

APOLONIA BAUTISTA, SUBSTITUTED BY HER HEIRS, NAMELY, TRINIDAD, CARMEN, SESINANDO, ARTEMIO, URSULA AND MARCIANA, ALL SURNAMED DE GUZMAN AND MARCELO & MIGUEL BOTH SURNAMED ELIGIO,...

G.R. No. 80006. September 21, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.

Pedro Gerardo and Cipriana Payongayong were well-to-do and socially prominent citizens of Hagonoy Bulacan. Pedro was a stenographer employed by the municipal government and was engaged in the business of manufacturing fireworks, while his wife Cipriana was engaged in the weaving industry and the business of buying and selling of clothing materials. They had two daughters, Maria and Ana.

Pedro acquired title to 162 hectares of fishpond located at Teracan, Macabebe, Pampanga, while his wife Cipriana bought from one Esteban Paciola 31 hectares of fishpond in May-Hagonoy, Hagonoy. Upon the death of Pedro, the fishpond in Macabebe was partitioned among his two heirs, daughters Maria and Ana and a creditor Irene Pacheco, the widow of the lawyer of the Gerardos. Maria got 70 hectares, Ana 50 hectares and Irene 42 hectares. To compensate for the smaller share received by Ana compared to Maria, Cipriana donated to Ana 31 hectares of fishpond at May-Hagonoy. Ana registered the 50 hectares property in Pampanga under her name in Land Registration Case No. 264 of the Court of First Instance (CFI) of Pampanga in which Decree No. 170346 was issued in her favor on February 28, 1925, GLRO Record Nos. 14788 and from which Original Certificate of Title No. 13058[1] was issued and registered in her name by the Register of Deeds of Pampanga. She also had the mother's title[2] over the 31 hectares donated to her duly cancelled and a new title issued in her name, TCT No. 2351.[3]

Ana married Valentin Sebastian. Their union resulted in the birth of their offspring Salud Sebastian. However, Valentin died after sometime. Ana then married Geminiano Bautista, a poor man without any property whatsoever. During their marriage, Ana and Geminiano acquired by purchase certain fishponds out of the fruits of the paraphernal property of Ana, namely: (a) 14 hectares in San Roque, Hagonoy identified as parcel 1; (b) 21 hectares in Sta. Elena, Hagonoy identified as parcel 3; and (c) 13 hectares at Sta. Elena, Hagonoy identified as parcel 4. These three fishponds were registered in the names of Ana and Geminiano per TCT Nos. 5242, 7132 and 16843.[4]

Geminiano died in 1933 childless and intestate. Ana filed intestate proceedings No. 4655 in the Court of First Instance of Bulacan whereby she was appointed administratrix of the estate of her departed spouse. In this proceeding, Apolonia Bautista, sister of Geminiano, filed her claim as the heir of Geminiano. In due course, an amicable settlement was effected wherein the heirs of Geminiano, namely his sister Apolonia, and nephews Miguel and Eligio, were bought off by Ana who likewise paid the claims of the creditors. On the basis thereof, the trial court issued an order ("auto") disposing of the intestate proceedings by declaring Ana Gerardo as the sole

heir of the deceased Geminiano Bautista and that it is no longer necessary to present a project of partition.[5] Ana presented said order to the Register of Deeds of Bulacan so TCT No. 5242 covering 14 hectares, TCT 7132 covering 21 hectares and TCT 16843 covering 13 hectares[6] were cancelled with an annotation recorded that "Ana Gerardo is declared the sole heir of the deceased Geminiano Bautista to succeed in the ownership of the said deceased over his participation in the land herein described." [7] New titles were issued on April 24, 1940 in the name of Ana Gerardo, to wit: TCT 23221, and TCT 23223.[8] Sometime in 1953, Ana sold to Pablo Tanjutco 13 hectares of fishpond in Sta. Elena, Hagonoy described as parcel 4 under TCT 23222 for P13,000.00,[9] and likewise sold to Salud Sebastian all the other four (4) fishponds, parcels 1,2,3, and 5 embraced by TCT 23221, TCT 2351, TCT 23223 and TCT 11783 on December 29, 1953 and May 22, 1957, as per separate deeds of sale with assumption of mortgage.[10]

On May 3, 1973, Apolonia Bautista filed a complaint in the Court of First Instance of Bulacan against spouses Salud Sebastian and Nicanor, Victoria, Patrocinio, Antonio and Consuelo, all surnamed Aniag, spouses Francisca Ignacio and Antonio Bernardo, Lourdes, Virginia, Alfredo and Valen, all surnamed Tanjutco and the Philippine National Bank (PNB) for the reconveyance and/or quieting of title of the said (5) parcels of land described as parcels 1,2,3,4, and 5 in the complaint, located in Hagonoy, Bulacan, and one (1) in Macabebe, Pampanga, all of which plaintiff claims are her property by inheritance from her brother Geminiano Bautista who died on April 30, 1933 leaving her as his only compulsory heir.

After trial on the merits, a decision was rendered by the trial court dismissing the action. The plaintiffs appealed to the Court of Appeals wherein in due course, a decision was rendered on July 29, 1987 affirming the appealed decision with costs against appellants.[*]

Thus, the herein petition for review on certiorari filed by plaintiffs, invoking the following grounds as basis thereof:

"A

WITH RESPECT TO PARCELS 1, 3 AND 4 (PLEASE SEE DESCRIPTIONS ON PAGES 7 AND 8 OF THIS PETITION), CERTAINLY THE RESPONDENT COURT FELL INTO ERROR WHEN IT HELD THAT THE SUPPOSED "AUTO" IN CAUSA CIVIL 4655 CONSTITUTES RES JUDICATA TO THE CASE AT BAR WHEN THE EXISTENCE OF SAID CASE COULD NOT BE DETERMINED (EXHIBIT 10) AND NO SIGNED OR CERTIFIED COPY OF THE ALLEGED "AUTO" (EXHIBIT 11) WAS EVER PRODUCED IN EVIDENCE.

B

WITH RESPECT TO PARCELS 2 AND 5 (PLEASE SEE DESCRIPTIONS ON PAGES 7 AND 8 OF THIS PETITION), DEFINITELY THE RESPONDENT COURT FELL INTO ERROR WHEN IT SUSTAINED THAT PARCELS 2 AND 5 WERE THE PARAPHERNAL PROPERTIES OF ANA GERARDO ALTHOUGH THE TITLES OVER THESE PROPERTIES WERE IN THE NAME OF ANA GERARDO MARRIED TO GEMINIANO BAUTISTA AND THE SAME WERE ALSO ACQUIRED BY THE SAID SPOUSES DURING THE EXISTENCE OF THEIR MARRIAGE (EXHIBIT 4 OR T.C.T. NO. 2351 AND EXHIBIT 1 OR T.C.T NO. 13058) AND HENCE, THEY ARE THE CONJUGAL PROPERTIES OF SAID SPOUSES (ARTICLE 1392, OLD CIVIL CODE; ALSO PAGE 3, CA DECISION OR ANNEX "A" OF THIS PETITION).

C

SINCE "THE PROPERTIES LEFT BY THE LATE GEMINIANO BAUTISTA REMAINED UNDER THE CO-OWNERSHIP OF ORIGINAL PLAINTIFF APOLONIA BAUTISTA AND ANA GERARDO (MOTHER OF DEFENDANT-APPELLEE SALUD SEBASTIAN; AND SURVIVING WIFE OF GEMINIANO BAUTISTA) UP TO THE TIME OF THE LATTER'S DEATH ON MAY 12, 1969" (PAGE 3, CA DECISION OR ANNEX "A" OF THIS PETITION) AND "IT WAS ONLY FOUR (4) YEARS AFTER DEATH OF ANA GERARDO OR IN MAY 1973 THAT ORIGINAL PLAINTIFF APOLONIA BAUTISTA FILED THE COMPLAINT IN THIS CASE (IBID), THEN PRESCRIPTION HAS NOT SET IN AND PETITIONERS ARE NOT GUILTY OF LACHES (DE GUZMAN ET AL., VERSUS HONORABLE COURT OF APPEALS ET AL., G.R. NO. L-47378, FEBRUARY 27, 1987).

D

AS RESPONDENT COURT DID NOT RESOLVE ASSIGNED ERRORS NUMBERS V, VI, VII AND VIII (PAGES 24 TO 29, BRIEF FOR SUBSTITUTED PLAINTIFFS-APPELLANTS OR ANNEX "F" OF THIS PETITION), THEN SUCH IS A FATAL ERROR ON ITS PART." (pp. 16-18, Rollo)

The main thrust of the petition is that the five (5) parcels of land having been acquired during the marriage and registered in the name of spouses Ana Gerardo and Geminiano Bautista, the same is conjugal property which petitioners are entitled to claim as heirs of Geminiano. Petitioners assail the findings of the trial court that in Civil Case No. 4655 there was an amicable settlement so that the titles covering parcels 1, 3 and 4 were transferred in the name of Ana Gerardo as the sole heir of Geminiano Bautista. Petitioners contend that there was no such Civil Case No. 4655 as shown by a certification which private respondents themselves produced in evidence.[11] The certification recites that from the salvaged pre-war records of the trial court which were lost and/or destroyed the existence of said civil case "could not be determined."

The contention is untenable. Said certification is simply to the effect that the records of said case cannot be located among the pre-war records, same having been lost and/or destroyed. It did not thereby mean that there was no such case at all.

As proof thereof, private respondents presented in evidence a xerox copy of the "auto" or order in said Civil Case No. 4655 wherein it is stated among others, that "at present, it is hereby declared that the administratrix Ana Gerardo is the sole heir of the deceased Geminiano Bautista and it is no longer necessary to present a project of partition." [12]

Section 4, Rule 130 of the Rules of Court provides as follows:

SEC. 4. Secondary evidence when original is lost or destroyed. — When the original writing has been lost or destroyed, or cannot be produced in court, upon proof of its execution and loss or destruction, or unavailability, its contents may be proved by a copy, or by a recital of its contents in some authentic documents, or by the recollection of witnesses.

In this case, the respondent appellate court as well as the lower court found the loss and destruction of the records of Civil Case No. 4655 to have been duly established in evidence. The due execution and issuance of said "auto" of August 31, 1937 had also been proved. Thus the presentation of the xerox copy of the said "auto" as secondary evidence was in order. No doubt, said order is *res judicata* to the present case as held by the respondent court.

As to parcels 2 and 5, petitioners insist that the property having been acquired during the marriage of Ana and Geminiano, the same constitutes conjugal property. However, the findings of facts of the respondent appellate court is conclusive in this proceedings to the effect that the said parcels of land were the paraphernal property of

Ana Gerardo which she acquired from her parents Pedro Gerardo and Cipriana Payongayong.[13] In fact, parcel 5 was adjudicated to Ana Gerardo by the Court of First Instance of Pampanga sitting as a land registration court in LRC Case No. 254, GLRO, No. 14788 whereby O.C.T. No. 13015 was forthwith issued to her in 1925.[14]

On the other hand, parcel 2 was acquired by Cipriana Payongayong which she later donated to Ana as shown by TCT No. 2347 to TCT 2351. No doubt parcels 2 and 5 are paraphernal properties of Ana Gerardo.

From the foregoing, there is no question that petitioners have no right at all to claim ownership of the properties in question. Exclusive ownership of the fishponds had been settled in favor of Ana Gerardo through judicial proceedings which constitute *res judicata* to the present case. Such prior judgment is conclusive in a subsequent suit between the same parties on the same subject matter, and the same cause of action, not only as to matters which were decided in the first action, but also as to every other matter which the parties could have properly set up in the prior suit.[15] Moreover the cause of action is also barred by prescription and laches.

The Court reproduces with approval the disquisition of the appellate court:

"The instant action was filed in 1973 or after more than 30 years. For that matter the cause of action of the herein plaintiff accrued from the death of Geminiano Bautista which was way back in 1933. The ten-year prescriptive period for actions to recover title to or possession of real property is counted from the date of the accrual of the cause of action (*Quetulio vs. De la Cuesta* L-25083, June 31, 1968, 22 SCRA 420).

Accordingly, plaintiff is also guilty of laches. Such inaction on their part for an unreasonable and unexplained length of time amounts to laches. It has been held that plaintiffs cannot avail of the nullity of the conveyance as an excuse to avoid the consequences of their own unjustified inaction and as a basis for the assertion of a right on which they had slept for so long, especially since such right is not expressly conferred by the law in the first place (*Pabalate vs. Echarri, Jr.* L-2435, Feb. 22, 1971, 37 SCRA 518; *Tijam vs. Sibonghanoy*, L-21450, April 15, 1968, 32 SCRA 29; *Arcuino vs. Aparis*, 22 SCRA 417).

Courts cannot look with favor at parties, who by their silence, delay and inaction, knowingly induce another to spend time, effort, and expense in cultivating the land, paying taxes and make improvements thereon for an unreasonable period only to spring in ambush and claim title when the possessor's efforts and the rise of land values offer an opportunity to make easy profit at their own expense (*De Lucas vs. Gamponia*, 100 Phil. 277; *Mayano vs. Tungkaling*, CA 49562-R, Dec. 29, 1978)."[16]

WHEREFORE, the petition is DENIED for lack of merit with costs against petitioners.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Exhibit 3.

[2] TCT No. 23427, Exhibit 1.

[3] Exhibit 4.

[4] Exhibits 7, 8 and 9, respectively.

[5] Exhibit 11.

[6] Exhibits 7 to 9.

[7] Exhibits 7-a, 8-a and 9-a.

[8] Exhibits 13 and 14.

[9] Exhibit 1-Tanjutco.

[10] Exhibits 15, 16, 17 and 18, respectively.

[*] Justice Jorge R. Coquia was the ponente, concurred in by Justices Josue N. Bellosillo and Venancio D. Aldecoa, Sr.

[11] Exhibit 10 issued by the Clerk of Court on June 1, 1973.

[12] Translation from the Spanish original text of the "auto", Exhibit 11.

[13] Exhibits 2 and 3-D.

[14] Exhibit 3.

[15] Yusingco vs. Ong King Lian, 42 SCRA 589; Tiongson vs. Court of Appeals, 49 SCRA 429; Libudan vs. Gil, 45 SCRA 70.

[16] Pages, 33 and 34, Rollo.

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