

FIRST DIVISION

[G.R. NO. 169898, October 27, 2006]

**SPOUSES ANITA AND HONORIO AGUIRRE, PETITIONERS, VS.
HEIRS OF LUCAS VILLANUEVA, NAMELY: JOSE T. VILLANUEVA,
PABLO T. VILLANUEVA, PEDRO T. VILLANUEVA, RODOLFO T.
VILLANUEVA, DELIA V. DELA TORRE, JUANITA V. INGLES, &
SABELITO V. GELITO, RESPONDENTS.**

DECISION

YNARES-SANTIAGO, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court assails the Decision^[1] dated March 17, 2005 of the Court of Appeals in CA-G.R. CV No. 72530 which affirmed the Decision^[2] dated August 6, 2001 of the Regional Trial Court of Kalibo, Aklan, Branch 8, in Civil Case No. 5745, declaring private respondents as absolute owners of the subject parcel of land. Likewise assailed is the September 20, 2005 Resolution^[3] denying petitioners' motion for reconsideration.

A complaint for annulment or declaration of nullity of deed of exchange, tax declarations and recovery of ownership and possession with damages was filed by private respondents against petitioners.

Private respondents alleged that they are the legitimate children and grandson of the late spouses Lucas Villanueva and Regina Tupas Villanueva; that during the lifetime of Lucas Villanueva, he owned a parcel of residential land designated as Lot 764-A situated at Barangay Balabag, Malay, Aklan with an area of 140 square meters, more or less, and declared for taxation purposes under his name under Tax Declaration No. 252 (1947); that spouses Villanueva possessed the subject parcel of land during their lifetime openly, publicly and continuously in the concept of an owner and after their death, they were succeeded by their children; that sometime in August 1997, petitioners and their hired laborers fenced the whole land in question without the knowledge and consent of private respondents; that when confronted by private respondents concerning the fencing of the land, petitioners alleged that they acquired the same through inheritance from their father, Eutiquiano Salazar, who in turn purchased the land from the late Ciriaco H. Tirol by virtue of a Deed of Exchange of Real Property.

In their Answer,^[4] petitioners claimed that petitioner Anita S. Aguirre is the lawful owner and actual possessor of the land in question, it being a portion of a bigger parcel of land she inherited from her deceased parents Eutiquiano Salazar and Regina Supetran Salazar who bought the land from Ciriaco H. Tirol per Deed of Exchange of Real Property^[5] dated December 31, 1971 and registered in the Office of the Register of Deeds of Aklan; that the parcel of land is included under Tax Declaration No. 4033 (1953) in the name of Trinidad vda. de Tirol and the same is in

the possession of the Tirol family as owner thereof continuously, openly and adversely even before the second world war; that the land had been surveyed as part of Cadastral Lot 764, NP-06-000001, Malay Cadastre, in the name of Eutiquiano Salazar by the Bureau of Lands; that the land has been declared under Tax Declaration No. 1264 (1974) and subsequent tax declarations in the name of Eutiquiano Salazar; that the land was first fenced with bamboos in 1981 and with cement hollow blocks in 1985 without any opposition from private respondents; and that the action is barred by prescription and private respondents are guilty of laches in failing to assert their alleged right of ownership after the lapse of more than fifty (50) years since it was possessed by the heirs of the late Trinidad vda. de Tirol.

On August 6, 2001, the trial court rendered judgment, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Declaring the plaintiffs the lawful owners and entitled to possession of the land in question identified as Lot 764-A in the Commissioner's Sketch marked Exhibit "L", and as owners, are entitled to the possession of the same;
2. Ordering the defendants to restore possession of the land in question to the plaintiffs;
3. Ordering the defendants to pay the plaintiffs the sum of One Thousand Eight Hundred Pesos (P1,800.00) by way of litigation expenses, and another sum of Fifteen Thousand Pesos (P15,000.00) as reimbursement for attorney's fees; and
4. Ordering the Provincial Assessor of Aklan to issue a new tax declaration of the land in question in the name of the plaintiffs upon compliance of the requirements of that office and upon payment of appropriate taxes on the land including back taxes, if any.

For insufficiency of evidence, plaintiffs claim for moral damages is denied and for lack of merit, defendants counterclaim is DISMISSED.

With cost against the defendants.

SO ORDERED.^[6]

The trial court noted that the tax declarations in the name of Trinidad vda. de Tirol and the survey plan did not establish the fact that Ciriaco Tirol is the owner and possessor of the land in question, thus, he has no right to transfer ownership of the same to Eutiquiano Salazar; that petitioners were not possessors in good faith since they knew as early as 1954 that private respondents were in possession of the land; that petitioners did not acquire the land via extraordinary acquisitive prescription considering that their possession only lasted for 26 years from 1971 up to 1997 when private respondents first instituted the complaint.

On March 17, 2005, the Court of Appeals rendered a decision denying petitioners' appeal and affirming *in toto* the trial court's decision.

Petitioners' motion for reconsideration was denied hence this petition raising the following issues:

- I. THE COURT OF APPEALS ERRED IN NOT FINDING THAT THE AGUIRRES HAD ACQUIRED TITLE OVER THE DISPUTED PROPERTY VIA ORDINARY ACQUISITIVE PRESCRIPTION;
- II. THE COURT OF APPEALS ERRED IN NOT FINDING THAT THE VILLANUEVAS' ½ CAUSE OF ACTION HAD BEEN BARRED BY PRESCRIPTION;
- III. THE COURT OF APPEALS ERRED IN REFUSING TO APPLY THE EQUITABLE RULE ON LACHES;
- IV. THE COURT OF APPEALS ERRED IN FINDING THAT THE VILLANUEVAS WERE IN "POSSESSION" AND "OWNERSHIP" OF THE DISPUTED PROPERTY PRIOR TO THE EXECUTION OF THE DEED OF EXCHANGE BETWEEN CIRIACO TIROL AND THE AGUIRRES' ASCENDANT-PREDECESSOR IN 1971;
- V. THE COURT OF APPEALS ERRED IN RULING THAT THE AGUIRRES HAVE NOT PROVED THE ROOT OF THEIR RIGHT OF OWNERSHIP OVER THE DISPUTED PROPERTY; AND
- VI. THE COURT OF APPEALS ERRED IN NOT APPRECIATING FOR THE AGUIRRES THE FACT THAT THE LATTER HAD "JUST TITLE," AND HAD BEEN IN POSSESSION OF THE DISPUTED PROPERTY "IN GOOD FAITH" SINCE 1971.^[7]

We find merit in the petition.

This Court is not a trier of facts. However, if the inference drawn by the appellate court from the facts is manifestly mistaken, as in the instant case, we can review the evidence in order to arrive at the correct factual conclusions based on the record.^[8]

Prescription, in general, is a mode of acquiring (or losing) ownership and other real rights through the lapse of time in the manner and under conditions laid down by law, namely, that the possession should be in the concept of an owner, public, peaceful, uninterrupted and adverse. Acquisitive prescription is either ordinary or extraordinary. Ordinary acquisitive prescription requires possession in good faith and with just title for 10 years. Without good faith and just title, acquisitive prescription can only be extraordinary in character which requires uninterrupted adverse possession for 30 years.^[9]

Thus, for ordinary acquisitive prescription to set in, possession must be for at least 10 years, in good faith and with just title. Possession is "in good faith" when there is a reasonable belief that the person from whom the thing is received has been the owner thereof and could thereby transmit his ownership.^[10] There is "just title" when the adverse claimant comes into possession of the property through any of the modes recognized by law for the acquisition of ownership or other real rights, but