

**EDILBERTO NOEL (NOW PINITO W. MERCADO) AS ADMINISTRATOR
OF THE INTESTATE ESTATE OF GREGORIO NANAMAN AND HILARIA
TABUCLIN, PETITIONER, VS. COURT OF APPEALS AND JOSE C.
DELESTE, R...***G.R. No. 59550. January 11, 1995*

Ponente: QUIASON, J.

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The consolidated cases, G.R. Nos. 59550 and 60636, are petitions for review on certiorari under Rule 45 of the Revised Rules of Court of the Amended Decision dated May 14, 1981 of the Court of Appeals in CA-G.R. No. 56303-R, which affirmed in toto the decision of the Court of First Instance, Branch II, Lanao del Norte in Special Proceedings No. 596 (II-94) in favor of Jose C. Deleste, private respondent herein.

I

Gregorio Nanaman and Hilaria Tabuclin (Nanaman spouses) were a childless, legally-married couple. Gregorio, however, had a child named Virgilio Nanaman by another woman. Since he was two years old, Virgilio was reared by Gregorio and Hilaria. He was sent to school by the couple until he reached third year of the law course.

During their marriage, Gregorio and Hilaria acquired certain property including a 34.7-hectare land in Tambo, Iligan City on which they planted sugarcane, corn and bananas. They also lived there with Virgilio and fifteen tenants.

On October 2, 1945, Gregorio died. Hilaria then administered the property with the help of Virgilio. Through their tenants, Hilaria and Virgilio enjoyed the produce of the land to the exclusion of Juan Nanaman, the brother of Gregorio, and Esperanza and Caridad Nanaman, Gregorio's daughters by still another woman. In 1953, Virgilio declared the property in his name for taxation purposes under Tax Declaration No. 5534 (Exhs. 13 & 13-A). On November 1, 1952, Hilaria and Virgilio mortgaged the 34.7-hectare land in favor of private respondent, in consideration of the amount of P4,800.00 (Exh. 5).

On February 16, 1954, Hilaria and Virgilio executed a deed of sale over the same tract of land also in favor of private respondent in consideration of the sum of P16,000.00 (Exh. 7). Witnesses to the sale were the wife of Virgilio, Rosita S. Nanaman, Rufo C. Salas, the driver of private respondent, and Remedios Pilotan. The document was notarized on February 17, 1954 and was registered with the Register of Deeds of Iligan City on March 2, 1954. The tax declaration in the name of Virgilio was cancelled and a new tax declaration was issued in the name of private respondent. Having discovered that the property was in arrears in the payment of taxes from 1952, private respondent paid the taxes for 1952, 1953 and 1954 (Exhs. 13--B, 13-C & 14-B). From then on, private respondent has paid the taxes on the property.

On May 15, 1954, Hilaria died. On October 27, 1954, Esperanza and Caridad Nanaman filed intestate estate

proceedings concerning the estate of their father, Gregorio. Included in the list of property of the estate was the 34.7-hectare land. Inasmuch as only Esperanza, Caridad and Virgilio Nanaman were named as heirs of Gregorio in the petition, Juan Nanaman, Gregorio's brother, opposed it. On November 26, 1954, the petition was amended to include the estate of Hilaria with Alejo Tabuclin, Hilaria's brother, and Julio Tabuclin, a son of Hilaria's deceased brother, Jose, as additional petitioners.

Having been appointed special administrator of the estate of the Nanaman couple, Juan Nanaman included the 34.7-hectare land in the list of the assets of the estate.

Juan also reported that Virgilio took the amount of P350.00 from the produce of the estate without prior permission and that five tenants delivered sugar and palay to private respondent. Hence, Juan prayed that the court cite private respondent and the tenants in contempt of court. Accordingly, in its Order of January 30, 1956, the probate court required private respondent and said tenants to appear before it and "show cause why they should not be cited for contempt for illegally interfering in the land" under special administration.

On June 16, 1956, when Edilberto Noel took over as regular administrator of the estate, he was not able to take possession of the land in question because it was in the possession of private respondent and some heirs of Hilaria.

On July 18, 1957, private respondent and the heirs of the Nanaman spouses executed an amicable settlement of the Nanaman estate. In the document, private respondent agreed "to relinquish his rights to one-half (1/2) of the entire parcel of land in Tambo, Iligan City, indicated in Item 1 under the Estate, sold to him by Hilaria Tabuclin, in favor of all the heirs of the abovementioned intestate [estate] for the reason that not all of the heirs of Gregorio Nanaman have signed and agreed" (G.R. No. 60636, Rollo, p. 67). The court approved the amicable settlement but when it was questioned by some heirs, the court set aside its approval and declared it null and void (Exh. H-1).

The court thereafter ordered Noel, as regular administrator, to file an action to recover the 34.7-hectare land from private respondent. Consequently, on April 30, 1963, Noel filed an action against private respondent for the reversion of title over the 34.7-hectare land to the Nanaman estate and to order private respondent to pay the rentals and attorney's fees to the estate.

On December 14, 1973, the trial court rendered a decision, holding that the action for annulment of the deed of sale had prescribed in 1958 inasmuch as the sale was registered in 1954 and that Gregorio's heirs had slept on their rights by allowing Hilaria to exercise rights of ownership over Gregorio's share of the conjugal property after his death in 1945. On the issue that Hilaria had no authority to dispose of one-half of the property pertaining to her husband, the trial court ruled: (1) that Hilaria in effect acted as administratrix over the estate of Gregorio; (2) that she sold the 34.7-hectare land in order to pay the debts of the conjugal partnership; and (3) that out of the purchase price of P16,000.00, P4,000.00 was in payment to private respondent (who was a doctor of medicine) for medical services rendered and medicine administered during Gregorio's ailment and P800.00 was used to pay taxes in arrears.

Noel appealed to the Court of Appeals. In its Decision of February 18, 1980, the appellate court ruled that the transaction between Hilaria and Virgilio on one hand and private respondent on the other, was indeed a sale. It found that no fraud, mistake or misrepresentation attended in the execution of the deed of sale and that no proof was shown that the contract was merely a mortgage.

The appellate court, however, agreed with Noel that Hilaria could not validly sell the 37.7-hectare land because it was conjugal property, and Hilaria could sell only her one-half share thereof.

On the issue of prescription, the appellate court ruled that since no fraud, mistake or misrepresentation attended

the execution of the deed of sale, the prescriptive period of ten years had not yet elapsed when the action to recover the property was filed in 1963. Moreover, the appellate court held that in the absence of proof of adverse possession by Hilaria, she should be considered as holding the property pursuant to her usufructuary rights over the same under the provisions of the Spanish Civil Code of 1889, the law in force at the time of the death of Gregorio.

Finding that Noel's claim for rentals of P5,000.00 per annum from 1957 was uncontroverted, the appellate court ruled that one-half thereof belonged to the estate of Gregorio. The dispositive portion of the decision states:

"WHEREFORE, the judgment appealed from is set aside and another is hereby entered declaring the intestate estate of Gregorio Nanaman and the defendant-appellee co-owners of the land in question in the proportion of one-half (1/2) interest each; ordering defendant-appellee Jose C. Deleste to return to plaintiff-appellant, as administrator of Gregorio Nanaman's estate the land in question, and to pay plaintiff as such administrator the sum of P2,500.00 as rental of the 1/2 interest of the estate from the year 1957 until the land is returned to the estate with legal interest from the filing of plaintiff's complaint; and, to pay the expenses of litigation and attorney's fees to plaintiff in the sum of P3,000.00. Costs against the appellee, Jose C. Deleste" (G.R. No. 60636, Rollo, p. 42).

Private respondent filed a motion for the reconsideration of said decision praying for the total affirmance of the decision of the trial court. Noel also filed a motion for reconsideration praying for the return of ownership and possession of the entire tract of land to the estate of the Nanaman spouses.

On May 14, 1981, the Court of Appeals promulgated an amended decision. It affirmed its previous decision regarding the due execution of the deed of sale adding that since no fraud attended its execution, there was no basis for the action to annul the sale and therefore there was no starting point in reckoning the prescriptive period of four years. It reconsidered the Decision of February 18, 1980 insofar as it declared private respondent and the estate of Gregorio as co-owners of the 34.7-hectare land.

The appellate court took into account that since Gregorio's death, Hilaria and Virgilio took physical possession of the property and enjoyed its fruits which were delivered to them by the tenants; that Virgilio instituted said tenants; and that he declared the property in his own name for tax purposes. The court also ruled that the non-payment of the real estate taxes by Juan constituted abandonment of the property and his non-filing of an action to recover the same from the time that private respondent "usurped" the property until the filing of the complaint in 1963 by Noel amounted to laches (G.R. No. 60636, Rollo, p. 50).

Hence, the appellate court tacked "the physical possession of Hilaria and Virgilio to the possession of the defendant for another nine (9) years up to the time the complaint was filed." It considered the "change of conditions or relations" which had transpired in the case such as private respondent's registration of his muniment of title over the property; the cancellation of Virgilio's tax declaration and the issuance of another tax declaration in the name of private respondent; private respondent's payment of taxes from 1952 "up to the present;" the execution of a new tenancy agreement between private respondent and the tenants; and private respondent's purchase of plows, a carabao and insecticides for use in the ricefield.

Stating that it was "proscribed from taking away property from the alert and the industrious and dumping it into the hands and possession of one who has previously slept on his rights," the appellate court in its amended decision decreed:

"WHEREFORE, Our decision of February 18, 1980 is hereby affirmed and reiterated insofar as it upheld the regularity and due execution of the deed of sale (Exh. A or 7) and the transaction affecting the undivided

one-half portion of the property described in par. 3 of the complaint appertaining to the share of Hilaria Tabuclin, as evidenced by said Exh. A or 7, and is reconsidered and set aside and another one entered affirming the decision of the lower court in all its parts, including the award of damages and the costs of suit. No costs in this instance" (G.R. No. 60636, Rollo, p. 52).

II

Pinito W. Mercado, as new administrator of the estate, appealed to this Court, questioning the Court of Appeals' Amended Decision applying the doctrine of laches and equating the said doctrine with acquisitive prescription (G.R. No. 59550).

Subsequently, another petition for certiorari to declare the sale to private respondent as an equitable mortgage, was filed by Atty. Bonifacio Legaspi (G.R. No. 60636). Said counsel explained that he represented the heirs of Hilaria while the counsel in G.R. No. 59550 represented the heirs of Gregorio (G.R. No. 60636, Rollo, pp. 104-107). These two cases, arising as they do from the same decision of the Court of Appeals, were consolidated in the resolution of September 2, 1991 and are herein jointly considered.

III

There are no cogent reasons to deviate from the ruling of the Court of Appeals that the contract involving the 34.7-hectare property was one of sale and not of mortgage in the absence of a showing that the findings complained of are totally devoid of support in the record or that they are so glaringly erroneous as to constitute serious abuse of discretion (*Andres v. Manufacturers Hanover & Trust Corporation*, 177 SCRA 618 [1989]). It should be noted that two contracts had been executed involving said property (the November 1, 1952 mortgage and the February 16, 1954 sale). In the absence of proof of gross inadequacy of the price, that the sale was made with what might appear as an inadequate consideration does not make the contract one of mortgage (*Askay v. Cosalan*, 46 Phil. 179 [1924]).

We find, however, that the resolution of these petitions hinges on whether Hilaria and Virgilio could dispose of the entire property sold to private respondent and assuming that they did not have full ownership thereof, whether the right of action to recover the share of the collateral heirs of Gregorio had prescribed or been lost through laches.

Gregorio died in 1945 long before the effectivity of the Civil Code of the Philippines on August 30, 1950. Under Article 2263 of the said Code, "rights to the inheritance of a person who died, with or without a will, before the effectivity of this Code, shall be governed by the Civil Code of 1889, by other previous laws, and by the Rules of Court."

Thus, succession to the estate of Gregorio was governed primarily by the provisions of the Spanish Civil Code of 1889. Under Article 953 thereof, a spouse like Hilaria, who is survived by brothers or sisters or children of brothers or sisters of the decedent, as is obtaining in this case, was entitled to receive in usufruct the part of the inheritance pertaining to said heirs. Hilaria, however, had full ownership, not merely usufruct, over the undivided half of the estate (Spanish Civil Code of 1889, Art. 493). It is only this undivided half-interest that she could validly alienate.

On the other hand, Virgilio was not an heir of Gregorio under the Spanish Civil Code of 1889. Although he was treated as a child by the Nanaman spouses, illegitimate children who were not natural were disqualified to inherit under the said Code (*Cid v. Burnaman*, 24 SCRA 434 [1968]). Article 998 of the Civil Code of the Philippines, which gave an illegitimate child certain hereditary rights, could not benefit Virgilio because the right of

ownership of the collateral heirs of Gregorio had become vested upon his death (Civil Code of the Philippines, Art. 2253; *Uson v. Del Rosario*, 92 Phil. 530 [1953]). Therefore, Virgilio had no right at all to transfer ownership over property which he did not own.

In a contract of sale, it is essential that the seller is the owner of the property he is selling. The principal obligation of a seller is "to transfer the ownership of" the property sold (Civil Code of the Philippines, Art. 1458). This law stems from the principle that nobody can dispose of that which does not belong to him (*Azcona v. Reyes*, 59 Phil. 446 [1934]; *Coronel v. Ona*, 33 Phil. 456 [1916]). NEMO DAT QUAD NON HABET.

While it cannot be said that fraud attended the sale to private respondent, clearly there was a mistake on the part of Hilaria and Virgilio in selling an undivided interest in the property which belonged to the collateral heirs of Gregorio.

The sale, having been made in 1954, was governed by the Civil Code of the Philippines. Under Article 1456 of said Code, an implied trust was created on the one-half undivided interest over the 34.7-hectare land in favor of the real owners.

Said Article provides:

"If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes."

In *Diaz v. Gorricho*, 103 Phil. 261 (1958), the Court said that Article 1456 merely expresses a rule recognized in *Gayondato v. Insular Treasurer*, 49 Phil. 244 (1926). Applying said rule, the *Gayondato* court held that the buyer of a parcel of land at a public auction to satisfy a judgment against a widow acquired only one-half interest on the land corresponding to the share of the widow and the other half belonging to the heirs of her husband became impressed with a constructive trust in behalf of said heirs.

On the issue of prescription, we hold that the action for recovery of title or possession over the 34.7-hectare land had not yet prescribed when the complaint was filed on April 30, 1963.

In its Amended Decision, the Court of Appeals reckoned the prescriptive period from the death of Gregorio on October 2, 1945.

Under the law in force in 1945, the surviving spouse was given the management of the conjugal property until the affairs of the conjugal partnership were terminated. The surviving spouse became the owner of one-half interest of the conjugal estate in his own right. He also became a trustee with respect to the other half for the benefit of whoever may be legally entitled to inherit the said portion. "He could therefore no more acquire a title by prescription against those for whom he was administering the conjugal estate than could a guardian against his ward or a judicial administrator against the heirs of an estate. x x x The surviving husband as the administrator and liquidator of the conjugal estate occupies the position of a trustee of the highest order and is not permitted by the law to hold that estate or any portion thereof adversely to those for whose benefit the law imposes upon him the duty of administration and liquidation" (*Pamittan v. Lasam*, 60 Phil. 908 [1934]).

The possession of Virgilio, his registration of the land in his name for tax purposes, his hiring of tenants to till the land, and his enjoyment of the produce of the tenants, appear more as acts done to help Hilaria in managing the conjugal property. There is no evidence to prove indubitably that Virgilio asserted a claim of ownership over the property in his own right and adverse to all including Hilaria.

In the same manner, the doctrine of laches does not apply. Upon orders of the court in the intestate proceedings, Noel, the administrator of the estate of the Nanaman spouses, immediately filed an action to recover possession

and ownership of the property. There is no evidence showing any failure or neglect on his part, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier (*Cristobal v. Melchor*, 78 SCRA 175 [1977]). The doctrine of stale demands would apply only where by reason of the lapse of time, "[i]t would be inequitable to allow a party to enforce his legal rights" (*Z.E. Lotho, Inc. v. Ice and Cold Storage Industries of the Philippines, Inc.*, 3 SCRA 744 [1961]). Moreover, this Court, except for very strong reasons, is not disposed to sanction the application of the doctrine of laches to prejudice or defeat the rights of an owner or original transferee (*Raneses v. Intermediate Appellate Court*, 187 SCRA 397 [1990]).

The action to recover the undivided half-interest of the collateral heirs of Gregorio prescribes in ten years. The cause of action is based on Article 1456 of the Civil Code of the Philippines, which made private respondent a trustee of an implied trust in favor of the said heirs. Under Article 1144 of the Civil Code of the Philippines, actions based upon an obligation created by law, can be brought within ten years from the time the right of action accrues (*Rosario v. Auditor General*, 103 Phil. 1132 [1958]).

The ten-year prescriptive period within which the collateral heirs of Gregorio could file an action to recover their share in the property sold to private respondent (*prescripcion extintiva*) accrued only on March 2, 1954, when the deed of sale was registered with the Register of Deeds (*Cf. Arradaza v. Court of Appeals*, 170 SCRA 12 [1987]). From March 2, 1954 to April 30, 1963, when the complaint for the recovery of the property was filed, less than ten years had elapsed. Therefore, the action had not been barred by prescription.

The ten-year prescriptive period before title to real estate shall vest by adverse possession (*prescripcion adquisitiva*) is also reckoned in the case of private respondent from March 2, 1954 (*Corporacion de PP. Agustinos Recoletos v. Crisostomo*, 32 Phil. 427 [1915]).

WHEREFORE, the Amended Decision dated May 14, 1981 of the Court of Appeals is REVERSED and SET ASIDE and the Decision dated February 18, 1980 is REINSTATED and AFFIRMED in toto.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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