

ELENA J. TOMAS, CAMILO ADINA, RICARDO J. TOMAS, AND JOSE J. TOMAS, PETITIONERS, VS. THE COURT OF APPEALS, MAXIMA CARREON AND AMADO D. NOLASCO, AND SECOND BULACAN DEVELOPMENT BAN...

G.R. No. 79328. May 21, 1990

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-79328/>

PARAS, J.:

This is a petition for review on certiorari seeking to reverse and set aside the July 22, 1987 decision of the Court of Appeals* in CA-G.R. CV No. 07165 entitled "Maxima Carreon, et al. vs. Elena J. Tomas, et al." reversing the decision of the Regional Trial Court**, Malolos, Bulacan, Branch X in Civil Case No. 1209-V-80, which dismissed the private respondents' complaint for reconveyance of real property.

The undisputed facts of the case are as follows:

Respondents are the vendees of a parcel of land measuring 105 square meters covered by Tax Declaration No. 2502 in the names of certain Cirila Mistica and her children. The original deed executed on September 5, 1961 covered 57 square meters (Exhibit "R") but the second deed executed on February 5, 1963 covered 105 square meters instead of 57 square meters ("may sukat na Isang Daan at Limang (105) metrong parisukat humigit kumulang sa halip na Limampu't Pitong (57) metrong parisukat" kasunduan ng Bilihang Tuluyan (Annex "A" of amended complaint). Respondents claimed to be in possession since 1963 of said parcel of land, where they constructed valuable improvements, including a 3-door apartment in 1963. In the year 1978, respondents discovered that defendants-petitioners together with their deceased brother, Lazaro Tomas, applied for the registration of a parcel of land known as Lot No. 2826 of the Meycauyan Cadastre, and "either by mistake or by design" included therein a portion of the land belonging to respondents consisting of 65 square meters adjacent to the parcel owned by petitioners on the Northern part thereof, and obtained Original Certificate of Title No. 0-6337 of the Registry of Deeds of Bulacan, which included the said 65 square meters of land. Petitioners refused to reconvey the said land to respondents, thus an action for reconveyance was instituted (Rollo, Memorandum for Respondents, pp. 148-148-A).

The action for reconveyance was filed by respondents against petitioners before then Court of First Instance of Bulacan on January 2, 1979 (Rollo, Memorandum for Respondents, p. 147).

After trial, the trial court rendered judgment in favor of the petitioners and against respondents, the dispositive part of which reads as follows:

"Wherefore, judgment is hereby entered dismissing plaintiffs' amended complaint. Defendants' counterclaim is likewise dismissed." (Rollo, Annex "A", p. 20)

On appeal, the Court of Appeals reversed the decision of the court a quo, disposing as follows:

"WHEREFORE, the judgment of the lower court is reversed and another one entered ordering respondents to cause the segregation of the disputed portion of 65 sq. meters presently occupied by plaintiffs, forming part of Original Certificate of Title No. 6337 (0-191) (M) issued in Land Registration Case No. N-1147-V, now Transfer Certificate of Title No. 11718 (M) in the name of defendants, and to reconvey the same to the plaintiffs. After the segregation order has been accomplished the Register of Deeds of Bulacan is hereby ordered to issue a new certificate of title conveying said 65 sq. meters in favor of plaintiffs, and another certificate of title in favor of the defendants covering the remaining portion.

SO ORDERED." (Rollo, Annex "A", pp. 35-36).

Hence, this petition.

Petitioners raised the following assignments of errors to the effect that respondent Court of Appeals: (1) misapprehended the facts; and (2) erred in not dismissing the complaint on the grounds of: (a) absence of allegation of fraud; (b) *res judicata*; and (c) prescription or laches.

The Second Division of This Court in its resolution dated June 5, 1989 gave due course to the petition (Petition, pp. 6-15; Resolution, p. 132).

Memorandum for the respondents (Rollo, pp. 146-157) was filed on August 24, 1989 while Memorandum for the petitioners (Rollo, pp. 158-177) was filed on August 26, 1989.

The main issues in this case are: (1) whether or not the Court of Appeals has the right to change or disturb the factual findings of the trial court; and (2) whether or not the respondents' complaint should be dismissed on the above-stated grounds.

I

Section 3, Rule 51 of the Rules of Court defines the power of the Court of Appeals on appeals taken to it, thus:

"The Court of Appeals, in the exercise of its appellate jurisdiction, may affirm, reverse, or modify the judgment or order appealed from, and may direct a new trial or further proceeding to be had. When a new trial shall be granted, the court shall pass upon all the questions of law involved for the final determination of the action."

The reason behind this rule is that the Court of Appeals may thus re-examine and re-weigh all the evidence on record and affirm, modify or reverse the findings of facts and conclusions of the lower court.

While it is an established rule that appellate courts will not generally disturb the factual findings of the trial court, considering that the latter is in a better position to decide the question (having heard the witnesses themselves and observed their deportment and manner of testifying during the trial), this does not apply in the case at bar where the lower court overlooked certain facts of substance and value which if considered would affect the result of the case (*People v. Royeras*, 130 SCRA 265 [1984]; *Aguirre v. People*, 155 SCRA 338 [1987]).

Among the basic errors noted are as follows:

(1) The court *a quo* failed to consider that the respondents: (a) have been in actual, open, peaceful and continuous possession of the subject matter of this dispute since 1961 exercising acts of dominion over it; (b) have constructed a 3-door apartment thereon which they rented in favor of third persons; and (c) have declared the same and the existing improvements thereon for tax purposes, and which taxes they have paid religiously. In legal contemplation the possessor has the presumption of title in his favor (Article 433, Civil Code of the Philippines). On the other hand, petitioners, for several years, not only failed to file any protest or object to the respondents' operating a business in the latter's own name and holding himself out to the public as the owner thereof but also

constructed a party wall themselves to indicate the boundary line between the two lots. Undoubtedly, the foregoing circumstances plus the fact of long and continuous possession are a strong indications that the respondents are the true owners of the disputed land.

(2) The court a quo erred in concluding that the land of Cirila Mistica and her children (former owners of the disputed land) was included in the titled lands of a certain Pacita Deganos (Lots 5026, 2845, 2846 of the Meycauayan Cadastre) when on the contrary, said lots of Pacita Deganos are bounded by the land of Cirila Mistica, the predecessors-in-interest of respondents (Exhibits "F-2", "F-3" and "F-4"), as confirmed by the Certificate of Title of Pacita Deganos (Exhibit "F-9").

In addition, the trial court failed to consider that the land of Dolores Juson, mother and predecessor-in-interest of the petitioners, has an area of 600 square meters only and is bounded on the north by the land of Cirila Mistica (Exhibits "A" and "A--1", "BB", "BB-1" "BB-3" and "BB-4"). The same area appears in the sale to Mrs. Dolores Juson on October 10, 1942 from Tomas Juson and Laureano Juson. There are also found in the extra-judicial settlement executed by the petitioners themselves on June 9, 1962 after the death of Dolores Juson where petitioners stated and admitted that their land had an area of 600 square meters only and in the tax declaration of Dolores Juson which likewise referred to an area of 600 square meters as declared by petitioner Elena J. Tomas in her declaration (Exhibit "CC"). Significantly, OCT No. 0-6337, the disputed title, covers a parcel of land with an area of 650 square meters, an indication that an excess not belonging to petitioners was covered (Rollo, p. 19).

The court a quo without basis, failed to consider that the findings and conclusions of Alfredo Salenga, a Geodetic Engineer, that approximately 65 square meters of the property of Cirila Mistica was included in Cadastral Lot No. 2826 in the name of Tomas Juson, were based on actual ground verification survey, the technical descriptions on file with the Bureau of Lands and the tax declarations and approved plan of adjoining property owners and other documents (TSN, p. 17, August 13, 1981; pp. 5-8, 9-10, September 1, 1981; p. 24, September 22, 1981). Furthermore, it will be noted that Engineer Salenga testified before another judge, then Judge Eduardo Caguioa; thus, his demeanor, conduct and attitude during the trial could not have been observed by Judge Nestor F. Dantes, the ponente of the contested decision (Memorandum for the Respondents, pp. 149-153).

II

The Court of Appeals correctly found: (a) that the complaint alleges the commission of fraud by stating that petitioners while professing all the time to recognize the rights of respondents to the said land, registered the same in their names; (b) that an action for reconveyance is not barred by the finality of the judgment in the Land Registration case, the former being an action in personam; and (c) that the period of prescription or laches which is ten years has not yet expired.

Article 1456 of the Civil Code provides that: "If a property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes."

In the present case, prescription will not lie in favor of the petitioners who are not even in possession of the disputed land. Undoubtedly, they obtained the property by mistake or fraud so that by operation of law, they are considered as trustees of an implied trust for the benefit of the respondents from whom the property came.

It is well-settled that an action for reconveyance based on an implied trust or constructive trust prescribes in ten years from the issuance of torrens title over the property (*Vda. de Buncio v. Estate of the late Anita de Leon*, 156 SCRA 352 [1987] which must be brought within ten years from the time of accrual of the cause of action (*Alcos, et al. v. IAC*, 162 SCRA 825 [1988])). Respondents' action for reconveyance was filed on January 2, 1979, one

year from the time respondents discovered that petitioners together with their deceased brother applied for the registration of a parcel of land known as Lot No. 2826, in 1978.

An action for reconveyance is a legal remedy granted to a rightful owner of land wrongfully or erroneously registered in the name of another to compel the latter to reconvey the land to him (*Esconde v. Barlongay*, 152 SCRA 603 [1987]).

The prevailing rule in this jurisdiction does not bar a land owner whose property was wrongfully or erroneously registered under the Torrens System from bringing an action after one year from issuance of the decree, for the reconveyance of the property in question. Such action for reconveyance does not seek to set aside the decree but, respecting the decree as incontrovertible and no longer open to review, instead seeks to transfer or reconvey the land from the registered owner to the rightful owner (*Ibid*).

PREMISES CONSIDERED, the instant petition is hereby DISMISSED and the decision appealed from is hereby AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

* Penned by Associate Justice Minerva P. Gonzaga-Reyes with the concurrence of Associate Justices Luis A. Javellana and Pedro A. Ramirez.

** Penned by Judge Nestor Dantes, Regional Trial Court, Malolos, Bulacan, Branch X.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.