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THIRD DIVISION

[G.R. NO. 161943, June 28, 2005]

RUBEN ROMERO, REPRESENTED BY DIOSDADO ROMERO, PETITIONER, VS. EDISON N. NATIVIDAD AND HERMINIA NATIVIDAD-MEJORADA, RESPONDENTS.

D E C I S I O N

GARCIA, J.:

Assailed in this petition for review on *certiorari* under Rule 45 of the Rules of Court is the decision[1] dated August 29, 2003 of the Court of Appeals in **CA-G.R. CV. No. 71617**, affirming with modification the June 15, 2001 decision of the Regional Trial Court (RTC) at Morong, Rizal in an action for recovery of possession and quieting of title thereat commenced by the herein petitioner Ruben Romero against respondents Edison Natividad and Herminia Natividad-Mejorada.

Subject of the controversy is a portion of a parcel of land at T. Claudio St., Morong, Rizal and covered by T.C.T. No. 20890 in the name of one Francisca Galarosa (Francisca, hereafter).

Petitioner Ruben Romero is Francisca's grandson while respondents Edison Natividad and Herminia Natividad-Majorada are Francisca's great grandnephew and great grandniece, respectively.

In the latter part of 1996, petitioner filed with the RTC at Morong, Rizal a complaint for recovery of possession and quieting of title against respondents, alleging that he is the owner of the subject property by virtue of inheritance from his mother, Estelita Bautista-Atendido (Estelita), who, in turn, inherited the same from her mother, Francisca. Petitioner claims that on July 27, 1994, respondents, despite knowledge that the property belonged to him, entered the contested portion of the land and constructed a building of strong materials thereon.

In their answer, respondents raised the defense of prescription and laches. They averred that they and their predecessors-in-interest had been in open, continuous and uninterrupted possession of the subject property since the 1920's when it was donated to their grandparents, Demetrio Natividad and Ulpiana Raymundo, by the latters' aunt Francisca, when Ulpiana got married; that their father, Herminigildo Natividad, inherited the same portion from their grandparents; and that, they, in turn, inherited the property upon their father's death. Respondents pointed out that during the lifetime of their father Herminigildo, the latter operated a bakery store thereon until it was burned. On March 3, 1994, they constructed a commercial building on said property.

In a decision dated June 15, 2001,[2] the trial court rendered judgment for the

respondents by dismissing petitioner's complaint and ordering him to pay attorney's fees, thus:

> WHEREFORE, in view of the foregoing judgment is hereby rendered in favor of the defendants and as against the plaintiff, dismissing the complaint for utter lack of merit, and ordering the latter to pay defendants P50,000.00 in concept of attorney's fee plus P1,000.00 per actual appearance of defendants counsel in court. Without pronouncement as to costs and damages.
>
> SO ORDERED.

In ruling for the respondents, the trial court declared that the latters' long possession had ripened to acquisitive prescription in their favor:

> This court is of the opinion and so holds that the defendants are now the owners of the disputed lot involved in this case. Defendants predecessors-in-interest spouses Demetrio Natividad and Ulpiana Raymundo after the execution of the Deed of Donation dated May 21, 1921 took possession of the portion of the lot in question where they engaged their usual business without anybody from the plaintiff's relatives disturbing and questioning the possession. Demetrio Natividad had caused to declare for taxation purposes the improvement he introduced into the disputed lot, and for the period from the deed of donation executed by Francisca Galarosa, grandmother of the plaintiff, up to the present, efforts to recover possession were unsuccessful, thus strengthening the rightful claim of possession and ownership over the land in question by the defendants. Indeed, it has been an acknowledged principle in law, that uninterrupted possession in concept of owner, ripens into ownership. In the case at bar, plaintiff as well as his predecessor-in-interest had failed to question within the period allowable under the law, the claim of possession and ownership by defendants and their predecessor-in-interest. As correctly pointed out by the defendants' counsel, plaintiff and his predecessor slept on their right to recover ownership and possession of the disputed property, and this neglect should be counted against them. Defendants' possession in concept of owner, metamorphosed into an acquisitive prescription, that granted them the right to consolidate their right of ownership over the lot in question.[3]

On appeal to the Court of Appeals in **CA-G.R. CV No. 71617**, petitioner argued that the trial court erred in declaring respondents as owners of the subject property on the basis of prescription as there can be no prescription against a titled property. He also insists that there was no valid donation by Francisca because it was not contained in a public document, as required by law, adding that respondents' grandfather Demetrio was never in possession of the entire property because he only occupied the second floor of the building then existing thereon.

In the herein assailed decision[4] dated August 29, 2003, the appellate court affirmed with modification the appealed decision of the trial court by deleting the award of attorney's fees:

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Morong, Rizal, Branch 79, dated 15 June 2001, is hereby AFFIRMED with the **MODIFICATION** that the award of attorney's fees is hereby DELETED.

SO ORDERED.

In arriving at such a disposition, the appellate court refused to apply the general rule regarding the operation of prescription against a titled property, ratiocinating that said rule does not apply if the person invoking it is not the registered owner, as in this case.

Petitioner moved for reconsideration but his motion was denied by the appellate court in its subsequent resolution[5] of January 29, 2004.

Hence, petitioner's present recourse seeking reversal of the challenged decision and resolution of the Court of Appeals.

The petition is unavailing.

Apparently, the instant case was not the only one instituted by petitioner against respondents. Sometime in 1994, an ejectment suit (Civil Case No. 566) was filed by him but it was dismissed for his failure to prove prior possession of the disputed property. Later, a case for recovery of possession (Civil Case No. 680-M) was also instituted by the petitioner but similarly dismissed.

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. It would be rank injustice and patently iniquitous to deprive the lawful heirs of their rightful inheritance.

Here, we are inclined to apply the above rule in favor of respondents. We find support in Tambot, et al. v. Court of Appeals, et al.[6] where this Court, through then Associate Justice Carolina Griño-Aquino, held:

The Court of Appeals' ruling that the private respondents, by continuous, open, and adverse possession of the land for more than thirty-six (36) years as owner, had acquired title through prescription and that the petitioners' title is not protected by Section 46 of the Land Registration Act (which provides that a registered owner's title may not be lost through prescription) because the petitioners are not the registered owners of the land in question, finds support in various decisions of this Court.

In Wright, Jr., et al. vs. Lepanto Consolidated Mining Co.,[7] where the mining company's possession of the mining claims under the color of title began since 1936 while the appellants whose father had been the patentee of those claims did not lift a finger to assert their title or right for over 25 years, this Court held:

xxx Assuming that Albert P. Wright ever held a Torrens title to the claims (which is