

**LEDITA BURCE JACOB AND BUENAVENTURA JACOB, PETITIONERS,
VS. COURT OF APPEALS, ROSARIO, ALCERA FALCON, TRINIDAD
ALCERA CRUZ AND PURIFICACION ALCERA CHAY, REP. BY
TRINIDAD ALCERA ...**

G.R. No. 92159. July 01, 1993

Ponente: CRUZ, J.

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CRUZ, J.:

On November 12, 1984, the private respondents sued the petitioners for recovery of possession and ownership of a parcel of land located in Tagas, Tabaco, Albay, with an area of approximately 794 square meters.

The complaint was filed by Rosario Alcera Falcon, Trinidad Alcera Cruz, and Purificacion Chay, grandchildren of Agaton Boragay and Manuela Bobiles.[1] Of the eight defendants, only Ledita Burce Jacob and Buenaventura Jacob, the herein petitioners, filed their answer.[2] The other six were declared in default.[3]

The plaintiffs alleged that the land was covered by Original Certificate of Title No. RO-3334 issued in the name of Manuela Bobiles on June 30, 1932. The spouses Agaton Boragay and Manuela Bobiles had only one child named Gregoria Boragay. When the parents died, the property passed on to Gregoria who stayed on the land together with her husband, Alejandro Alcera, and their three children. When the Alcera children got married, they left the property and lived with their respective husbands.[4]

In 1974, Venancio Bonto and Felicidad Boragay constructed a shanty on the subject property. In 1977, Bonifacio Bobiles and Rosalina Base also built their house on the said lot. In the same year, OCT No. RO-3334 was canceled and TCT No. T-50318 in the name of the private respondents was issued. In 1981, two more houses were erected on the land by Buenaventura Jacob, Ledita Burce, Edilberto Bonto and Elena Borebor.[5]

In May, 1984, Trinidad Alcera Cruz demanded verbally that the petitioners vacate the premises but the latter refused. It was then that the complaint was filed against them in the Regional Trial Court of Tabaco, Albay.

For their part, the defendants claimed that the spouses Agaton Boragay and Manuela Bobiles sold the subject lot to Leon Cabida in an Escritura de Venta Con Pacto de Retro concluded in 1933. On July 15, 1948, Cabida sold the land to Emilio Bonto, husband of Rosario Burce. On October 31, 1956, Emilio Bonto executed a Deed of Absolute Sale in favor of Ricardo Burce and Consolacion Burce Elaco covering 595 square meters of the said lot. Emilio Bonto retained the 199 square meters. In 1980, Consolacion Burce Elaco, with the conformity of the heirs of her brother Ricardo, verbally ceded to her niece Ledita Burce Jacob the 595-square meter portion of the subject property. This was confirmed and ratified by Consolacion in a document executed on January 15, 1985.[6]

The defendants also averred that they had been in actual and physical possession of the property under claim of ownership for more than 51 years. Taxes on the property had been paid since 1948 by their predecessors-in-interest. It was only in 1976 that the private respondents came to know of the subject lot. When Consolacion Burce Elaco worked for the registration of the 595-square meter portion of the lot, she was informed

by the Registrar of Deeds that Lot No. 2365 had a title in the name of Manuela Bobiles on file with the Office of the Municipal Treasurer of Tabaco, Albay. She went to that office and was advised to secure a waiver from the heirs of Agaton Boragay. Accordingly, she sent a letter to Rosario Alcera Falcon asking her to execute a document ratifying and confirming the sale of the lot by their grandparents in favor of Leon Cabida. Falcon asked for an additional amount of P6,000.00 as purchase price of the subject property, but Consolacion refused to pay the same.[7] One year later, the property was transferred and registered in the name of the private respondents.[8]

On the basis of the evidence adduced by the parties, Judge Oscar B. Pimentel rendered judgment on August 8, 1986,[9] dismissing the complaint and declaring Leditha Jacob and Buenaventura Jacob "to be in lawful possession and owners of the 297.5 portion of the lot in question which came from Consolacion Burce Elaco and the other 297.5 xxx belongs to the vendee thereof, Ricardo Burce or his heir, which is presently legally possessed by defendants Ledita Jacob and Buenaventura Jacob." The remaining area of 199 square meters was declared as belonging to Emilio Bonto.

The plaintiffs (now herein private respondents) appealed to respondent court, which reversed the decision of the trial court on the following grounds:

- (1) The ownership of the land had been established preponderantly and more particularly by the Certificate of Title in the name of herein private respondents.
- (2) The Certificate of Title serves as evidence of an indefeasible title to the property in favor of the person whose name appears therein.
- (3) The Land Registration Act provides for judicial hearing before the issuance of a certificate of title. Persons claiming title over the property involved are given the opportunity to oppose the issuance of said title. Petitioners never filed any opposition to the issuance of TCT No. 50318 in the name of private respondents, hence, they are forever barred to contest the validity of such title.
- (4) A decree of registration and title may be attacked on grounds of actual fraud within one year from the date of its entry.
- (5) Tax receipts are not evidence of ownership of a parcel of land for which payment is made especially when the land is covered by a Torrens Title in the name of another.

The case is now before this Court in this petition for review by the Jacobs, who aver that the Court of Appeals erred in: 1) disregarding the Escritura de Venta Con Pacto de Retro (Deed of Sale with Right to Repurchase); 2) not concluding that the private respondents committed bad faith in transferring the property in their names; 3) not finding private respondents guilty of laches; and 4) concluding that Leon Cabida was but an administrator and therefore could not acquire the property under his administration.

The petition will fail.

The respondent court was only applying the settled rule when it declared:

x x x It is a fundamental principle in Land Registration that the Certificate of Title serves as evidence of an indefeasible title to the property in favor of the person whose name appears therein. After the expiration of the one-year period from the issuance of the decree of registration upon which it is based, it becomes incontrovertible (*Pamintuan vs. San Agustin*, 43 Phil. 558; *Reyes and Nadres vs. Borbon and Director of Lands*, 50 Phil. 791; *Manuel Sy Juco, et al. vs. Luis Francisco*, 53 O.G. 2186, April 15, 1957; *Bruzuela, et al. vs. Ciriaco vda. de Vargas*, 53 O.G. 2822, May 15, 1957). Furthermore, a title, once registered under the Torrens System of land registration, cannot be defeated, even by adverse, open and notorious possession, neither can it be defeated by prescription. A certificate of title, once registered, is notice to the world and as such all persons are bound by such notice and no one can plead ignorance of the registration (*Legarda vs.*

Saleeby, 31 Phil. 590).

Defendants-appellees in this case claimed that plaintiffs-appellants came to know of the property only in 1975. Consolacion Burce Elaco, the alleged former owner of the property prior to the defendants-appellees, tried to seek waiver from herein plaintiffs-appellants in order to transfer the property under the former's name. The property was transferred in the name of herein plaintiffs-appellants in November, 1977. The Land Registration Act provides for judicial hearing before the issuance of a certificate of title. In such proceeding, any person claiming title over the property involved is given the opportunity to oppose the issuance of said title. In the case at bar, herein defendants-appellees never filed any opposition to the issuance of said Certificate of Title, hence, they are forever barred to contest the validity of such title. Thus, in *De los Reyes vs. Paterno*, 34 Phil 420, it was held that claimant having failed to present his answer or objection to the registration of a parcel of land under the Torrens System or to question the validity of such registration within a period of one year after the certificate of title of registration had been issued, had forever lost his right in said land, even granting that he had any right therein.

By their own admission, Rosario Alcera Falcon was approached by Consolacion Burce Elaco in 1976 for a waiver when she sought to have the subject lot registered in her name. This request was refused, allegedly because she was unwilling to pay the petitioners an additional amount of P6,000.00 as part of the purchase price for the lot. If this be true, then the petitioners should have been on their guard against whatever action the private respondents would take to secure their claim to the land. Forewarned that the private respondents were intending to hold on to the property, the petitioners should have taken steps to prevent the latter from registering it in their name.

As might be expected, it was so registered, in 1977.[10] Yet, although the registration proceedings were in rem and there is no dispute as to the proper publication of the required notices, the petitioners did not file any opposition. Thereafter, TCT No. T-50318 having been issued in the name of the private respondents, the petitioners did not move for its annulment on their alleged ground of fraud until the prescribed period of one year expired. To repeat, it was only in 1984, when the complaint against them was filed, that the petitioners bestirred themselves.

As they were actually in possession of the disputed lot, the petitioners should have been especially vigilant against any adverse claim that might be made thereto, especially from the private respondents. Yet, although they were aware of the private respondents' original registration, the petitioners made no effort to have the registration transferred in their name after the sale of the land to their predecessor-in-interest. In fact, there was no change of registration when, as they alleged, the land passed from Agaton Boragay and Manuela Bobiles to Leon Cabida in 1933; then to Emilio Bonto in 1948; then to Ricardo Burce and Consolacion Burce Elaco in 1956; then to Ledita Burce Jacob in 1985. All this time, the property remained in the name of Manuela Bobiles under OCT No. RO-3334.

The contention that the private respondents knew about the property only in 1976 is an irrelevant argument. Even assuming this allegation to be true, we fail to see how this would affect the ownership of the disputed land. Title to registered land is not lost by ignorance. The simple fact is that the subject property was in the name of the private respondents' ancestors under an original certificate of title when they secured the issuance of a transfer certificate of title in their name.

The Court of Appeals erred when it disregarded the *Escritura de Venta con Pacto de Retro* as a mere scrap of paper. In fact, it was an important piece of evidence that it should not have dismissed out of hand.

Rule 132, Section 22, of the Rules of Court provides:

Sec. 22. Evidence of execution not necessary. - Where a private writing is more than thirty years old, is produced from a custody in which it would naturally be found if genuine, and is unblemished by any

alterations or circumstances of suspicion, no other evidence of its execution and authenticity need be given.

The Escritura complied with all the requisites laid down in the above provision. It was more than 51 years old when it was presented in court; it was produced by the proper custodians thereof who were the heirs of the person who would validly keep it; and there is no question it was unblemished by any suspicious alteration or erasure. It was therefore unnecessary to prove its execution and authenticity as evidence of the transfer of the disputed property to Leon Cabida, the petitioners' predecessor-in-interest.

Even so, that document cannot prevail against the transfer certificate of title in the name of the private respondents, who remain and are recognized as the registered owners of the disputed land. That title is good as against the whole world.

And then there is laches. Laches is defined as such neglect or omission to assert a right taken in conjunction with the lapse of time and other circumstances causing prejudice to an adverse party, as will operate as a bar in equity.[11] The petitioners invoke laches against the private respondents for their failure to protest their occupation of the subject lot, but they did not have to do this under the circumstances because they had the protection of the Torrens system.

If anyone is guilty of laches, it is the petitioners themselves for their failure to register the land in their name after the conclusion of the Escritura and the successive transfers of the property and to oppose the registration of the land in the name of private respondents in 1976. And if, as they now say, such registration was made fraudulently, what they should have done was file a petition for its annulment within a period of one year in accordance with Section 38 of the Land Registration Decree.[12] They did absolutely nothing until they were sued for recovery of the possession and ownership of the land by the private respondents in 1984.

Assuming that the petitioners had a right to the property by virtue of the Escritura, they slept on that right until they forfeited it by their inaction. When they asserted it in 1984, fifty-one years after the Escritura was executed and seven years after the subject land was registered in the name of the private respondents, they were invoking a title that had long vanished.

Vigilantibus, et non dormientibus, jura subveniunt. The vigilant, and not the sleepy, are assisted by the laws. So it must be in the case at bar.

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

Griño-Aquino, Bellosillo, and Quiason, JJ., concur.

[1] Orig. Rec., pp. 1-6.

[2] Ibid., pp. 16-19.

[3] Id., pp. 169-170.

[4] id., p. 168.

[5] Rollo, p. 50.

[6] Exhibit "K," Orig. Rec., p. 131.

[7] Rollo, p. 10.

[8] Orig. Rec., p. 158.

[9] Ibid., pp. 167-188.

[10] Exhibit "F," Orig. Rec., p. 158.

[11] Heirs of Batiog Lacamen vs. Heirs of Laruan, 65 SCRA 605.

[12] Sec. 38. If the court after hearing finds that the applicant or adverse claimant has title as stated in his application or adverse claim and proper for registration, a decree of confirmation and registration shall be entered. Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated in the following section. It shall be conclusive upon and against all persons, including the Insular Government and all the branches thereof, whether mentioned by name in the application, notice, or citation, or included in the general description "To all whom it may concern." Such decree shall not be opened by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceeding in any court for reversing judgments or decrees; subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the competent Court of First Instance a petition for review within one year after entry of the decree, provided no innocent purchaser for value has acquired an interest. Upon the expiration of said term of one year, every decree or certificate of title issued in accordance with this section shall be incontrovertible. If there is any such purchaser, the decree of registration shall not be opened, but shall remain in full force and effect forever, subject only to the right of appeal hereinbefore provided: Provided, however, That no decree or certificate of title issued to persons not parties to the appeal shall be cancelled or annulled. But any person aggrieved by such decree in any case may pursue his remedy by action for damages against the applicant or any other person for fraud in procuring the decree. Whenever the phrase "innocent purchaser for value" or an equivalent phrase occurs in this Act, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value.

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