

**TEOFISTO, FELICISIMO AND MAXIMO, ALL SURNAMED UMBAY, AND
FILOMENA, FRANCISCO, SUSANA, CELERINA AND JOSEFA, ALL
SURNAMED ENANORIA, PETITIONERS, VS. PLACIDO ALECHA,
NICOLASA LABAJ...**

G.R. No. 67284. March 18, 1985

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the right of the heirs of the registered owner of a parcel of land with an area of 2,265 square meters to recover a portion thereof with an area of 500 square meters allegedly usurped by the adjoining owner.

Natalio Enanoria was the owner of Lot No. 5280 located in the mountain of Barrio Valencia, Carcar, Cebu. His title is OCT No. 10933 issued in 1922 (Exh. A). He died in 1924. In 1963 his heirs asked a surveyor to relocate the lot. They discovered that its 500-square-meter portion was occupied by Placido Alecha, the owner of the adjoining Lot No. 5281 which is its southeastern boundary (Exh. B).

Alecha refused to vacate the disputed portion. He removed the concrete monuments (Exh. B-3). The heirs sued Alecha. Another relocation made by a surveyor from the Bureau of Lands appointed by the trial court confirmed the usurpation of 500 square meters (p. 42, Rollo).

The trial court ordered Alecha and his wife to vacate the said 500-square-meter portion. The Appellate Court reversed that decision and dismissed the complaint of the Enanoria heirs. They appealed to this Court. Alecha did not file any appellee's brief.

We hold that the action of the heirs of Enanoria to recover the 500 square meters portion of their registered land does not prescribe and cannot be barred by laches. Nor can Alecha, the adjacent owner, acquire that 500-square-meter area by prescription because it is covered by a Torrens title.

Section 46 of the Land Registration Law, now section 47 of the Property Registration Decree (PD No. 1529 effective June 11, 1978), provides that "no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession" (*Corporacion de PP. Agustinos Recoletos vs. Crisostomo*, 32 Phil. 427, 439; *Estella vs. Register of Deeds of Rizal*, 106 Phil. 911, 914; *Santiago vs. J. M. Tuason, & Co., Inc.*, 110 Phil. 16, 22; *Manila Electric Co. and Sheriff of Quezon City vs. Enriquez and Espinosa*, 110 Phil. 499, 504).

Prescription is unavailing not only against the registered owner but also against his hereditary successors because the latter merely step into the shoes of the decedent by operation of law and are merely the continuation of the personality of their predecessor-in-interest (*Barcelona vs. Barcelona*, 100 Phil. 251, 257).

As stated by Justice Johnson in the 1915 case of *Legarda vs. Saleeby*, 31 Phil. 590 the real purpose of the Torrens system is to quiet title to land and to stop forever any question as to its legality. "Once a title is registered, the

owner may rest secure, without the necessity of waiting in the portals of the court, or sitting in the 'mirador de su casa', to avoid the possibility of losing his land."

Thus, a registered owner of land who lost possession thereof in 1925, when it was taken by the municipality of Pasay for road purposes, is not barred from recovering compensation for said land in 1958 or 33 years later. The reason is that registered lands are not subject to prescription. It was an error to dismiss the landowner's complaint on the ground of laches and prescription (*Alfonso vs. Pasay City*, 106 Phil. 1017; *Herrera vs. Auditor General*, 102 Phil. 875).

Adverse, notorious and continuous possession under a claim of ownership for the period fixed by law is ineffective against a Torrens title (*Tuason vs. Bolaños*, 95 Phil. 106, 111; *Vda. de Recinto vs. Inciong*, L-26083, May 31, 1977, 77 SCRA 196; *J. M. Tuason & Co., Inc. vs. Court of Appeals*, L-23480, September 11, 1979, 93 SCRA 146).

"Una posesion adversa, exclusiva, publica y continuada a titulo de dueño por el tiempo fijado por la ley es ineficaz contra un titulo Torrens. El titulo de propiedad expedido de acuerdo con la Ley del Registro de la Propiedad es imprescriptible." (*Valiente vs. Court of First Instance*, 80 Phil. 415, 417; *J. M. Tuason & Co., Inc. vs. Macalindong*, 116 Phil. 1227; *J. M. Tuason & Co., Inc. vs. Santiago*, 99 Phil. 615.)

Title to land can no longer be acquired by prescription after a Torrens title has been issued for it (*Dimson vs. Rural Progress Administration*, 90 Phil. 714, 717; *Fernandez vs. Aboratigue*, L-25313, December 28, 1970, 36 SCRA 476).

The right to recover possession of registered land is imprescriptible because possession is a mere consequence of ownership (*Atun vs. Nuñez*, 97 Phil. 762; *Manlapas and Tolentino vs. Llorente*, 48 Phil. 298, 308; *J. M. Tuason & Co., Inc. vs. Aguirre*, 117 Phil. 110, 113-114).

In this case, the petitioners' action to recover the 500 square meters cannot be barred by the equitable defense of laches or delay because they became aware of the encroachment only after they hired a surveyor in 1963 to ascertain the true area and boundaries of Lot No. 5280.

Laches presupposes waiver of one's right. There was no waiver in this case. The petitioners, poor, ignorant rustics, never intended to renounce their right to the 500 square meters.

WHEREFORE, the judgment of the Appellate Court is reversed and set aside. That of the trial court is affirmed. No costs.

SO ORDERED.

Concepcion, Jr., Escolin, and Cuevas, JJ., concur.

Makasiar, (Chairman), and Abad Santos, JJ., in the result.

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