

NICOLAS ARRADAZA, MARCELINO ARRADAZA, OPRECILO ARRADAZA, CATALINA ARRADAZA, MIGUELA ARRADAZA, LILIA ARRADAZA, MELCHOR ARRADAZA AND CERLITO ARRADAZA, PETITIONERS, VS. HONORABLE C...

G.R. No. 50422. February 08, 1989

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari seeking to reverse and set aside: (a) the decision of the Court of Appeals[*] promulgated on January 19, 1979 in CA-G.R. No. 57473-R affirming the decision of the then Court of First Instance of Leyte, Branch V, Ormoc City[**] in Civil Case No. 13970 dismissing plaintiffs' (herein petitioners') complaint and adjudicating the land in litigation in favor of defendant (herein private respondent), and (b) resolution of the Court of Appeals dated February 10, 1979 denying petitioners' motion for reconsideration.

As found by the Court of Appeals and the trial court, the facts of the case are as follows:

The petitioners are the legitimate children of spouses Ignacio Arradaza and Marcelina Quirino who died on August 31, 1974 and sometime in July 1944, respectively, with the exception of Lilia Arradaza and Carlito Mopon who are their grandchildren.

In 1941, Ignacio Arradaza and Marcelina Quirino purchased from spouses Gervacio Villas and Jovita Tabudlong a piece of land located in Ormoc, Leyte with an area of 52,956 square meters more or less, in the amount of P300.00. The deed of sale was lost during the war and all efforts to recover it proved futile. The Arradazas paid the taxes thereon pre-war, but in the cadastral hearings, the land was adjudicated to the vendor spouses for failure of the vendee spouses to claim it. Original Certificate of Title No. 35901 was therefore issued in the name of Gervacio Villas and Jovita Tabudlong but they recognized the vendee spouses as the real owners of the land.

In 1944 while Marcelina Quirino was still living, Ignacio Arradaza mortgaged the land for P250.00 to Estelita Magalona for a period of five (5) years. On October 21, 1947, after the death of Marcelina Quirino, Ignacio Arradaza sold the same land to mortgagee Estelita Magalona Bangloy who was then married. Consequently she took over possession of the land, declared it for taxation purposes and paid taxes thereon.

On February 13, 1963 while the land was still in the name of spouses Villas, private respondent Larrazabal purchased the property from Estelita Magalona Bangloy in the amount of P800.00. This was evidenced by a "Deed of Sale of a Parcel of Land" dated February 13, 1963 executed by Bangloy in favor of Larrazabal and Bangloy, together with a "Deed of Sale" dated October 21, 1947 executed by Arradaza in favor of Bangloy, as well as the "Deed of Quitclaim" executed by the registered owners spouses Villas on March 8, 1963 whereby the spouses renounced their rights, participation, title and ownership in favor of Ignacio Arradaza, which quitclaim was further affirmed by Villas in an affidavit on November 27, 1974, that he sold the land to him for P300.00.

These documents were registered on April 18, 1963 in the Office of the Register of Deeds. As a consequence, Original Certificate of Title No. 35901 was cancelled and Transfer Certificate of Title No. 4581 was issued in the name of private respondent Melchor Larrazabal and the land was declared for taxation purposes.

On January 18, 1975, appellants filed an action against private respondent before the then Court of First Instance of Leyte to recover their pro-indiviso one-half (1/2) share of the land as heirs of Ignacio Arradaza and Marcelina Quirino, and to exercise the right of legal redemption over one-half (1/2) of the property sold by their deceased father while he was already a widower on October 21, 1947.

On March 14, 1975, the Court rendered a Summary Judgment (Record on Appeal, pp. 51-109, Rollo, p. 29) in favor of the defendant (herein private respondent) and against plaintiffs (herein petitioners) adjudicating the land in litigation in favor of the defendant.

The decision was appealed to the Court of Appeals which on January 19, 1979 rendered a decision (Rollo, pp. 19-22) affirming with costs against the petitioners the judgment appealed from. The petitioners' motion for reconsideration was likewise denied.

Hence, this instant petition (Rollo, pp. 7-18) filed on May 21, 1979.

The grounds relied upon for this petition are as follows:

I

THE COURT OF APPEALS ERRED IN NOT SUSTAINING THE CONTENTION OF THE PETITIONERS-APPELLANTS THAT THE DECISION OF THE TRIAL COURT WAS IRREGULAR, UNAUTHORIZED AND ILLEGAL, BECAUSE THERE WERE MATERIAL ISSUES OF FACT IN ISSUE BETWEEN THE PARTIES, HENCE A SUMMARY JUDGMENT WAS IMPROPER AND INAPPROPRIATE.

II

THE COURT OF APPEALS ERRED IN HOLDING THAT THE ACTION OF THE PETITIONER-APPELLANTS HAS PRESCRIBED AND IS BARRED BY THE STATUTE OF LIMITATIONS.

III

THE COURT OF APPEALS LIKEWISE ERRED IN ITS FINDING THAT RESPONDENT, MELCHOR LARRAZABAL, WAS A PURCHASER IN GOOD FAITH AND FOR VALUE.

IV

THE COURT OF APPEALS ALSO ERRED IN ITS HOLDING THAT THE PETITIONERS-APPELLANTS ARE GUILTY OF LACHES.

V

THE COURT OF APPEALS AGAIN ERRED WHEN IT DENIED THE RIGHT TO LEGAL REDEMPTION BY THE APPELLANTS AS WELL AS THEIR CLAIMS FOR DAMAGES AND ATTORNEY'S FEES.

VI

THE COURT OF APPEALS LASTLY ERRED WHEN IT DENIED THE PETITIONERS' MOTION FOR RECONSIDERATION WITHOUT A JUSTIFIED RATIONALIZATION. (Rollo, p. 53)

In the resolution of October 3, 1979, the petition was given due course (Rollo, p. 46).

The main issue in this case is whether or not the action of petitioners has prescribed and is barred by the statute of limitations.

This petition is devoid of merit.

Petitioners allege in their petition that they seek the recovery of one-half (1/2) of the land in dispute as their share for being the children of the late Ignacio Arradaza by his wife Marcelina Quirino. They reason out in their brief (Rollo, p. 53) that under the factual milieu of the case which involves registered land, title to which was issued on March 12, 1941, the sale made by Ignacio Arradaza on October 21, 1947 when he was already a widower and with no liquidation of the conjugal partnership ever made was invalid, null and void ab initio and inexistent insofar as it included the shares of the petitioners who are the children of Marcelina Quirino who died on July 19, 1944. He could not have legally and validly sold the whole of the land, for one-half thereof pro-indiviso had automatically passed by succession to the heirs of Marcelina Quirino. They concluded that the defect of inexistence of a contract, like that of the sale by Ignacio Arradaza who could not have transmitted any title of ownership over the other half belonging to his wife for it had already passed to her heirs who are the petitioners, is permanent and incurable. Hence, it could not be cured by ratification or prescription. Furthermore, petitioners contend that legal redemption lies in their favor over the other half as the sale to Estelita M. Bangloy in 1947 was never registered and no notice was served upon them by their father who requested petitioners who were then minors and scattered to allow him to possess and enjoy the conjugal property in a state of indivision. As petitioners thought that the property was only mortgaged and not sold until their father's death on July 31, 1974, laches finds no ready and strict application due to relationship. Moreover, petitioners charge respondent with bad faith as the latter bought the property from one who is not the registered owner, the seller being Estelita M. Bangloy and not spouses Gervacio Villas and Jovita Tabudlong in whose names the property was registered.

Private respondent on the other hand, maintains in his brief (Rollo, pp. 62-71) that prescription has set in because the predecessors-in-interest of petitioners were not registered owners protected by Act 496. He asserts that when the transaction that gave rise to the present action occurred on October 21, 1947 the Code of Civil Procedure was still in force. The prescriptive period was only ten (10) years irrespective of the good or bad faith of Estelita M. Bangloy who took possession of the land as of that date. She then completed the period of ten (10) years in 1957 and acquired absolute title by prescription pursuant to Article 1116 of the New Civil Code. Private respondent claims that he can avail himself of such prescription acquired by his predecessor. He charges petitioners with deep lethargy without bothering to inquire into the status of the land which was transferred to him as early as 1963 or twelve (12) years before the filing of the instant case or more than twenty seven (27) years after private respondent and his predecessor-in-interest Estelita M. Bangloy had possessed the land openly, publicly and peacefully. It was in fact the private respondent who caused the transfer of title from the Villas spouses to his name and that of his wife. Moreover, the alleged deed of sale in favor of petitioners predecessors-in-interest from the Villas spouses is not a shield against prescription since it was not registered and is not therefore protected by Act 496.

Private respondent's contention is well taken.

As correctly appreciated by the Court of Appeals, the defenses of prescription and laches lie. The pertinent portion of the decision reads:

"The deed of sale of Ignacio Arradaza in favor of Estelita H. Bangloy was executed on October 21, 1947 (Exhibit "D"). This transaction occurred before the effectivity of the New Civil Code. Under the law then in force, the prescriptive period is only ten (10) years, irrespective of the good or bad faith of the possessor. In as much as under the transitory provision of the New Civil Code, prescription already running before the effectivity thereof shall be governed by the laws previously in force, the prescriptive period in the present case was completed on October 21, 1957. Melchor Larrazabal having derived his title from Estelita M. Bangloy may avail himself of such defense. The alleged deed of sale in favor of plaintiffs' predecessors-in-interest is not a shield against prescription since the said document from the Villas spouses was not registered and is not therefore protected by Act. 496.

"In the case at bar, both the legal defense of prescription and the equitable defense of laches clearly lie against the plaintiffs' right, if any, to recover the ownership and possession of the land. They admit that the land was sold by Ignacio Arradaza to Estelita M. Bangloy on October 21, 1947. The time-honored rule anchored on public policy is that relief will be denied to a litigant whose claim or demand has become 'stale' or who has acquiesced for an unreasonable length of time, or who has not been vigilant or who has slept on his rights either by negligence, folly or inattention.

"It is strange why it took appellants twenty-seven (27) years (October 21, 1947-January 18, 1975) within which to definitely pursue a legal action to enforce their alleged claim. This delay and indifference, which have not been satisfactorily explained by them militate against the validity of the alleged right that they are seeking to enforce in the case at bar. The assertion of a doubtful claim after a long delay cannot be forwarded by the courts." (Decision, pp. 3-4; Rollo, pp. 21-22)

On the issue of prescription, this Court has invariably ruled in numerous decisions that an action for recovery of title, or possession of, real property or an interest therein can only be brought within ten (10) years after the cause of action accrues. (*Alcos et al. v. IAC et al.*, G.R. No. 79317, June 28, 1988; *Canete et al. v. Benedicto*, G.R. No. 55222, March 14, 1988). In the instant case, the cause of action for reconveyance must be deemed to have occurred on October 21, 1947 when the deed of sale in favor of Estelita M. Bangloy who immediately took possession of the land was executed.

In the same manner, petitioners' action is inevitably barred by the equitable principle of laches. Petitioners were aware that the land was in the actual possession of private respondent and his predecessor-in-interest (*Brief for Petitioners-Appellants*, p. 10; *Rollo*, p. 53), but did nothing to immediately claim it or verify the status of their possession.

As observed by this Court under similar circumstances, there is evidently a failure or neglect for an unreasonable and unexplained period of time to do what they claimed they were entitled to do, where petitioners failed to institute any action for reconveyance nor did they seek reconveyance until about twenty five (25) years from the execution of the Deed of Sale. Such negligence or failure warrants the assumption that the parties claiming to be entitled to assert it, either had abandoned it, or had decided that they were not entitled to assert it and thus, acquiesced in it (*Alcos v. IAC*, *supra*). More specifically, this Court finds it unbelievable that in the span of more than twenty-seven (27) years, the petitioners would not have taken any step to verify the status of the land of their father which had been in the possession of private respondents during all that time (*Pangadil v. CFI of Cotabato*, 116 SCRA 353 [1982]).

The principle of laches is a creation of equity. It is applied, not really to penalize neglect or sleeping upon one's right, but rather to avoid recognizing a right when to do so would result in a clearly inequitable situation (*Asuncion v. CA et al.*, 150 SCRA 353 [1987]).

Petitioners contend that the procedure of summary judgment is not warranted as the material averments of fact of the petitioners' complaint are traversed by private respondent's answer. They argue that the trial court, to do justice to them and to satisfy its conscience, should have received evidence in a full dressed trial.

The facts of this case are undisputed. Summary judgment procedure is a method for promptly disposing of action in which there is no genuine issues as to the existence of any material fact (*De Leon v. Faustino*, 110 Phil. 249 [1961]). The trial court may render summary judgment as justice may require, if at the pre-trial it finds that facts exist which would warrant such judgment (*Taleon v. Secretary of Public Works and Communications*, 20 SCRA 69 [1967]). The normal processes employed to support or deny the facts stated in the pleadings by the parties to an action, and from which it may clearly be drawn that certain facts pleaded by either party are certain, undisputed and indubitable which dispense with the hearing or trial of the case are depositions, admissions, and affidavits

(Singleton v. Philtrust Co., 99 Phil. 91 [1956]). The Record on Appeal (Rollo, p. 29) clearly shows that petitioners and respondents submitted their respective lists of witnesses and their affidavits, and exhibits during the pre-trial, and memoranda (Record on Appeal, pp. 22-51). Private respondent, in particular, submitted among others, exhibits. Transfer Certificate of Title No. 4581 in his name and that of his wife dated April 18, 1963, and tax declarations in his name and that of his predecessors-in-interests. From these affidavits, exhibits and other evidence, the trial court rendered its Summary Judgment (Ibid., pp. 51-109).

An examination of the record clearly and readily shows that the statute of limitation has stepped in and that the petitioners are guilty of laches and that the property has been in possession of private respondent who is a purchaser in good faith and for value. There is therefore, no genuine triable issue of fact.

IN VIEW OF THE FOREGOING, the instant petition is DENIED for lack of merit and the assailed decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

[*]Penned by Justice Andres Reyes, concurred in by Justices Alampay and Milagros A. German.

[**] Presided over by Judge Numeriano G. Estenzo.

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