2001.[9]

Furthermore, the petitioner contended that respondents' complaint did not state a cause of action since there was no proof that the lot being claimed by the latter formed part of the school site of CNES. Even assuming but without admitting that there was a cause of action, the petitioner argues that the same had already been barred by prescription and/or laches because they had been occupying and using the subject lot adversely, peacefully, continuously, and in the concept of an owner for more than fifty (50) years without question.[10]

In a Decision[11] dated September 11, 2012, the trial court declared Regino as the undisputed owner of the contested property where CNES was built as evidenced by OCT No. 10728. However, despite recognition of ownership, the trial court was convinced that laches and prescription had already set in, barring respondents from assailing the petitioner's right over subject property. The fallo of the decision reads:

WHEREFORE, premises considered, the Court ORDERS the dismissal of the complaint for lack of merit without prejudice to their filing of an action for payment of just compensation against the Republic of the Philippines.

SO ORDERED.[12]

On appeal to the CA, respondents argued that the court a quo erred when it found that they were barred by laches from recovering possession of the subject property. They further contended that the petitioner's possession of the property was by mere tolerance; hence laches could not prevent them from asserting their right of possession over the subject property.[13]

In its Decision[14] dated February 24, 2017, the CA reversed and set aside the decision of the court a quo ruling that prescription and laches could not work in favor of petitioner since the subject lot was registered under the Torren's System and because their possession was merely by tolerance. In resolving the issue, the CA applied the principles laid down in the case of Department of Education vs. Tuliao,[15] that mere material possession of land cannot be considered as adverse unless such possession is accompanied with intent to possess as an owner.

In keeping with the ruling in Tuliao,[16] the CA further ruled that respondents may either appropriate the structures or oblige the defendant to pay for the price of the land or enter into a forced lease. Additionally, the CA awarded attorney's fees and ordered payment of an amount of P500.00 per month as reasonable compensation for the occupancy of the property from the time of the filing of the complaint until full delivery of the property with reimbursement of the incurred expenses as enumerated in Article 448 of the New Civil Code or upon payment of the purchase price in case of compulsory sale.[17] In view of the foregoing, it was held that:

WHEREFORE, the appeal is GRANTED. The decision issued by the Regional Trial Court of Tuguegarao City, Cagayan Br. 2 dated September 11, 2012 in Civil Case No. 5897 is REVERSED and SET ASIDE. A new decision is entered declaring as follows:

1. Plaintiffs-Appellants Benigna Gumabay, Filomena Banguilan, Ester Kummer, Aida Banguilan and Elisa Mallillin are the lawful possessors of the property registered under the Original Certificate Title No. R.O. 62 (10728);

2. Plaintiffs-Appellants are directed to exercise their option under Article 448 of the New Civil Code of the

Philippines whether to appropriate the structures built on the subject property as their own by paying to the defendant-appellee Department of Education, Culture and Sports (now the Department of Education) the amount of the expenses spent for the structures or to oblige the defendant-appellee to pay the price of the land, and said option must be exercised and relayed to this court formally within thirty (30) days from receipt of this decision and a copy of such notice must be furnished to the defendant.

a. If in case the plaintiffs-appellants exercise the option to appropriate the structures built on the lot in suit, the defendant-appellee is hereby directed to submit to this court the amount of the expenses spent for the structures within 15 days from receipt of the notice of the plaintiff of his desired option.

b. If the plaintiffs-appellants decide to oblige the defendant-appellee to pay the price of the land, the current market value of the land including its improvements as determined by the City Assessor's Office shall be the basis for the price thereof.

c. In case the plaintiffs-appellants exercise the option to oblige the defendant-appellee to pay the price of the land but the latter rejects such purchase because the value of the land is considerably more than that of the structures, the parties shall agree upon the terms of a forced lease, and give the court a formal written notice of such agreement and its provisos.

d. If no formal agreement shall be entered into within a reasonable period, the court shall fix the terms of the forced lease.

3. Defendant-appellee is directed to pay the plaintiffs-appellants the amount of five hundred pesos (P500.00) per month as reasonable compensation for the occupancy of the subject property from the time the complaint was filed until such time the possession of the property is delivered to the plaintiffs-appellants subject to the reimbursement of the aforesaid expenses in favor of the defendant-appellee or until such time the payment of the purchase price of the lot be made by the defendant appellee in favor of the plaintiffs-appellants in case the latter opts for the compulsory sale of the same;

4. Defendant-appellee is directed to pay the plaintiffs-appellants the amount of P20,000.00 as attorney's fees and to pay the costs of the suit.

SO ORDERED.[18]

Aggrieved, DepEd filed the instant Petition for Review on Certiorari under Rule 45 of the Rules of Court arguing that respondent's right over the subject property, if any, is barred by laches due to their inaction for more than fifty (50) years.

The Issue

The issue before this Court is whether or not the CA erred in ruling that respondent's cause of action against petitioner was not yet barred by laches.[19]

Ruling of the Court

The petition is bereft of merit.

The principle 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.[20] It is based on the grounds of public policy in order to maintain peace in the society and equity in order to avoid recognizing a right when to do so would result in a clearly unfair situation.[21]

Nevertheless, the Court has held that there is no fast and hard rule as to what constitutes laches or staleness of demand; the determination of which is addressed to the sound discretion of the court. To conclude a sound judgment, courts are guided that laches, being an equitable doctrine, is controlled by equitable considerations in

accordance with the particular circumstances of each case. It cannot be used to defeat justice or perpetrate fraud. Ultimately, pursuant to the principle of equity, courts are not bound strictly by the statute of limitations or the doctrine of laches when to be so, a manifest wrong or injustice would result.[22]

As prescribed in the ruling of *Phil-Air Conditioning Center vs. RCJ Lines*,[23] the following elements must all 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.[24]

In the instant case, a close scrutiny of the records reveals that petitioner failed to establish the concurrence of the above-mentioned elements for the reason that CNES' possession over the subject property was merely being tolerated by respondents and their predecessor-in-interest.

Petitioner contends that the government, through CNES, was in possession of the subject property in the concept of an owner since the 1940's.[25] However, as found by the court a quo and the CA, the subject property was registered in the name of Regino Banguilan under OCT. No. 10728 as early as 1929.[26] The court a quo explicitly stated, "In the case at bar, it was undisputed that the property registered under OCT. No. 10728 was owned by Regino Banguilan, which later redounded to his heirs." [27] Therefore, CNES knew from the very beginning that the property was titled in someone else's name and that their possession was not in the concept of an owner.

In the case of *Heirs of Jose Maligaso vs. Spouses Encinas*,[28] the Court explained that possession over the property by anyone other than the registered owner gives rise to the presumption that said possession is only by mere tolerance. Likewise, when faced with unsubstantiated self-serving claims as opposed to a duly registered Torrens title, the latter must prevail. The Court elucidated on this point, to wit:

The respondents' title over such area is evidence of their ownership thereof. That a certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein and that a person who has a Torrens title over a land is entitled to the possession thereof are fundamental principles observed in this jurisdiction. Alternatively put, the respondents' title and that of their predecessors-in-interest give rise to the reasonable presumption that the petitioners have no right over the subject area and that their stay therein was merely tolerated.[29] (Citations omitted and emphasis supplied)

Notably, petitioner failed to adduce any evidence to substantiate its claim that it acquired the subject property and possessed it in the concept of an owner. Moreover, petitioner was unable to support its claim that the subject land was sold to the municipality of Tuguegarao by Elena Banguilan, Regino's sister.[30] Clearly, petitioner was unable to overturn the presumption that its occupation over the lot was by mere tolerance of the respondents.

On the other hand, the respondents have proffered the following to prove their claim of ownership over the subject lot: (1) OCT No. 10728 registered under the name of Regino Banguilan;[31] (2) tax declarations covering the subject land in the name of Regino;[32] and (3) a sketch plan of Lot 3950 surveyed in the name of Aida Banguilan, one of the herein respondents.[33] Thus, as between the petitioner's unsubstantiated self-serving

claims and respondent's evidence, the latter must prevail. As such, the Court finds no reason to disturb the CA's factual finding that CNES' possession of the subject property was, and continues to be, by mere tolerance of the respondents.

Considering that CNES' possession was merely being tolerated, respondents cannot be said to have delayed in asserting their rights over the subject property. As explained in the recent case of *Department of Education vs. Casibang, et al.*,^[34] a registered owner who is merely tolerating another's possession of his land is not required to perform any act in order to recover it. This is because the occupation of the latter is only through the continuing permission of the former. Consequently, once said permission ceases, the party whose possession is merely being tolerated is bound to vacate the subject property. Hence, until the registered owner communicates the cessation of said permission, there is no need to do anything to recover the subject property. Similarly, as aptly pointed out by the court *a quo*, Regino and his successor-in-interests repeatedly asserted their rights over the subject property by demanding from CNES the payment of rentals or for the latter to purchase the same.^[35] However, once it became clear that petitioner was not going to pay rent, purchase the lot, or vacate the premises, respondents instituted an action for recovery of possession.^[36] There was no prolonged inaction on the part of the respondents which could bar them from prosecuting their claims.

Likewise, since CNES' occupation of Lot No. 3950 was merely being tolerated by Regino and his successors-in-interest, petitioner cannot now claim that they lacked any knowledge or notice that the former would assert their rights over said property. Even assuming *arguendo* that there was no agreement between CNES and Regino, the school is necessarily bound by an implied promise to vacate the subject property upon the registered owner's demand.^[37]

Notwithstanding the petitioner's failure to prove the concurrence of all the elements of laches, jurisprudence is also replete with cases which hold that the doctrine of prescription or laches is inapplicable to registered lands covered by the Torrens System.^[38] The Court has consistently held that laches cannot apply to registered land covered by a Torrens Title because under 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.^[39]

In *Casibang*,^[40] the Court ruled in favor of a registered owner and upheld the indefeasibility and incontrovertibility of a registered title as against the school's possession by mere tolerance. In said case, the registered owner therein allowed the construction and operation of a school on a portion of his property because he had no use of it at the time. However, when his successors-in-interest sought to recover possession of the lot, the DepEd refused alleging that its possession was in the concept of an owner because it had purchased it from the original registered owner. The Court ruled against the DepEd because it failed to produce any competent proof of transfer of ownership. Hence, their possession of the subject property was only by mere tolerance and not in the concept of an owner. The Court held:

It is undisputed that the subject property is covered by OCT No. O-627, registered in the name of the Juan Cepeda. A fundamental principle in land registration under the Torrens system is that a certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein. Thus, the certificate of title becomes the best proof of ownership of a parcel of land.

As registered owners of the lots in question, the respondents have a right to eject any person illegally occupying their property. This right is imprescriptible. Even if it be supposed that they were aware of the petitioner's occupation of the property, and regardless of the length of that possession, the lawful owners have a right to demand the return of their property at any time as long as the possession was unauthorized or merely tolerated, if at all. This right is never barred by laches.

Case law teaches that those who occupy the land of another at the latter's tolerance or permission, without any

contract between them, are necessarily bound by an implied promise that the occupants will vacate the property upon demand.[41] (Citations omitted and emphasis supplied)

On the same note, the Court concurs with the CA in its application of the case of Tuliao[42] to the herein controversy with regard to the issue of laches. In said case, the Court unequivocally stated that laches can only apply to one whose possession of the property was open, continuous, exclusive, adverse, notorious, and in the concept of an owner for a prolonged period of time. Additionally, physical possession must be coupled with intent to possess as an owner in order for it to be considered as adverse. The Court explained this, to wit:

As regards the DepEd's defense of laches, it has no merit either. It avers that its possession of the subject land was open, continuous, exclusive, adverse, notorious and in the concept of an owner for at least thirty-two (32) years already at the time Tuliao filed the complaint. It must be noted, however, that Tuliao's claim that the DepEd's possession of a portion of his land to be used as a passageway for the students was mere tolerance was not refuted. Thus, the same is deemed admitted. This means that the DepEd's possession was not truly adverse.

The Court once ruled that mere material possession of the land was not adverse as against the owner and was insufficient to vest title, unless such possession was accompanied by the intent to possess as an owner.[43] (Citation omitted and emphasis supplied)

As earlier discussed, petitioner, through CNES, was only occupying the subject lot through the permission and mere tolerance of Regino and eventually his successors-in-interest, herein respondents. Therefore, the petitioner's claim that their possession of the subject lot was adverse and in the concept of an owner, must fail.

Being the owners of the subject property, respondents have the right to recover possession from the petitioner because such right is imprescriptible. Even if the Department of Education has been occupying the subject property for a considerable length of time, respondents, as lawful owners, have the right to demand the return of their property at any time as long as the possession was only through mere tolerance.[44] The same precept holds true even if the tolerance resulted from a promise that the possessor will pay for the reasonable value of the land.[45]

As correctly ruled by the Court of Appeals, respondents may exercise their rights under Article 448,[46] in relation to Article 546[47] of the New Civil Code. Said provision provides them with the option of either: (1) appropriating the improvements, after payment of indemnity representing the value of the improvements introduced and the necessary and useful expenses defrayed on the subject lots; or (2) obliging the petitioner to pay the price of the land. However, petitioner cannot be obliged to buy the land if its value is considerably more than that of the improvements and buildings it built. In such a scenario, the petitioner may instead enter into a lease agreement with respondent heirs and pay them reasonable rent. In case of disagreement, the Court shall fix the terms thereof.

Nonetheless, considering that the subject lot is now being used as school premises by the Caritan Norte Elementary School and permanent structures have already been erected thereon, respondent's exercise of their rights under Article 448 and payment of indemnity pursuant to Article 546 would undoubtedly hinder the Department of Education's prerogative of providing basic education to said locality. In consonance with previous rulings by the Court,[48] the petitioner's remedy to address such inconvenience is to file an action for expropriation over said land.

WHEREFORE, given the foregoing disquisition, the Petition for Review on Certiorari, dated April 26, 2017 of the Department of Education, represented by its Regional Director, is hereby DENIED. Accordingly, the Decision dated February 24, 2017 of the Court of Appeals in CA-G.R. CV No. 100288, reversing and setting aside the Decision dated September 11, 2012 of the Regional Trial Court of Tuguegarao City, Cagayan, Branch 2 is hereby

AFFIRMED in toto.

SO ORDERED.

Carpio, Senior Associate Justice (Chairperson), Peralta, Perlas-Bernabe, and Caguioa, JJ., concur.

[1] Rollo, pp. 16-39.

[2] Penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Rosmari D. Carandang and Mario V. Lopez; id. at 42-54.

[3] Id. at 65-69

[4] Id. at 70-73.

[5] Id. at 66.

[6] Id.

[7] Id. at 67.

[8] Id. at 74-80.

[9] Id. at 74-76.

[10] Id. at 77.

[11] Id. at 96-103.

[12] Id. at 103.

[13] Id. at 45.

[14] Id. at 42-54.

[15] 735 Phil. 703, 712 (2014).

[16] Id. at 707.

[17] Rollo, pp. 50-51.

[18] Id. at 52-54.

[19] Id. at 25.

[20] See *Spouses Benatiro, et al. v. Heirs of Evaristo Cuyos*, 582 Phil. 470, 491 (2008).

[21] See *Aznar Brothers Realty Company v. Spouses Jose and Magdalena Ybañez*, 733 Phil. 1, 29 (2014); *Insurance of the Philippine Island Corp. v. Spouses Gregorio*, 658 Phil. 36, 42 (2011).

[22] Id. at 42.

[23] *Phil-Air Conditioning Center v. RCJ Lines*, 773 Phil. 352, 369 (2015).

[24] Id. at 369.

[25] Rollo, p. 102.

[26] Id. at 70-71.

[27] Id. at 101.

[28] 688 Phil. 516, 523 (2012).

[29] Id.

[30] Rollo, p. 100.

[31] Id. at 70.

[32] Id. at 97.

[33] Id. at 98.

[34] 779 Phil. 472, 486 (2016).

[35] Rollo, p. 109.

[36] Id.

[37] Supra note 34, at 486.

[38] See *de Leon v. de Leon-Reyes*, 791 SCRA 407, G.R. No. 205711, May 30, 2016; *Supapo, et al. v. Sps. De Jesus, et al.*, 758 Phil. 444, 461 (2015); *Jakosalem, et al. v. Barangan*, 682 Phil. 130, 142 (2012).

[39] See *Jakosalem, et al. v. Barangan*, 682 Phil. 130, 142 (2012).

[40] Supra note 34.

[41] Id. at 484-485.

[42] *Department of Education v. Tuliao*, supra note 15.

[43] Id. at

[44] *Spouses Ocampo v. Heirs of Bernardino U. Dionisio*, 744 Phil. 716, 729-730 (2014).

[45] *Malonesio v. Jizmundo*, G.R. No. 199239, August 24, 2016, 801 SCRA 339.

[46] Art. 448. The owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in articles 546 and 548, or to oblige the one who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees after proper indemnity. The parties shall agree upon the terms of the lease and in case of disagreement, the court shall fix the terms thereof.

[47] Art. 546. Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he has been reimbursed therefor.

Useful expenses shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof.

[48] *Department of Education v. Tuliao*, supra note 15, at 712.

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