

EN BANC

[G.R. No. 130876, December 05, 2003]

FRANCISCO ALONSO (DECEASED), SUBSTITUTED BY MERCEDES V. ALONSO, TOMAS V. ALONSO AND ASUNCION V. ALONSO, PETITIONERS, VS. CEBU COUNTRY CLUB, INC., RESPONDENT.

RESOLUTION

AUSTRIA-MARTINEZ, J.:

In our Decision dated January 31, 2002, we declared that:

... neither Tomas N. Alonso nor his son Francisco M. Alonso or the latter's heirs are the lawful owners of Lot No. 727 in dispute. Neither has the respondent Cebu Country Club, Inc. been able to establish a clear title over the contested estate. The reconstitution of a title is simply the re-issuance of a lost duplicate certificate of title in its original form and condition. It does not determine or resolve the ownership of the land covered by the lost or destroyed title. A reconstituted title, like the original certificate of title, by itself does not vest ownership of the land or estate covered thereby.^[1]

on which basis, the dispositive portion of the decision reads:

WHEREFORE, we DENY the petition for review. However, we SET ASIDE the decision of the Court of Appeals and that of the Regional Trial Court, Cebu City, Branch 08.

IN LIEU THEREOF, we DISMISS the complaint and counterclaim of the parties in Civil Case No. CEB 12926 of the trial court. We declare that Lot No. 727 D-2 of the Banilad Friar Lands Estate covered by Original Certificate of Title Nos. 251, 232, and 253 legally belongs to the Government of the Philippines.

No costs.

SO ORDERED.^[2]

Petitioners and respondent filed separate motions for reconsideration, each assailing a different aspect of the decision.

Petitioners, in their Motion for Reconsideration dated March 6, 2002, vigorously argue that: (a) the majority decision unduly deprives petitioners of their property without due process of law and "in a manner shocking to good conscience"; (b) in invalidating the sale of Lot 727 to the late Tomas Alonso, the *ponencia* unfairly deviated from established doctrine to favor a mere *obiter dictum* as misapplied in *Liao vs. Court of Appeals*, using as basis factual findings either unsupported by the

evidence or contradicted by the appellate court's findings of fact; (c) the core issues of fraud and want of jurisdiction afflicting the reconstitution of respondent Cebu Country Club's title were not squarely and frontally met, to the prejudice and damage of the petitioners; and (d) the dissenting opinion deserves a second hard look as it presents a more balanced, sober, factually accurate, and juridically precise approach to the critical issues of this case, including prescription and laches.

On the other hand, respondent Cebu Country Club, Inc., in its Motion for Reconsideration dated March 5, 2002, staunchly assails the decision insofar as it declared that "Lot 727-D-2 of the Banilad Friar Lands Estate legally belongs to the Government of the Republic of the Philippines". Respondent argues that the Office of the Solicitor General (OSG), as representative of the Government, has not intervened nor has it been impleaded in the Regional Trial Court (RTC) nor during the appeal in the Court of Appeals, and, the Torrens Certificate of Title, TCT No. RT-1310 (T-11351) of respondent, covering Lot 727, Banilad Friar Lands Estate, cannot be collaterally attacked and nullified in this case at bar.

We find no merit in petitioners' motion for reconsideration. The matters raised in the motion have already been substantially discussed in the decision.

It must be emphasized that in civil cases, the burden of proof to be established by preponderance of evidence is on the plaintiff who is asserting the affirmative of an issue. He has the burden of presenting evidence required to obtain a favorable judgment, and he, having the burden of proof, will be defeated if no evidence were given on either side.^[3] Inasmuch as petitioners pray for the "Declaration of Nullity and Non-Existence of Deed/Title, Cancellation of Certificates of Title and Recovery of Property" against the respondent, they had the burden to establish their claims of ownership of the subject property which they failed to do in this case.

Section 18 of Act No. 1120 or the Friar Lands Act^[4] unequivocally provides: "No lease or sale made by the Chief of the Bureau of Public Lands (now the Director of Lands) under the provisions of this Act shall be valid until approved by the Secretary of the Interior (now, the Secretary of Natural Resources). Thus, petitioners' claim of ownership must fail in the absence of positive evidence showing the approval of the Secretary of Interior. Approval of the Secretary of the Interior cannot simply be presumed or inferred from certain acts since the law is explicit in its mandate. This is the settled rule as enunciated in *Solid State Multi-Products Corporation vs. Court of Appeals*^[5] and reiterated in *Liao vs. Court of Appeals*.^[6] Petitioners have not offered any cogent reason that would justify a deviation from this rule.

Contrary to petitioners' protestations, we squarely resolved the core issues of fraud and want of jurisdiction afflicting the reconstitution of respondent's title. While we held that the issue of the validity of respondent's title is factual which cannot be reviewed on appeal, nevertheless, we have answered each ground raised by petitioner in assailing respondent's title.^[7] Needless to stress, mere allegations of fraud are not enough.^[8] Fraud is never presumed but must be proved by clear and convincing evidence,^[9] mere preponderance of evidence not even being adequate.^[10] As we have held in *Saguid vs. Court of Appeals*, contentions must be proved by competent evidence and reliance must be had on the strength of the party's own evidence and not upon the weakness of the opponent's defense. ^[11] Petitioners

failed to discharge that burden.

Moreover, it cannot be over-accentuated that Tomas Alonso, petitioners' predecessor-in-interest, never asserted any claim of ownership over the disputed property during his lifetime. When he was alive, Tomas Alonso did not exert any effort to have the title of the disputed property reconstituted in his name or seek recovery thereof from the respondent which was in possession since 1931.^[12] Significantly, Tomas Alonso had caused the reconstitution of his title on Lot 810, which is adjacent to the disputed property, sometime in 1946 and yet petitioners failed to show that Tomas Alonso exerted the same effort to reconstitute his alleged title to the subject property. As successors-in-interest, petitioners merely stepped into the shoes of Tomas Alonso. They cannot claim a right greater than that of their predecessor. Notably, Tomas Alonso and his son Francisco Alonso were not ordinary or unschooled men. They were learned men of the law. They belonged to the landed gentry and, thus, had adequate financial resources at their disposal. Tomas Alonso was even a member of Congress. The length of time that has elapsed, spanning six decades, before the institution of the suit to recover the property, begs for a valid explanation, of which none was convincingly offered. Petitioners' silent acquiescence for several decades and belated invocation of an alleged right speak strongly of the staleness of their claim. Their claims can hardly evoke judicial compassion. *Vigilantibus et non dormientibus jura subveniunt*. "If eternal vigilance is the price of safety, one cannot sleep on one's right for more than a tenth of a century and expect it to be preserved in its pristine purity".^[13]

We likewise find no merit in respondent's motion for reconsideration insofar as the decision declared that Lot 727-D-2 of the Banilad Friar Lands Estate legally belongs to the Government of the Republic of the Philippines.

It must be borne in mind that the disputed property is part of the "Friar Lands" over which the Government holds title and are not public lands but private or patrimonial property of the Government^[14] and can be alienated only upon proper compliance with the requirements of Act No. 1120 or the Friar Lands Act.

Sections 11, 12 and 18 of Act No. 1120 provide:

SECTION 11. Should any person who is the actual and bona fide settler upon and occupant of any portion of said lands . . . desire to purchase the land so occupied by him, he shall be entitled to do so at the actual cost thereof to the Government, and shall be allowed ten years from the date of purchase within which to pay for the same in equal annual installments, if he so desires, all deferred payments to bear interest at the rate of four per centum per annum on all deferred payments.

. . .

SECTION 12. ... When the cost thereof shall have been thus ascertained the Chief of the Bureau of Public Lands shall give the said settler and occupant a certificate which shall set forth in detail that the Government has agreed to sell to such settler and occupant the amount of land so held by him, at the prize so fixed, payable as provided in this Act . . . and that upon the payment of the final installment together with all accrued

interest the Government will convey to such settler and occupant the said land so held by him by proper instrument of conveyance, which shall be issued and become effective in the manner provided in section one hundred and twenty-two of the Land Registration Act. ...

SECTION 18. No lease or sale made by the Chief of the Bureau of Public Lands under the provisions of this Act shall be valid until approved by the Secretary of the Interior.

It was thus primordial for the respondent to prove its acquisition of its title by clear and convincing evidence in view of the nature of the land. In fact, it is essential for both respondent and petitioners to establish that it had become private property. Both parties failed to do so. As we have held earlier, petitioners have not succeeded to prove their claim of ownership over the subject property.

On the part of respondent, it failed to shed light on how its predecessor in interest, United Services Country Club, Inc., acquired its title. Surprisingly, there is not even one evidence to show when and how its predecessor in interest, United Services Country Club, Inc., acquired the property from anybody. It may be true that records were destroyed during the war, but respondent has not offered any clear evidence, testimonial or documentary, on the circumstances surrounding the acquisition of Lot 727, thereby creating a wide chasm in its claim of ownership. It only serves to underscore the paucity of the proof of respondent to support its claim of ownership over the disputed property.

Respondent relies solely on its reconstituted title which, by itself, does not determine or resolve the ownership of the land covered by the lost or destroyed title. *The reconstitution of a title is simply the re-issuance of a lost duplicate certificate of title in its original form and condition. It does not determine or resolve the ownership of the land covered by the lost or destroyed title. A reconstituted title, like the original certificate of title, by itself does not vest ownership of the land or estate covered thereby.*^[15]

Neither may the rewards of prescription be successfully invoked by respondent, as it is an iron-clad dictum that prescription can never lie against the Government. Since respondent failed to present the paper trail of the property's conversion to private property, the lengthy possession and occupation of the disputed land by respondent cannot be counted in its favor, as the subject property being a friar land, remained part of the patrimonial property of the Government. Possession of patrimonial property of the Government, whether spanning decades or centuries, can not *ipso facto* ripen into ownership. Moreover, the rule that statutes of limitation do not run against the State, unless therein expressly provided, is founded on "the great principle of public policy, applicable to all governments alike, which forbids that the public interests should be prejudiced by the negligence of the officers or agents to whose care they are confided."^[16]

Furthermore, the declaration in the Court's judgment that the subject property belongs to the Government is not an offshoot of a collateral attack on respondent's title. The validity of the reconstitution of title to the land in question was directly in dispute, and the proceedings before the trial court was in the nature of a direct attack on the legality of respondent's title.

Finally, our declaration that Lot 727-D-2 of the Banilad Friar Lands Estate legally belongs to the Government does not amount to reversion without due process of law insofar as both parties are concerned. The disputed property is a Friar Land and both parties failed to show that it had ceased to belong to the patrimonial property of the State or that it had become private property.

IN VIEW THEREOF, we **DENY** with finality the separate motions for reconsideration of the petitioners and respondent.

SO ORDERED.

Puno, Vitug, Carpio, Callejo, Sr., and Azcuna, JJ., concur.

Davide, Jr., C.J., in the result.

Panganiban, J., no part. Former partner of a party's counsel.

Quisumbing, J., joins the dissent of J. Tinga.

Ynares-Santiago, J., no part.

Sandoval-Gutierrez, J., see dissenting opinion.

Corona, J., shares the dissent of J. Tinga.

Carpio-Morales, J., no part. Concurred in the ponencia of the Court of Appeals.

Tinga, J., see dissenting opinion.

[1] Rollo, pp. 1099-1100.

[2] Rollo, p. 1104.

[3] *Hanopol vs. Shoemart, Inc.*, G.R. No. 137774, October 4, 2002; *Borlongan vs. Madrideo*, 323 SCRA 248, 255 (2000); *Republic vs. Court of Appeals*, 204 SCRA 160, 168 (1991); and, *Republic vs. Court of Appeals*, 182 SCRA 290, 301 (1990).

[4] Otherwise known as "An Act Providing For The Administration And Temporary Leasing And Sale Of Certain Haciendas And Parcels Of Land, Commonly Known As Friar Lands, For The Purchase Of Which The Government Of The Philippine Islands Has Recently Contracted, Pursuant To The Provisions Of Sections Sixty-Three, Sixty-Four And Sixty-Five Of An Act Of The Congress Of The United States, Entitled "An Act Temporarily To Provide For The Administration Of The Affairs Of Civil Government In The Philippine Islands, And For Other Purposes," Approved On The First Day Of July, Nineteen Hundred And Two".

[5] 196 SCRA 630 (1991).

[6] 323 SCRA 430, 442 (2000).

[7] Rollo, pp. 1092-1097.

[8] *Barrera vs. Court of Appeals*, 372 SCRA 312, 317(2001).

[9] *Republic vs. Heirs of Felipe Alejaga, Sr.*, G.R. No. 146030, December 3, 2002; *Cuizon vs. Court of Appeals*, 260 SCRA 645, 671 (1996); and, *Atilano vs. Inclan*, 45