

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. INTERMEDIATE APPELLATE COURT, LUTGARDA PASILIAO, ERNESTO BROSAS, BIENVENIDO CLAUDIO AND TOMAS PASILIAO, RESPONDENTS.*G.R. No. 74830. July 05, 1993*

Ponente: ROMERO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-74830/>**ROMERO, J.:**

The whirling winds of controversy in the instant petition revolve around a parcel of land in Calasiao, Pangasinan which the Calasiao National High School received as a donation from the municipal government of Calasiao and which it has been using as a playground for its students but which the heirs of Antonio Pasilio, Lutgarda and Tomas, claim as theirs by right of inheritance.

It is undisputed that Antonio Pasilio owned the parcel of unregistered land which he started declaring as his property as early as 1918. When Pasilio died in 1924, he left his widow, Rufina Pobres, and two children, Tomas, then eleven years old, and Lutgarda, five years old. Sometime in 1931, Rufina went to Manila and offered for sale the parcel of land to Dionisia Estrada vda. de Memije and her husband who was then still alive. As Rufina Pobres was accompanied by Mrs. Memije's relative, Dr. Estrada, Mrs. Memije was persuaded to buy the property. The sale took place in Calasiao on August 7, 1931 and the transaction was recorded before notary public Mariano Caranto.[1]

Although the deed covering the transaction was destroyed during the Second World War, Mrs. Memije was able to save a memorandum or entry in a notebook regarding the conveyance which was prepared by her husband before he died in 1932.[2] Written in Spanish, the entry considers as one of the "terrenos de la Sra. Dionisia E. de Memije" the property situated in Nalsian, Calasiao which was "comprado de Rufina Pobres," with an area of 9,775 square meters and covered by tax declaration No. 35930. The entry also has these notations: "valor P250 prenda" and that the document of conveyance was notarized by Mariano Caranto.[3] The sugarcane and rice land was thereafter planted solely with palay by Mrs. Memije's tenant.[4]

Shortly after the war, the town mayor, Don Miguel de Vera, and several councilors including Don Jose Dizon and Don Mariano Jovellanos, convinced Mrs. Memije into selling the property to the municipality for the use of the high school which needed a road and a playground.[5] Hence, on November 12, 1945, in consideration of the amount of P2,000.00, Mrs. Memije executed a deed of sale in favor of the municipality of Calasiao of the parcel of land which is described therein as "obtenido por via de compra definitiva de Antonio Pasilio y Rufina Pobres" with an area of "una (1) hectarea, trece (13) areas y cuarenta (40) centiareas, poco mas o menos" with the following as boundaries: "al Norte con la propiedad de Dionisia Memije (antes Balmero Malapit) y Juan Añasco; al Este con la propiedad de Felipe Villanueva y Hrs. de Hugo Estrada (antes Tierra Gommunal); al Sur con Francisco Garcia (antes Rufino Manaois), Hrs. de Florencio Corpuz y otros; al Oeste con Dionisia Memije (antes Genoveva Soriano)."[6]

When Mrs. Memije bought the property, it was tenanted by one Estrada. Due to the latter's illness, his son

Eleuterio was actually the one working on the land when the municipal government bought it from Mrs. Memije. Eleuterio planted the land with rice. Before 1945, he and his father shared its harvest with Mrs. Memije but after the 1945 sale, Eleuterio shared the harvest with the high school through its principal, Mr. Catbagan. From 1951 to 1956, he delivered the school's share to Mr. Orjeno, from 1956 to 1967 to Mrs. Espino and from 1967 to 1977 to Mrs. Sabado. No one disturbed Eleuterio's cultivation of the land from 1932 to 1977. In 1945, the land was enclosed by a bamboo and barbed wire fence by the school and sometime in 1960, the school constructed a fence of hollow blocks around the land.[7]

Years later, the high school was nationalized. One of the requirements for nationalization was that the school should own the school site. Hence, on September 12, 1977, the municipality of Calasiao, represented by the mayor, Feliciano E. Ugay, executed a deed of donation[8] of the school site including the land in controversy in favor of the National Government represented by Telesforo N. Boquiren, Regional Director of the Department of Education and Culture. Belen P. Magat and Cornelio Estrada witnessed the execution of the deed of donation which particularly describes the property donated as follows:

"A parcel of land (Lot No. 762-Cad 439-D) of the Calasiao Cadastre, situated in Poblacion, Calasiao, Pangasinan. Bounded on the North by Lots Nos. 12260 and 741; on the East by Lot Nos. 745, 746, 748, 747, 749, 750, 751, 752, 753, 754, 761 and 766; on the South by Lot Nos. 763, 764, 765, 766 and 281; and on the West by Lot Nos. 282, 283, 12361, 12063 and 12068. Containing an area of Forty Two Thousand and Seventy three (42,073) square meters, more or less. All points referred to are indicated on the plan and are marked on the ground: date of survey September 1972 approved on 1976."

Upon the nationalization of the high school, the area in question was devoted to the holding of P.E. classes and to drilling exercises of the student cadets during dry season, and to rice cultivation during the rainy season.[9] Concepcion Macanlalay, who started teaching in the school on November 5, 1945, remembered that no one questioned the high school's ownership over the land. After harvesting the produce of rice and vegetables, the P.T.A. would get the share of the school to finance repairs of the buildings and the land would be used by the children as playground.

On June 30, 1979, Ernesto Brosas and Bienvenido Claudio entered the premises, and, with a tractor, prepared the soil for planting. They placed placards on the land with the sign "No trespassing private property Pasiliao." On August 4, 1979, the children could not hold physical education activities on the area. They just stayed on the sidewalk staring at the placards.[10]

Luis Gaviola, who had been the school janitor since 1962, talked to the people plowing the land with a tractor on that 30th day of June 1979. They told him that one Pasiliao had instructed them to turn the soil. As Pasiliao was not around, Gaviola was referred to Claudio but he could not also find Claudio. Thus, Gaviola went to the municipal hall and reported the incident to the police who entered the report in the blotter. The police told him that since there was no (court) order, they could not do anything. They advised Gaviola to just watch what was going on. On August 4, 1979, Pasiliao's men planted the land with palay. Gaviola went to the principal, Mrs. Visitacion J. Sabado, who told him to report the matter once again to the police.[11]

Aside from her report to the Mayor, Mrs. Sabado referred the matter to the Division Office of the Department of Education and Culture. The police who had placed the intrusion on its blotter also forwarded the case to the Provincial Fiscal.[12] Charges for usurpation of real property and trespassing were then filed by Mrs. Sabado against Lutgardo Pasiliao, Tomas Pasiliao and Ernesto Brosas but the Office of the Provincial Fiscal dismissed the case on the basis of its finding that the case was "purely civil in nature." [13]

On August 8, 1979, a complaint for quieting of title to real property with preliminary injunction and damages was

filed by the assistant provincial fiscal for the Republic of the Philippines "represented by the Director of the Department or Ministry of Education and Culture" against Lutgarda Pasiliao, Ernesto Brosas, Bienvenido Claudio and Tomas Pasiliao.[14] The complaint was primarily founded on the defendants' intended construction of a "permanent blockade to surround the premises in question" which created a cloud of doubt over the plaintiff's "quiet ownership" of the land in question. Thereafter, the Solicitor General filed an amended complaint for the same cause of action.[15]

At the pre-trial conference, the parties agreed on the existence of a deed of sale between Mrs. Memije and the municipal government of Calasiao and the deed of donation in favor of the national high school. They also agreed that the "entire area in question is within the fenced premises of the schoolhouse (sic)," and considered the following as controversial matters to be established by the parties: the time when the defendants' possession of the property began; whether the defendants indeed first planted the land with rice only on June 30, 1979 or before said date, and when the "no trespassing" notice was first placed on the area by the defendants.[16]

After the plaintiff had presented evidence, the defendants endeavored to prove that Tomas and Lutgarda Pasiliao, as heirs of Antonio Pasiliao, are the rightful owners of the property involved. In questioning the ownership right of the high school, the defendants disclaimed the alleged sale made by their mother in favor of Mrs. Memije, asserting that they had been paying taxes on the land. Thus, they presented tax receipts for the years 1918 to 1928[17] as well as tax declaration No. 9436 for 1951 cancelling tax declaration No. 35930 which was mentioned in the deed of sale between Mrs. Memije and the municipal government of Calasiao.[18] They also proved that they paid taxes for 1966, 1974, 1978 and 1979, and 1980.[19]

In showing that even the municipality recognized Antonio Pasiliao's ownership over the property, the defendants presented the letter of the Calasiao municipal treasurer addressed to Tomas Pasiliao's counsel, stating that the land declared under tax declaration No. 9436 had been delinquent in the payment of realty taxes since 1951 until 1959.[20] The defendants also offered in evidence a certification issued by the officer-in-charge of the Tax Mapping Project of Calasiao to the effect that the land covered by tax declaration No. 9767 in the name of Antonio Pasiliao had been indicated in the tax mapping records. A portion of the certification states:

"Our investigation disclosed that the controverted piece of land was included as a portion of Psu-121417 for Calasiao National High School by virtue of a deed of sale executed by one Dionisia Estrada Vda. de Memije."

According to Tomas Pasiliao, after his father died in 1924, he and his sister Lutgarda continued possession over the land. In fact, they had tenants by the names of Pedro Paragas and Mariano Praidio who were both from Manaoag, Pangasinan. In 1978, they were succeeded by Ernesto Brosas but in the same year, the tenants whom Brosas supervised, stopped working on the land upon the "prodding" of the high school or its officials.[21] It was in the early part of 1962 that two school officials approached Tomas asking him to allow the school to utilize the land in question as a playground. Tomas and the two officials forged an oral agreement whereby the former allowed the latter to use the land during the dry season when he could not plant rice. Tomas, however, could not name these officials. The agreement was allegedly effective from 1962 to 1978.[22]

It was also in 1962 that the principal, whose name Tomas could no longer remember, requested permission to fence the area with hollow blocks. The fence was in fact constructed sometime in 1963. Although the construction of the fence might have indicated permanent use of the land on the part of the school, Tomas did not object because it was "favorable" to him. He also continued cultivation of the property until 1979, receiving between 37 to 42 sacks from the tiller.[23]

On June 7, 1984, the lower court rendered a decision[24] declaring Lutgarda and Tomas Pasiliao as the lawful owners of the land covered by tax declaration No. 9767 in the name of Antonio Pasiliao with an area of 11,340

square meters and dismissed the complaint for quieting of title for lack of merit. The decision is based on the following findings:

"Ultimately, this Court is in agreement with defendant's contention that there is no litigious (sic) issue between the parties. What seems to be the controversy is plaintiff's inclusion in its survey plan of the defendants' property. Its complaint seeks to quiet its title to a property it owns, containing 42,073 square meters. Yet its evidence tried to prove 53,686 square meters.

Plaintiff's witness, Mrs. Visitacion Sabado, the incumbent school's principal, testified that the lot sold by Memije is already included in the whole area described in the complaint which is 42,073 square meters. The Court cannot reconcile, however, why plaintiff is attempting to register a property of 53,686 square meters as included in the survey plan, when the land it acquired from its donor is only 42,073 square meters which area is the only area, alleged in the complaint. The only plausible explanation is that plaintiff included defendant's property when it surveyed its land for registration requirements. Relief on matters not alleged in the pleadings cannot be awarded without convincing proof."

The plaintiff appealed to the then Intermediate Appellate Court. In its decision of May 27, 1986,[25] quoting extensively the decision of the lower court, the appellate court added:

"We rule in favor of the defendants.

It is not clear whether the transaction between Rufina Pobres and Dionisia Memije was indeed a sale. The memo of the transaction which appears to have been taken by the husband of Memije states that it was a 'prenda' - a mortgage.

There is no showing that Memije declared the property in her name or paid the taxes thereon.

The alleged sale allegedly took place in 1931. But up to the year 1974, the property was still declared in the name of Antonio Pasiliao. Indeed, as the defendants put it, the conduct of Memije was 'not the conduct of an owner.'

If, therefore, Memije had not validly acquired ownership of the property in question, the Municipality of Calasiao to which Memije sold the property, could not have derived a title better than her title.

And if, as found by the lower court, there is no document evidencing the alleged sale, the same having been allegedly destroyed during the last world war, the said municipality could not have had at the time of the sale in its favor, which is after the war, any basis to form a reasonable belief that Memije from whom the said municipality received the property was the owner thereof.

The Municipality of Calasiao, therefore, lacked the element of good faith in acquiring the subject property. And it could not have availed of prescription or laches in its favor. x x x."

Hence, the present recourse, with the petitioner Republic of the Philippines submitting the basic issue of ownership as between itself and private respondents Lutgarda and Tomas Pasiliao.

At the outset, it should be made clear that the area in controversy is not the whole site of the Calasiao National High School. It is only that particular area covered by tax declaration No. 35930 which Dionisia Vda. de Memije allegedly bought from Rufina Pobres and later sold to the Municipality of Calasiao or the parcel of land covered by tax declaration No. 9767 in the name of Antonio Pasiliao.

Under the general rule, factual findings of the lower courts as well as the appellate court are binding on this Court. But this rule is not absolute as it recognizes settled and recognized exceptions. One of these exceptions is when the questioned decision is based on a misapprehension of facts.[26] Another exception is when facts of substance had been overlooked by the lower court which, if correctly considered, might have changed the outcome of the

case.[27] An in-depth review of the records of the case reveals facts which have indeed been overlooked by the courts below which apparently led to the misappreciation of the evidence on record. However, for a clear and definitive settlement of the case, it would be best to resolve first the nature of the transaction between Rufina Pobres and Dionisia Vda. de Memije.

Notwithstanding the Pasiliao heirs' vehement denial of the existence of the said transaction, the same has been satisfactorily proven by both documentary and testimonial evidence. What remains to be determined is the nature of said transaction. A key to the resolution of the matter is the word "prenda" used to describe the said transaction in the entry or memorandum in the notebook of the husband of Mrs. Memije marked as Exhibit C.

The Intermediate Appellate Court equated a "prenda" with a mortgage. The same word, however, admits of several definitions, as its usage in particular parts of the country dictates. It is a kind of special contract which is akin to *salda* in Ilocano, *sangra* in Bicol, or mortgage in *prenda* whereby the debtor delivers to the creditor the possession of a parcel of land as security for the loan he has obtained from the latter who enjoys the usufruct.[28] "Prenda" is also defined as *una palabra que el vulgo, en muchas partes del pais, emplea indistintamente para significar hipoteca o venta con pacto de retro, toda vez que muchos dialectos locales carecen de la palabra e expresion equivalente al contrato de venta con pacto de retro.*[29] A "prenda" may therefore, be construed also as a sale with right to repurchase.

Mrs. Memije was categorical in her testimony that the contract between her and Rufina Pobres was a sale.[30] With the notation of her husband that the transaction was a "prenda," however, it is not implausible to conclude that the conveyance was actually a sale with right to repurchase.

The determination of the nature of the conveyance in question would not have been controversial had the document covering the transaction between Mrs. Memije and Rufina Pobres been presented in evidence. Since the contract was lost and there being sufficient evidence that a transfer of rights over the land in question in fact took place, Art. 1603 of the Civil Code stating that in case of doubt, a contract purporting to be a sale with right to repurchase shall be construed as an equitable mortgage, should be applied. As such, the contract should be deemed an equitable mortgage and, therefore, ownership of Mrs. Memije of the property would not have been consolidated until after foreclosure of the mortgage had been undertaken. However, proof of such foreclosure is necessary; otherwise, no right of ownership over the property could have been transmitted by Mrs. Memije to the municipality of Calasiao.

A close scrutiny of the peculiar circumstances of this case, however, makes the need for such proof immaterial, for the same lead to the irresistible conclusion that Mrs. Memije had been vested with ownership over the unregistered property by virtue of acquisitive prescription.

According to Tomas Pasiliao, from the time of his father's death in 1924, his mother had taken possession of the property. In that year, however, since he was still studying at the San Alberto College, his mother lived with him in Calmay, Dagupan. In 1931, his mother was allegedly supervising the tenants who were working on the land and such supervision continued until her death in 1959 or for twenty-eight (28) years.[31] As Tomas had been busy in Davao since 1956,[32] he hired a lawyer from that place to attend to his property.[33] Hence, it was to this lawyer that the municipal treasurer sent the notice of tax delinquency from 1951 to 1959.[34] Still, Tomas did not take concrete steps to pay the taxes or to declare the property in his or his sister's name. As he himself admitted in court, no taxes on the land were ever paid from 1929 to 1979.[35] On June 19, 1979, Tomas paid for the taxes from 1974 to 1979.[36]

From these facts and the presentation of the different tax receipts from as far back as 1918 to 1928, it is apparent that Tomas Pasiliao's claim over the property involved is primarily anchored on payment of realty taxes.

However, tax declarations or realty tax payments are not conclusive evidence of ownership of property.[37] They become strong evidence of ownership acquired by prescription only when accompanied by proof of actual possession.[38] Unlike the petitioner which alleged prescription as one of the bases of its claim to ownership over the disputed property, the private respondents had not interposed prescription as a defense, although they did attempt to prove actual possession by presenting testimonial evidence that they had tenants working the land.

Pedro Paragas, the alleged tenant who admittedly was a resident of Babasit, Manaoag, testified that he was a tenant from 1945 until 1978. He would plant rice on the land in June or July and harvest palay in November. After the harvest, he would leave the land, go home to Babasit which is about 23 kilometers from Nalsian, Calasiao and deliver the owner's share to Lutgarda who also resided in Manaoag.[39]

It was on June 20, 1979 that, in a move to regain possession of the property, Tomas and Lutgarda executed a power of attorney in favor of Ernesto M. Brosas charging him with the authority to protect their right to ownership and possession over the property in Nalsian, Calasiao, Pangasinan.[40] By virtue of this power of attorney, Brosas and Claudio, who owned the house wherein Tomas stayed when he went to Calasiao, entered the premises of the school on June 30, 1979 and with a tractor, prepared it for planting rice.[41]

Far from evidencing actual possession, these pieces of evidence only reinforce the plaintiff's stand that the defendants were never in possession of the land personally or through tenants prior to 1979. These facts prove only too strongly that it was only on June 30, 1979 that the Pasiliaos heirs, through Brosas, attempted to regain possession of the property. Added to these are certain un rebutted facts shown by the evidence presented by the petitioner. Thus, if it were really true that there were Pasiliao tenants working the land in 1945, the Calasiao officials would not have approached Mrs. Memije to offer her the purchase of the property. As public officials; the mayor of Calasiao is presumed to have regularly performed his job untainted by any ill motive or personal desire. It should be noted that at the pre-trial, the parties even agreed in their stipulation that a sale in fact took place between Mrs. Memije and the municipality.

Moreover, the supposed tenants would have reported to the Pasiliaos the fact that the school, in fencing the whole school site included the property in question. It is certainly unnatural for Pasiliao to agree to such enclosure considering that the fence was built with concrete materials, indicating the intent to make it a permanent one. Tomas' testimony that it was to his advantage that the property was fenced by the school does not impress one as that of a solicitous property owner.

Neither did he object to the construction of a paved avenue across the property. Constituting a marked diminution of the area devoted to rice cultivation, the paved portion would have surely elicited an objection from the Pasiliaos. Tomas' statement that he allowed such violation of his property rights "for the advantage" of the land, the students and the school,[42] strains credulity. If at all, it showed nothing but a desperate attempt, even an afterthought, to prove possession which he and his sister had failed to exercise since they came of age and even after their mother's death in 1959.

There is, therefore, no doubt that from 1931 to 1945, or a period of fourteen years, the property was never in the possession of the Pasiliaos, for even their alleged tenant, Pedro Paragas, admitted that he worked on the land only between 1945 to 1978.[43] Under Art. 1557 of the old Civil Code or Art. 1134 of the present Civil Code, ownership over the property had been acquired by its possessor through ordinary prescription, inasmuch as possession had been exercised for over ten years. Since it has been satisfactorily proven that Mrs. Memije had acquired the property and that her tenant, Estrada, cultivated the area, the Pasiliaos' claim of ownership over the property crumbles irretrievably. Moreover, the Pasiliaos failed to prove even payment of taxes from 1929 to 1951. Hence, for twenty-two (22) years, they failed to exercise any element of the right of ownership over the property.

With respect to this aspect of the case, the courts below totally ignored the fact that the land in controversy is an unregistered land which may be acquired legally through prescription upon proof of actual adverse possession. Since the rights from which the high school now claims ownership were derived from Mrs. Memije's rights which accrued in 1931 when she acquired it from the mother of the Pasiliaos, the applicable law is Sec. 41 of Act 190, the old Code of Civil Procedure which states:

"SEC. 41. Title to land by prescription. – Ten years actual adverse possession by any person claiming to be the owner for that time of any land or interest in land, uninterruptedly continued for ten years by occupancy, descent, grants, or otherwise, in whatever way such occupancy may have commenced or continued, shall vest in every actual occupant or possessor of such land a full and complete title, saving to the persons under disabilities the rights secured by the next section. In order to constitute such title by prescription or adverse possession, the possession by the claimant or by the person under or through whom he claims must have been actual, open, public, continuous, under a claim of title exclusive of any other right and adverse to all other claimants. x x x."

When the property was acquired by Mrs. Memije, Tomas was then nineteen (19) years old or two years short of the legal age. Even granting a two-year allowance or counting the prescriptive period from the time he became of age in 1933, still, the ten-year period would have expired in 1943 or two years before the alleged tenant cultivated the property.

Furthermore, the period between the sale of the property to the municipal government of Calasiao on November 12, 1945 and June 30, 1979 when the Pasiliaos' men entered the premises, spanned thirty-four (34) years. This period of time is sufficient to vest extraordinary acquisitive prescription over the property on the municipality and, thereafter, on the National Government, by virtue of Art. 1959 of the old Civil Code which is now Art. 1137 of the new Civil Code.[44] Said article states that "(O)wnership and other real rights over immovables prescribe through uninterrupted adverse possession thereof for thirty years, without need of title or of good faith." As such, it is immaterial now whether the municipality of Calasiao and the National Government, through the Calasiao National High School, possessed the property in good faith or not.

With regard to the area of the land in controversy, the lower court said:

"The crux in plaintiff's evidence lies in the complaint which alleges 42,073 square meters as the area of the land in question, and the approved survey plan of plaintiff's property (the whole area of the school site) which reflects 53,686 square meters as the area of the whole property of plaintiff. There is also a great difference in the area donated by the Municipality of Calasiao to the National Government of 42,073 square meters and that being claimed by the plaintiff as a result of the survey of 53,687 (sic) square meters.

Simply stated, the plaintiff cannot claim more than what is acquired from its donor, the municipality of Calasiao, because the basis of its ownership is the deed of donation. This document specifically mentioned only 42,073 square meters.

Further, if it is true that the land bought by Memije from Rufina Pobres is the same land sold to the Municipality of Calasiao, how come that the area stated in the deed of sale is different from the area stated in the Memo (Exh. C) presented by Memije? The deed of sale executed by Memije in favor of the Municipality of Calasiao accounts for 10,340 square meters, whereas the Memo mentions only 9775 square meters. The source of the data contained in the Memo is the deed of sale allegedly executed by Rufina Pobres. If it is the same land which Memije bought from Pobres, why the difference? x x x."[45]

These observations prove tellingly the lower court's misappreciation of the facts, in this case. The survey plan referred to or Psu-141297, which indicates 53,686 square meters as the total area of the school site, was prepared on August 23, 1953.[46] A subsequent cadastral survey in 1972, however, showed that the school site contained

an area of only 42,073 square meters and the property was designated as Lot No. 762-Cad. 439-D of the Calasiao Cadastre.[47] Since the petitioner alleged in its complaint that the school site has a total area of 42,073 square meters, there can be no question that the petitioner is bound by its allegation. Although the survey plan reflecting the area of 53,686 square meters was later presented in evidence, the undisputed fact is that after the said survey, a cadastral plan was drafted for the municipality of Calasiao and the school site was shown to have an area of only 42,073 square meters.

As earlier stated, the res that is the bone of contention here is not the total area of the school site, but just a portion thereof. What should concern the Court, however, is the fact that the land originally owned by Antonio Pasiliao had been given a variable area in the different documentary evidence on record. Thus, under the survey plan of the claimed property presented by the private respondents below, it is shown to have a total area of 10,572 square meters.[48] In tax declaration No. 9436 cancelling tax declaration No. 35930, however, the property is reported to have 11,340 square meters. It should be borne in mind that while the memorandum of the sale between Rufina Pobres and Dionisia Vda. de Memije indicates the area sold to be 9,775 square meters, the same memorandum shows that the property is covered by tax declaration No. 35930.

Such disparity in the areas could, of course, give rise to the suspicion that Rufina Pobres retained 1,565 square meters of the area indicated in tax declaration No. 35930. However, there is no proof that the area of the property had been established with precision. What is significant is that Mrs. Memije took possession of the property sold to her by Rufina Pobres, and from 1931 until she sold it to the municipality of Calasiao in 1945, no one questioned her possession over it and the right of ownership that such possession, by prescription, vested upon her.

As heirs of the original owners of the property, the efforts of Tomas and Lutgarda Pasiliao in regaining ownership of the property is understandable. However, over the years, they had so distanced themselves from the property that when they realized that it was slipping from their fingers, it was already too late. Compounding this is the fact that the land had been devoted to public use and, clearly, public interest must be given paramount consideration.[49]

WHEREFORE, the instant petition is hereby GRANTED, the decision of the then Intermediate Appellate Court is REVERSED and SET ASIDE and the plaintiff is declared the absolute owner of the property in controversy. No costs.

SO ORDERED.

Feliciano, (Chairman), Bidin, Davide, Jr., and Melo, JJ., concur.

[1] TSN, June 3, 1980, pp. 4 & 29.

[2] Ibid, pp. 5 & 8.

[3] Exh. C.

[4] TSN, June 3, 1980, p. 30.

[5] Ibid, pp. 18 & 33.

[6] Exh. B.

[7] TSN, June 30, 1980, pp. 44-51.

- [8] Exh. A.
- [9] TSN, February 29, 1980, pp. 3-5.
- [10] TSN, March 25, 1980, pp. 2-7.
- [11] Ibid, pp. 25-28.
- [12] TSN, February 29, 1980, p. 9.

[13] ISD-087-79.

- [14] Civil Case No. D-4905.
- [15] Record, p. 42.
- [16] Ibid, p. 86.
- [17] Exhs. 4-A to 4-K.
- [18] Exh. 9.
- [19] Exhs. 10, 11, 4 and 13.
- [20] Exh. 7.
- [21] TSN, January 21, 1981, p. 12.
- [22] Ibid, p. 15.
- [23] Ibid, pp. 15-18.
- [24] Penned by Judge Graduacion A. Reyes-Claravall.
- [25] Penned by Associate Justice Desiderio Jurado and concurred in by Associate Justices Crisolito Pascual and Serafin E. Camilon.
- [26] Calalang v. Intermediate Appellate Court, G.R. No. 74613, February 27, 1991, 194 SCRA 514.
- [27] Oporto v. Court of Appeals, G.R. No. 98258, May 8, 1992, 208 SCRA 878, 883.
- [28] Philippine Law Dictionary by Moreno, 3rd ed., p. 728.
- [29] Ibid.
- [30] TSN, June 3, 1980, p. 4.
- [31] TSN, January 21, 1981, pp. 25-32.
- [32] Ibid, p. 35.
- [33] TSN, February 20, 1981, p. 54.
- [34] Exh. 7.
- [35] TSN, January 21, 1981, p. 47.
- [36] Exh. 4.
- [37] Director of Lands v. Intermediate Appellate Court, G.R. No. 70825, March 11, 1991, 195 SCRA 38, 44.

- [38] San Miguel Corporation v. Court of Appeals, G.R. No. 57667, May 28, 1990, 185 SCRA 722.
- [39] TSN, October 3, 1980, pp. 7, 12, 14 & 22.
- [40] Exh. 2.
- [41] TSN, November 3, 1980, p. 148.
- [42] TSN, February 20, 1981, p. 79.
- [43] TSN, October 3, 1980, p. 7.
- [44] Heirs of Celso Amarante v. Court of Appeals, G.R. No. 76386, May 21, 1990, 185 SCRA 585, 595.
- [45] Decision, pp. 3-4; Record, pp. 228-229.
- [46] Exh. D.
- [47] Decision of the Intermediate Appellate Court, p. 1; Rollo, p. 62.
- [48] Exh. 3.
- [49] Provincial Government of Sorsogon v. Vda. de Villaroya, G.R. No. 64037, August 27, 1987, 153 SCRA 291, 302.

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