

HILARIONA FORTALEZA DABLO, JUANITO DABLO AND MARTA DABLO, PETITIONERS, VS. COURT OF APPEALS, CESARIA DABAN, AND REMEGIO DABAN, RESPONDENTS.

G.R. No. 93365. September 21, 1993

Ponente: MELO, J.

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MELO, J.:

Before us is a petition for review by certiorari in regard to the decision promulgated by the Court of Appeals on February 23, 1990 in CA-G.R. CV No. 19268 entitled, "Hilariona Fortaleza Dablo, Juanito Dablo and Marta Dablo vs. Cesaria Daban and Remegio Daban".

The pertinent facts of the case as culled from the record are as follows:

On April 1, 1975, petitioners filed a complaint for quieting of title with recovery of possession and ownership, docketed as Civil Case No. 896-I of the then Court of First Instance (now Regional Trial Court) of Iba, Zambales, against private respondents.

The allegations of the complaint, as summarized by the Court of Appeals, are as follows:

In their complaint, plaintiffs alleged inter alia, that Hilariona Fortaleza Dablo is the surviving spouse of Mariano Dablo who died in 1936, while Maria and Juanito, both surnamed Dablo are their legitimate children; that plaintiffs inherited from Mariano Dablo the following described parcel of land, to wit:

"A parcel of unirrigated riceland located at San Roque, Cabangan, Zambales, containing an area of 21,443 square meters (Lot No. 1137, PLS 468--D) bounded on the North, by Lot No. 582; on the East, by Lot Nos. 1140, 1141, 1142 and 1143; on the Southwest, by Lot No. 1170 and on the West, by Lot No. 1139. This parcel of land is declared for taxation and assessment purposes in the name of the Heirs of Mariano Dablo under Tax Declaration No. 5671 for the year 1974 with an assessed value of P3,940. This parcel of land is covered by Original Certificate of Title No. P--3593 in the name of Hrs. of Mariano Dablo";

that Original Certificate of Title No. P-3593 was issued in the name of the heirs of Mariano Dablo on June 3, 1974 and was transcribed in the Registry Book of the Register of Deeds of Zambales on July 25, 1974; that Mariano Dablo had been in peaceful, continuous, open, public and adverse possession of the property as owner thereof since 1911 until his death when the plaintiffs succeeded in the possession of the property, until the defendants illegally entered and occupied the same; that in 1946, Remegio Daban illegally entered and occupied the western portion of the above described parcel of land containing an area of 7,057 square meters without the consent of plaintiffs and continuously occupied the same up to the present; that in 1969, Cesaria Daban illegally entered and occupied the eastern portion of the above-described parcel of land containing an area of 14,400 square meters without the consent of the plaintiffs and continuously occupied the same up to the present; that the plaintiffs have been paying the yearly taxes of the above-described parcel of land to the government; that the defendants from the time they occupied said respective portions of the land, planted the land yearly with palay; that there exists a cloud on the title of the plaintiffs over the property described above

in view of the illegal occupation by the defendants of the same; that defendants refused to vacate the premises illegally occupied by them despite repeated demands made on them by the plaintiffs. Plaintiffs then prayed that after due hearing judgment be rendered declaring plaintiffs the owners of the land in question and defendants be ordered: (a) to surrender and vacate the portions of the land respectively occupied by them; (b) to make an accounting of the harvest of the land and deliver the proper yearly rental to the plaintiffs, and (c) to pay the costs of the suit.

(pp. 23-24, Rollo.)

Private respondents' answer, as likewise summarized by the Court of Appeals, averred:

In their answer, defendants denied the material allegations in the complaint, averring, among others, that the property in question is owned by defendants who actually and physically possessed the same since the year 1933 continuously, openly, publicly and exclusively up to the present; that the late Mariano Dablo, husband of plaintiff Hilariona Fortaleza and father of the two other plaintiffs herein, had sold and transferred in 1933 to defendant Remegio Daban the western portion of the property involved in the case and being claimed by plaintiffs; that as regards the eastern portion of the same parcel, the same was sold *con pacto de retro* in 1930 to one Ricardo Rivera and that for failure of vendor a *retro* Mariano Dablo to redeem the property, said Ricardo Rivera transferred and conveyed by way of exchange said eastern portion to defendant Cesaria Daban in 1960; that plaintiffs' title is not valid and that no demand to vacate was made by plaintiffs except in the present complaint. By way of affirmative and special defenses, defendants alleged that plaintiffs have no valid and legal cause of action; that plaintiffs' title is subject to review on the ground of fraud on the part of plaintiffs in connivance with some personnel of the Bureau of Lands; that because of the lawful acquisition of defendants of the whole parcel in litigation from the late Mariano Dablo, defendants have since then declared said property in their names for taxation purposes; have religiously paid the realty taxes therefor and have since then been in physical possession of the same to the exclusion of plaintiffs. As counterclaim, defendants alleged that due to the filing of the malicious, unfounded and unwarranted complaint, defendants are entitled to moral damages in the sum of P5,000.00; that defendants have and will incur actual damages of P2,000.00 and P1,000.00 as attorney's fees. Defendants then prayed that the complaint be dismissed and defendants be awarded the sums prayed for in their counterclaim.

(p. 25, Rollo..)

After trial, Branch LXXI of the Regional Trial Court of the Third Judicial Region stationed in Iba, Zambales rendered a decision declaring petitioners as the legal owners of Lot 1137 covered by Original Certificate of Title No. P-3593 and ordering then defendants, now private respondents, to: (a) vacate the property in question and surrender possession of the same to petitioners herein, (b) pay reasonable rentals of the land in the amount of P1,000.00 per year to the plaintiffs from the filing of the complaint until they actually vacate and surrender the possession of the land to the plaintiffs with interest at 6% per annum, (c) pay attorney's fees in the amount of P1,000, and (d) pay the costs of the suit.

Private respondents appealed to the Court of Appeals which, as afore-stated, promulgated its decision per ponencia of Justice Jorge S. Imperial with Justices Reynato S. Puno and Artemon Luna concurring, disposing:

PREMISES CONSIDERED, the decision appealed from is REVERSED and SET ASIDE and a new one rendered:

1. Dismissing the complaint;
2. Declaring defendants as legal owners of the land in question and covered by Original Certificate of Title No. P-3593; and
3. Ordering the cancellation of Original Certificate of Title No. P--3593.

(p. 34, Rollo..)

Hence, the instant petition.

Petitioners assail the decision of the Court of Appeals on the following grounds:

1. The rule on ancient documents is not applicable in the instant case because the properties claimed by the petitioners is not the same property acquired by private respondents;
2. The Honorable Court of Appeals applied laches even as private respondents did not raise laches as a defense in their answer and therefore laches is deemed waived;
3. The Court of Appeals concluded that the issuance of Original Certificate of Title No. P-3593 in favor of petitioners were tainted with fraud, without any evidence that fraud was committed;
4. Prescription does not lie against a title registered under the torrens system.

(p. 11, Rollo..)

The initial question to be resolved is the identity of the land subject of the controversy. The position taken by petitioners is that the land acquired by private respondents is not identical to the parcel of land claimed by petitioners and presently occupied by private respondents, which latter parcel is covered by Original Certificate of Title No. P-3593 (Exh. A) under the name of the Heirs of Mariano Dablo.

Private respondents base their claim over the parcels of land occupied by them on an Escritura de Compra Venta (Exh. 1) wherein the late Mariano Dablo, husband of petitioner Hilariona Fortaleza Dablo and father of the two other petitioners, sold the western portion of the land involved in this case to private respondent Remegio Daban, and on a Deed of Exchange (Exh. 2). Private respondents allege that in 1930 Mariano Dablo sold con pacto de retro the eastern portion of the land herein involved to one Marciana Rivera and that for failure of vendor a retro, Mariano Dablo, to redeem the property, Marciana Rivera transferred and conveyed in 1960 said eastern portion to private respondent Cesaria Daban by means of a Deed of Exchange (Exh. 2).

The record further reveals that since 1911, Mariano Dablo and Hilariona Fortaleza Dablo had possessed and occupied the parcel of land covered by Original Certificate of Title No. P-3593 and had resided thereon together with their children, petitioners Juanito Dablo and Marta Dablo. Upon the death of Mariano Dablo, petitioners succeeded in the possession of said parcel of land.

Mariano Dablo filed an application for free patent of the land, presently covered by Original Certificate of Title No. P-3593. On April 14-15, 1928, a private land survey of the parcel of land aforementioned was made for Mariano Dablo and the corresponding survey plan was approved by the Director of Lands on July 22, 1930 (Exh. H).

On May 24, 1933, Mariano Dablo executed an Escritura de Compra Venta (Exh. 1) conveying to private respondent Remegio Daban the western portion of the aforementioned parcel of land, and Remegio immediately entered into possession thereof.

On January 11, 1960, by means of a Deed of Exchange (Exh. 2), one Marciana Rivera conveyed to private respondent Cesaria Daban the eastern portion of the aforementioned parcel of land, which eastern portion Marciana Rivera had allegedly previously acquired from petitioner Hilariona Fortaleza (wife of Mariano Dablo and mother of the two other petitioners). Said parcel of land was declared for tax purposes by respondent Remegio Daban in 1968 under Tax Declaration No. 31184 (Exhibit 9) and respondent Cesaria Daban entered said parcel in 1969.

Upon the initiative of Oscar David, a grandson of Mariano Dablo, who followed up the application for free patent of Mariano Dablo, Original Certificate of Title No. P-3593 (Free Patent No. 11-4000845) was issued on June 3, 1974 in the name of the Heirs of Mariano Dablo covering the whole parcel of land in question.

An examination of the evidence on record establishes the fact that the pieces of land claimed and occupied by private respondents are comprehended within the boundaries of the land registered under Original Certificate of Title No. P-3593. This conclusion is borne out by the Commissioner's Report (Exh. E) dated February 25, 1980 which states -

x x x

(7) That Lot No. 1137, PLS-468-D, as covered by OCT P-3593, is the same land being occupied by defendant Remegio Daban

x x x

(p. 343, Record.)

We turn attention first to the western portion. We believe that this portion was in truth conveyed by Mariano Dablo to private respondents. Were it otherwise, Mariano Dablo would have certainly demanded that private respondents vacate the land or would have filed an ejectment case against private respondents. But Mariano Dablo, from 1933 when private respondents entered and took possession of the lot in question up to the time of his death in 1936, never made such a demand nor did he file any ejectment case against private respondents. The only logical explanation for such inaction on the part of Mariano Dablo is that he was fully aware that the western portion of the land occupied by private respondents is the very same parcel of land he conveyed and ceded to them under the Escritura de Compra Venta.

We agree with the Court of Appeals that the Escritura de Compra Venta (Exh. 1) is genuine and valid as it was already more than 40 years old when it was submitted in evidence and is, therefore, an ancient document. In this regard we adopt the following statements of the Court of Appeals as our own:

. . . A circumspect examination of the deed which is in defendants' possession shows that it was executed on May 24, 1933 and as such is more than 36 years old. Considering that the same is in the possession and custody of defendant-vendee, the inference of its genuineness becomes well-nigh unassailable because -

"It is considered that the careful preservation of an instrument by persons interested in the subject raises an inference of genuineness. Documents are said to be in proper custody where they are in the place in which and under the care of the person with whom they should naturally be." (32 C.J.S. 41.)

Being over four decades old, aside from being unmarred by blemishes, alterations or other circumstances which would put such a document under inquiry, the authenticity of such a document hardly becomes open to question because -

"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." (Sec. 22, Rule 132, Rules of Court.)

The foregoing provision which embodies the evidentiary rule on ancient documents rests on the theory that the document proves itself (*Manlunan vs. Manlunan*, 52 O.G. 860). Besides, the deed of absolute sale (Doc. No. 45, Page No. 55, Reg. No. III, Series of 1933 of Notary Public Fernando Gonzales) and the deed of exchange (Doc. No. 3, Page No. 57, Book No. I, Series of 1960 of the Notary Public Eleuterio P. Rivera) are public documents.

(pp. 31-32, Rollo..)

We, therefore, hold that the private respondents are the true and rightful owners of the western portion of the land in dispute, subject-matter of the Escritura de Compra Venta.

However, the remedy granted by respondent Court of Appeals, that is, the cancellation of Original Certificate of Title No. P-3593, does not appear to be proper and apt.

Although a decree of registration binds the land, quiets title thereto, is incontrovertible and conclusive upon all persons, and cannot be reopened or reviewed after the lapse of one year from entry of the decree (Sec. 38, Act No. 496, The Land Registration Act; *Ylarde vs. Lichauco*, 42 SCRA 641 [197]), the true and rightful owner of the property registered is not left without recourse; he may seek reconveyance of the property provided the same has not passed to an innocent third party for value (*Vda. de Jacinto vs. Vda. de Jacinto*, 5 SCRA 371 [1962]; *Caladio vs. Vda. de Blas*, 10 SCRA 691 [1964]; *Pascua vs. Capuyoc*, 77 SCRA 78 [1977]).

Petitioners, therefore, should be required to reconvey to private respondents the western portion of the land in dispute, subject-matter of the Escritura de Compra Venta (Exh. 1).

We come now to the eastern portion of the parcel of land in question. Private respondents base their claim of ownership thereover on the Deed of Exchange (Exh. 2) wherein one Marciana Rivera transferred and conveyed to private respondent Cesaria Daban said eastern portion allegedly in exchange for another parcel of land belonging to Cesaria Daban, located in Kiling, Cabangan, Zambales. However, except for the bare stipulation in the Deed of Exchange that Marciana Rivera owns the now disputed eastern portion, the record is barren of any evidence which would prove that Marciana Rivera was indeed the rightful owner of said eastern portion of the land or which would somehow show how she acquired said portion. Under these circumstances, the Deed of Exchange cannot serve as the basis of ownership by private respondents over the eastern portion.

Neither would prescription aid the cause of private respondents, not only because the acquisitive prescription of 10 years of possession provided under Article 1134 of the Civil Code of the Philippines has not yet transpired (private respondents entered the eastern portion in 1969 while the complaint to quiet title was filed on April 1, 1975), but also because ownership of registered land under the Torrens System is imprescriptible (*St. Peter Memorial Park, Inc. vs. Cleofas*, 92 SCRA 389 [1979]; *J.M. Tuason & Co., Inc. vs. Court of Appeals*, 93 SCRA 146 [1979]).

Nor will laches bolster the claim of ownership of private respondents over this eastern portion. An action by the registered owner to recover possession based on a Torrens title is not barred by laches.

... Sulpicia's title over her one-half undivided property remained good and continued to be good when she segregated it into a new title (T.C.T. No. 82275, Exhibit "A") in 1969. Sulpicia's ownership over her one-half of the land and which is the land in dispute was always covered by a Torrens title, and therefore, no amount of possession thereof by the respondents, could ever defeat her proprietary rights thereon. It is apparent, that the right of plaintiff (now petitioner) to institute this action to recover possession of the portion the land in question based on the Torrens Title of Sulpicia Jimenez, T.C.T. No. 82275 (Exhibit "A") is imprescriptible and not barred under the doctrine of laches. (*J.M. Tuason & Co. v. Macalindong*, L--15398, December 29, 1962, *Francisco v. Cruz, et al.*, 43 O.G. 5105). (*Jimenez vs. Fernandez*, 184 SCRA 190, 197 [1990]).

The case of *Bautista vs. Court of Appeals* (165 SCRA 507 [1988]) cited by respondent Court of Appeals, is not applicable. In said case, laches was not applied against the holder of the Torrens title but against the claimant of the parcel of land covered by the Torrens title.

The ruling in *Bautista* is, of course, but a reiteration of *J.M. Tuason & Co., Inc. vs. Macalindong* (6 SCRA 938

[1962]) where the Court held:

Moreover, the right of the appellee to file an action to recover possession based on its Torrens Title is imprescriptible and not barred under doctrine of laches (Art. 348, Civil Code; *Francisco, et al. v. Cruz, et al.*, 43 O.G. 5105). On the contrary, the laws on prescription of actions and on estoppel and laches presently operate against appellant. After many years of inaction - forty-four years, from July 8, 1914 (issuance of O.C.T. No. 735, Rizal), or nineteen (19) years from May 29, 1939 (issuance of T.C.T. No. 1267), appellant should be completely barred from assailing the decree of registration of the subject property. (at pp. 942-943.)

Neither is the other case, *Asuncion vs. Court of Appeals* (150 SCRA 353 (1967)), cited by respondent Court of Appeals, applicable, wherein as in the *Bautista* case, laches was applied against the claimant seeking to annul a free patent and an original certificate of title, and not against the holder of the free patent and the original certificate of title.

WHEREFORE, the decision of the Court of Appeals is partly affirmed and partly reversed, as follows:

1. Petitioners are hereby ordered to execute in favor of private respondents a deed of reconveyance of the western portion of the land in dispute, subject-matter of the *Escritura de Compra Venta* (Exh. 1), and
2. Private respondents are hereby ordered to vacate the eastern portion of the land covered by Original Certificate of Title No. 3593 and to surrender possession thereof to petitioners and to pay reasonable rental of said eastern portion in the amount of P1,000 per year to the petitioners from the filing of the complaint until they actually vacate and surrender the possession of the land to petitioners with interest at 6% per annum.

No special pronouncement is made as to costs.

SO ORDERED.

Bidin, Romero, and Vitug, JJ., concur.

Feliciano, J., (Chairman), on leave.

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