

**MELITON GALLARDO AND TERESA VILLANUEVA, PETITIONERS, VS.
HONORABLE INTERMEDIATE APPELLATE COURT, MARTA
VILLANUEVA VDA. DE AGANA, VISITACION AGANA KIPPING, PEDRO
V. AGANA, MARCEL...**

G.R. No. 67742. October 29, 1987

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari seeking to set aside or reverse the decision[*] of the Intermediate Appellate Court (now Court of Appeals) promulgated on May 22, 1984 in AC-G.R. CV No. 69946 entitled *Meliton Gallardo and Teresa Villanueva v. Marta Villanueva vda. de Agana, et al.* (Rollo, p. 37) affirming the decision[**] of the Court of First Instance of Laguna 8[th] Judicial District, Branch II, Sta. Cruz, Laguna (now Regional Trial Court, Sta. Cruz, Laguna) dated January 20, 1982, which dismissed the complaint for Quieting of Title in Civil CaseNo. SC-1492 and declared the plaintiff's (petitioner's herein) Reconstituted Transfer Certificate of Title RT-6293 (No. 23350) as null and void (Record on Appeal, pp. 215-216).

The dispositive portion of the questioned decision reads as follows:

"WHEREFORE, the appealed judgment is in full accord with the evidence and the law and is hereby therefore affirmed in all its parts. Costs against plaintiffs-appellants.

SO ORDERED."

The subject matter of this controversy involves a parcel of land situated in Cavinti, Laguna consisting of 83,300 square meters, more or less, initially covered by an Original Certificate of Title No. 2262, issued on April 2, 1924 owned and registered in the name of the late Pedro Villanueva (former Justice of the Peace of the Municipal Court, Cavinti, Laguna), pursuant to Decree No. 150562 issued in L.R.C. Cadastral Record No. 136, Cad. Case No. 1 (Record on Appeal; Answer, p. 28).

Petitioners were nephew and niece of the late Pedro Villanueva and first cousin of the private respondent Marta Villanueva vda. de Agana, the latter being the daughter of Pedro Villanueva.

On August 10, 1937, petitioners claimed that the aforesated land was sold to them in a private document, an unnotarized deed of sale written in Tagalog (Annex "B" of the complaint) that was allegedly signed by the late Pedro Villanueva conveying and transferring the property in question in favor of the petitioners (Record on Appeal, Exhibit "B", pp. 9-10) which deed is reproduced as follows:

Written by Judge Maximiano C. Asuncion.

"Ako, Pedro Villanueva, 66 taong gulang, bah at nananahanan sa municipio ng Cavinti, lalawigan ng Laguna at Kapuluang Pilipinas, alang-alang sa halagang LIMANG DAANG PISO (P500.00) salaping filipino, na sa akin ibinayad ng mag-asawa ni Meliton Gallardo at Teresa Villanueva, tagarito rin sa nasabing municipio,

lalawigan at kapulwan, sa hinaharap ng kasulatan ay sinasaysay ko na aking inililiwat at pinagbili ng biling patuluyan sa nasabing mag-asawa Meliton Gallardo at Teresa Villanueva, sampo na sa kanilay mangctgmamana at hahaiili, ang aking isang palagay na lupa na nabubuo sa limang luang na tubigan, punlang kalahating kabang palay at saka dalatan o katihan na may isang kabang palay na hasik, tumatayo sa nayon ng Kanlurang Talaongan, sakop nitong municipio ng Cavinti at napapaloob sa mga hangganang sumusunod:

HILAGAAN, Braulio Villanueva at Modesto Ribera.

SILANGAN, Braulio Villanueva.

TIMUGAN, Braulio Villanueva, Ilog Kaliraya at Jacinto Toque.

KANLURAN, Jacinto Toque.

Ang pagaaring ito ay tunay kong pananarili sapagkat aking nabili sa magkakapatid na Aniano Gallardo, Zacarias Gallardo at Perfecto Gallardo at natatala sa Registro ng Amillarmiento dito sa Cavinti sa ilalim ng Blg. 22888, at walang ano mang ipinagkakautang ni pinanagutan kaya at magagamit na nitong aking pinagbilhan ang kanilang matwid na maipamana at mailiwa sa iba. Gayon ding sinasaysay ko na akoy umaakong mananagutan dito sa aking pinagbilhan, tungkol sa pagaaring ito na ang katibayay aking ipagsasanggalang laban sa kanino mang maghahabol.

"Dapat tantoin, gayon man, na ang pagaaring ito ay registrado na sa Registro de la Propiedad nitong lalawigang Laguna, subalit at sa isang kamalian ng pagkakasukat tungkol sa lawak at laki, ay hindi pa natutubos ang kanyang titulo, kaya at kung maisaayos na ang nasabing titulo ay saka na ipatatala sa pangalan nitong aking pinagbilhan upang (along malagay sa katahimikan itong aking pinagbilhan.

"At sa katunayan ay nilagdaan ko ang kasulatang ito dito sa municipio ng Cavinti, Laguna, ngayong ika sampung araw ng Agosto taong isanglibo siyam na daan at tatlumpu at pito (1937).

"(LGD)

PEDRO VILLANUEVA.

"Nagfirma sa hinaharap ni:

"(LGD) BALTAZAR VILLANUEVA

"JUAN VILLANUEVA"

Subsequently, the Original Certificate of Title was cancelled on the basis of the private document of sale (Exhibit "B") and a new certificate of title was issued in the name of the petitioners covered by Transfer Certificate of Title No. RT-6293 (No. 23350) on January 4, 1944, particularly describing the land as follows:

"A parcel of land (Lot No. 401 of the Cadastral Survey of Cavinti), with the improvements thereon, situated in the municipality of Cavinti. Bounded on the N and NE., by Lot No. 403; on the SE., by Lot No. 393 and the Caliraya River; and on the SW., by Lot No. 515. Area — Eighty-One Thousand and Three Hundred (81,300) Square Meters, more or less." (Record on Appeal, Annex "A", pp. 7 and 9).

During the Second World War, the records as well as the Office of the Register of Deeds of Laguna, where the original of the new transfer certificate of title was kept, were completely burned. Accordingly, by virtue of an Affidavit of Reconstitution dated December 2, 1958 (Record on Appeal, Annex "DD", pp. 41-42) and upon presentation of the Owner's Duplicate Certificate of Title, the title was administratively reconstituted and the

Register of Deeds of Laguna issued Transfer Certificate of Title No. RT-6293 (No. 23350) in the name of the petitioners (Record on Appeal, Annex "B", pp. 7-9).

On November 17, 1976, defendant Marta Villanueva together with Pedro Villanueva, Jr., and Restituto R. Villanueva executed and filed an Affidavit of Adverse Claim with the Office of the Register of Deeds of Laguna (Record on Appeal, Annex "C", pp. 10-13). However, on December 6, 1976 a joint affidavit was filed by Pedro G. Villanueva, Jr. and Restituto Villanueva withdrawing their adverse claim on the said parcel of land, with the Office of the Register of Deeds of Laguna (Record on Appeal, Annex "D", pp. 13-14).

When petitioners learned of this Affidavit of Adverse Claim, attempt was made to settle said controversy amicably. Several demands made by herein petitioners upon private respondents Marta Vda. de Agana to withdraw her adverse claim, failed.

On December 9, 1976, said private respondent executed a Deed of Conveyance and Release of Claim (Record on Appeal and Annex "AA", p. 35) wherein the parties agreed, among other things, to the following:

"That in consideration of the said transfer and conveyance over a 1,000 square meter portion mentioned in the next preceding paragraph, the VENDEE (Marta V. Agana) does hereby withdraw the adverse claim mentioned above"; (Rollo, p. 13 9).

However, when private respondent Marta Villanueva vda. de Agana refused to sign an Affidavit of Quitclaim (Exhibit "9"; Record on Appeal, p. 195), petitioners instituted court suit against the private respondent and her husband, Dr. Marcelo S. Agana, Sr. by filing a complaint for Quieting of Title and Damages with the Court of First Instance of Laguna on February 3, 1977, demanding that their title over the questioned land be fortified by a declaration of ownership in their favor and avoiding the aforementioned Deed of Conveyance and Release of Claim (Record on Appeal, pp. 1-7). Accordingly, private respondents in their answer countered that the Deed of Sale in Tagalog and petitioners' title over the land be declared void ab initio, among other demands (Record on Appeal, pp. 16-35).

On January 20, 1982, the Court of First Instance of Laguna rendered its decision declaring the deed of sale of August 10, 1937, as well as the reconstituted transfer certificate of title of petitioners, void ab initio (Record on Appeal, pp. 208-216).

The dispositive portion of said decision (Record on Appeal, pp. 215-216) reads as follows:

"WHEREFORE, judgment is hereby rendered in favor of the defendants and against the plaintiffs, as follows:

- declaring as null and void the private document dated August 10, 1937 written in Tagalog (Exhibit B);
- declaring as null and void plaintiffs' reconstituted Transfer Certificate of Title RT-6293 (No. 23350) (Exhibit F) and ordering the Register of Deeds of Laguna to issue a new reconstituted or to reinstate Original Certificate of Title No. 2262 issued on April 2, 1924 in the name of Pedro Villanueva within thirty (30) days from the finality of this decision;
- declaring the heirs of Pedro Villanueva as the owners of the property in litigation and ordering the plaintiffs and her agents and those acting for in their behalf to vacate the land in question and surrender the possession of the same to the heirs of the late Pedro Villanueva thru Marta V. Agana;
- declaring all buildings, plantings and improvements introduced by the plaintiffs forfeited in favor of the

defendants;

- ordering plaintiffs, jointly and severally, to pay the defendants the sum of P10,000.00 as moral and exemplary damages;
- ordering plaintiffs, jointly and severally, to pay defendants the sum of P5,000.00 as and for attorney's fees; and
- ordering plaintiffs, jointly and severally, to pay defendants the sum of P5,000.00 as litigation expenses; and costs of suit.

SO ORDERED."

Thus, petitioners filed notice of appeal on February 10, 1982, followed by an appeal made to the Intermediate Appellate Court. However, the Intermediate Appellate Court, on May 22, 1984, affirmed in toto the decision of the trial court.

Hence, this petition.

On August 30, 1984, the Court in its Resolution without giving due course to the petition required the respondents to comment on the said petition (Rollo, p. 50). However, the counsel for private respondents failed to file comment on the petition for review on certiorari within the period which expired on September 17, 1984. Thus, in the Resolution of January 7, 1985 the Court, required counsel for petitioners to show cause why disciplinary action should not be taken against him (Rollo, p. 51).

On February 23, 1985 respondents filed their comment (Rollo, p. 57). Considering respondents' comment as answer the petition was given due course and the parties were required to submit their respective memoranda (Rollo, p. 104).

Private respondents and petitioners filed their respective memoranda on May 18, 1985 (Rollo, p. 117) and on June 7, 1985 (Rollo, p. 143) respectively. On July 1, 1985, the Court resolved to consider the case submitted for deliberation (Rollo, p. 168).

Petitioners, however filed a Supplemental Memorandum, with leave of court on May 18, 1987 (Rollo, p. 169) which was noted by the court in its resolution dated June 19, 1987 (Rollo, p. 188).

In its petition petitioners raised the following assignment of errors, to wit:

I

THE TRIAL COURT ERRED IN HOLDING THAT EXHIBIT B DOES NOT TRANSFER OWNERSHIP, THE SAME BEING NULL AND VOID.

II

THE TRIAL COURT ERRED IN HOLDING THAT DEFENDANTS-APPELLANTS ARE NOT GUILTY OF LACHES.

III

THE TRIAL COURT ERRED IN HOLDING THAT PLAINTIFFS-APPELLANTS CANNOT ACQUIRE OWNERSHIP OF SUBJECT LAND BY PRESCRIPTION UPON THE PRINCIPLE THAT NO TITLE TO REGISTERED LAND IN DEROGATION OF THAT OF THE REGISTERED OWNER SHALL BE ACQUIRED BY PRESCRIPTION.

IV

THE TRIAL COURT ERRED IN NOT HOLDING THAT STATUTE OF LIMITATION HAS SET INTO THIS CASE; AND,

V

THE TRIAL COURT ERRED IN DECLARING TRANSFER CERTIFICATE OF TITLE NO. RT-6293 AS NULL AND VOID.

The pivotal issue in this case is whether or not there was a valid reconstitution of Transfer Certificate of Title No. RT-6293 (No. 23350) issued in the names of petitioners.

It is admitted that the land in question is formerly covered by Original Certificate of Title No. 2262, issued in the name of Pedro Villanueva and that the cancellation of said OCTNo. 2262 and the issuance of the reconstituted Transfer Certificate of Title No. RT-6293 (No. 23350) are based either on the Affidavit for Reconstitution of Teresa Villanueva and not of Pedro Villanueva, or the unnotarized deed of sale of August 10, 1937 (Annex "B" for plaintiffs), held void by the lower court and by the Court of Appeals. As a consequence TCT No. RT-6293 (No. 23350) was likewise held void ab initio. (Record on Appeal, p. 20).

As to the validity of the Affidavit for Reconstitution, affiant Teresa Villanueva testified on December 19, 1980, that she did not know anything about the reconstitution of their title as it was their children who took charge of the same and that she never participated in the said reconstitution. In fact she never appeared before the Notary Public and this testimony was corroborated by the testimony of Eleuterio Rebenque, entry clerk in the Office of the Register of Deeds who never made any categorical affirmation that said Teresa Villanueva appeared at said office. (Rollo, p. 43).

Consequently, the crux of the matter now centers on whether or not the unnotarized deed of sale purportedly executed on August 10, 1937 by the primitive owner Pedro Villanueva, in favor of petitioners, can be considered as a valid instrument for effecting the alienation by way of sale of a parcel of land registered under the Torrens System. Corollary thereto, it becomes necessary to examine other matters surrounding the execution of the alleged document of sale (Exhibit B).

Petitioners claim that the sale although not in a public document, is nevertheless valid and binding citing this Court's rulings in the cases of *Cauto v. Cortes*, 8 Phil. 459, 460; *Guerrero v. Miguel*, 10 Phil. 52, 53; *Bucton v. Gabar*, 55 SCRA 499 wherein this Court ruled that even a verbal contract of sale of real estate produces legal effects between the parties.

The contention is unmeritorious.

As the respondent court aptly stated in its decision:

"True, as argued by appellants, a private conveyance of registered property is valid as between the parties. However, the only right the vendee of registered property in a private document is to compel through court processes the vendor to execute a deed of conveyance sufficient in law for purposes of registration. Plaintiffs-appellants' reliance on Article 1356 of the Civil Code is unfortunate. The general rule enunciated in said Art. 1356 is that contracts are obligatory, in whatever form they may have been entered, provided all the essential requisites for their validity are present. The next sentence provides the exception, requiring a contract to be in some form when the law so requires for validity or enforceability. Said law is Section 127 of Act 496 which requires, among other things, that the conveyance be executed 'before the judge of a court of record or clerk of a court of record or a notary public or a justice of the peace, who shall certify such acknowledgment substantially in form next hereinafter stated.'

"Such law was violated in this case. The action of the Register of Deeds of Laguna in allowing the registration of the private deed of sale was unauthorized and did not lend a bit of validity to the defective private document of sale."

With reference to the special law, Section 127 of the Land Registration Act, Act 496 (now Sec. 112 of P.D. No. 1529) provides:

"Sec. 127. Deeds of Conveyance, x x x effecting lands, whether registered under this act or unregistered shall be sufficient in law when made substantially in accordance with the following forms, and shall be as effective to convey, encumber, x x x or bind the lands as though made in accordance with the more prolix forms heretofore in use: Provided, That every such instrument shall be signed by the person or persons executing the same, in the presence of two witnesses, who shall sign the instrument as witnesses to the execution thereof, and shall be acknowledged to be his or their free act and deed by the person or persons executing the same, before the judge of a court of record, or clerk of a court of record, or a notary public, or a justice of the peace, who shall certify to such acknowledgment substantially in the form next hereinafter stated." (Italics supplied).

It is therefore evident that Exhibit "E" in the case at bar is definitely not registerable under the Land Registration Act.

Likewise noteworthy is the case of *Pornellosa and Angels v. Land Tenure Administration and Guzman*, 110 Phil. 986, where the Court ruled:

"The deed of sale (Exhibit A), allegedly executed by Vicente San Jose in favor of Pornellosa is a mere private document and does not conclusively establish their right to the parcel of land. While it is valid and binding upon the parties with respect to the sale of the house erected thereon, yet it is not sufficient to convey title or any right to the residential lot in litigation. Acts and contracts which have for their object the creation, transmission, modification or extinguishment of real rights over immovable property must appear in a public document."

Upon consideration of the facts and circumstances surrounding the execution of the assailed document, the trial court found that said private document (Exhibit "B") was null and void and that it was signed by somebody else not Pedro Villanueva. Such findings of fact besides being based on the records, were sustained by the Court of Appeals.

The contention that ownership over registered property may be acquired by prescription or adverse possession is absolutely without merit. No title to registered land in derogation of that of the registered owner shall be acquired by prescription or adverse possession. Prescription is unavailing not only against the registered owner but also against his hereditary successors (*Umbay vs. Alecha*, 135 SCRA 427 [1985]). The right to recover possession of registered land is imprescriptible because possession is a mere consequence of ownership (*Umbay vs. Alecha*, supra, citing *Atun v. Nuñez*, 97 Phil. 762; *Manlapas and Tolentino v. Llorente*, 48 Phil. 298, 308; *J.M. Tuazon & Co., Inc. v. Aguirre*, 117 Phil. 310, 113-114) where land has been registered under the Torrens System (*Alarcon v. Bidin*, 120 SCRA 390; *Umbay v. Alecha*, supra) because the efficacy and integrity of the Torrens System must be protected (*Director of Lands v. CA*, 120 SCRA 370). As prescription is rightly regarded as a statute of repose whose objective is to suppress fraudulent and stale claims from springing up at great distances of time and surprising the parties or their representatives when the facts have become obscure from the lapse of time or the defective memory or death or removal of witnesses (*Senoan v. Sorongon*, 136 SCRA 407 [1985]).

In the matter of laches, the Court aptly stated in the case of *Marcelo Sotto v. Pitar Teves, et al*, 86 SCRA 155 (1978) that "in determining whether a delay in seeking to enforce a right constitutes laches, the existence of a confidential relationship between the parties is an important circumstance for consideration. A delay under such circumstance is not as strictly regarded as where the parties are strangers to each other. The doctrine of laches is

not strictly applied between near relatives, and the fact that the parties are connected by ties of blood or marriage tends to excuse an otherwise unreasonable delay."

In the case of *Eso Standard Eastern, Inc. v. Alfonso Lim*, 123 SCRA 464, 480 [1983], the Court ruled that laches cannot be asserted by a mere possessor without claim of title, legal or equitable because for laches to exist, there should be a showing of delay in asserting the complainant's right. The complainant should have knowledge or notice of the defendant's conduct and an opportunity to institute a suit. Delay is not counted from the date the lot was sold to the buyer but from the time of entry of the defendant or from the time the complainant came to know of the occupancy for that is the only time it could possibly have demanded that he get out of the premises or could have instituted a suit. In the case at bar, it will be noted that what transpired was an administrative reconstitution, essentially ex-parte and without notice, thereby lending credence to the claim that private respondent Marta Agana was unaware of such reconstitution and possession until she discovered the same in the Office of the Register of Deeds in 1976. As such it cannot be claimed that she slept on her right as from that time on, it is undeniable that she filed her adverse claim on the said lot.

After a careful perusal of the case, there appears to be no cogent reason to disturb the findings of fact of the Court of Appeals which affirmed the findings of the trial court.

PREMISES CONSIDERED, the petition is DENIED and the assailed decision of the Intermediate Appellate Court is AFFIRMED.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Gancayco, JJ., concur.

[*] Penned by Justice Porfirio V. Sison, with Justices Abdulwahid A. Bidin, Marcelino R. Veloso and Desiderio P. Jurado.

[**] Written by Hyde Maximo C. Asuncion

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