108 OG No. 14 1501 (April 2, 2012)

SPECIAL THIRTEENTH DIVISION

[CV No. 78898, December 30, 2010]

DELFINA TAN VDA. DE ABRIOL, ESTRELLA TAN VDA. DE MENDOZA, FELICIDAD TAN AND GLORIA TAN, PLAINTIFFS-APPELLEES, VS. SPS. FRANK ESPIRITU AND ISIDRA ESPIRITU, DEFENDANTS-APPELLANTS.

D E C I S I O N

Court of Appeals

Before the Court is an appeal filed by the Sps. Frank and Isidra Espiritu ("appellants") from the Decision dated February 26, 2001 of the Regional Trial Court ("RTC") Branch 46, San Fernando City, Pampanga in Civil Case No. 11272 for recovery of possession with damages.

In the complaint filed before the trial court, Delfina Tan Vda. De Abriol, Estrella Tan Vda. De Mendoza, Felicidad Tan and Gloria Tan ("appellees") alleged that their paternal grandmother, Marciana Goco, and her children Guillermo, Pedro (father of the appellees), Hilario, Victoria, Ramon and Maria, all surnamed Tan-Chun-Bian,. co-owned a 1,017 square meter land in Arayat, Pampanga, covered by Original Certificate of Title ("OCT") No. 235 issued by the Register of Deeds of Pampanga on July 6, 1912. The parcel was denominated as Lot No. 126. Prior to 1933, a 126-square meter portion of the land was sold to Sps. Tomas and Teodora Perez ("Sps. Perez"), later denominated as Lot 126-B, with the remaining portion, measuring 878 square meters, denominated as Lot 126-A. On January 18, 1933, the Court of First Instance of Pampanga ordered the cancellation of OCT No. 235 and in lieu thereof, two new transfer certificates of title were issued for Lots 126-A and 126-B. Lot 126-A was changed to Lot No. 3927 while Lot 126-B was changed to Lot 3928. TCT No. 9346 was issued to Lot No. 3928 however TCT No. 9345 which is supposed to be issued for Lot 3927 was deleted from the registry book containing the said TCTs. Appellees alleged that Lot 3927 was declared for taxation purposes and they have been paying the same and that from time immemorial, their predecessors-in-interest had been occupying the said lot. They further explained that before the second world war, Isidra Espiritu's ("appellant's") mother, Librada Gatchalian, was allowed to construct a "barong-barong" in Lot No. 3927, with the tolerance of appellees' father, who was then administrator of the property. Upon the death of their grandmother and their father's siblings, appellees' father became the sole owner of the entire Lot 3927. Appellees' father died in 1976, thus they are now co-owners of the subject property. (Rollo, pp. 124-126).

Appellees further averred that they continued to tolerate the stay of the appellants on Lot 3927 without the latter paying anything to them. Later however, appellants house was improved using concrete materials without their knowledge or consent. Appellees wanted to use the property and so made several verbal and written demands on appellants to surrender possession of the 100 square meter portion they were occupying. Appellants however refused to do so. Appellees brought the

matter to the barangay, to no avail and later to the Municipal Trial Court ("MTC") via an ejectment suit. The MTC however dismissed the case for lack of jurisdiction. (Rollo, p. 126).

Appellees thus filed before the RTC herein case for recovery of possession plus damages docketed as Civil Case No. 11272.

On February 26, 2001, the RTC rendered its Decision disposing as follows:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs [-appellees] and against the defendants[-appellants], by:
>
> 1. Ordering the defendants[-appellants] and all their successors in interest and all persons acting and claiming in their behalf to vacate the subject premises and turn over possession thereof to plaintiffs[-appellees];
>
> 1. Ordering the defendants[-appellants] to pay rent from November 23, 1993 at the rate of P3.000.00 per month until the property has been vacated;
>
> 2. Ordering defendants[-appellants], to pay to plaintiffs [-appellees] the amount of P50,000.00 as moral damages;
>
> 3. Ordering the defendants[-appellants] to pay to plaintiffs[-appellees] the amount of P25.000.00 as attorney's fees; and
>
> 4. Ordering defendants[-appellants] to pay the cost of suit.
>
> SO ORDERED. (Rollo,pp. 129-120)

The trial court held that:

> Section 47 of P.D. No. 1529 (Property Registration Decree) provides that "No title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession."
>
> The [appellees] with their documentary evidence have shown that their predecessors in interest, paternal grandmother Marciana Goco and her children, one of them Pedro [who] was [appellees'] father, are registered owners of Lot No. 3927 under TCT No. 9345, formerly Lot No. 127-A covered by OCT No. 235.
>
> Lot No. 3927 covered by TCT No. 9345 having been registered in the name of [appellees'] predecessors in interest under the Torrens System, the right to recover possession of the same imprescriptible because possession is a mere consequence of ownership....
>
> As held in several cases by our Supreme Court, adverse, notorious and continuous possession under a claim of ownership for a period fixed by law is ineffective against a Torrens title... (Rollo, pp. 128-129).
>
> Appellees filed a motion for execution pending appeal (Records, pp. 247-

248) which this Court granted on February 24, 2004. (Rollo, pp. 45-52). Appellants filed a Motion for Reconsideration but it was denied on May 13, 2004 (Rollo, pp. 53-58; 81-82).

The appellants are now before the Court claiming that:

I

THE TRIAL COURT ERRED IN NOT DECLARING THAT [APPELLEES] ARE GUILTY OF LACHES.

II

THE TRIAL COURT ERRED IN NOT HOLDING THAT PRESCRIPTION HAD SET IN TO BAR [APPELLEES] RIGHT OF ACTION AGAINST DEFENDANTS. (Rollo, 103).

Appellants aver that the appellees' right of action has already prescribed by virtue of appellants' possession of the land and their predecessors-in-interest for 80 years. While such defense was overruled by the RTC on the ground that the land was registered with a certificate of title, equitable laches should have been appreciated in appellants' favor. Laches is the failure or neglect, for an unreasonable 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 a presumption that a party entitled thereto either has abandoned it or declined to assert it. While appellants may not be considered as having acquired title by virtue of their predecessors' long continued possession for 80 years, the original owners' right to recover back the possession of the property has, by the long period of 80 years by the appellees and their predecessors' inaction and neglect, been converted to a state demand. Courts cannot look with favor at parties who, by their silence, delay and inaction, knowingly induced another to spend time, effort and expenses in cultivating the land, only to claim title thereto when the possessors' efforts and the land values offer an opportunity to make easy profit at the latter's expense. Appellants had long introduced major improvements on their house way back in 1964 and not a word of opposition was heard from the appellees. It was onfy when the value of the land has significantly increased due to the commercial stalls built thereon by appellants, did appellees suddenly claim possession thereof. (Rollo, pp. 109-113).

Appellants further assert that following the ruling in *Cutanda v. Heirs of Cutanda* (335 SCRA 418 [2000]), the remedies of *accion publiciana or accion reinvidicatoria* must be availed of within ten years from dispossession. In this case, appellants and their predecessors-in-interest have been in actual possession of the lot since 1936. Thus, the appellees' right of action to recover better possession thereof, under a claim of ownership pursuant to a purported decree, has prescribed for their apparent and unjustified failure to institute a formal action with the proper court within 10 years from dispossession thereof. Appellees demanded from appellants to vacate the premises starting in 1978 at which time, the appellees' cause of action had since then acrued against appellants. When the appellees filed their ejectment suit under the category of an *accion publiciana* on September 24, 1997, 19 years had already lapsed from 1978. (Rollo, pp. 113-116).

Appellees for their part argue that the appellant's possession of the property was