

**SPS. NICANOR A. CATRAL AND LOURDES TEANO CATRAL,
SUBSTITUTED BY THEIR HEIRS, PETITIONERS, VS. THE COURT OF
APPEALS, PAULA DICHOSO, JOSE TRINIDAD, JUSTO TRINIDAD,
BIBIANA ANTONIO...**

G.R. No. 83885. December 29, 1989

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

This is a petition for review on certiorari of the decision of the Court of Appeals dated April 29, 1988 in CA-G.R. CV No. 69507-R affirming the decision of the Court of First Instance of Cagayan in Civil Case No. 1839 dismissing a complaint for reivindicacion.[1]

The subject of the dispute is a 3-hectare northern portion of a larger parcel of land located in Paret, Alcala, Cagayan, described in Tax Declaration Nos. 4270-A and 11945-A[2] in the name of Sebastian Dichoso with an area of 92,034 square meters, more or less.

This larger parcel of land was originally owned by Sebastian Dichoso. After his death in 1921 his heirs namely his children Mateo, Paula and Maxima all surnamed Dichoso, took possession of the property as co-owners thereof and divided the same among themselves.

On April 27, 1951, Mateo Dichoso, now deceased, with the consent and knowledge of his sisters Paula and Maxima, sold to petitioner Nicanor Catral, for and in consideration of the amount of P250.00, three hectares of land comprising the EASTERN third portion of the aforesaid parcel of land as evidenced by a private writing in Spanish signed by him and his sisters Maxima and Paula Dichoso.[3] Upon its execution, the sum of P120.00 was paid by petitioner Catral to Mateo Dichoso. On March 16, 1952 the sum of P30.00 was paid to the wife of Mateo by said petitioner and on January 11, 1956 the final sum of P100.00 was paid to Mateo.

On February 29, 1956, a redivision of the aforesaid bigger parcel of land owned in common was caused among the Dichosos with the northern third portion going to Mateo because the previous distribution was not equitable according to the two sisters, as the eastern portion is more elevated than the western portion. Thus, on the same day, Mateo executed an Escritura de Compraventa - Deed of Sale - conveying to petitioner Catral the northern third portion in lieu of the eastern third portion.[4]

Mateo being a former Justice of the Peace, prepared and executed the said deed of sale in Spanish, a language he spoke and understood and he had the same notarized by Judge Higinio Montila, Ex-Officio Notary Public, being the then Justice of the Peace of Amulung, Cagayan. The document was registered in his Notarial Book as Document No. 14, Page 93, Book 2, Series of 1956.

Petitioner took possession of the land, cleared and cultivated the same and planted various crops thereon. He declared the property in his name[5] and paid the taxes thereon including the arrears from 1958 to 1969.[6]

He enjoyed peaceful possession of the property until after the death of Mateo when on December 27, 1957, the private respondents wrested the possession thereof from him.

Hence, this action for recovery of ownership and possession.

The trial court rendered a decision dated February 10, 1981 in favor of private respondent finding that respondent Paula is the sole owner of the subject property by acquisitive prescription. Appealing therefrom to the Court of Appeals as aforestated, the judgment of the trial court was affirmed in toto in a decision dated April 29, 1988.

In the herein petition for review of the said decision of the Court of Appeals, petitioners enumerate six (6) alleged errors committed by the appellate court, the resolution of which hinges on the sole issue of who has the better title to the property in question.

The petition is impressed with merit. There can be no question that the petitioners have the right to a reconveyance of the property in question. The best evidence thereof is the Escritura de Compraventa - Deed of Sale - dated February 29, 1956. It is a public document of sale by the former owner Mateo in favor of petitioners for and in consideration of P250.00 covering the northern portion of the property in question as hereinabove related. This is a confirmation of a previous sale of the eastern third portion of the said parcel of land owned in common by Mateo and his two sisters respondents Paula and Maxima, whereby after a redivision among themselves, the northern portion was assigned as the share of Mateo instead of the eastern portion.

The finding of the court a quo that the property in question belongs to Paula Dichoso inasmuch as she acquired the same from sister Domina Dichoso in 1924 and that since then Paula had been in possession of the property as owner thereof is not borne by the record. There is no document presented to show the alleged sale by Domina Dichoso in favor of Paula of the subject property.

There is likewise no proof of how Domina acquired ownership of the same. The alleged holographic will of Sebastian Dichoso by which Domina allegedly derived ownership thereof was not duly probated. Moreover, the same cannot be probated for at the time it was allegedly executed in 1917 holographic wills were not yet recognized as valid instruments of transmission of hereditary rights under the Code of Civil Procedure (Act No. 190). It was only upon the enactment of the Civil Code in 1950 that holographic wills were provided for as an instrument in the disposition of the property of the deceased.[7]

On the contrary, what appears is that the property was in fact co-owned by Mateo Dichoso with sisters Paula and Maxima, so much so that when Mateo sold the same to petitioner, Paula and Maxima signed their conformity to the Deed of Sale.

Moreover, assuming that respondent Paula had been in possession of the subject property since 1924 and continuously thereafter, as admittedly the property is owned in common by her with Mateo and Maxima, the rule is explicit that "no prescription shall run in favor of a co-owner or co-heir against his co-owners or co-heirs so long as he expressly or impliedly recognizes the co-ownership." [8]

The tax declarations of the subject property remained in the name of Sebastian Dichoso. Respondents Paula and Maxima appeared in the tax declarations as mere administrators of the property. They publicly considered themselves as co-owners of the property as they affixed their conformity to the sale of the same by Mateo to petitioners.[9] The said respondents did not complain when Mateo sold the northern third portion thereof under document, Exhibit A, after which petitioners took possession thereof, declared it in their name and cultivated and gathered the fruits therefrom. It was only after the death of Mateo that respondents forcibly wrested possession of the property under pretense of ownership. Their claim to the property is certainly fragile.

WHEREFORE, the petition is hereby granted and the appealed decision of the Court of Appeals dated April 29, 1988 is hereby reversed and set aside and another decision is hereby rendered declaring the petitioners to be the absolute owners of the land in question, ordering the respondents to deliver possession thereof to the petitioners, with costs against private respondents.

SO ORDERED.

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

[1] Mr. Justice Alfredo L. Benipayo was the ponente. The decision was concurred in by Messrs. Justice Jose C. Campos, Jr. and Ricardo J. Francisco.

[2] Exhibits 2 and 3.

[3] Exhibit B.

[4] Exhibit A.

[5] Exhibit C.

[6] Exhibits D to D-15.

[7] Enriquez vs. Abadia, 95 Phil. 627 (1954); Gan vs. Yap, 104 Phil. 509 (1958); Abangan vs. Abangan, 40 Phil. 476 (1919); and Mendoza vs. Pilapil, 72 Phil. 546 (1941).

[8] Article 494, Civil Code.

[9] Exhibit B.

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