

## SPECIAL NINETEENTH DIVISION

[ CA-G.R. CEB-CV No. 03301, June 20, 2014 ]

**HEIRS OF RESTITUTA QUILNET, NAMELY: ELENA Q. LAMBAYAN, DIONISIO DIVINO, SPOUSE FLORA DIVINO, MARIA FE DIVINO, JOINED BY HER SPOUSE TEOFILO LUMJOD, JOSE L. DIVINO, ENGRACIA L. BAGA, JOINED BY HER SPOUSE RUFO BAGA, NAZARIA L. BAÑARES, JOINED BY HER SPOUSE, FRANCISCO BAÑARES, SEGUNDINA Q. KINIKITO, JOINED BY HER SPOUSE, ODELLON RAGAY, ANTONIA Q. KINIKITO, JOINED BY HER SPOUSE, JUNIOR PALTINGCA, ISIAS Q. KINIKITO, JOINED BY HIS SPOUSE, SUSANA TILOS, PETRA Q. KINIKITO, JOINED BY HER SPOUSE, CLEOFE SARTE, ISIDRA Q. KINIKITO, ELIZABETH Q. KINIKITO, JOINED BY HER SPOUSE, RONGA BAÑARES, & PACITA Q. KINIKITO, JOINED BY HER SPOUSE, JOSE VERZANO, PLAINTIFFS-APPELLANTS, VS. PEDRO LUYAS, MERCEDES LUYAS, GENARO LUYAS, JR. MARIGEN LUYAS, JOINED BY HER SPOUSE LITO ALPAS, MARIE FE LUYAS, JOINED BY HER SPOUSE FRANCISCO MALAHAY, FELICIANO LUYAS, GINA LUYAS, ALBERTO ASONIO, JOINED BY HIS SPOUSE, DIOSDADA PAJARON, & GERARDO ASONIO, DEFENDANTS-APPELLEES.**

### DECISION

**LAGURA-YAP, J.:**

This is an appeal on the Decision<sup>[1]</sup> dated October 28, 2009 of the Regional Trial Court, Branch 39 of Dumaguete City, in Civil Case No. 12827, the dispositive portion of which reads:

“WHEREFORE, premises considered, judgment is hereby rendered dismissing the complaint of plaintiffs as well as the counter-claims of defendants. No pronouncement as to costs.

SO ORDERED.”

The antecedents are as follows:

Plaintiffs-appellants are the children and heirs of the late Restituta Quilnet, who died on January 16, 1980. On the other hand, defendants-appellees are the heirs of Inocenta Quilnet, who died in 1978. Pedro Luyas is the only surviving son of Inocenta Quilnet, while the other defendants-appellees are the heirs of the deceased Genaro Luyas, the other son of Inocenta Quilnet. The parties are related to one another as Restituta Quilnet is the niece of Inocenta Quilnet.

This case involves two (2) parcels of land owned by the late Inocenta Quilnet. Portions of both parcels are claimed by the plaintiffs-appellants to have been bought by their mother, Restituta Quilnet, from Inocenta Quilnet as evidenced by a Deed of

Sale<sup>[2]</sup> dated October 24, 1968. The first portion has an area of seven hundred thirty-five (735) square meters and a part of Lot No. 1096, Pls-790 which has a total area of nine thousand one hundred eighty (9,180) square meters. The Deed of Sale described the first portion as follows:

“North: Gregoria Quilnet, 17.50 Meters; South: E. Damag & Domingo Paitim, 17.50 Meters; East: Urbano Asenia, 42 Meters; West: Enrique Quilnet, 42 Meters; Containing an area of 735 square meters more or less; Declared in the name of Inocenta Quilnet under Tax Declaration No. 789 (part) and assessed at PHP320 for taxation purposes. Monuments are visible by means of natural land marks. I acquitted (sic) this property by purchase long time ago when I was yet single. The vendee is the actual possessor thereof.”

The second portion has an area of one hundred eighty-two (182) square meters and a part of Lot No. 1098, Pls-790 which has a total area of seventeen thousand four hundred seventy-five (17,475) square meters. The Deed of Sale described the second portion as follows:

“North: Feeder Road, 14.00 Meters; South: Inocenta Quilnet, 12.00 Meters; East: Inocenta Quilnet, 14.00 Meters; West: Inocenta Quilnet, 14.00 Meters; Containing an area of 182 square meters, more or less; Declared in the name of Inocenta Quilnet under Tax Declaration No. 853 and assessed at PHP400 (part) for taxation purposes. Monuments are visible by means of natural land marks. I acquired this property by purchase during that time. I was yet single. The vendee is the actual possessor thereof.”

The plaintiffs-appellants contend that after the execution of the Deed of Sale, they have been in actual, open, public, adverse and continuous physical possession of both portions. They have constructed a residential house and cultivated agricultural products on the land.

The plaintiffs-appellants allege that Inocenta Quilnet applied for the issuance of certificates of title to the two parcels of land, without their knowledge. Thereafter, the application was granted and two certificates of titles were issued in the name of Inocenta Quilnet. The certificates of titles included the portions of the two parcels which were already conveyed to Restituta Quilnet. For Lot No. 1096, Pls-790, Original Certificate of Title No. FV – 12375<sup>[3]</sup> was issued in the name of Inocenta Quilnet. For the other lot, Lot No. 1098, Pls-790, Original Certificate of Title No. FV – 19282<sup>[4]</sup> was issued also in the name of Inocenta Quilnet. Plaintiffs-appellants alleged that before Restituta knew of the existence of the certificates of title, Inocenta Quilnet died. Restituta Quilnet, on the other hand, died on January 16, 1980.

After Restituta died, plaintiffs-appellants demanded from the defendants-appellees for the reconveyance of the portions of Lot No. 1096, Pls-790 and Lot No. 1098, Pls-790. However, defendants-appellees refused to do so for no valid or justifiable reason. The latter instead demanded for the former to vacate the premises.

Plaintiffs-appellants aver that the application for the issuance of certificates of title by Inocenta Quilnet was perpetrated with fraud as she misrepresented herself to be

the lawful owner for the parcels of land. At the time of the issuance of the titles, Inocenta Quilnet had already sold portions of her lot to Restituta Quilnet, who already had actual possession of the said portions. To protect their rights and interests over the portions of the land, plaintiffs-appellants filed a Complaint<sup>[5]</sup> for Quieting of Title, Reconveyance with Preliminary Mandatory Injunction, Damages, and a Prayer for Restraining Order against defendants-appellees.

During the trial, the plaintiffs-appellants presented three (3) witnesses, namely: plaintiff-appellant Engracia L. Baga, Ruth Edrial Pulao and Engr. Vinancio Cuba, II.

Witness Engracia Baga is the daughter of the late Restituta Quilnet. She testified that her mother bought portions of the two (2) parcels of land from Inocenta Quilnet as evidenced by the Deed of Sale dated October 24, 1968. After wards, Restituta and her children took possession of the land. They constructed houses in 1968; Restituta's house in one portion while her children constructed houses in the other portion. They also planted coconut and banana trees. However, Restituta was not able to secure titles over the portions of the lots in her name before she died.

After Restituta died, Engracia presented the Deed of Sale to defendants-appellees Pedro Luyas and Ma. Fe Malahay and requested for the segregation of the lots. The defendants-appellees rebuffed her and told her to vacate the land immediately. Defendants-appellees did not believe that the deed of sale was genuine and that Inocenta Quilnet would sell the land. Because of this, plaintiffs-appellants secured tax declarations of the properties and paid the corresponding real property taxes. However, the land was still declared under Inocenta Quilnet's name.

During cross-examination, witness Engracia said that she was not present when the Deed of Sale was executed. She knew that her mother purchased portions of the two (2) parcels of land only in 1969. She knew the lots were titled in the name of Inocenta Quilnet in 1969. She advised her mother to have the documents registered, but her mother told her that the lot they bought could not be separated because Inocenta had the land titled already. She had been residing in Zamboanga from 1962 to 1972, before she came back home permanently. Sometime in 2000, they paid the taxes, but the tax declaration was still in the name of Inocenta Quilnet. When they applied for an electrical connection for their house, they had to ask permission from Gerardo Luyas.

Ruth Edrial Pulao, the Municipal Assessor of Sta. Catalina, Negros Oriental, testified that the tax declaration was originally issued in the name of Inocenta Quilnet, then cancelled and issued to Genaro Luyas, then back to Inocenta Quilnet.

Engr. Vinancio Cuba, II, a licensed Geodetic Engineer, testified that he conducted a relocation survey of the parcels of land on May 30, 2007, at the behest of the heirs of Restituta Quilnet. He claims that the first portion consisting of an area of 735 square meters is within Lot No. 1096, Pls-790-D; and the second portion consisting of an area of 182 square meters is within Lot No. 1098, Pls-790-D. He embodied his

findings in his report and made a sketch plan showing the positions of the portions claimed by petitioners-appellants.

On the other hand, defendants-appellees contend that plaintiffs-appellants have no cause of action against them because the alleged Deed of Sale is null and void. They also assailed the due execution and the validity of the Deed of Sale. They claim that: a) The thumb mark of Inocenta Quilnet was forged; b) Inocenta Quilnet's consent was obtained through fraud, deceit and undue influence; c) There is no definite subject matter as shown in the description of the document; and, d) The document has no cause or consideration. Defendants-appellees also assert that plaintiffs-appellants are guilty of estoppel and laches for failure to assert their rights for a long period of time, specifically, thirty-two years from the execution of the document. Defendants-appellees aver that the action has already prescribed since actions for reconveyance prescribe in ten (10) years.

Defendants-appellees presented two (2) witnesses, namely: defendant-appellee Pedro Luyas and Gerardo Asonio.

Defendant-appellee Pedro Luyas testified that he is the present owner of the lots subject of this case through succession from his deceased parents. He claimed that the two lots were acquired by his mother before he was born. His mother was issued titles to the two lots, under OCT No. FV-12375 and OCT No. FV-19282, pursuant to Free Patent No. 439342 and Free Patent No. 437694, respectively.

His cousins Urbano Asonio and Enrique Quilnet used to live with them and helped in the cultivation of the land. When he grew up, defendant-appellee Pedro Luyas already learned how to plow the field. In 1955, he started planting corn and coconuts. Presently, he hires others to cultivate his land.

Pedro Luyas said that when Inocenta Quilnet was still alive, she paid for the taxes. After her death, it was his deceased brother Genaro who paid the taxes. At present, he pays for the taxes together with his deceased brother's heirs. He claims that plaintiffs-appellants did not contribute in the payment of taxes as they did not have anything to do with the properties.

He claims that in 1943, Inocenta Quilnet allowed the late Restituta Quilnet to live on the subject land since Restituta's family was residing near the highway and they feared for their lives as Japanese soldiers would pass by. Inocenta Quilnet also allowed Restituta to cultivate the former's lot so the latter could provide food for her children. Restituta Quilnet never asserted ownership over the land at the time when Inocenta Quilnet was still alive. It was only after the death of Genaro Quilnet sometime in 2000 that the plaintiffs-appellants filed a suit against defendants-appellees over portions of Inocenta's land.

Pedro Luyas contended that there are about six houses built in their lot, mostly by his other cousins. Plaintiff-appellant Engracia Baga also built her house therein, without asking for permission. She never paid rentals even when she continued to stay on the subject lot. When Engracia

applied for an electrical connection to her house, she even had to ask defendant-appellee to sign the application as she is not the registered owner of the lot.

Witness Gerardo Asonio testified that his father is a nephew of Inocenta Quilnet and a cousin of Restituta Quilnet. He stated that he lived with Inocenta Quilnet for eighteen years. Further, he stated that the late Restituta Quilnet and her children were merely allowed by Inocenta Quilnet to reside in the subject lot. It was the children of the late Inocenta Quilnet who introduced improvements, harvested the fruits and enjoyed the proceeds of the land. During the lifetime of Restituta Quilnet, she never asserted ownership over the portions of the lots which she occupied with her children.

During trial, a complaint-in-intervention was filed by Perfecta Asonio, Veronica Asonio joined by his spouse Imelda Asonio, Marie Fe D. Lumjod joined by her spouse Teofilo Lumjod, Dionisio Divino joined by his spouse Flora Villamor, and Jose Divino. The intervenors asserted that they also acquired portions of the land owned by Inocenta Quilnet. However, in the Order<sup>[6]</sup> dated September 24, 2002, the court *a quo* dismissed the complaint-in-intervention as the portions of land claimed by the intervenors were different from those claimed by plaintiffs-appellants.

On October 28, 2009, the Regional Trial Court, Branch 39 of Dumaguete City, rendered a Decision<sup>[7]</sup> dismissing the complaint of plaintiffs-appellants against the defendants-appellees. The court *a quo* said that the evidence offered by plaintiffs-appellants to prove their claim were sadly lacking.

Aggrieved, plaintiffs appealed to this Court with the following assignment of errors:

I

THE COURT BELOW ERRED IN HOLDING THAT THE PLAINTIFFS-APPELLANTS HAVE FAILED TO ESTABLISH THAT THEY HAVE A VALID TITLE OR INTEREST IN LOT 1096 AND LOT 1098.

II

THE COURT BELOW ERRED IN HOLDING THAT THE PLAINTIFFS-APPELLANTS HAVE FAILED TO ESTABLISH THE IDENTITY OF THE PROPERTY THEY SEEK RECONVEYANCE.

III

THE COURT BELOW ERRED IN HOLDING THAT THE PLAINTIFFS-APPELLANTS ACTION FOR RECONVEYANCE HAS ALREADY PRESCRIBED.

<sup>[8]</sup>

This appeal is without merit.

Plaintiffs-appellants allege that they were able to establish a valid title and interest over Lot No. 1096 and Lot No. 1098. They argue that the notarized Deed of Sale clearly show that Inocenta Quilnet conveyed portions of her two lots to Restituta