

EMILIO TEJIDO AND JOSE TEJIDO, JR., PLAINTIFFS-APPELLANTS, VS. JUAN URIARTE ZAMACOMA, ET AL, LUIS CALIBUT, ET AL, ESTATE OF RAFAEL P. GUERRERO, SR., PRUDENCIA HECHANOVA VDA. DE ...*G.R. No. 63048. August 07, 1985*

Ponente: CUEVAS, J.

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The instant appeal, which was certified to this Court by the defunct Court of Appeals (now the Intermediate Appellate Court), seeks the review and reversal of the Order of the then Court of First Instance of Negros Occidental dated April 18, 1973, issued in Civil Case No. 9744, dismissing plaintiffs-appellants complaint for "Recovery of Inheritance, Accounting and Damages".

The following background facts are not disputed —

Two (2) big tracts of land, situated in the then municipality of La Carlota and Pontevedra, Negros Occidental, otherwise known as Hacienda "Candelaria" and "Caridad" were originally registered under the Torrens system as early as June 14, 1907 in the names of the predecessors-in-interest of the plaintiffs-appellants.[1]

Prior to March 20, 1925, the said registered owners obtained a loan from the late Pedro Uriarte, predecessors-in-interest of herein defendants-appellees, mortgaging in consideration thereof, the aforementioned Haciendas "Candelaria" and "Caridad" in favor of said Pedro Uriarte. For failure of the registered owners to pay the loan when the same became due, Pedro Uriarte filed on March 20, 1925, Civil Case No. 3391 before the Court of First Instance of Negros Occidental for "Ejecucion de Hipoteca". On November 12, 1925, judgment, was rendered in said Civil Case No. 3391 in favor of Pedro Uriarte, ordering the registered owners to pay the mortgage debt plus interests thereon.[2] An appeal was interposed therefrom by the registered owners but subsequently they desisted from pursuing further said appeal and instead, entered into a "Compromise Agreement" on February 26, 1926 with Pedro Uriarte, wherein, for and in consideration of certain concessions and of the amounts adjudged against them, they ceded, transferred and conveyed the ownership of Haciendas "Candelaria" and "Caridad" unto said Pedro Uriarte,[3] Consequently, the certificates of title covering Haciendas "Candelaria" and "Caridad" in the name of the previous owners, predecessors-in-interest of plaintiffs-appellants, were cancelled and Transfer Certificate of Title Nos. 61 and 62 were issued in the name of Pedro Uriarte, predecessor-in-interest of defendants-appellees.[4] Thereafter, subsequent transfers were made by Pedro Uriarte, among them, in favor of defendants-appellees herein, who purchased the greater portions of the two (2) haciendas. Consequently, the two haciendas were subdivided, Transfer Certificates of Title Nos. 61 and 62 were cancelled and new certificates of title were issued for the subdivided lots.[5]

On February 16, 1971, plaintiffs-appellants filed before the Court of First Instance of Negros Occidental a complaint for "Recovery of Inheritance, Accounting and Damages" against several defendants, among whom are the herein defendants-appellees, seeking to recover eighteen (18) parcels of land comprising what was originally known and identified as Haciendas "Candelaria" and "Caridad"[6] The said complaint was later superseded by an

Amended Complaint dated September 30, 1972 wherein additional parties were impleaded.[7] On December 18, 1972, the said Amended Complaint was supplemented by a Bill of Particulars specifying the names of appellants' predecessors-in-interest and the certificates of title which were originally issued for the subject parcels of land.[8]

In a verified motion dated December 19, 1972, defendants moved to dismiss the complaint on three (3) grounds, to wit: (1) that the complaint states no cause of action; (2) that the cause of action is barred by a prior judgment; and (3) that the cause of action is barred by the statute of limitations by reason of prescription and laches.[9]

A hearing was held on February 19, 1973 and the parties submitted documentary evidence with regard to the second and third grounds of the motion to dismiss.

On April 18, 1973, the trial court issued an Order, now subject of the instant appeal, dismissing the complaint. The pertinent portions of the said Order reads —

"Clearly, plaintiffs' supposed cause of action is postulated on the alleged nullity of the amicable deed of conveyance executed by their predecessors-in-interest in favor of the deceased Pedro Uriarte, first, because of his alien citizenship, and second, because the said amicable deed of conveyance allegedly constitutes a pactum commissorium in violation of Arts. 1858 and 1859 of the Old Civil Code.

If, as admitted in the amended complaint, the amicable deed of reconveyance was executed on February 26, 1926, then Pedro Uriarte was not disqualified by reason of his alien citizenship from acquiring Haciendas Candelaria and Caridad as the Philippine Constitution of 1935, which prohibited absolutely aliens from acquiring public or private agricultural and residential lands, became effective only on November 15, 1935. Therefore, plaintiffs' reliance on the doctrines laid down in *Krivenko vs. Register of Deeds*, *Relloso vs. Gaw Cheo Hun*, and *Philippine Banking Corporation vs. Lui She* as averred in Par. VIII of the Amended Complaint is not only misplaced; it does not make up or support their cause of action since those cases involved acquisition of residential lands after the effectivity of the 1935 Constitution. Nor can Act 2874 of the Philippine Legislature be invoked to support plaintiffs' cause of action as to render the transaction entered into by plaintiffs' predecessors-in-interest null and void because Act 2874 was only applicable to public agricultural lands, not to private lands which had been segregated from the public domain and where private ownership had already vested. In the instant case, plaintiffs' complaint admits that Haciendas Candelaria and Caridad were originally registered in the names of plaintiffs' predecessors-in-interests under the Torrens System as early as 1907, 1913 and 1914 and that presently the subdivided lots in the possession of the defendants are covered by corresponding transfer certificates of title.

Plaintiffs contend that the conveyance violates the qualified restriction contained in Sections 120, 121 and 122 of Act 2874, x x x:

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But, as already adverted above, this prohibition undoubtedly applies only to public agricultural lands or lands originally acquired in any manner under the provisions of Act 2874 or the provisions of the former Public Land Act (Act 926) or any other Act, ordinance, royal order or royal decree; or any other provision of law formerly enforced in the Philippine Islands with regard to public lands *terrenos baldios y reales*, or lands of any other denomination that were actually presumptively of the public domain. This is so because precisely Act 2874 is entitled "The Public Land Act" and this Act shall apply to lands of the public domain. (Section 2, Act 2874).

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The averment in the amended complaint as clarified in the Bill of Particulars that the amicable deed of conveyance "was null and void as it was against existing law and the same could not be validated or legalized by Court approval" is a mere conclusion of law and not a statement of ultimate facts sufficient to constitute a cause of action. It is only in plaintiffs' opposition to defendants' motion to dismiss that an attempt is made to assail the validity of the amicable deed of conveyance as constituting a pactum commissorium allegedly in

violation of Articles 1858 and 1859 of the Old Civil Code. Nothing is mentioned about this defect in any Bill of Particulars submitted on December 18, 1972. Be that as it may, although not necessary in the resolution of the motion to dismiss, the Court finds that plaintiffs' contention on this point is untenable. For what was prohibited by Article 1858 of the Old Civil Code was for the parties to expressly stipulate in a contract of mortgage that in case the principal obligation should become due, the creditor could appropriate to himself the things given in pledge or mortgaged property in satisfaction of the indebtedness was forbidden. It did not apply to a case where foreclosure proceedings were in fact instituted resulting in a judgment and the parties thereafter entered a compromise agreement whereby the judgment debtor conveyed unto the judgment creditor the property subject of the mortgage in satisfaction of the full amount of the judgment.

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It should also be noted that the amended complaint expressly admits that the subdivided parcels of land originally forming part of Haciendas Candelaria and Caridad are now in the possession of defendants Juan Uriarte Zamacoma and Aure Barrieta and the other defendants who hold transfer certificates of title in their respective names as transferees of the original owner Pedro Uriarte; but there is no allegation that these defendants are transferees in bad faith or with knowledge of the alleged defect in the title of their transferor which thereby renders the complaint defective for failure to state a cause of action. This is so because of the indefeasibility of a torrens certificate of title and in order that the title of the transferee may be successfully challenged by virtue of a defect in the title of his predecessor-in-interest it must be both alleged and proved that he was chargeable with notice of the alleged defect vitiating the title of the former.

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In view of the conclusion of this Court that that amicable deed of conveyance executed by the plaintiffs' predecessors-in-interest and the deceased Pedro Uriarte on February 26, 1926 did not infringe Articles 1858 and 1859 of the Old Civil Code for being a pactum commissorium, nor was it rendered invalid by reason of the alien citizenship of Pedro Uriarte, unquestionably the amended complaint does not state a sufficient cause of action as against the defendants.

The transaction sought to be set aside or assailed took place in 1926 or about forty-five (45) years ago from the time of the filing of the original complaint in this case. The transactions were recorded in the Registry of Property as the properties are registered under the Torrens System hence the registration of the document in the registry Office operates, not only as notice to the parties to the same but also as against the whole world. Any action to annul a conveyance of registered land should be counted from the date of registration of the same. (De Guinoo vs. Court of Appeals, 97 Phil. 235) Of course it is argued that the present action is designed to set aside a contract which is void ab initio and therefore under Article 1410 of the New Civil Code the action to declare the same as inexistent or null and void does not prescribe. This, of course, on the assumption that the amicable deed of conveyance is an inexistent contract, void ab initio. As already adverted to, no such finding is warranted by law. Besides, Article 1410 of the New Civil Code is a new provision which was not embodied in the Old Civil Code, the law in force at the time the cause of action in the present case is alleged to have accrued. Granting however that the Statute of Limitations cannot be invoked, undoubtedly laches will apply. For plaintiffs or their predecessors-in-interest have allowed a period of over forty-five (45) years to pass before it occurred to anyone of them to impugn the validity of amicable deed of conveyance or compromise agreement entered into in 1926."

From the aforesaid ORDER, plaintiffs interposed an appeal to the then Court of Appeals[10] contending that the trial court erred —

"I

IN NOT HOLDING THAT THE ACQUISITION OF THE LANDS IN QUESTION IN THIS CASE BY THE LATE PEDRO URIARTE Y GOTE, A SPANISH CITIZEN IN 1926, WAS ILLEGAL;

II

IN NOT HOLDING THAT THE ACQUISITION BY DEFENDANT-APPELLEE JUAN URIARTE Y ZAMACOMA OF THE LANDS IN QUESTION IN THIS CASE, FROM HIS LATE FATHER, SAID PEDRO URIARTE Y GOTE, WAS LIKEWISE ILLEGAL;

III

IN HOLDING THAT THE PLAINTIFFS ARE GUILTY OF LACHES IN BEING DELAYED IN FILING THIS ACTION;

IV

IN NOT HOLDING THAT FROM THE FACTS OF THE CASE, THE PLAINTIFFS ARE ENTITLED TO THE RECOVERY OF THE OWNERSHIP AND POSSESSION OF THE LANDS IN QUESTION IN THIS CASE; and

V

IN ORDERING THE DISMISSAL OF PLAINTIFFS' AMENDED COMPLAINT."

As herein earlier adverted to, the then Court of Appeals, in a decision dated December 23, 1982 certified the appeal to Us since it allegedly involve only pure question of law — the validity of the deed of conveyance executed by plaintiffs' predecessors-in-interest wayback in February 26, 1926 in favor of the late Pedro Uriarte, considering that the latter was, at the time, a Spanish citizen.

Appellants anchor their attack against the validity of the deed of conveyance in question on the case of Krivenko vs. Register of Deeds of Manila,[11] and the provisions of Public Land Act No. 2874 more particularly Sections 120 and 121 thereof, which read —

"Section 120. No land originally acquired in any manner under the provisions of this Act, nor any permanent improvement on such land, shall be encumbered, alienated, or transferred, except to persons, corporations, associations, or partnership who may acquire lands of the public domain under this Act; to corporations organized in the Philippine Islands authorized therefore by their characters, and upon express authorization by the Philippine Legislature, to citizens of countries the laws, of which grant to citizens of the Philippine Islands the same right to acquire, hold, lease, encumber, dispose of, or alienate land, or permanent improvements thereon, or any interest therein, as to their own citizens, only in the manner and to the extent specified in such laws, and while the same are in force, but not thereafter.

Section 121. No land originally acquired in any manner under the provisions of the former Public Land Act or of any other Act, ordinance, royal order, royal decree, or any other provision of law formerly in force in the Philippine Islands with regard to public lands, terrenos baldios y realengos, or lands of any other denomination that were actually or presumptively of the public domain, or by royal grant or in any other form, nor any permanent improvement on such land, shall be encumbered, alienated or conveyed, except to persons, corporations or associations who may acquire land of the public domain under this Act; to corporate bodies organized in the Philippine Islands whose charters may authorize them to do so, and, upon express authorization by the Philippine Legislature, to citizens of the countries the laws of which grant to citizens of the Philippine Islands the same right to acquire, hold, lease, encumber, dispose of, or alienate land or permanent improvements thereon or any interest therein as to their own citizens, and only in the manner and to the extent specified in such laws, and while the same are in force, but not thereafter: Provided, however, That this prohibition shall not be applicable to the conveyance or acquisition by reason of hereditary succession duly acknowledged and legalized by competent courts, nor to lands and improvements acquired or held for industrial or residential purposes, while used for such purposes; Provided, further That in the event of the ownership of the lands and improvements mentioned in this section and in the last preceding section being transferred by judicial decree to persons, corporations or associations not legally capacitated to acquire the same under the provisions of this Act, such persons, corporations, or associations shall be obliged to alienate said lands or improvements to others so capacitated within the precise period of five years, under the penalty of

such property reverting to the Government in the contrary case." (Public Land Act, No. 2874) (79 Phil. 477)

As aptly held by the lower court, the prohibition envisioned in Act 2874 against aliens was limited to public agricultural lands or lands of the public domain. Thus in the case of *Central Capiz vs. Ramirez*[12] which doctrine was re-echoed in the case of *Gavino Tan Yungquip vs. the Director of Lands*,[13] this Court held —

"x x x said Act (No. 2874) applied to public lands only, that lands held in private ownership constitutes no part of the public domain and cannot, therefore, by any possibility, come within the purview of said Act (No. 2874); that any provision or provisions in said Act (No. 2874) which attempt to restrain the disposition or control of private lands were null and void and of no effect, and that said Act has no retroactive effect. Therefore, the provisions of said Act cannot be invoked for the purpose of preventing the registration of the parcels of land in question in favor of the petitioner herein, upon the ground that he is not a citizen of the United States or of the Philippine Islands."

There being no dispute that the land subject matter of the deed of conveyance in question is a private agricultural land, decidedly therefore, it is not within the coverage of Act No. 2874.

Appellants' reliance on the *Krivenko* ruling in support of, and to fortify their stand, is misplaced.

The *Krivenko* doctrine finds no applicability to the instant case which involves an acquisition of private lands as early as 1926 and long before the adoption of the 1935 Constitution. The *Krivenko* case on the other hand involves an acquisition of residential lot in December 1941, after the adoption of the Constitution on November 15, 1935 and which is prohi-bited under Section 5, Article XIII thereof which reads as follows —

"Section 5. Save in cases of hereditary succession, no private agricultural land shall be transferred or assigned except to individuals, corporations or associations qualified to acquire or hold lands of the public domain in the Philippines."

The issue in the said *Krivenko* case is whether or not under our Constitution an alien may acquire residential land. And this Court, in clear, explicit and unambiguous language held that:

"We are deciding the instant case under Section 5 of Article XIII of the Constitution which is more comprehensive and more absolute in the sense that it prohibits the transfer to aliens of any private agricultural land including residential land whatever its origin might have been x x x x. This prohibition (Republic Act No. 133) makes no distinction between private lands that are strictly agricultural and private lands that are residential and comercial.....The prohibition embraces the sale of private lands of any kind in favor of aliens, which is again a clear implementation and a legislative inter-pretation of the constitutional prohibition x x x x. It is well to note at this juncture that in the present case we have no choice. We are construing the Constitution as it is and not as we may desire it to be. Perhaps the effect of our construction is to preclude aliens, admitted, freely into the Philippines, from owning sites where they may build their homes. But if this is the solemn mandate of the Constitution, we will not attempt to compromise it even in the name of amity or equity."

The Constitution took effect on November 15, 1935. Therefore, the deed of conveyance in question having been executed in February 1926, falls beyond the ambit of the doctrine laid down in the aforesaid *Krivenko* case. Section 5, Article XIII of the Constitution does not have a retroactive effect and does not affect a contract entered into before November 15, 1935, nor the rights arising therefrom, otherwise it would constitute deprivation of property without due process of law.[14] And, with respect to the acquisition of lands by aliens before the adoption of the Constitution which is the situation in the case at bar, We held in *Herrera vs. Luy Kim Guan*[15] that —

"With respect to *Luy Kim Guan*, while it is true that he is a chinese citizen, nevertheless, inasmuch as he acquired his one-half share in the Lot No. 4467 in 1913, long before the Constitution was adopted his

ownership cannot be attacked on account of his citizenship." (Underscoring supplied)

Moreover, even assuming that the late Pedro Uriarte, predecessor-in-interest of herein defendants-appellees, was disqualified to acquire and own the subject parcels of land by reason of his alien citizenship, the factual situation has changed. The litigated property is now in the hands of Filipino citizens. Defendant Juan Uriarte Zamacoma who owns the bigger portions of subject properties became a Filipino citizen as of October 20, 1936.[16] The other defendants, by the very allegation of plaintiffs' complaint are all Filipino citizens. Therefore, there would be no more public policy to be served in allowing plain-tiffs-appellants to recover the land as it is already in the hands of qualified persons.[17] Applying by analogy the ruling of this Court in *Vasquez vs. Giap & Li Seng Giap & Sons*.[18]

"x x x if the ban on aliens from acquiring not only agricultural but also urban lands, as construed by this Court in the *Krivenko* case, is to preserve the nation's lands for future generations of Filipinos, that aim or purpose would not be thwarted but achieved by making lawful the acquisition of real estate by aliens who become Filipino citizens by naturalization."

It is likewise inescapable that plaintiffs had slept on their rights for about forty-five (45) years (from 1926 to 1971) when the complaint in this case was filed. By their long inaction or inexcusable neglect, they should be held barred from asserting their rights to the litigated property.[19]

"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; 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. (*Tijam, et al vs. Sibonghanoy, et al.*, No. L-21450, April 15, 1968, 23 SCRA 29, 35." (cited in *Sotto vs. Teves*, 86 SCRA 154 (1978))

It follows from the foregoing that defendants-appellees must be declared as they are hereby declared the lawful owners of the disputed parcels involved in the case at bar.

WHEREFORE, the Order of the lower court dated April 18, 1973, dismissing the complaint is hereby AFFIRMED. Cost against plaintiffs-appellants.

SO ORDERED.

Makasiar, C.J., Aquino, Concepcion, Jr., and Escolin, JJ., concur.

Abad Santos, J., on leave.

[1] This entry appears on page 391, Vol. 7 of the docket of Civil Cases of the Court of First Instance of Negros Occidental.

[2] Exhibit "2".

[3] Exhibit "1-E".

[4] Paragraph 3, Plaintiffs-appellants Bill of Particulars, dated May 29, 1971, page 28, Record on Appeal.

[5] Par. IX of the Amended Complaint dated September 30, 1972, p. 81, Record on Appeal.

[6] Pages 2-9, Record on Appeal.

[7] Pages 77-84, Record on Appeal.

[8] Pages 102-104, Record on Appeal.

[9] Pages 104-114, Record on Appeal.

[10] CA-G.R. No. 53506-R.

[11] 79 Phil. 461.

[12] 40 Phil. 883.

[13] 42 Phil. 129.

[14] G.R. No. L-46469, February 20, 1949, 69 Phil. 611.

[15] 1 SCRA 413; see also *Li Seng Giap & Co. vs. Director of Lands*, 59 Phil. 687; *Agar vs. Government*, 42 Phil. 143; *Tan Yungquip vs. Director of Lands*, *supra*.

[16] Exhibit "3" and "3-A".

[17] *Sarsosa Vda. de Barsobia vs. Cuenco*, 113 SCRA 547.

[18] 96 Phil. 447.

[19] *Sotto vs. Teves*, 86 SCRA 157.

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