

## THIRD DIVISION

[ G.R. No. 192268, January 27, 2016 ]

**DEPARTMENT OF EDUCATION, REPRESENTED BY ITS REGIONAL DIRECTOR, PETITIONER, VS. DELFINA C. CASIBANG, ANGELINA C. CANAPI, ERLINDA C. BAJAN, LORNA G. GUMABAY, DIONISIA C. ALONZO, MARIA C. BANGAYAN AND DIGNA C. BINAYUG, RESPONDENTS.**

### D E C I S I O N

**PERALTA, J.:**

For resolution of this Court is the Petition for Review on *Certiorari*, dated June 18, 2010, of petitioner Department of Education (*DepEd*), represented by its Regional Director seeking to reverse and set aside the Decision<sup>[1]</sup> dated April 29, 2010 of the Court of Appeals (CA) affirming the Decision<sup>[2]</sup> dated January 10, 2008 of the Regional Trial Court (RTC) of Tuguegarao City, Cagayan, Branch 5, declaring the respondents the owners of property in controversy and ordering the DepEd to pay the value of the property.

The antecedents follow:

The property in controversy is a seven thousand five hundred thirty-two (7,532) square meter portion of Lot 115 covered by Original Certificate of Title (OCT) No. 0-627 registered under the name of Juan Cepeda, the respondents' late father.<sup>[3]</sup>

Sometime in 1965, upon the request of the then Mayor Justo Cesar Caronan, Cepeda allowed the construction and operation of a school on the western portion of his property. The school is now known as Solana North Central School, operating under the control and supervision of the petitioner DepEd.<sup>[4]</sup>

Despite Cepeda's death in 1983, the herein respondents and other descendants of Cepeda continued to tolerate the use and possession of the property by the school.<sup>[5]</sup>

Sometime between October 31, 2000 and November 2, 2000, the respondents entered and occupied a portion of the property. Upon discovery of the said occupation, the teachers of the school brought the matter to the attention of the barangay captain. The school officials demanded the respondents to vacate the property.<sup>[6]</sup> However, the respondents refused to vacate the property, and asserted Cepeda's ownership of the lot.<sup>[7]</sup>

On June 21, 2001, the DepEd filed a Complaint for Forcible Entry and Damages against respondents before the Municipal Circuit Trial Court (MCTC) of Solana-Enrile. The MCTC ruled in favor of the petitioner and directed respondents to vacate the

premises.<sup>[8]</sup> On appeal, the RTC affirmed the decision of the MCTC.<sup>[9]</sup>

Thereafter, respondents demanded the petitioner to either pay rent, purchase the area occupied, or vacate the premises. DepEd did not heed the demand and refused to recognize the ownership of the respondents over the property.<sup>[10]</sup>

On March 16, 2004, the respondents filed an action for Recovery of Possession and/or Sum of Money against the DepEd.<sup>[11]</sup> Respondents averred that since their late father did not have any immediate need of the land in 1965, he consented to the building of the temporary structure and allowed the conduct of classes in the premises. They claimed that they have been deprived of the use and the enjoyment of the portion of the land occupied by the school, thus, they are entitled to just compensation and reasonable rent for the use of property.<sup>[12]</sup>

In its Answer, the DepEd alleged that it owned the subject property because it was purchased by civic-minded residents of Solana, Cagayan from Cepeda. It further alleged that contrary to respondents' claim that the occupation is by mere tolerance, the property has always been occupied and used adversely, peacefully, continuously and in the concept of owner for almost forty (40) years.<sup>[13]</sup> It insisted that the respondents had lost whatever right they had over the property through laches.<sup>[14]</sup>

During the trial, respondents presented, *inter alia*, the OCT No. O-627 registered in the name of Juan Cepeda; Tax Declarations also in his name and the tax receipts showing that they had been paying real property taxes on the property since 1965.<sup>[15]</sup> They also presented the Technical Description of the lot by the Department of Environment and Natural Resources Land Management Services showing that the subject property was surveyed in the name of Cepeda and a certification from the Municipal Trial Court of Solana, Cagayan declaring that Lot 115 was the subject of Cad Case No. N-13 in LRC Cad. Record No. N-200 which was adjudicated to Cepeda.<sup>[16]</sup>

On the other hand, despite notice and reset of hearing, the DepEd failed to present its evidence or witness to substantiate its defense.<sup>[17]</sup>

Consequently, the RTC considered the case submitted for decision and rendered a Decision dated January 10, 2008, finding that the respondents are the owners of the subject property, thus:

WHEREFORE, judgment is hereby rendered.

1. Declaring plaintiffs as the owner of Lot 115 covered by Original Certificate of Title No. O-627.
2. Ordering the reconveyance of the portion of the subject property occupied by the Solana North Central School, Solana, Cagayan. However, since restoration of possession of said portion by the defendant Department of Education is no longer feasible or convenient because it is now used for the school premises, the only relief available is for the government to pay due compensation which should have [been] done years ago.

2.1 To determine due compensation for the Solana North Central School the basis should be the price or value of the property at the time of taking.

3. No pronouncement as to cost.

SO ORDERED.<sup>[18]</sup>

The DepEd, through the Office of the Solicitor General (OSG), appealed the case before the CA. In its appeal, the DepEd insisted that the respondents have lost their right over the subject property for their failure to assert the same for more than thirty (30) years, starting in 1965, when the Mayor placed the school in possession thereof.<sup>[19]</sup>

The CA then affirmed the decision of the RTC. The dispositive portion of the said decision reads:

WHEREFORE, the appeal is DISMISSED, and the Decision dated 10 January 2008, of the Regional Trial Court, Branch 5, Tuguegarao, Cagayan in Civil Case No. 6336 for Recovery of Possession and/or Sum of Money, declaring plaintiffs as the owners of the property in controversy, and ordering the Department of Education to pay them the value of the property taken is AFFIRMED *in toto*.

SO ORDERED.<sup>[20]</sup>

Aggrieved, the DepEd, through the OSG, filed before this Court the present petition based on the sole ground that:

THE COURT OF APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DECISION THAT THE RESPONDENTS' RIGHT TO RECOVER THE POSSESSION OF THE SUBJECT PROPERTY IS NOT BARRED BY PRESCRIPTION AND/OR LACHES.<sup>[21]</sup>

This Court finds the petition without merit.

Laches, in a general sense, is 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 a presumption that the party entitled to assert it either has abandoned it or declined to assert it.<sup>[22]</sup>

There is no absolute rule as to what constitutes laches or staleness of demand; each case is to be determined according to its particular circumstances. The question of laches is addressed to the sound discretion of the court, and since laches is an equitable doctrine, its application is controlled by equitable considerations. It cannot

work to defeat justice or to perpetrate fraud and injustice.<sup>[23]</sup>

Laches is evidentiary in nature, a fact that cannot be established by mere allegations in the pleadings.<sup>[24]</sup> The following elements, as prescribed in the case of *Go Chi Gun, et al. v. Co Cho, et al.*,<sup>[25]</sup> must be present to constitute laches:

x x x (1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which complaint is made for which the complaint seeks a remedy; (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice, of the defendant's conduct and having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred.<sup>[26]</sup>

To refute the respondents' claim that its possession of the subject lot was merely tolerated, the DepEd averred that it owned the subject property because the land was purchased by the civic-minded residents of Solana.<sup>[27]</sup> It further alleged that since it was the then Mayor who convinced Cepeda to allow the school to occupy the property and use the same, it believed in good faith that the ownership of the property was already transferred to it.<sup>[28]</sup>

However, the DepEd did not present, in addition to the deed of sale, a duly-registered certificate of title in proving the alleged transfer or sale of the property. Aside from its allegation, the DepEd did not adduce any evidence to the transfer of ownership of the lot, or that Cepeda received any. consideration for the purported sale.

On the other hand, to support their claim of ownership of the subject lot, respondents presented the following: (1) the OCT No. 0-627 registered in the name of Juan Cepeda;<sup>[29]</sup> (2) Tax Declarations in the name of Cepeda and the tax receipts showing the payment of the real property taxes on the property since 1965;<sup>[30]</sup> (3) Technical Description of the lot by the Department of Environment and Natural Resources Land Management Services, surveyed in the name of Cepeda;<sup>[31]</sup> and (4) Certification from the Municipal Trial Court of Solana, Cagayan declaring that Lot 115 was adjudicated to Cepeda.<sup>[32]</sup>

After a scrutiny of the records, this Court finds that the above were sufficient to resolve the issue on who had better right of possession. That being the case, it is the burden of the DepEd to prove otherwise. Unfortunately, the DepEd failed to present any evidence to support its claim that the disputed land was indeed purchased by the residents. By the DepEd's admission, it was the fact that the then Mayor of Solana, Cagayan convinced Cepeda to allow the school to occupy the property for its school site that made it believe that the ownership of the property was already transferred to it. We are not swayed by the DepEd's arguments. As against the DepEd's unsubstantiated self-serving claim that it acquired the property by virtue of a sale, the Torrens title of respondents must prevail.

It is undisputed that the subject property is covered by OCT No. O-627, registered in the name of the Juan Cepeda.<sup>[33]</sup> A fundamental principle in land registration under the Torrens system is that a certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein.<sup>[34]</sup> Thus, the certificate of title becomes the best proof of ownership of a parcel of land.<sup>[35]</sup>

As registered owners of the lots in question, the respondents have a right to eject any person illegally occupying their property. This right is imprescriptible. Even if it be supposed that they were aware of the petitioner's occupation of the property, and regardless of the length of that possession, the lawful owners have a right to demand the return of their property at any time as long as the possession was unauthorized or merely tolerated, if at all. This right is never barred by laches.<sup>[36]</sup>

Case law teaches that those who occupy the land of another at the latter's tolerance or permission, without any contract between them, are necessarily bound by an implied promise that the occupants will vacate the property upon demand.<sup>[37]</sup>

In the case of *Sarona, et al. v. Villegas, et al.*,<sup>[38]</sup> this Court described what tolerated acts mean, in this language:

Professor Arturo M. Tolentino states that acts merely tolerated are "those which **by reason of neighborliness or familiarity**, the owner of property allows his neighbor or another person to do on the property; they are generally those particular services or benefits which one's property can give to another without material injury or prejudice to the owner, who **permits them out of friendship or courtesy**." x x x. and, Tolentino continues, **even though "this is continued for a long time, no right will be acquired by prescription."** x x x<sup>[39]</sup>

It was out of respect and courtesy to the then Mayor who was a distant relative that Cepeda consented to the building of the school.<sup>[40]</sup> The occupancy of the subject property by the DepEd to conduct classes therein arose from what Professor Arturo Tolentino refers to as the sense of "neighborliness or familiarity" of Cepeda to the then Mayor that he allowed the said occupation and use of his property.

Professor Tolentino, as cited in the *Sarona* case, adds that tolerated acts are acts of little disturbances which a person, *in the interest of neighborliness or friendly relations, permits others to do on his property*, such as passing over the land, tying a horse therein, or getting some water from a well.<sup>[41]</sup> In tolerated acts, the said permission of the owner for the acts done in his property arises from an "impulse of sense of neighborliness or good familiarity with persons"<sup>[42]</sup> or out of "friendship or courtesy,"<sup>[43]</sup> and not out of duty or obligation. By virtue of tolerance that is considered as an authorization, permission, or license, acts of possession are realized or performed.<sup>[44]</sup>

Thus, in light of the DepEd's admission that it was the then Mayor who convinced