

**FRANCISCO, SEVERO, VALENTINA, RUSTICO, DOMINADOR &
NICOMEDES, ALL SURNAMED BERGADO, PETITIONERS, VS. HON.
COURT OF APPEALS (TWELFTH DIVISION) AND REPUBLIC OF THE
PHILIPPINES, RE...**

G.R. No. 84051. May 19, 1989

Ponente: CRUZ, J.

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CRUZ, J.:

The property subject of this case is claimed by both the petitioners and the Republic of the Philippines under two separate deeds of sale executed by the same vendor. The Republic was sustained by the trial court and the Court of Appeals.[1] The petitioners are now before us, contending that the courts below have erred and so should be reversed.

Disputed are some 5,900 square meters of land forming part of a lot[2] situated in Pangasinan and covered by Original Certificate of Title No. 16545 in the name of Alejandro Trinidad and Aniceta Soriano. It was inherited by Marciana Trinidad, their sole heir. She transferred it by virtue of an Escritura de Compraventa dated May 3, 1928, to Pedro Bergado and Justina Galinato, the petitioners' parents.[3] She then conveyed it again, this time through a Deed of Sale dated February 19, 1947, to the Parent-Teacher Association of the Urdaneta Community High School.[4]

The petitioners claim the property by right of inheritance from their parents. The Republic says the land was donated to it on July 26, 1977, by the said PTA.

In rejecting their appeal, the respondent court held that the petitioners had slept on whatever right they might have had and were now barred by prescription and laches from asserting it. Moreover, their alleged right, such as it was, was inferior to the title asserted by the Republic to the property in question.

The petitioners contend that the Republic was itself barred from putting up the defenses of prescription and laches because these had not been pleaded earlier. These issues were not raised in the answer and neither were they asserted at the pre-trial conference. The consequence is that these objections can no longer be allowed at this late hour.

It is true that in *Permanent Concrete Products, Inc. v. Teodoro*,[5] we held that:

One of the objectives of pre-trial procedure is to take the trial of cases out of the realm of surprise and maneuvering. Pre-trial is primarily intended to make certain that all issues necessary to the disposition of a case are properly raised. Thus, to obviate the element of surprise, parties are expected to disclose at a pre-trial conference all issues of law and fact which they intend to raise at the trial, except such as may involve privilege or impeaching matter. The determination of issues at a pre-trial conference bars the consideration of other questions on appeal.

However, this is a statement only of the general rule on the procedure to be observed in pre-trials. It is subject to

the specific exception emphasized in the later case of *Gicano v. Gegato*,^[6] where Mr. Justice Andres R. Narvasa declared:

x x x We have ruled that trial courts have authority and discretion to dismiss an action on the ground of prescription when the parties' pleadings or other facts on record show it to be indeed time-barred; and it may do so on the basis of a motion to dismiss, or an answer which sets up such ground as an affirmative defense; or even if the ground is alleged after judgment on the merits, as in a motion for reconsideration; or even if the defense has not been asserted at all, as where no statement thereof is found in the pleadings, or where a defendant had been declared in default. What is essential only, to repeat, is that the facts demonstrating the lapse of the prescriptive period, be otherwise sufficiently and satisfactorily apparent on the record; either in the averments of the plaintiff's complaint, or otherwise established by the evidence.

It was thus not improper for the respondent court to consider the issue of prescription in determining the respective claims of the contending parties.

The record shows that the disputed property had been in the possession of the PTA since it acquired the same by virtue of the deed of sale dated February 19, 1947, and of the Republic of the Philippines since July 26, 1977, date of the deed of donation executed in its favor. The PTA and later the Republic had been constructing improvements on the land which certainly could not have escaped the attention of the petitioners. During all that time, the land was also enclosed with a barbed wire fence and later with an adobe wall erected by the school administration sometime "before 1965-1966."

The fence and later the wall symbolized the PTA's exclusive claim of ownership to the disputed property. The construction of various infrastructures on the land - consisting of the right wing of the main building, the administration building, the annex thereof, the reading center, and the water reservoir, among other valuable improvements - was also an unmistakable act of ownership which the petitioners could not ignore. Not one of them protested.

In fact, the petitioners maintained their tolerant silence for thirty-four years, breaking it only in 1981, when they filed their complaint to nullify the private respondent's title to the disputed land.^[7] Significantly, one of their brothers, Fernando Bergado, was the treasurer of the PTA who released the funds for most of the aforementioned constructions.^[8]

An action for recovery of title to or possession of real property or an interest therein can be brought only within ten years from the date the cause of action accrues.^[9] In the present case, the cause of action accrued as early as 1947 when the property was sold to the PTA or at the very latest in 1965-1966 when the adobe wall enclosing the property was erected. Counted from either year, the ten-year prescriptive period has indisputably elapsed. The petitioners' complaint was clearly barred already when it was filed on October 21, 1981, almost three and a half decades after the PTA had taken possession of the land.

An action for recovery of the title, or possession of, real property or an interest therein, can only be brought within ten (10) years after the cause of action accrues. Prescription is rightly regarded as a statute of repose whose object is to suppress fraudulent and stale claims from springing up at great distances of time and surprising the parties or their representatives when the facts have become obscure from the lapse of time or death or removal of witnesses.^[10]

Independently of prescription, another obstacle has operated against the petitioners, to wit, laches. This impediment was explained by the Court in the landmark case of *Tijam v. Sibonghanoy*^[11] thus:

Laches in a general sense is failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to

assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.

The doctrine of laches or of "stale demands" is based upon grounds of public policy which requires, for the peace of society, the discouragement of stale claims and, unlike the statute of limitations, is not a mere question of time but is principally a question of the inequity or unfairness of permitting a right or claim to be enforced or asserted.

The petitioners argue that neither prescription nor laches can operate against them because their title to the property is registered under the Torrens system and therefore imprescriptible. Additionally, they contend that in cases of double sale, assuming the sale to the private respondent was also valid, the buyer who registers the property first shall be preferred.

The principles cited, while admittedly correct, are nonetheless not applicable to the case at bar. The reason is that what the petitioners registered was not their ownership of the property but the Escritura de Compraventa, and at that only in 1964, thirty-six years after it was executed by Marciana Trinidad. The most she conveyed to the petitioners' parents was inchoate ownership as she herself was not the registered owner. The property remained in the names of Trinidad's parents; no transfer certificate of title had been issued in her favor. Consequently, no certificate could also be issued in the petitioners' names. Moreover, the petitioners did not take possession of the land as they could have on the strength of the Escritura de Compraventa. Worse, they permitted the PTA and later the Republic to do so and made no protest at all until 1981.

It is true that as the sole heir of her parents, Marciana Trinidad lawfully inherited the lot in question upon their deaths, conformably to Article 777 of the Civil Code. Hence, the affidavit of adjudication she executed on February 19, 1947, was only a formal affirmation of her ownership by right of succession. Even so, it was still necessary for the purpose of registering the property in the name of her vendees. There is no doubt that without such affidavit of adjudication, a transfer certificate of title could not have been issued in favor of the petitioners, or of their parents before them. Although the transferor-vendor named therein was Marciana Trinidad, the registered owners of the land were still Alejandro Trinidad and Aniceta Soriano per the original certificate of title.

The Escritura de Compraventa cannot itself be considered the affidavit of adjudication for the fact is that it did not comply with the requirements of Rule 74, Section 1, particularly the notice by publication. This compliance cannot be presumed because the instrument was basically a deed of sale and such documents are not required to be published. By contrast, such a presumption may apply to the affidavit of adjudication of February 19, 1947. The record does not show that any evidence has been adduced by the petitioners to negate the regularity of that instrument.

At any rate, the failure of the petitioners to execute the affidavit of adjudication is not really decisive of this case. In the view of the Court, the most telling consideration is that the petitioners' parents did not immediately take possession of the property upon the execution by Marciana Trinidad of the Escritura de Compraventa in 1928. And neither did the petitioners themselves when their parents died. The petitioners' claim is that they were ousted from the land only in 1979, but this is belied by the buildings and other constructions already erected thereon at the time by the PTA and the government. Moreover, the petitioners have not shown that they had paid the corresponding realty taxes on the land during any of the years they were supposedly occupying the same.[12]

On the other hand, it has been established that the PTA did immediately enter the property when the deed of sale was concluded in 1947. In fact, the land had long been in the hands of the government when it finally occurred to the petitioners to register the Escritura de Compraventa on December 1, 1964. Apart from the circumstance earlier stressed that the registration was thirty-six years late, it was obviously made in bad faith because the petitioners

were at that time already aware that the respondent Republic of the Philippines was in possession of the property.

Clearly applicable is Article 1544 of the Civil Code providing as follows:

If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property.

Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith. (Emphasis supplied.)

Interpreting this provision in *Arcenas v. Del Rosario*,^[13] the Court said:

It is true that when real property is the subject matter of a double sale, the purchaser who first registers it in the registry becomes the owner thereof under the provision of Article 1473 of the Civil Code, but this legal provision should not be understood in an absolute sense, nor does it constitute a ground to sustain the demurrer, because the rights conferred by said article upon one of the two purchasers of the same real property who has registered his title in the registry of deeds, do not come into being if the registration is not made in good faith.

The inscription of the *Escritura de Compraventa* in 1964 produced no legal effect because it was made in bad faith. Ownership should therefore vest in the respondent Republic of the Philippines because it was first in possession of the property in good faith.

If any recourse is still available to the petitioners, it definitely is not against the Republic of the Philippines. Their claim for satisfaction - on which we do not rule at this time - may be addressed only to Marciana Trinidad who, for reasons still to be discovered, sold the same land once, and then once again, to separate purchasers.

WHEREFORE, the petition is DENIED, with costs against the petitioners. It is so ordered.

Narvasa, (Chairman), Griño-Aquino, and Medialdea, JJ., concur.
Gancayco, J., on leave.

[1] Decision of Judge Rosalio C. Segundo affirmed by Justice Bienvenido C. Ejercito, ponente, with Justices Oscar M. Herrera and Justo P. Torres, Jr., concurring.

[2] Lot No. 5165.

[3] Rollo, p. 11.

[4] *Ibid.*, pp. 11-12.

[5] 26 SCRA 332.

[6] 157 SCRA 140.

[7] Rollo, p. 9.

[8] *Ibid.*, p. 14.

[9] Article 1134, Civil Code; *Tejido v. Zamacuma*, 138 SCRA 78, *Corro v. Lising*, 137 SCRA 541; *Sinson v.*

Sorongon, 136 SCRA 407.

[10] Cañete v. Benedicto, 158 SCRA 575.

[11] 23 SCRA 29.

[12] Rollo, p. 54.

[13] 67 Phil. 238.

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