

FIRST DIVISION

[G.R. No. 112519, November 14, 1996]

CATHOLIC BISHOP OF BALANGA, REPRESENTED BY CRISPULO TORRICO, PETITIONER, VS. THE HON. COURT OF APPEALS AND AMANDO DE LEON, RESPONDENTS.

D E C I S I O N

HERMOSISIMA, JR., J.:

It is the cardinal principle in Land Registration that a torrens title is indefeasible and inprescriptible. Considering that private respondent in this case, by himself and through his predecessor-in-interest, had been in uninterrupted, open and adverse possession of a portion of the land covered by said title for 49 years, by virtue of a duly accepted donation, although unregistered, will private respondent, under this circumstance, prevail over the titled owner?

Thus, we have before us this petition for review of a decision^[1] of the Court of Appeals^[2] reversing the Regional Trial Court (RTC)^[3] which rendered judgment^[4] in favor of petitioner and ordered private respondent to vacate the subject property and surrender possession thereof to petitioner and to pay rent from the finality of the RTC judgment until the said property is actually vacated.

We quote, as the herein parties have done so in their pleadings, the following narration of facts rendered by the respondent appellate court:

"The parties do not dispute that the Roman Catholic Archbishop [sic] of Manila was the owner of a parcel of land (Lot No. 1272, Balanga Cadastre) situated in the Barrio of Puerto Rivas, Municipality of Balanga, Bataan, having an area of 3,368 sq. m., more or less covered by OCT No. 14379 of the Registry of Deeds for the province of Bataan. With respect to its rights over its properties in Bataan (inclusive of Lot No. 1272), the said church was succeeded by the Roman Catholic Bishop of San Fernando, Pampanga which was, likewise, succeeded by x x x Catholic Bishop of Balanga - registered as a corporation on 15 December 1975.

Prior thereto, or on 23 August 1936, by virtue of the authority given him by the Roman Catholic Archbishop of Manila to donate a portion of Lot No. 1272, the then parish priest and administrator of all the properties of the said church in the Municipality of Balanga, Bataan, Rev. Fr. Mariano Sarili, executed an Escritura De Donacion donating an area of 12.40 meters by 21.40 meters or 265.36 sq. m. (the subject property) of Lot No. 1272 to Ana de los Reyes and her heirs, as a reward for her long and satisfactory service to the church. Her acceptance of the donation, as well as her possession of the subject property, is indicated in the deed of donation, which deed, for unknown reasons, was refused registration by

the Register of Deeds. Six (6) years later, or in 1939, Ana de los Reyes died without issue.

Nevertheless, before her death, she had given the subject property to her nephew who had been living with her, the herein defendant-appellant [private respondent]. The latter immediately took possession of the property in the concept of owner, built his house thereon and, through the years, declared the land for taxation purposes as well as paid the taxes due thereon.

His possession of the subject property was never disturbed by anybody until plaintiff-appellee [petitioner] filed the instant complaint against him on 5 November 1985, or more than 49 years after the deed of donation was executed, alleging, among others, that: (1) during the Japanese occupation of the country, defendant-appellant [private respondent], without the knowledge and prior consent of the plaintiff-appellee [petitioner], and its predecessors-in-interest, entered and occupied the subject property, and (2) despite requests by plaintiff-appellee [petitioner], defendant-appellant [private respondent] refused to vacate the property in question. In support of the above contention, Crispulo Torrico, the sole witness and authorized representative of plaintiff-appellee [petitioner] testified, among others, that: the subject property is situated at the corner of Lot No. 1272, and defendant-appellant [private respondent] has, on the strength of the deed of donation, publicly claimed ownership and occupied the same as early as before the 2nd World War and has built his store thereon.

As his defense, defendant-appellant [private respondent] maintains that by virtue of the deed of donation of 23 August 1936 executed in favor of his predecessor-in-interest, he is the lawful owner of the subject property and the complaint states no cause of action as it was filed only to harass him.

x x x

On 27 and 30 October 1986, 10 months after he filed his answer on 10 December 1985 and almost 3 months after plaintiff-appellee [petitioner] rested its case x x x defendant-appellant [private respondent] filed his motions [sic] to dismiss the complaint on the ground that x x x the instant action is barred by the statute of limitations. Plaintiff-appellee [petitioner] filed on 3 November 1986 its opposition to the motion alleging that the defense of prescription was not raised in a timely filed motion to dismiss, and as an affirmative defense in the answer. x x x

On 13 November 1989 the lower court rendered the judgment x x x It opined that, since: (1) defendant-appellant [private respondent] failed to present the necessary power of attorney executed by the Roman Catholic Archbishop of Manila giving Rev. Fr. Mariano Sarili the authority to execute the deed of donation; (2) the first 2 paragraphs of the Excritura de Donacion indicates that the parish priest x x x was only the administrator of all, hence, had no authority to dispose in whatever manner any of the properties of the Roman Catholic Church of Balanga,

Bataan; (3) the parish priest was not a corporation sole and registered owner of Lot No. 1272; and, (4) he did not, in his own behalf or that of the Roman Catholic Archbishop of Manila, secure any prior leave of court to donate a portion of Lot No. 1272 in consonance with Sec. 159 of the old Corporation Code x x x Rev. Fr. Mariano Sarili was not authorized to, and could not validly, donate the subject lot. Thus, the deed of donation he executed is unenforceable under Art. 1403 of the New Civil Code and defendant-appellant [private respondent], as well as his predecessor-in-interest, never acquired ownership over the subject property."^[5]

The court *a quo* having rendered judgment against private respondent, the latter lost no time in bringing the case to the respondent Court of Appeals for review.

"In his appeal, defendant-appellant [private respondent] contend[ed] that the lower court erred in not ruling on the issue of prescription which he raised in his amended answer and motion to dismiss. The thrust of his argument [was] that, since the instant case [was] basically and fundamentally a suit for the recovery of possession of a real property and the complaint was filed x x x more than 49 years after the deed of donation was executed x x x the instant action should have been dismissed on the ground of prescription. x x x."^[6]

Respondent court is in agreement with private respondent's insistence that the defense of prescription is not deemed waived when prescription is apparent from the allegations in the complaint, citing this court's ruling in the cases of *Gicano vs. Gegato*,^[7] *Garcia vs. Mathis*,^[8] and *PNB vs. Pacific Commission House*.^[9] But respondent court also stated that private respondent could not have acquired ownership over the subject property through acquisitive prescription because the same having been duly registered under the Torrens system, title thereto was indefeasible.

Nonetheless, respondent Court of Appeals ultimately ruled that under the doctrine of laches, the consequence of petitioner's inaction for 49 years since the execution of the deed of donation, despite its apparently undeniable knowledge of private respondent's adverse, peaceful and continuous possession of the subject property in the concept of an owner from 1936 to the institution of the recovery suit in 1985, is that it has lost its rights to the subject property and can no longer recover the same due to its own inexcusable negligence and grave lack of vigilance in protecting its rights over a tremendously long period of time. In the words of the respondent court:

"x x x He [private respondent] and his predecessor-in-interest have been in adverse, peaceful and continuous possession of the subject property in the concept of owners since the execution of the deed of donation on 23 August 1936 and were never ousted therefrom by plaintiff-appellee's [petitioner's] predecessors-in-interest. It was not until almost 5 decades later or on 5 November 1985 that plaintiff-appellee [petitioner] instituted the instant action. The inaction for almost half a century now bars plaintiff-appellee [petitioner] from recovering the land in question on the equitable principles of laches, which is defined as 'such neglect or omission to assert a right taken in conjunction with the lapse of time and other circumstances causing prejudice to the adverse party

as will operate as a bar in equity.’ Registered lands may not be acquired by prescription but the same can be lost or acquired by Laches. [citing Lola vs. CA, 145 SCRA 439] Plaintiff-appellee [petitioner] has lost, while defendant-appellant [private respondent] has acquired, the subject property by laches.”^[10]

Now aggrieved by the aforesaid decision of the respondent Court of Appeals, petitioner comes before us mainly claiming that it was contrary to the law and settled jurisprudence for the respondent court to have applied the doctrine of laches in the instant case and to have considered a mere administrator as authorized to donate one of the properties under administration.

Petitioner’s asseverations are devoid of merit.

First, petitioner postulates that the respondent Court of Appeals should not have, in the first place, applied the doctrine of laches in the instant controversy because private respondent did not assign the same as an error on appeal.

True, the appealing party is legally required to indicate in his brief an assignment of errors,^[11] and only those assigned shall be considered by the appellate court in deciding the case.^[12] However, equally settled in jurisprudence is the exception to this general rule.

“x x x Roscoe Pound states that ‘according to Ulpian in Justinian’s Digest, appeals are necessary to correct the unfairness or unskillfulness of those who judge.’ Pound comments that ‘the purpose of review is prevention quite as much as correction of mistakes. The possibility of review by another tribunal, especially a bench of judges x x x is an important check upon tribunals of first instance. It is a preventive of unfairness. It is also a stimulus to care and thoroughness as not to make mistakes.’ Pound adds that ‘review involves matters of concern both to the parties to the case and to the public x x x. It is of public concern that full justice be done to [e]very one.’ This judicial injunction would best be fulfilled and the interest of full justice would best be served if it should be maintained that x x x appeal brings before the reviewing court the totality of the controversy resolved in the questioned judgment and order apart from the fact that such full-scale review by appeal is expressly granted as a matter of right and therefore of due process by the Rules of Court.”^[13]

Guided by the foregoing precepts, we have ruled in a number of cases that the appellate court is accorded a broad discretionary power to waive the lack of proper assignment of errors and to consider errors not assigned.^[14] It is clothed with ample authority to review rulings even if they are not assigned as errors in the appeal.^[15] Inasmuch as the Court of Appeals may consider grounds other than those touched upon in the decision of the trial court and uphold the same on the basis of such other grounds,^[16] the Court of Appeals may, with no less authority, reverse the decision of the trial court on the basis of grounds other than those raised as errors on appeal. We have applied this rule, as a matter of exception, in the following instances:

- (1) Grounds not assigned as errors but affecting jurisdiction over the subject matter;[17]
- (2) Matters not assigned as errors on appeal but are evidently plain or clerical errors within contemplation of law;[18]
- (3) Matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case[19] or to serve the interest of justice[20] or to avoid dispensing piecemeal justice;[21]
- (4) Matters not specifically assigned as errors on appeal but raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored;[22]
- (5) Matters not assigned as errors on appeal but closely related to an error assigned;[23] and
- (6) Matters not assigned as errors on appeal but upon which the determination of a question properly assigned, is dependent.[24]

The instant controversy falls squarely under the exception to the general rule that only assigned errors may be passed upon by the appellate court. A just, fair and complete resolution of the present case necessitates the consideration and the application of the doctrine of laches which is not the same as but is undoubtedly closely related to, the issue of prescription which was properly raised by private respondent before the respondent Court of Appeals.

Laches means 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 it either has abandoned or declined to assert it.[25] It has also been defined as such neglect or omission to assert a right taken in conjunction with the lapse of time and other circumstances causing prejudice to an adverse party, as will operate as a bar in equity.[26]

The principle of laches is a creation of equity which, as such, is applied not really to penalize neglect or sleeping upon one's right, but rather to avoid recognizing a right when to do so would result in a clearly inequitable situation.[27] As an equitable defense, laches does not concern itself with the character of the defendant's title, but only with whether or not by reason of the plaintiff's long inaction or inexcusable neglect, he should be barred from asserting this claim at all, because to allow him to do so would be inequitable and unjust to the defendant.[28]

"The doctrine of laches or of stale demands is based upon grounds of public policy which requires, for the peace of society, the discouragement of stale claims and x x x is principally a question of the inequity or unfairness of permitting a right or claim to be enforced or asserted."[29]