

MARCELINO KIAMCO, PETITIONER-MOVANT, VS. THE HONORABLE COURT OF APPEALS, JUANA DEGUILMO--GRAPE, QUIRINA DEGUILMO--MANINGO, ANTONIA DEGUILMO, AND JUAN DEGUILMO, RESPONDENTS.

G.R. No. 96865. July 03, 1992

Ponente: PARAS, J.

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PARAS, J.:

The instant petition assails the decision* of the respondent Court of Appeals dated May 31, 1990 and its resolution denying petitioner's Motion for Reconsideration of said decision which reversed and set aside the decision of the Regional Trial Court of Cebu.

The facts of the case, as found by the respondent court, are as follows:

The original owner of the property in dispute, Faustino Maningo, is the son-in-law of the original defendant, Jose Deguilmo. The former is married to Quirina Deguilmo, daughter of said defendant.

On September 21, 1948, Faustino Maningo sold by pacto de retro the subject property to spouses Pedro and Teresa Villamor (Exhibit 1).

After the sale, Faustino and Quirina Maningo left for Mindanao. Sometime in January, 1950, Faustino returned to Cebu because the Villamor spouses needed money. However, since Faustino had no money, he requested his father-in-law, Jose Deguilmo, to buy the land from the Villamors. On January 10, 1950, the Villamor spouses allegedly sold the land in dispute to defendant Jose Deguilmo in a private document of sale (Exhibit 2). Immediately thereafter, Jose Deguilmo took possession of the property, introduced improvements and paid taxes thereon.

Meantime, in 1953, Faustino Maningo abandoned his wife and lived with a concubine. His wife and their children had to return to Cebu where they lived and were supported by Jose Deguilmo. Faustino did not return to Cebu for more than twenty (20) years. A case for concubinage was filed against him but it was somehow dismissed.

In 1973, Faustino Maningo returned to Cebu and allegedly tried to forcibly take possession of the property from his father-in-law although he did not succeed. Nevertheless, Faustino proceeded to execute a deed of sale in favor of plaintiff (now petitioner) Marcelino Kiamco. The latter, a resident of Carmen, Cebu, allegedly knew, at the time of the sale, that defendant, Jose Deguilmo, had already been in possession of the disputed property for more than twenty (20) years. After the said sale, Marcelino Kiamco attempted to take possession of the property but was not successful because of defendant's refusal to give up the land. He, however, did not file yet any action for ejectment or unlawful detainer against the defendant. Seven (7) months after the execution of the alleged sale, Marcelino Kiamco filed a complaint for quieting of title and recovery of possession with damages against Jose Deguilmo before the Regional Trial Court of Cebu.

The trial court ruled, among other things, that Faustino Maningo was still the owner of the subject property on October 2, 1973, when he executed the deed of sale in favor of Marcelino Kiamco; that the deed of sale executed by the Villamor spouses in favor of Jose Deguilmo is null and void; and that Jose Deguilmo had not acquired the subject property by acquisitive prescription.

On appeal to the respondent court, the decision of the trial court was reversed and set aside. The respondent court declared that acquisitive prescription had set in in favor of Jose Deguilmo based on the Code of Civil Procedure which requires only ten (10) years of peaceful, continuous, adverse and uncontested possession of the property. As Jose Deguilmo had been in possession and enjoyment of the disputed property from January 1950 up to 1973, which length of possession, according to the respondent court, has never been questioned, rebutted or disputed by anyone, he has acquired the property by acquisitive prescription. The respondent court applied the Code of Civil Procedure instead of the New Civil Code's provision on acquisitive prescription based on Article 1116 of the New Civil Code which states that prescription already running before the effectivity of this Code shall be governed by laws previously in force. Since the possession of Jose Deguilmo started in January 1950, said possession for purposes of prescription shall be governed by the Code of Civil Procedure and not the new Civil Code.

Petitioner moved for a reconsideration of the aforesaid decision but the motion was denied. Hence, the instant petition.

Petitioner maintains that the land claimed by private respondents is not exactly identical to that claimed by petitioner as they are covered by different tax declarations in the name of different owners (as found likewise by the trial court; that Jose Deguilmo acted in gross and evident bad faith in transacting with Pedro Villamor because as father-in-law of Faustino Maningo, he knew, at the time he took possession of the property, that the land still belonged to his son-in-law; that when Jose Deguilmo bought the subject property from the Villamor spouses, the latter were not yet the owners thereof as the redemption period had not lapsed yet. By reason thereof, Jose Deguilmo could not have legally acquired the property in dispute by acquisitive prescription. According to the petitioner, Jose Deguilmo did not take possession of the property in the concept of an owner after it was redeemed by Faustino Maningo from the Villamor spouses in 1949; he took it as a mere trustee of Faustino Maningo (his son-in-law) together with his daughter, Quirina, and of Faustino's children.

The other arguments presented by herein petitioner are basically factual, which have already been resolved by the respondent court. In this regard, the Court reiterates that the factual findings of the Court of Appeals may not be reviewed by Us, subject to certain exceptions, none of which, however, obtains in the case at bar.

It is undisputed that after the Deed of Sale (Exh. 2) was executed on January 10, 1950, Jose Deguilmo immediately took possession of the property in dispute in the concept of an owner, exercised acts of dominion and introduced improvements thereon, and enjoyed the fruits thereof, continuously, peacefully, and adversely for more than twenty years. It is therefore, clear, that such adverse possession started on January 10, 1950, which is before the effectivity of the New Civil Code (August 30, 1950). Pursuant to Art. 1116 of the New Civil Code, which provides for transitional rules on prescription, and which reads: "Prescription already running before the effectivity of this Code shall be governed by laws previously in force; but if since the time this Code took effect the entire period herein required for prescription should lapse, the present Code shall be applicable, even though by the former laws a longer period might be required," the law to be applied is the Code of Civil Procedure (Act 190). Inasmuch as here the prescription was already running before August 30, 1950, it follows that only ten (10) years would be required, because under the Code of Civil Procedure, regardless of good faith or bad faith, the period for acquiring land by prescription was only ten (10) years (Sec. 41, Act 190, Code of Civil Procedure; *Osorio vs. Tan Jongko*, 51 O.G. 6221). It therefore follows necessarily that in 1960, Jose Deguilmo had already acquired the subject property by acquisitive prescription. Thus, Marcelino Kiamco should have lost the case,

unless of course, the land was covered by a Torrens Certificate of Title. As found by the respondent Court, the evidence shows that the land is not a titled property.

The period of ten (10) years must necessarily start from January, 1950, and not from August 1950, since here, the prescriptive period under the old law was shorter. Had the period under the old law been longer, it is the shorter period under the New Civil Code that should apply, but this time, the period should commence from the date of effectivity of the New Civil Code – August 30, 1950 – in view of the clause "but if since the time this Code took effect ..."

With the facts obtaining in the present case, it is immaterial whether the property in dispute was possessed by Jose Deguilmo in good or bad faith. His adverse possession for more than twenty years is more than sufficient for purposes of acquisitive prescription under the Code of Civil Procedure. Thus, even if the alleged Deed of Sale executed on January 10, 1950 (Exh. 2) was void ab initio, as claimed by petitioner (because Faustino Maningo could still repurchase the property until 1951, thus the Villamor spouses were not yet the owners thereof), what is important is that Jose Deguilmo immediately took possession of the property and continuously and adversely possessed and enjoyed it for more than twenty years. Besides, as correctly found by the respondent court, if Faustino claims that the Deed of Sale of January 10, 1950 was not authentic and valid, why did he not disturb Jose Deguilmo from 1950 until 1973; "it is hardly the actuation of an owner for Faustino Maningo to do what he did for the last 24 years, if as the Villamor spouses said Faustino Maningo had already repurchased the property in 1949."

Jose Deguilmo (and now his heirs, the private respondents), no doubt, had already acquired ownership of the subject property on the basis of acquisitive prescription.

WHEREFORE, the petition is hereby DISMISSED for lack of merit and the decision of the respondent Court of Appeals is AFFIRMED for being in accordance with law and applicable jurisprudence.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Nocon, JJ., concur.

* Penned by Associate Justice Jinal D. Rasul and concurred in by Associate Justices Manuel C. Herrera and Eduardo R. Bengzon.

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