

## THIRD DIVISION

[ G.R. NO. 150654, December 13, 2007 ]

**HEIRS OF ANACLETO B. NIETO, NAMELY, SIXTA P. NIETO, EULALIO P. NIETO, GAUDENCIO P. NIETO, AND CORAZON P. NIETO-IGNACIO, REPRESENTED BY EULALIO P. NIETO, PETITIONERS, VS. MUNICIPALITY OF MEYCAUAYAN, BULACAN, REPRESENTED BY MAYOR EDUARDO ALARILLA, RESPONDENT.**

### D E C I S I O N

**NACHURA, J.:**

This is a petition for review on *certiorari* of the Decision<sup>[1]</sup> of the Court of Appeals, dated October 30, 2001, which dismissed the petition for review of the Decision of the Regional Trial Court (RTC) of Malolos, Bulacan. The latter dismissed a complaint to recover possession of a registered land on the ground of prescription and laches.

The antecedents are as follows:

Anacleto Nieto was the registered owner of a parcel of land, consisting of 3,882 square meters, situated at Poblacion, Meycauayan, Bulacan and covered by TCT No. T-24.055 (M). The property is being used by respondent, Municipality of Meycauayan, Bulacan, which constructed an extension of the public market therein.

Upon Anacleto's death on July 26, 1993, his wife, Sixta P. Nieto, and their three children, namely, Eulalio P. Nieto, Gaudencio Nieto and Corazon Nieto-Ignacio, herein petitioners, collated all the documents pertaining to his estate. When petitioners failed to locate the owner's duplicate copy of TCT No. T-24.055 (M), they filed a petition for the issuance of a second owner's copy with the RTC, Malolos, Bulacan. In that case, petitioners discovered that the missing copy of the title was in the possession of the respondent. Consequently, petitioners withdrew the petition and demanded from respondent the return of property and the certificate of title.

On February 23, 1994, petitioners formally demanded from respondent the return of the possession and full control of the property, and payment of a monthly rent with interest from January 1964. Respondent did not comply with petitioners' demand.<sup>[2]</sup>

On December 28, 1994, petitioners filed a complaint<sup>[3]</sup> for recovery of possession and damages against respondent alleging that the latter was in possession of the owner's copy of TCT No. T-24.055 (M). They averred that, in 1966, respondent occupied the subject property by making it appear that it would expropriate the same. Respondent then used the land as a public market site and leased the stalls therein to several persons without paying Anacleto Nieto the value of the land or rent therefor. Petitioners prayed that respondent be ordered to surrender to them the owner's copy of TCT No. T-24.055 (M), vacate the property, and pay them the

rents thereon from 1966 until the date of the filing of the complaint for the total of P1,716,000.00, and P10,000.00 a month thereafter, as well as P300,000.00 as moral damages, and P100,000.00 as attorney's fees.

In its Answer,<sup>[4]</sup> respondent alleged that the property was donated to it and that the action was already time-barred because 32 years had elapsed since it possessed the property.

Respondent and counsel failed to appear during the scheduled pre-trial conference. <sup>[5]</sup> Upon petitioners' motion, respondent was declared as in default and petitioners were allowed to present evidence *ex parte*. Respondent filed a motion for reconsideration which the RTC granted. Respondent was then allowed to cross-examine petitioners' lone witness and present its own evidence. However, despite notice, respondent failed again to appear during the scheduled hearing. Hence, the RTC considered respondent to have waived its right to cross-examine petitioners' witness and present its own evidence. The case was then submitted for decision.

On August 1, 1995, the RTC rendered a Decision dismissing the complaint as well as respondent's counterclaims for damages. For lack of proof, the RTC disregarded respondent's claim that Anacleto Nieto donated the property to it in light of the fact that the title remained in the name of Anacleto. Nonetheless, the RTC did not rule in favor of petitioners because of its finding that the case was already barred by prescription. It held that the imprescriptibility of actions to recover land covered by the Torrens System could only be invoked by the registered owner, Anacleto Nieto, and that the action was also barred by laches.

Petitioners appealed the case to the Court of Appeals (CA). On October 30, 2001, the CA rendered a Decision dismissing the case for lack of jurisdiction. According to the CA, the petition involved a pure question of law; hence, petitioners should have filed a petition directly with this Court.<sup>[6]</sup>

Accordingly, petitioners elevated the case to this Court through a petition for review on *certiorari*, raising the following issues:

- A. Are lands covered by the Torrens System subject to prescription?
- B. May the defense of [l]aches be invoked in this specific case?
- C. May the defense of imprescriptibility only be invoked by the registered owner to the exclusion of his legitimate heirs?<sup>[7]</sup>

The petition is meritorious.

Respondent argues that the action of petitioner to recover possession of the property is already barred by prescription.

We do not agree.

An action to recover possession of a registered land never prescribes in view of the provision of Section 44 of Act No. 496 to the effect that no title to registered land in derogation of that of a registered owner shall be acquired by prescription or adverse

possession.<sup>[8]</sup> It follows that an action by the registered owner to recover a real property registered under the Torrens System does not prescribe.

Despite knowledge of this avowed doctrine, the trial court ruled that petitioners' cause of action had already prescribed on the ground that the imprescriptibility to recover lands registered under the Torrens System can only be invoked by the person under whose name the land is registered.

Again, we do not agree. It is well settled that the rule on imprescriptibility of registered lands not only applies to the registered owner but extends to the heirs of the registered owner as well.<sup>[9]</sup> Recently in *Mateo v. Diaz*,<sup>[10]</sup> the Court held that prescription is unavailing not only against the registered owner, but also against his hereditary successors because the latter step into the shoes of the decedent by operation of law and are the continuation of the personality of their predecessor-in-interest. Hence, petitioners, as heirs of Anacleto Nieto, the registered owner, cannot be barred by prescription from claiming the property.

Aside from finding that petitioners' cause of action was barred by prescription, the trial court reinforced its dismissal of the case by holding that the action was likewise barred by laches.

Laches has been defined as 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 his right has either abandoned or declined to assert it.<sup>[11]</sup>

In a number of cases, the Court has held that an action to recover registered land covered by the Torrens System may not be barred by laches.<sup>[12]</sup> Laches cannot be set up to resist the enforcement of an imprescriptible legal right.<sup>[13]</sup> Laches, which is a principle based on equity, may not prevail against a specific provision of law, because equity, which has been defined as "justice outside legality," is applied in the absence of and not against statutory law or rules of procedure.<sup>[14]</sup>

In recent cases, <sup>[15]</sup> however, the Court held that while it is true that a Torrens title is indefeasible and imprescriptible, the registered landowner may lose his right to recover possession of his registered property by reason of laches.

Yet, even if we apply the doctrine of laches to registered lands, it would still not bar petitioners' claim. It should be stressed that laches is not concerned only with the mere lapse of time.<sup>[16]</sup> The following elements must be present in order to constitute laches:

- (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