

**EDGARDO DE JESUS, REMEDIOS DE JESUS, JUANITO DE JESUS,
JULIANA DE JESUS, JOSE DE JESUS, FLORDELIZA DE JESUS,
REYNALDO DE JESUS, ERNESTO DE JESUS, PRISCOLO DE JESUS,
CORAZON DE J...**

G.R. No. 57092. January 21, 1993

Ponente: MELO, J.

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MELO, J.:

This has reference to a petition for review on certiorari seeking the reversal of the decision of the Court of Appeals in CA-G.R. No. 59613 (December 24, 1980, Sison, P.V., Cenzon, Asuncion [P], JJ) which reversed the decision dated September 7, 1975 of the then Court of First Instance of Bulacan. In consequence, the appellate court dismissed herein petitioners' complaint and declared private respondent Primitiva Felipe de Jesus to be the absolute owner entitled to the possession of the land in question to the exclusion of petitioners.

The property in dispute is a parcel of residential land situated in Dampol 2nd, Pulilan, Bulacan, bounded on the North by a Vereda; on the South, by the Provincial Road; on the East, by Catalino Tayag (Tayao); on the West by Macario de Leon, containing an area of 2565 square meters (Brief for the Petitioners, p. 3), and covered by Tax Declaration No. 2383 of the Office of the Provincial Assessor of Bulacan, in the name of Victoriano Felipe (Exh. "5-C").

Respondent appellate court found the above-described parcel of land to be the same parcel of land which was --

"... the subject of the Kasulatang--Biling-Mabibiling-Muli (Exh. 1) executed on November 25, 1932, by Emilia Camacho (surviving widow of Catalino Esguerra), Jose C. Esguerra and Socorro Esguerra, conveying or selling this land to the spouses, Victoriano Felipe and Guillerma de la Cruz, with right to repurchase the same within a period of five years, but that the vendors-a-retro failed to repurchase the land. The vendors-a-retro were the heirs of the deceased Catalino Esguerra. Since the date of the sale the spouses, Victoriano Felipe and Guillerma de la Cruz, possessed and lived on this land. The appellant [herein private respondent] was living with her parents on the land, and upon their deaths, she continued to live on and possess the same." (pp. 33-34, Rollo.)

On November 29, 1961 private respondent executed a sworn statement declaring herself the only heir of the deceased Victoriano Felipe and adjudicating to herself the ownership of the land in question (Exh. "4").

More than twelve years later or on April 27, 1973, petitioners herein filed in the Court of First Instance of Bulacan, an action for recovery of ownership and possession and quieting of title to the abovementioned piece of land covered by Tax Declaration No. 2383, alleging among others: "that their grandfather, Santiago de Jesus during his lifetime owned the residential lot; that Santiago de Jesus died before the outbreak of World War II, leaving three (3) sons, namely: Mariano, Exequiel, and Jose, all surnamed de Jesus; that Mariano de Jesus died on September 3, 1956 leaving eight (8) surviving children, namely: Edgardo, Remedios, Juanita, Juliano, Jose, Flordeliza, Reynaldo, and Ernesto, all surnamed de Jesus and all of them plaintiffs: that Exequiel de Jesus died on

April 3, 1948, survived by two (2) children -- Priscilo and Corazon, both surnamed de Jesus, also plaintiffs in this case; while Jose de Jesus died before the outbreak of World War II without any issue..." (p. 35, Record on Appeal).

The trial court found for the plaintiffs, petitioners herein. The dispositive portion of the decision dated September 7, 1975 reads:

"FOR ALL OF THE FOREGOING, judgment is hereby rendered:

(1)Declaring the plaintiffs as having the better right to ownership and possession of the residential lot in question by virtue of hereditary succession;

(2)Ordering the defendant to surrender the ownership and possession of the said property to the herein plaintiffs;

(3)Ordering the defendant to pay to the plaintiffs the sum of P500.00 for and as attorney's fees and the costs of suit.

SO ORDERED." (pp. 56-57, Record on Appeal.)

As earlier intimated, on appeal, the Court of Appeals set aside the judgment of the trial court in a decision promulgated on December 24, 1980 (pp. 32-38, Rollo), the dispositive portion of which reads:

"IN VIEW OF THE FOREGOING CONSIDERATION, finding serious errors to have been committed by the trial court in its judgment, the same is hereby set aside and another one entered, dismissing the complaint, and declaring the appellant to be the absolute owner, and entitled to the possession of this land in question, to the exclusion of plaintiffs-appellees." (p. 38, Rollo)

Thus, the instant petition for review on certiorari which was filed with this Court on August 13, 1981 (p. 9, Rollo) with the following assigned errors:

"I

THE COURT OF APPEALS ERRED IN SETTING ASIDE THE JUDGMENT OF THE TRIAL COURT WHICH AWARDED THE RESIDENTIAL LOT IN QUESTION TO THE PETITIONERS BY VIRTUE OF HEREDITARY SUCCESSION AND ORDERED THE PRIVATE RESPONDENT TO SURRENDER THE OWNERSHIP AND POSSESSION OF THE SAME TO THEM.

II

THE COURT OF APPEALS ERRED IN RULING THAT THE LAND DESCRIBED IN THE PETITIONERS' COMPLAINT IS THE SAME LAND WHICH IS THE SUBJECT OF THE SALE WITH RIGHT TO REPURCHASE (Exh. 1) EXECUTED ON NOVEMBER 5, 1932 BY THE ESGUERRAS IN FAVOR OF THE PARENTS OF THE PRIVATE RESPONDENT.

III

THE COURT OF APPEALS ERRED IN DECLARING THE PRIVATE RESPONDENT TO BE THE ABSOLUTE OWNER AND ENTITLED TO THE POSSESSION OF THE LAND IN QUESTION TO THE EXCLUSION OF THE PETITIONERS.

IV

THE COURT OF APPEALS ERRED IN HOLDING THAT THIS LAND WAS PURCHASED BY THE PARENTS OF THE PRIVATE RESPONDENT FROM THE HEIRS OF THE LATE CATALINO ESGUERRA ON NOVEMBER 5, 1932 AND THE PRIVATE RESPONDENT AND HER PARENTS HAD BEEN IN OPEN, CONTINUOUS, ADVERSE, PUBLIC AND NOTORIOUS POSSESSION OF THE SAME SINCE 1932 UP TO THE PRESENT, IN THE CONCEPT OF OWNER."

In effect, the sole issue in this petition boils down to this question: Who has the right to the ownership and possession of the residential lot subject matter of the case, petitioners by virtue of hereditary succession, or private respondent who claims ownership through purchase of the property by her parents?

According to the trial court, petitioners have the better right but according to the appellate court, the property rightly belongs to private respondent. In view of the fact that the findings of the trial court and the appellate court are contrary to each other, this Court shall exercise its authority of reviewing the evidence in order to arrive at the correct facts based on the record (*Director of Lands vs. Court of Appeals*, 117 SCRA 346 [1982]; *Quality Tobacco Corporation vs. Intermediate Appellate Court*, 187 SCRA 210 [1990]; *Valenzuela vs. Court of Appeals*, 191 SCRA 1 [1990]; *Shauf vs. Court of Appeals*, 191 SCRA 713 [1990]; *Bustamante vs. Court of Appeals*, 194 SCRA 645 [1991]).

It is not disputed that petitioners are the heirs of their late grandfather, Santiago de Jesus; what is in dispute is their claim that the residential lot in question belonged to their grandfather and therefore theirs by hereditary succession (Brief for the Respondent, pp. 8-9). Neither is it contradicted that Santiago de Jesus was married to Maria Reyes, a widow with three children by a prior marriage, namely: Basilio, Violeta, and Guillerma, the last having been the mother of herein private respondent (tsn, August 15, 1974, pp. 14-15; September 16, 1974, pp. 14-15, 39-41).

The only documentary evidence of Santiago de Jesus' alleged ownership of the residential lot in question is Tax Declaration No. 2384 (Exh. "A") in the name of Victoriano Felipe. Therein, Felipe claimed ownership for tax purposes of a house of mixed materials and a nipa roof, valued at P190.00 and constructed on the lot or "solar" belonging to Santiago de Jesus. The statement therein regarding Santiago de Jesus' ownership of the lot is supported by the testimony of petitioners Edgardo de Jesus and Corazon de Jesus-Masiglat, and three other witnesses. They asserted personal knowledge of said fact which, they swore, was also common knowledge in Dampol 2nd, Pulilan, Bulacan (tsn, August 15, 1974, p. 16; September 16, 1974, pp. 18, 39). As a child, for instance, witness Antonio Roxas was frequently in the house of his aunt, Maria Reyes, a sister of his mother. When his aunt was still alive, she told him and his mother, in the presence of Victoriano Felipe, that she had no right at all over the property, including the old house, as it really belonged to Santiago de Jesus (tsn, September 16, 1974, pp. 39, 46-49).

On the other hand, private respondent presented a contract of sale with right of repurchase, "Kasulatang-Biling-Mabibiling-Muli" (Exh. "1"), entered into in 1932 between her parents, Victoriano Felipe and Guillerma de la Cruz, and the vendors-a-retro Emilia Camacho, Socorro Esguerra, and Jose Esguerra; a "Sinumpaang Salaysay"; or an affidavit of adjudication which private respondent executed in 1961 (Exh. "4"); and tax declarations and official receipts.

On the evidentiary value of these documents, it should be recalled that the notarization of a private document converts it into a public one and renders it admissible in court without further proof of its authenticity (*Joson vs. Baltazar*, 194 SCRA 114 [1991]). This is so because a public document duly executed and entered in the proper registry is presumed to be valid and genuine until the contrary is shown by clear and convincing proof (*Asido vs. Guzman*, 37 Phil. 652 [1918]; *U.S. vs. Enriquez*, 1 Phil. 241 [1902]; *Favor vs. Court of Appeals*, 194 SCRA 308 [1991]). As such, the party challenging the recital of the document must prove his claim with clear and convincing evidence (*Diaz vs. Court of Appeals*, 145 SCRA 346 [1986]).

There is no doubt that the pacto de retro deed of sale has assumed the character of a public document having been notarized by then Justice of the Peace Francisco Makapugay, Jr. in his capacity as Notary Public Ex-Officio. Hence, it is presumed valid and authentic until proven otherwise. Petitioners, however, challenge this presumption

of validity and authenticity. They contend that private respondent's non-production of Tax Declaration No. 5096, specifically mentioned in Exh. "1" as containing the description of the piece of land subject of the "Kasulatang-Biling-Mabibiling-Muli" shattered such presumption and rendered suspect the latter document (Brief for the Petitioners, pp. 9, 19-22).

While both Socorro Olarte, a signatory to the "Kasulatang-Biling-Mabibiling-Muli" as one of the vendors--a-retro, and private respondent testified that the land subject of the sale was covered by Tax Declaration No. 5096 in the name of the original owner Catalino Esguerra (tsn, October 21, 1974, p. 6 and December 18, 1974, pp. 3-5), they could not produce a copy of said tax declaration. Capitalizing on said omission, petitioners presented a certified true copy of said Tax Declaration No. 5096 (Exh. "G") covering the year 1948 and which, however, concerns a piece of lot owned by a certain Teodoro Sinson. Further, petitioners also produced certified true copies of Tax Declarations Nos. 2214 (Exh. "H"), 2215 (Exh. "I") and 2216 (Exh. "J"), all in the name of Catalino Esguerra as owner, and all for the year 1967.

Pablo H. Domingo, Senior Deputy Assessor, who was subpoenaed to present in court Tax Declaration No. 5096 in the name of Catalino Esguerra identified the above-mentioned certified true copies of tax declarations as having been issued by the Office of the Provincial Assessor of Bulacan (tsn, March 12, 1975, pp. 13-14). However, he said he could not bring with him a copy of Tax Declaration No. 5096 in the name of Catalino Esguerra as the records of the Office of the Provincial Assessor only started with the year 1948 because the old Assessor's Office was burned down during the early part of the liberation (Transcript, March 12, 1975, pp. 5-6, 12).

It is significant to note that the land covered by Tax Declaration No. 5096 (Exh. "G") described therein as bamboo land, was previously covered by Tax Declaration No. 233 for the same owner, while Tax Declaration No. 2383 (Exh. "5-C") beginning with the year 1948 and covering the residential lot in question declared in the name of Victoriano Felipe, cancelled Tax Declaration No. 5326 (Exh. "5-C-1"). An uncertified copy of said Tax Declaration No. 5326 for Victoriano Felipe purporting to commence with the year 1939 allegedly superseded Tax Declaration No. 252 in the name of Catalino Esguerra (Exh. "3").

In other words, the piece of residential lot covered by Tax Declaration No 2383 (Exh. "5"), or by Tax Declaration No. 252 (Exh. "3") at around the time of the alleged sale, until superseded by Tax Declaration No. 5326 (Exh. "5-C-1") beginning with the year 1939, is not the piece of land covered by Tax Declaration No. 5096 specifically referred to in Exh. "1" as the subject of the "Kasulatang-Biling-Mabibiling-Muli". Thus, the fact that Guillerma de la Cruz, mother of private respondent, made real property tax payments purportedly on Tax Declaration No. 5096 for the years 1935 (Exh. "2-d" and "2-e") and 1936 (Exh. "2-b") and probably for the years 1933, 1934, 1937 and 1938, in the name of Catalino Esguerra neither alters the fact that the piece of land covered by Tax Declaration No. 2383 (Exh. "5") is not the subject of the "Kasulatang-Biling-Mabibiling-Muli" (Exh. "1") nor demonstrates that the payments were made for the residential lot under litigation.

It is, therefore, evident that Tax Declaration No. 5096 was inexistent at the time of the alleged sale. By a simple analysis of the different tax declarations presented as evidence in this case, it is likewise clear that when by virtue of the alleged sale, a new tax declaration numbered 5326, was made in 1938 in the name of Victoriano Felipe (Exh. "5-C-1"), what was cancelled was Tax Declaration No. 252 (Exh. "3"), not Tax Declaration No. 5096 which supposedly covered the property subject of the "Kasulatang-Biling-Mabibiling-Muli." It should be noted that the property under Tax Declaration No. 5326 bears an identical description to the property under litigation. Thus, the inevitable conclusion is that, without any legal basis, Victoriano Felipe had declared himself the owner of the disputed property for tax purposes. Tax Declaration No. 5326 thereafter became the basis for Tax Declaration No. 2383 in 1948 (Exh. "5-C") until it was cancelled and new tax declarations were made in the name of private respondent, viz., Tax Declaration No. 9453 in 1962 (Exh. "5-b"), then Tax Declaration No. 2657 in 1967 (Exh.

"5") and finally Tax Declaration No. 2962 in 1974 (Exh. "5-A").

As earlier stated, Guillerma de la Cruz had also been paying real property tax on the house described as located in Dampol 2nd in the name of Victoriano Felipe under Tax Declaration No. 14984 since 1933 (Exh. "2-C"), and then under Tax Declaration No. 3975 since 1941 (Exh. "2-4") until 1947, and under Tax Declaration No. 2384 in 1948. By a twist of fate, however, Tax Declaration No. 2384 describes the house, among others, as located in the residential lot belonging to Santiago de Jesus or "solar de Santiago de Jesus" (Exh. "A-1"). While real property tax continued to be paid under the latter declaration until 1958 (Exh. "2-y"), by stating in said tax declaration that his house was located on the land of Santiago de Jesus, Victoriano Felipe recognized and admitted the ownership of Santiago de Jesus over the residential lot involved herein. Such admission puts to naught the claim of private respondent for when one derives title to property from another, the act, declaration or omission of the latter in relation to the property is evidence against the former (*Rolleza vs. Court of Appeals*, 174 SCRA 354 [1989]).

The authenticity of the signature of Victoriano Felipe in the deed of sale with right to repurchase is also in question. Both Moises de Jesus and Antonio Roxas testified that Victoriano Felipe could not even vote as he did not know how to read and write (tsn, September 16, 1974, pp. 30, 42). Although Socorro Esguerra Olarte identified the signature of Victoriano Felipe on the "Kasulatang-Biling-Mabibiling-Muli" as his (tsn, October 21, 1974, p.13), she also testified that Victoriano Felipe has a brother who looked exactly like Victoriano (tsn, October 21, 1974, p. 36). On the issue, all that private respondent could say was that her father studied the cartilla (tsn, January 24, 1975, p. 8).

Under the circumstances, there is strong, convincing, and conclusive proof of the nullity and falsity of Exhibit "1". Its evidentiary nature cannot, therefore, be sustained (*Legaspi vs. Court of Appeals*, 142 SCRA 82 [1986]). Even if the document were to be considered simply as a private document, it would still need evidence of its due execution and authenticity even if it is already more than 30 years old as it cannot be considered unblemished by any circumstance of suspicion (*Heirs of Demetria Lacsa vs. Court of Appeals*, 197 SCRA 234 [1991]).

Consequently, the affidavit of adjudication executed by private respondent on May 21, 1961 (Exh. "4"), has no evidentiary value as it has become baseless. Furthermore, private respondent falsely stated therein that she is the only heir of Victoriano Felipe for, at the time of its execution, her mother, Guillerma de la Cruz, was still living. Guillerma de la Cruz died on April 23, 1964 (Exh. "B"), three years after the "Sinumpaang Salaysay" (Exh. "4") was executed. Moreover, the tax receipts and declarations of ownership for tax purposes upon which private respondent basically anchors her claim, are not incontrovertible evidence of ownership; they only become evidence of ownership acquired by prescription when accompanied by proof of actual possession of the property (*Tabuena vs. Court of Appeals*, 196 SCRA 650 [1991]; *Rojas vs. Court of Appeals*, 192 SCRA 709 [1992]).

On the issue of ownership by acquisitive prescription, private respondent contends: "Granting that it was formerly owned by their late grandfather, they (petitioners) have lost whatever right they may have over the land by extinctive prescription" for the reason that she, private respondent, has acquired the same by acquisitive prescription (Brief for the Respondents, p. 9), citing Section 41 of the old Code of Civil Procedure which states:

"SEC. 41. Title to Land by Prescription. --Ten years of actual adverse possession by any person claiming to be the owner for that time of any land or interest in land, uninterruptedly, continuously for ten years by occupancy, descent, grants, or otherwise, in whatever way such occupancy may have commenced or continued, shall vest in every actual possessor of such land, a full and complete title...."

Corazon de Jesus Masiglat testified that from 1930 to 1952, the period of time she was living in the house her grandfather erected on the contested property, her grandmother, Victoriano Felipe, Guillerma de la Cruz, and private respondent also lived there (tsn, July 16, 1974, p. 23). She was corroborated by petitioner Edgardo de

Jesus who also testified that in 1932 up to the time of his death in 1948, Exequiel de Jesus was taking charge of the pro-perty and that while the parents of private respondent were the ones paying the real property taxes the money therefor came from Exequiel (tsn, July 16, 1974, pp. 11-14). Witness Salvador Esguerra testified that Victoriano Felipe began to reside in the house when he married Guillerma de la Cruz and that Corazon and her father, Exequiel, also resided there after the death of Santiago de Jesus (tsn, August 15, 1974, pp. 14, 21, 22). Moises de Jesus, for his part, testified that while Victoriano Felipe started staying in the property only when the children of Santiago de Jesus had died, Corazon de Jesus continued to reside there (tsn, September 16, 1974, p. 27).

In her own defense, private respondent first testified that Corazon de Jesus never lived with them and that Exequiel de Jesus never went to their place (tsn, October 11, 1974, pp. 35-36). She did not contradict, however, the testimony of Edgardo de Jesus on rebuttal that he himself at the age of 12 used to stay in the house and was witness to the occasion when Corazon fell in a ditch going towards their place; that as a result of such accident, Corazon sustained a permanent deformity on one hand; and that Corazon left the place only in 1952 when she got married (tsn, April 23, 1975, pp. 23-24). Neither did private respondent or her witnesses traverse the testimony of Corazon de Jesus-Masiglat, also on rebuttal, that since childhood she had been residing in the house owned by her grandfather Santiago de Jesus, together with private respondent and the latter's parents, and actually left the place only in 1952; that her parents as well as her child died in that house; and that private respondent was, in fact, the one who caused the registration of her child's death (tsn, April 23, 1975, p. 25). Even Socorro Esguerra Olarte, witness for private respondent, testified that she remembers Exequiel de Jesus as he was always around whenever she visited the place and he was the one who got santol fruits for her sometimes (tsn, September 23, 1974, 17).

It thus appears that Victoriano Felipe was residing in the house of Santiago de Jesus simply because he was married to Guillerma de la Cruz, daughter of Maria Reyes by a first marriage, who, obviously, was living with her mother who had taken Santiago de Jesus for her second husband. In effect, their possession of the contested lot was neither exclusive nor in the concept of owner. Possession, to constitute the foundation of a prescriptive right, must be possession under a claim of title or it must be adverse or in the concept of owner or concepto de dueño (Ordoñez vs. Court of Appeals, 188 SCRA 109 [1990]; Coronado vs. Court of Appeals, 191 SCRA 814 [1990]; Manila Electric Company vs. Intermediate Appellate Court, 174 SCRA 313 [1989]).

In this case, Victoriano Felipe and his family were residing in the land by mere tolerance. There is no way of knowing how the house on the lot was described in Tax Declaration Nos. 14984 and 3975, but, to repeat, in Tax Declaration No. 2384 which commenced with the year 1948 (Exh. "A"), the house was described as constructed on the lot or solar of Santiago de Jesus up to the year 1961 when private respondent was still paying property tax (Exh. "2-x").

Significantly, the "Kasulatang-Biling-Mabibilang-Muli" was not even given to private respondent by her parents; she admitted having found it in the house although they mentioned its existence to her when they were still alive (tsn, December 18, 1974, pp. 18-19). Under the circumstances, the prescriptive period cannot be considered to have accrued during the lifetime of Victoriano Felipe.

It is interesting to note that when private respondent executed her "Sinumpaang Salaysay" (Exh. "4") adjudicating the disputed lot to herself on the basis of the contract of sale as no repurchase had been made by the vendors a retro, Exequiel de Jesus was already dead and Corazon de Jesus-Masiglat was no longer residing in the property in question. As she was in possession of the property, private respondent then had it declared in her name for real property tax purposes under Tax Declaration No. 9453 (Exh. "5-b") thereby cancelling Tax Declaration No. 2383 (Exh. "5-b-1") which was in the name of Victoriano Felipe.

As to Tax Declaration No. 2384, the last vestige of Santiago de Jesus' ownership of the property in question, there is no evidence on record as to whether private respondent had it cancelled, had a new declaration made on the property in her name, or whether she continued paying tax after her payment for the year 1961. It was established, however, through the testimony of Salvador Esguerra, that the old house was demolished and a new bungalow was constructed on the lot (tsn, August 15, 1974, pp. 23-24).

To create a fundamental basis for her claim of ownership by acquisitive prescription, private respondent mortgaged the questioned property to the Rural Bank of Pulilan (Exh. "5-b") not as a mere possessor but as an owner thereof. She also registered both the mortgage and the "Sinumpaang Salaysay" (tsn, December 18, 1974, p. 23). However, she never attempted to obtain a certificate of title over the property. This omission indicates, to say the least, that private respondent realizes her lack of any lawful claim of ownership over the property for while registration is not a mode of acquiring ownership, it is evidence of such title over the particular property (*Avila v. Tapucar*, 201 SCRA 148 [1991]).

Private respondent's pretensions to acquisitive prescription may not succeed even under Act No. 190, the Code of Civil Procedure. Under Section 41 thereof, good faith and just title are not required for purposes of acquisitive prescription; adverse possession in either character ripens into ownership after the lapse of ten years (*Cruz vs. Court of Appeals*, 93 SCRA 619 [1979]; *Quilisado vs. Court of Appeals*, 182 SCRA 401 [1990]; *Ongsiaco vs. Dallo*, 27 SCRA 161 [1969]; *Miraflor vs. Court of Appeals*, 142 SCRA 18 [1986]). The just title required for acquisitive prescription to set in is not "titulo verdadero y valido" -- such title which by itself is sufficient to transfer ownership without necessity of letting the prescriptive period elapse, but only "titulo colorado" -- or such title where, although there was a mode of transferring ownership, still something is wrong because the grantor is not the owner (*Doliendo vs. Biannesa*, 7 Phil. 232 [1906] cited in *Solis vs. Court of Appeals*, 176 SCRA 678 [1989]), and incidentally, it may perhaps be mentioned that prescription running even after the effectivity of the New Civil Code on August 30, 1950, continued to be governed by Section 41 of the Old Civil Code (*Solis vs. Court of Appeals*, *supra*).

Under the present Civil Code, the prescriptive period required for acquisition of immovable property is ten years if the possession is in good faith, and thirty years if in bad faith (*South City Homes, Inc. vs. Republic*, 185 SCRA 693 [1990]). Such open, continuous, exclusive and notorious occupation of the disputed property for thirty years must be conclusively established (*San Miguel Corporation vs. Court of Appeals*, 185 SCRA 722 [1990]).

Reckoned from the time she executed the affidavit of adjudication in 1961, eleven years after the New Civil Code had taken effect, private respondent's possession of the contested lot is far too short of the prescriptive period of thirty years considering that her possession is in bad faith. The filing of the petition for recovery of ownership and possession and quieting of title by petitioners on April 27, 1973 was well below the acquisitive prescriptive period for private respondent, which is thirty years under Article 1141 of the present Civil Code. In this case, the statutory period of prescription is deemed to have commenced when petitioners were made aware of a claim adverse to them (*Coronel vs. Intermediate Appellate Court*, 155 SCRA 270 [1987]), that is, when the affidavit of adjudication was duly registered with the Registry of Deeds which, at the earliest may be considered to be in 1974, when private respondent was able to secure a tax declaration in her name.

WHEREFORE, the decision of the Court of Appeals under review is hereby SET ASIDE and the decision of the trial court, dated September 7, 1975, REINSTATED.

SO ORDERED.

Gutierrez, Jr., (Chairman), Bidin, Davide, Jr., and Romero, JJ., concur.

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