

GUILLERMO MARCELINO, CONRADO ANTONIO, JR. AND CONNIE ANTONIO, BOTH MINORS, REPRESENTED BY THEIR GRANDFATHER CO-PETITIONER, PETITIONERS, VS. THE HON. COURT OF APPEALS, SEVERINA ...

G.R. No. 94422. June 26, 1992

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

The annulment of the decision dated May 11, 1990 of the Court of Appeals which affirmed the Order of the Regional Trial Court of Tarlac, Branch 68, dismissing the petitioners' complaint for recovery of possession, surrender of titles, and damages, is sought in this petition for review on certiorari.

The petitioners, Guillermo Marcelino and the late Luciana Marcelino, now represented by their grandchildren, the minors, Conrado Antonio, Jr. and Connie Antonio, are the only heirs of the late Silvestre Marcelino and Genoveva Patricio, registered owners of three (3) parcels of land covered by Original Certificates of Title Nos. 16547, 16829 and 16933, all of the Property Registry of Tarlac.

Even before World War II, the private respondents had been, and still are, in possession of these parcels of land and the certificates of title thereof.

When the spouses Guillermo Marcelino and Luciana Marcelino were still alive, they demanded the restitution to them of the physical possession and the Torrens titles of the property by the private respondents, but the latter refused to give up the same.

In their answer with special and affirmative defenses, the private respondents averred that they are the lawful occupants and possessors of the parcels of land in question; that the action of the petitioners to recover the ownership and possession thereof has already prescribed; that said parcels of land were inherited by them from their parents, Silvino Marcelino and Fermina Arrocena, who bought them in 1935 from Pedro Marcelino, as evidenced by an Absolute Sale of Real Estates, dated May 14, 1935; and that Pedro Marcelino had purchased these parcels of land from Genoveva Patricio per Doc. No. 16, Page No. 36, Book No. 11, Series of 1930 of the Notarial Register of Notary Public Feliciano Bachini of Camiling, Tarlac.

On September 14, 1988, the Regional Trial Court of Tarlac dismissed the case on the ground of laches.

The order of dismissal was appealed by the petitioners (then plaintiffs) to the Court of Appeals (CA-G.R. CV No. 19447).

In a decision dated May 11, 1990, the Court of Appeals upheld the trial court's Order.

After the denial of their motion for reconsideration, the petitioners filed this petition for review under Rule 45 of the Rules of Court.

Their main arguments are: (1) that the Court of Appeals erred in finding them guilty of laches for failure to assert their rights to the property for over fifty (50) years, and (2) it exceeded its jurisdiction in issuing the order of dismissal without a trial on the merits of the case, in violation of their right to due process.

The petition is unmeritorious.

Laches in a general sense, means the 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 the presumption that the party entitled to assert it either has abandoned or declined to assert it (*Salomon vs. Intermediate Appellate Court*, 185 SCRA 352).

In the case at bar, the petitioners admitted in their complaint, that the private respondents had been occupying the parcels of land in question even before World War II, and that they (private respondents) have in their possession the titles thereof. For almost 50 years, or until June 20, 1988, no action had been taken by the petitioners, or their predecessors-in-interest, to recover possession of the land and the titles thereof.

There is no doubt, therefore, that the petitioner's long inaction in asserting their right to the contested lots bars them from recovering the same (*Galloy vs. Court of Appeals*, 173 SCRA 26). The law serves those who are vigilant and diligent and not those who sleep when the law requires them to act (*Vda. de Alberto vs. Court of Appeals*, 173 SCRA 436).

Although the parcels of land in question are registered under the Torrens System, it is nevertheless settled in this jurisdiction that the ownership of registered land may be lost through laches (*Tambot vs. Court of Appeals*, 181 SCRA 202). The doctrine of laches or of "stale demands" is based on grounds of public policy which requires, for the peace of society, the discouragement of stale claims. Unlike the statute of limitations, laches is not a mere question of time but is principally a question of the inequity or unfairness of permitting a stale right or claim to be enforced or asserted (*Bergado vs. Court of Appeals*, 173 SCRA 497).

The individual elements of laches were sufficiently and thoroughly discussed by the appellate court in its decision. We find no need to make any further disquisition on the matter.

Petitioners' allegation that they were denied due process when the Regional Trial Court dismissed the complaint without a trial on the merits, is not well taken for we have ruled more than once that a decision based on the pleadings and position papers meets the requirements of a fair and open hearing (*St. Mary's College-Tagum, Davao vs. NLRC*, 181 SCRA 73). A hearing does not necessarily mean verbal arguments in open court. One may be heard also through pleadings (*Mutuc vs. Court of Appeals*, 190 SCRA 43). A motion for reconsideration or an appeal may cure an alleged denial of due process (*Rosales vs. Court of Appeals*, 165 SCRA 344).

WHEREFORE, the petition for review is DENIED for lack of merit. The impugned decision of the Court of Appeals is hereby AFFIRMED. No costs.

SO ORDERED.

Cruz, (Chairman), Medialdea, and Bellosillo, JJ., concur.

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