

SECOND DIVISION

[CV No. 87597, January 31, 2008]

**HEIRS OF BONIFACIO PANEDA, PLAINTIFF-APPELLANT, VS.
ALFREDO JAVARATA, DEFENDANT-APPELLEE.**

DECISION

Court of Appeals

On appeal is the Decision^[1] dated June 29, 2005 of the Regional Trial Court (RTC), Agoo, La Union, Branch 31, dismissing, on the ground of prescription, the Complaint^[2] in Civil Case No. A-2316, *For Accion Reinvidicatoria, Accion Publiciana, With damages and Application for a Writ of Receivership*.

The subject of this case is a parcel of land consisting of 48,612 square meters, designated as Lot 1575 of Rosario Cadastre, situated in Vila, Rosario, La Union, covered by Original Certificate of Title No. 4935^[3] and originally claimed by Bonifacia Oficiar^[4].

In their *Complaint* filed on July 20, 2004 with the RTC of La Union, plaintiff-appellants Heirs of Bonifacio Paneda (namely: Clara P. Aguada, Concepcion P. Aguada, Jose P. Aguada, Rosita C. Paneda, Artemio Paneda, Roberto Paneda, Nina L. Paneda, Bonifacio L. Paneda, Violeta P. Mapile, and Magie P. Mapile) claimed that July 22, 1938, in a document written in Spanish entitled "*Escritura De Venta Definitiva*"^[5], Bonifacia Oficiar sold the property to their predecessor-in-interest, Bonifacio Paneda; and that upon the death of Bonifacio^[6], the property was inherited by them through succession.

The Heirs decided to partition the estate of Bonifacio, thus they conducted an inventory of his properties and had Lot 1575 surveyed. It was at this point that they learned that the lot was being occupied and claimed by defendant-appellee Alfredo Aravata. When the heirs confronted Alfredo, he asserted that he owned the property, the same having been sold to his family by its original owner. Thus, they were' constrained to file the herein *Complaint* to recover the ownership and possession of the subject lot.

In his *Answer With Motion To Dismiss and Compulsory Counterclaim*^[7], Alfredo countered that the claims ownership of only the eastern portion of the subject lot, and that the eastern portion is being occupied by other persons. According to him, the said eastern portion had been sold and delivered by Bonifacia Oficiar and Macario Nana in 1933 to Esteban Javarata, his predecessor-in-interest, who since then and until his death had been in open, peaceful, exclusive, adverse and notorious possession as the absolute and bona fide owner. He averred that the Heirs' claim of ownership is based on a fake, spurious and unregistered document.

Bonifacio further contended that the present tenants of the property could attest

that their own fathers and predecessors had worked thereon as tenants of Bonifacio Oficiar and later, of Esteban Javarata, as the land's subsequent owner. Tacking his possession of that of his predecessor, the lot has been in their possession for not less than seventy (70) years. Bonifacio thus prayed that the *Complaint* be dismissed on the ground of prescription.

Hearings on the motion to dismiss incorporated in the answer were conducted by the trial court. Alfredo presented witnesses^[8] who testified in the main that Alfredo occupied only the eastern portion of Lot 1575 which is already traversed by a barangay road^[9]; that since 1933, they were cultivating the subject lot and delivered the share of the produce to the land-owner Esteban Javarata, and his death, to his son Alfredo^[10]; and that the tenants cultivating the land are tenants of Alfredo. ^[11] For his part, Alfredo testified that the eastern portion consists of 28,000 square meters, and that the deed evidencing the sale of the land between Oficiar and his father was lost when his father's nipa hut was gutted by fire.^[12]

On June 29, 2005, the trial court issued the assailed *Decision* dismissing the *Complaint* on the ground of prescription. According to the court, "*defendant (by tacking) had shown that he or his predecessors in interest had been in actual, notorious, open, exclusive and adverse possession for more than thirty (30) years of the lot in question.*"

The heirs interpose this appeal, assigning as errors the following:

"THE REGIONAL TRIAL COURT, BRANCH 31 OF AGOO, LA UNION, ERRED IN HOLDING THAT PLINTIFFS7APPELLANTS' CAUSE OF ACTION HAS PRESCRIBED, AND BASED ON SAID PRESCRIPTION, DISMISSED THE CASE.

THE REGIONAL TRIAL COURT, BRANCH 31 OF AGOO, LA UNION, ERRED IN HOLDING THAT THE DEFENDANT/APPELLEE HAD ACQUIRED A VESTED RIGHT OVER THE LAND COVERED BY CADASTRAL LOT NO. 1575 BY MEANS OF ACQUISITIVE PRESCRIPTION DESPITE THE FACT THAT THE DOCUMENTS UPON WHICH DEFENDANT/APPELLEE HAS BASED HIS CLAIM INVOLVES LOT NO. 1627.

THE REGIONAL TRIAL COURT, BRANCH 31 OF AGOO LA UNION, ERRED IN DECIDING THE CASE IN FAVOR OF THE DEFENDANT/ APPELLEE BASED SOLELY ON THE TESTIMONY OF BONIFACIO PANEDA.

THE REGIONAL TRIAL COURT, BRANCH 31 OF AGOO, LA UNION, ERRED IN NOT HOLDING THAT THE HEREIN PLAINTIFS/APPELLANTS ARE ENTITLED TO THE OWNERHSHIP OF THE PROPERTY IN DISPUTE."

The appeal must be dismissed.

Two issues are herein presented: first, whether appellants' action is barred by extinctive prescription; and second, whether appellee acquired ownership of the property in question through acquisitive prescription.