

SECOND DIVISION

[G.R. No. 135602, April 28, 2000]

**HEIRS OF QUIRICO SERASPI AND PURIFICACION R. SERASPI,
PETITIONERS, VS. COURT OF APPEALS AND SIMEON RECASA,
RESPONDENTS.**

D E C I S I O N

MENDOZA, J.:

This case is here for review of the decision^[1] of the Court of Appeals, dated May 15, 1998, reversing the decision of Branch 1 of the Regional Trial Court, Kalibo, Aklan and dismissing, on the ground of prescription, the complaint filed by petitioners for the recovery of possession and ownership of two parcels of land in Banga, Aklan.

The facts are as follows:

Marcelino Recasa was the owner of two parcels of land described as follows:

PARCEL I: A parcel of cocal land located at Barangay Lapnag, Banga, Aklan, with an area of 770 square meters, more or less; bounded North by Lazaro Navarra, now Flocerfina Ibit; South by Celsa Retis; East by Banga-Libacao Provincial Road; and West by Aklan River, which parcel of land declared in the name of Marcelino Recasa under Tax Declaration No. 3721, Series of 1984, with an assessed value of P2,440.00;

PARCEL II: A parcel of cocal land with an area of 3,648 square meters, more or less, located in Barangay Lapnag, Banga, Aklan; bounded North by Concepcion Navarra; South by Diosdado Navarra; East by Gabriel Reloj; and West by National Road; covered by Tax Declaration No. 11079 in the name of Purificacion Seraspi, Series of 1984, and having an assessed value of P1,650.00.

During his lifetime, Marcelino contracted three (3) marriages. At the time of his death in 1943, he had fifteen (15) children from his three marriages. In 1948, his intestate estate was partitioned into three parts by his heirs, each part corresponding to the share of the heirs in each marriage.

In the same year, Patronicio Recasa, representing the heirs of the first marriage, sold the share of the heirs in the estate to Dominador Recasa, an heir of the second marriage. On June 15, 1950, Dominador, representing the heirs of the second marriage, in turn sold the share of the heirs to Quirico and Purificacion Seraspi whose heirs are the present petitioners. Included in this sale was the property sold by Patronicio to Dominador.

In 1958, the Seraspis obtained a loan from the Kalibo Rural Bank, Inc. (KRBI) on the security of the lands in question to finance improvements on the lands. However,

they failed to pay the loan for which reason the mortgage was foreclosed and the lands were sold to KRBI as the highest bidder. Subsequently, the lands were sold by KRBI to Manuel Rata, brother-in-law of Quirico Seraspi. It appears that Rata, as owner of the property, allowed Quirico Seraspi to administer the property.

In 1974, private respondent Simeon Recasa, Marcelino's child by his third wife, taking advantage of the illness of Quirico Seraspi, who had been paralyzed due to a stroke, forcibly entered the lands in question and took possession thereof.

In 1983, the Seraspis purchased the lands from Manuel Rata and afterwards filed a complaint against Simeon Recasa for recovery of possession of the lands.

The trial court ruled in favor of the Seraspis, stating that they had acquired the property through a sale and acquisitive prescription. However, on appeal, the Court of Appeals reversed on the ground that the action of the Seraspis was barred by the statute of limitations. Hence, this petition filed by Quirico Seraspi who, in the meantime, had passed away and was thus substituted by his heirs.

Two issues are presented: (1) whether petitioners' action is barred by extinctive prescription; and (2) whether private respondent Simeon Recasa acquired ownership of the properties in question through acquisitive prescription.

We rule for petitioners.

The Court of Appeals, while ruling that petitioners were able to establish the identity of the property as well as the credibility of their title ^¾ the elements required to prove one's claim for recovery of property^[2] ^¾ nonetheless held that the action was barred by prescription. Citing *Arradaza v. Court of Appeals*,^[3] it held that an action for recovery of title or possession of real property or an interest therein can only be brought within ten (10) years after the cause of action has accrued. Since the action for recovery of possession and ownership was filed by petitioners only on April 12, 1987, i.e., thirteen (13) years after their predecessor-in-interest had been allegedly deprived of the possession of the property by private respondent, it was held that the action had prescribed.

Arradaza involves acquisitive, not extinctive, prescription. What is more, the facts in that case arose before the effectivity of the Civil Code. Accordingly, what was applied was §41 of the Code of Civil Procedure which provides that title by prescription is acquired after ten (10) years, in whatever manner possession may have been commenced or continued, and regardless of good faith or with just title. On the other hand, what is involved here is extinctive prescription, and the applicable law is Art. 1141 of the Civil Code which provides:

Real actions over immovables prescribe after thirty years.

This provision is without prejudice to what is established for the acquisition of ownership and other real rights by prescription.

The question, therefore, is whether private respondent has acquired the ownership of the two lands by prescription. On this point, the Civil Code provides: