

**SERAFIA MACUA, FLORENTINO MACUA, AND MARIA APUS,
PETITIONERS, VS. THE HONORABLE INTERMEDIATE APPELLATE
COURT (FIRST CIVIL CASES DIVISION), INOCENTES MACUA AND
ZARCILA TACASAN, R...**

G.R. No. 70810. October 26, 1987

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari, seeking the reversal of the decision* of the Intermediate Appellate Court (now Court of Appeals) dated March 29, 1985, the dispositive portion of which reads:

"WHEREFORE, PREMISES CONSIDERED, the decision appealed from is hereby REVERSED, and another one is hereby entered:

"1. Declaring the plaintiffs-appellants as the absolute and lawful owners of the land in question;

"2. Ordering the Municipal Assessor of Laguindingan, Misamis Oriental to cancel the tax declaration in the name of Maria Apus over the land in question, the latest of which is Tax Declaration No. 01115;

"3. Declaring the other documents, such as Exhs. 1 & 2 which led to the issuance of said tax declaration in the name of Maria Apus, including the Deed of Absolute Sale of two (2) parcels of unregistered agricultural land, Exh. 6, as null and void.

"Without any pronouncement as to damages and costs.

"SO ORDERED."

(Rollo, p. 38)

Plaintiffs (private respondents herein) and defendants (petitioners herein) are closely related. Co-plaintiffs Inocentes Macua and Zarcila Tacasan are husband and wife, while defendants, Florentino and Serafia Macua, are the brother and sister of Inocentes Macua, respectively, while Maria Apus is the wife of Florentino and sister-in-law of Inocentes Macua. (Hearing, June, 15, 1982, TSN pp. 4-5).

The factual background of this case as found by the trial court and adopted by the Court of Appeals is as follows:

"Plaintiffs asserted that they are the absolute owners of the following parcel of land:

'A parcel of land designated as Lot No. 12367-C-14, Laguindingan Cadastre, bounded on the North by the property of Ines Llanita; on the South by the property of Feleciano Lomongo; on the East by the property of Severino Cagampang; and on the West by the properties of S. Cagampang and A. Roxas; containing an area of (4110) sq.m., more or less; under Tax Declaration No. 12091, and assessed at P160.00.'

which they acquired by a public document of sale on July 27, 1948 (Exh. "E").

"Sometime in the year 1950, the defendants allegedly requested the plaintiffs that they be allowed to work and live on the land under litigation with the condition that said defendants will pay taxes on the land. The defendants are to enjoy the products of their labor, and from their seasonal crops such as, corn and tobacco but with respect to the coconut trees that were planted by the plaintiffs, the same shall be enjoyed by said plaintiffs.

"Twenty years later or in 1970, the defendants were requested by plaintiffs to vacate their land as they intended to occupy the same by themselves. Upon the defendants' refusal, plaintiffs sought the intervention of a policeman. Eventually, Claudio Macua, brother of Inocentes Macua and one of the occupants of the land in litigation returned the portion he was occupying to the plaintiffs. Claudio Macua signed an affidavit (Exh.'C'), subscribed and sworn to before Municipal Judge Juan W. Mercado on October 31, 1972. Because Claudio Macua voluntarily relinquished possession of the land to the plaintiffs and he was excluded as one of the defendants. The plaintiffs denied that they ever signed any document of transfer in favor of the defendants.

"Continuous refusal on the part of the defendants resulted to (in) many sleepless nights and untold worries on the part of the plaintiffs and they are asking moral and exemplary damages plus P3,000.00 by way of attorney's fees.

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". . . The defendants claimed that they are the real owners of the land under litigation. They alleged that the land in question was originally bought from a certain Faustina Agbalug (Faustina Llanita). The money utilized to buy the same was given by her mother to plaintiff Inocentes Macua. Her mother sold her own land at Tikog, Alubijid, Misamis Oriental (p. 56) and the proceeds of that sale was used to buy the parcel of land in question. Plaintiff Inocentes Macua being the eldest of the family was the one directed to buy the land from Faustina Agbalug, without their mother's (Cayetana Ragmac) knowledge and consent. Inocentes Macua caused the document (Exh. 'A') to be recorded in the name of his wife Zarcila Tacasan as vendee instead of their mother.

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"Defendant Florentino Macua declared that he acquired the land owned by his sister Serapia and his mother Cayetana Ragmac which was executed on March 27, 1965 (Exh. '6'). From the time Florentino Macua and Cayetana Ragmac on the 27th day of March 1965, they took possession of the same up to the present continuously and without any interruption. They declared the land under their own name (Exhs. '3', '4', '5', '7', '8', '9', '10', '11', and '12') and paid taxes thereto up to the year 1982 (Exh. '13').

"The defendants denied the allegations of Inocentes Macua and Zarcila Tacasan that they were occupying the property under litigation by mere tolerance and upon permission given to them by the plaintiffs. They asserted that since 1950, possession of the land had been by Serapia Macua and Cayetana Ragmac. Affidavit of Transfer of Real Property was presented by the defendant in order to establish the ownership of Cayetana Ragmac and Serapia Macua (Exhs. '1' and '2'.") (Decision, Civil Case No. 5244, Rollo, pp. 19-23; Decision AC-G.R. CV No. 03417-R, Rollo, pp. 30-32).

Petitioners (defendants) Florentino Macua and Maria Apus alleged that from the execution of the Deed of Conveyance (Exh. "6"), they were in the peaceful, open, public and uninterrupted possession and in the concept of absolute owners of the aforesaid parcels of land until December 6, 1976, when Inocentes Macua and Zarcilla Tacasan instituted Civil Case No. 5244 for Quieting of title & Recovery of Possession of a Portion of Land with Damages (Petitioners' Brief, Rollo, p. 106; Complaint, Rollo, p. 12).

After trial on the merits, the lower court finding for the defendants-petitioners upheld the Affidavits of Transfer of

Real Property, Exhibits "1" and "2", which were claimed by the plaintiffs-private respondents as forgeries, and applied the principles of equitable laches and prescription (Decision, Civil Case No. 5244; Rollo, pp. 19-29).

The dispositive portion of said decision is as follows:

"WHEREFORE, judgment is hereby rendered against the plaintiffs and in favor of the defendants. The Complaint is hereby dismissed and the plaintiffs are ordered to pay the following:

- "a) litigation expenses in the amount of P1,000.00;
- b) attorney's fees in the amount of P2,000.00 and
- c) to pay the costs of this suit.

"SO ORDERED." (Ibid).

On appeal, the Court of Appeals reversed aforesaid decision as aforestated. Hence, this petition.

In compliance with the resolution of the Second Division of this Court dated July 29, 1985 (Rollo, p. 87), private respondents filed their comment on September 6, 1985 (Rollo, pp. 90-94). In the resolution of October 14, 1985, the Court Resolved to give due course to the petition (Rollo, p. 99). As required by the Court in the same resolution, notice to file petitioner's brief was sent to counsel for petitioners (Rollo, p. 100). In compliance therewith, petitioners filed their brief on November 26, 1985 (Rollo, 102-115). In the resolution of May 5, 1986 (Rollo, p. 113), this case was transferred to the First Division which required private respondents to file a reply brief in the resolution of June 18, 1986 (Rollo, p. 114). This case was again transferred to the Second Division (Rollo, p. 129) and in the resolution of October 29, 1986, counsel for private respondents was required to show cause why disciplinary action should not be taken against him for failure to file a reply brief within the required period (Rollo, p. 115). On December 10, 1986, said counsel filed the brief for private respondents (Rollo, pp. 116-124) together with his explanation and the affidavit of private respondent Zarcila Tacasan stating the reasons for the delay in complying with the resolution of this Court (Rollo, pp. 126-128).

In their brief, petitioners raised the following assignment of errors:

1. THAT THE HONORABLE INTERMEDIATE APPELLATE COURT GROSSLY ERRED IN SUSTAINING THE THEORY OF PRIVATE RESPONDENTS THAT THE LAND IN LITIGATION WAS ONLY BORROWED BY HEREIN PETITIONERS:
2. THAT THE HONORABLE INTERMEDIATE APPELLATE COURT LIKewise GROSSLY ERRED IN NOT SUSTAINING THE DECISION OF THE HONORABLE REGIONAL TRIAL COURT THAT PRIVATE RESPONDENTS INOCENTES MACUA AND ZARCILA TACASAN ARE GUILTY OF LACHES:
3. THAT THE HONORABLE INTERMEDIATE APPELLATE COURT ALSO GROSSLY ERRED IN NOT SUSTAINING THE DECISION OF THE HONORABLE REGIONAL TRIAL COURT THAT PETITIONERS-SPOUSES FLORENTINO MACUA AND MARIA APUS HAVE ACQUIRED THE PARCELS OF LAND IN LITIGATION BY ACQUISITIVE PRESCRIPTION PURSUANT TO ARTICLE 1134 OF THE NEW CIVIL CODE.

The petition is impressed with merit.

Petitioners maintain that Serafica Macua and her mother Cayetana Ragmac were in peaceful, open, public and continuous possession and in the concept of owner of the aforesaid parcels of land since August, 1953 when they acquired the same by virtue of affidavits of transfer of real property (Exhs. "1" and "2") until March 27, 1965 when both sold their respective lots to Maria Apus, wife of Florentino Apus.

On the other hand, private respondents assailing the validity of said affidavits, countered that petitioners were occupying the land in question by mere tolerance and upon permission given to the latter by the former.

The lower court gave full faith and credit to the affidavits in question but on appeal, the Court of Appeals sustained the position of private respondents to the effect that said affidavits were fabricated and falsified.

The pivotal issue therefore of this case is the validity or invalidity of the affidavits of transfer.

Respondent Appellate Court laid stress on the fact that Inocentes Macua and Zarcila Macua in particular, are illiterates but in the Affidavits of Transfer of Real Property, Exhibits "1" and "2" both dated August 15, 1953 and in the affidavit of transfer in favor of Claudio Macua, Annex "A" to the complaint; Zarcila Macua appears to have affixed her signature while in the joint affidavit executed before Municipal Judge Mercado dated October 31, 1972 and in the Deed of Sale dated July 27, 1948 evidencing the conveyance of the land in question from the original owner Faustina Llanita to Zarcila Tacasan, Exh. "A"; Zarcila affixed her thumbmark. Otherwise stated, the Court of Appeals pointed out that in documents, the genuineness of which is assailed, Zarcila Tacasan was made to appear as having signed her name, while in documents which were admittedly executed by her, she appeared to have affixed her thumbmark, thereby showing her true nature as an illiterate.

Still further, the Court of Appeals observed as difficult to believe, the fact that Zarcila Tacasan who appears to have learned to write her name in 1953 as Exhs. "1" and "2" would seem to convey, should again revert to affixing her thumbmark in 1972 when she signed the joint affidavit before Judge Mercado. On the basis of the foregoing, the Court of Appeals found reasonable grounds to conclude that the questioned affidavits are plain forgeries and were fabricated for the purpose of transferring the tax declarations over the land in dispute from Zarcila Tacasan to Cayetano Ragmac and Serafia Macua so that the latter can execute a deed of transfer to petitioners Florentino Macua and Maria Apus.

At the hearing of this case in the lower court, Serafia Macua categorically stated while being grilled on cross-examination, that while Zarcila Tacasan sometimes signs her name with a thumbmark, she can also write her name.

Serafia Macua testified as follows:

Cross Examination by Atty. Manolo Tagarda:

"Q And you knew it for a fact that Inocentes Macua cannot sign his signature?

A Yes, he cannot sign.

Q You also have no knowledge of the educational attainment of the wife of Inocentes Macua, one of the defendants in this case, Tarcela Tacasan?

A I don't know her grade but she can sign.

Q Are you familiar with her signature?

A Yes, sir.

Q Are you aware, Mrs. Serafia Macua, that Tarcela Tacasan used to sign her name with a thumbmark?

A She can sign the signature of her name because the affidavit of transfer was signed by her.

Q And she could sign her name very well like a high school student?

A Not so well but we can read her name." (Hearing, April 11, 1983, TSN pp. 63-64)

In like manner Florentino Macua testified categorically and without hesitation that Zarcila Tacasan can write her name. In fact she is a registered voter as evidenced by a certification from the Election Registrar of Laguindingan, Misamis Oriental (Exhibit "14").

Florentino Macua testified as follows:

DIRECT EXAMINATION

BY ATTY. SANTOS TUBELLEJA

"Q Zarcela Tacasan likewise testified in this Court that she does not know how to read and write, what can you say as to that?

A She can write.

"COURT: (To witness)

Q Can she read?

A She cannot read but she can write her name.

COURT:

Proceed.

ATTY. TUBELLEJA:

Q Do you know if Zarcela Tacasan was ever a registered voter in the municipality of Laguindingan?

A Yes, sir.

Q Do you have proof to show that she really is a registered voter of Laguindingan?

A Yes, sir.

Q Where is that proof?

A In the possession of Atty. Tubelleja?

Q I am showing to you a certification already marked as Exhibit 14 coming from the election Registrar of Laguindingan, Misamis Oriental, what can you say as to this?

A This is the one.

Q Who obtained this copy from the Office of Atty. Jose F. Bascon in the Office of the Election Registrar?

A Me and my counsel, Atty. Tubelleja." (Hearing, July 11, 1983, TSN pp. 78-79)

It is undisputed that petitioners possessed the land publicly, peacefully, uninterruptedly and in concept of owners from the transfer of real property to the filing of the complaint on December 6, 1976, or a period of more than twenty three (23) years. Petitioners were the declared owners in the records of the Municipal Assessor of the Municipality of Alubijid, to the exclusion of all others including private respondents themselves and they continuously and religiously paid their real estate taxes thereon.

Furthermore, Florentino Macua and Maria Apus acquired by purchase the property owned by Serafia Macua and Cayetana Ragmac thru a Deed of Absolute Sale executed by the parties on March 27, 1965 and notarized by the Honorable Juan W. Mercado, Municipal Judge and Ex-Officio Notary Public (Exh. "6").

The possession of Florentino Macua and Maria Apus has been in good faith and with just title. This has resulted in loss of ownership of the property under litigation by private respondents thru ordinary prescription under Article 1134 of the Civil Code (Rollo, pp. 70-72).

On the other hand, the records also show that for the same period of time until the filing of the complaint, private respondents made no move to assert their ownership, so that the trial court did not err when it ruled that they are now barred by laches from asserting ownership over said land (Rollo, pp. 70-73).

Finally, the legal doctrine which has been enunciated in a long line of decisions issued by this Court is that the conclusions and findings of facts by the trial court are entitled to great weight and will not be disturbed on appeal unless for strong and cogent reasons because the trial court is in a better position to examine real evidence, as well as to observe the demeanor of the witnesses while testifying on the case (*Legaspi v. CA, et al.*, L-45510, May 27, 1986; *People v. Cruz*, G.R. No. L-68805, July 9, 1986; *People v. Vergara, et al.*, G.R. Nos. 66572-73, April 25, 1985).

There is no showing that this case falls under the exceptions which will justify overturning the findings of fact by the trial court.

PREMISES CONSIDERED, the assailed decision of the Court of Appeals is hereby REVERSED, and the decision of the Regional Trial Court of Misamis Oriental, Branch XXII, is hereby REINSTATED.

SO ORDERED.

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

* PENNED by Justice Ma. Rosario Quetulio-Losa (ponente) and concurred in by Justices Ramon G. Gaviola, Jr., Eduardo P. Caguioa and Leonor Ines-Luciano.

The judge of the trial court was Judge Benjamin A. Gorospe.

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