

SECOND DIVISION

[G.R. No. 151235, July 28, 2005]

**HEIRS OF JUAN PANGANIBAN & INES PANGANIBAN, NAMELY:
ERLINDA B. PACURSA, ERNESTO P. BACONGA, EVELYN
BACONGA, AMY B. BIHAG, SIEGFREDO BACONGA, IMELDA B.
PACALDO, REBECCA B. LI, OFELIA B. OALIVAR, GEMMA
BACONGA, MARIE INES BACONGA, MELANIE BACONGA, AND
ANITA FUENTES, PETITIONERS, VS. ANGELINA N. DAYRIT,
RESPONDENT.**

D E C I S I O N

TINGA, J.:

This is a petition for review on certiorari seeking the partial reversal of the *Decision*^[1] and the *Resolution*^[2] denying the motion for reconsideration rendered by the Court of Appeals (CA) Second Division in CA-G.R. CV No. 57148.

This case stemmed from a petition for cancellation of owner's duplicate copy of Original Certificate of Title (OCT) No. 7864 of the Registry of Deeds of Misamis Oriental and recovery of damages filed by the heirs of Juan and Ines Panganiban, more particularly Erlinda B. Pacursa, Ernesto P. Baconga, Asito P. Baconga and Anita B. Fuentes, against Angelina N. Dayrit, respondent herein, on 3 April 1992.^[3] The petition was later amended to add the heirs of Asito P. Baconga as petitioners upon the latter's death and to include a prayer for quieting of title over the property in dispute.^[4]

The undisputed operative facts follow.

The property subject of controversy is a two thousand twenty-five (2,025)-square meter portion of a lot denominated as Lot 1436, situated at Kauswagan, Cagayan de Oro City. It constitutes three-fourths (3/4) of Lot 1436, one of the three (3) lots covered by OCT No. 7864, the other two being Lots 1441 and 1485. OCT No. 7864 was registered in the names of Juan Panganiban (Juan) and Ines Panganiban (Ines), father and daughter respectively, on 17 April 1940.^[5] Juan died sometime in June 1942^[6] while Ines, his only child, died in April 1944.^[7]

In the amended complaint filed with the trial court, petitioners alleged that they are the possessors and owners of Lot 1436 which they inherited from the late Juan and Ines. They acknowledge that Lot 1436 was the only remaining lot covered by OCT No. 7864, Lots 1485 and 1441 having been sold in 1949 to Galo Sabanal and Pablo Dagbay respectively, by virtue of a deed denominated as *Extrajudicial Settlement of Estate Among Heirs and Sale*.^[8]

The owner's duplicate copy of OCT No. 7864 covering Lot 1436 had been lost but

upon petition with the trial court in 1977 by Erlinda B. Pacursa (Erlinda), one of the heirs of Ines and a petitioner herein, the trial court granted the petition.^[9] Accordingly, the Register of Deeds of Misamis Oriental issued an owner's duplicate certificate of OCT No. 7864 to Erlinda.^[10]

Petitioners further alleged that unknown to them, a certain Cristobal Salcedo (Salcedo) asserted ownership over Lot 1436 and believing that it was unregistered, sold a portion of it to respondent. The latter subsequently discovered that what she had bought was registered land. Unable to annotate the deed of sale at the back of OCT No. 7864, respondent fraudulently filed a petition for issuance of the owner's copy of said title, docketed as Misc. Case No. 90-018 in March 1990. This petition of the respondent alleged that the copy issued to Erlinda was lost in the fire that razed Lapasan, Cagayan de Oro City in 1981. While the petition mentioned Erlinda as the last one in possession of the alleged lost owner's duplicate copy of the title, she was not notified of the proceedings.^[11]

The petition in Misc. Case No. 90-018 was subsequently granted and the Register of Deeds of Misamis Oriental issued an owner's duplicate certificate of OCT No. 7864 to respondent.^[12] This second duplicate certificate issued to respondent contained Entry No. 160180, the annotation of a *Notice of Adverse Claim* filed by Erlinda.^[13] The *Notice of Adverse Claim*^[14] dated 24 February 1992 alleged in part that Erlinda is one of the lawful heirs of Juan and Ines, the registered owners of the property, and as such, she has a legitimate claim thereto.

Petitioners further alleged that the newly issued owner's duplicate certificate of OCT No. 7864 to respondent was prejudicial to their previously issued title which is still in existence. Thus, they prayed among others that they be declared as the rightful owners of the property in question and that the duplicate certificate of OCT No. 7864 in their possession be deemed valid and subsisting.^[15]

In her answer to the amended complaint, respondent denied all the material allegations of the complaint and set up affirmative and special defenses. She alleged that Lot 1436 was actually sold sometime in 1947 by the petitioners themselves and their father, Mauricio Bacongá. The sale was purportedly covered by a Deed of Definite Sale. Salcedo then came into ownership, possession and enjoyment of the property in question.^[16] On 14 February 1978, Salcedo sold a portion of Lot 1436 with an area of two thousand twenty-five (2,025) square meters, more or less, to respondent. From then on, the property in question has been in her actual and physical enjoyment, she added.^[17]

Respondent further alleged that the complaint was barred by the principles of estoppel and laches by virtue of the sales executed by petitioners themselves and their father. The complaint, according to her, also failed to include as defendants, the heirs of Salcedo who are indispensable parties.^[18]

On 10 August 1992, upon motion duly granted, respondent filed a third-party complaint against the heirs of Salcedo alleging that as such heirs, they carry the burden of warranting that their predecessors in interest were the true, legal and rightful owners of the property in question at the time of the sale. Hence, she prayed therein that she be maintained in peaceful and legal ownership, possession

and enjoyment of the questioned property.^[19]

Answering the third-party complaint, the heirs of Salcedo effectively admitted the existence of the 1978 deed of sale in favor of respondent by their parents and considered the sale as within the personal and legal right of their parents and an act outside their control.^[20]

After due trial and consideration of the documentary and testimonial evidence adduced by both parties, the trial court rendered a decision against petitioners and in favor of respondent. The dispositive portion of the decision provides:

WHEREFORE, premises considered judgment is hereby rendered:

1. DISMISSING plaintiff's complaint, for lack of merit and cause of action;
2. DECLARING defendant as the true and real owner of the lot in question;
3. DECLARING the owner's duplicate copy of Original Certificate of Title No. 7864 (plaintiff's Exh. "A") null and void same being obtained by plaintiffs when they were not owners anymore of Lot 1436;
4. DECLARING the owner's duplicate copy of Original Certificate of Title No. 7864 obtained by defendant (Exh. "1") as the one valid to be given like faith and credit as the one that was lost and declared null and void; and
5. ORDERING the Register of Deeds of Cagayan de Oro City to issue a transfer certificate of title to Angela N. Dayrit, herein defendant, for her 2,025 square meter portion of Lot 1436; to Anita Baconga Fuentes for her 505 square meter portion of Lot 1436 and to Atty. Isabelo N. Pacursa or his heirs, he being allegedly dead already, for his 170 square meter portion of Lot 1436 and after they shall have presented an approved subdivision plan and an agreement to partition, to issue to each of them, their respective transfer certificate of title with an area according to the respective technical description corresponding to each of their land.

Defendant's counterclaim and third-party complaint are hereby dismissed.

SO ORDERED.^[21]

The Regional Trial Court Decision was modified by the CA on appeal by petitioners. The appellate court held that contrary to the ruling of the trial court, the valid and subsisting duplicate certificate of OCT No. 7864 was the one issued to Erlinda, not to respondent, considering that respondent had failed to comply with the mandatory jurisdictional requirements of law for the reconstitution of title under Sec. 13 of Republic Act No. 26.^[22]

The CA invoked the doctrine that a trial court does not acquire jurisdiction over a petition for the issuance of a new owner's duplicate certificate of title if the original is in fact not lost. Citing *Strait Times, Inc. v. Court of Appeals*,^[23] the CA held that the reconstituted certificate is itself void once the existence of the original is unquestionably demonstrated.^[24]

Nonetheless, the CA affirmed in all other respects the ruling of the trial court, including the critical holding that respondent was the owner of the subject property. The decretal portion of the CA's decision reads:

WHEREFORE, in view of the foregoing, and pursuant to applicable law and jurisprudence on the matter and evidence on hand, judgment is hereby rendered granting partly the instant appeal. Consequently, the decision of the trial court is MODIFIED so as to order the cancellation of the owner's duplicate copy of OCT No. 7864 issued to defendant Angelina Dayrit and declaring **the owner's duplicate copy of OCT No. 7864 (Exh. "A" and sub-markings with SN No. 014439) to be still valid for all intents and purposes and to be given like faith and credit as the original.** All other aspects are **AFFIRMED.** No costs.

SO ORDERED.^[25] (Emphasis in the original.)

Petitioners now come before this Court seeking the partial reversal of the decision rendered by the CA. They contend that the CA erred in finding that the tax declarations and the alleged adverse possession of respondent and her predecessor-in-interest are conclusive proofs of their ownership of Lot 1436. They further contend that the CA erred when it found them guilty of laches.^[26]

However, it is apparent that in order that the petition may be properly resolved, we must ascertain first, who between petitioners and respondent is the rightful owner of the property in dispute and second, whether petitioners' right to recover the property is barred by laches assuming they are the rightful owners thereof as they claim.

The resolution of the foregoing issues hinges on the question of which owner's duplicate certificate of title is valid and subsisting, the one in petitioners' possession or the one issued to respondent. What appears on the face of the title is controlling in questions of ownership since the certificate of title is an absolute and indefeasible evidence of ownership of the property in favor of the person whose name appears therein.^[27]

The CA correctly ruled that the duplicate certificate of title in petitioners' possession is valid and subsisting. This Court had already ruled in *Serra Serra v. Court of Appeals*^[28] that if a certificate of title has not been lost but is in fact in the possession of another person, the reconstituted title is void and the court rendering the decision has not acquired jurisdiction over the petition for issuance of a new title.^[29] Since the owner's duplicate copy of OCT No. 7864 earlier issued to Erlinda is still in existence, the lower court did not acquire jurisdiction over respondent's petition for reconstitution of title. The duplicate certificate of title subsequently issued to respondent is therefore void and of no effect.

The registered owners of OCT No. 7864 on the face of the valid and subsisting duplicate certificate of title are still Juan and Ines, petitioners' predecessors in interest.^[30] Per Section 46 of the Land Registration Act, no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession. This rule taken in conjunction with the indefeasibility of a Torrens title leads to the conclusion that the rightful owners of the property in dispute are petitioners. They are indisputably the heirs of the registered owners, both of whom are already dead.

These premises considered, it was error on the part of the trial court to rule that respondent was the owner of the subject property and for the CA to have affirmed such holding. We rule instead that the successors-in-interest of Juan and Ines are the legal owners of the subject property, namely petitioners herein.

Petitioners' ownership of the property having been established, the question now is whether they are entitled to its possession. On this point, the Court rules in the negative. Petitioners are no longer entitled to recover possession of the property by virtue of the equitable defense of laches. Thus, petitioners' argument that laches is not applicable to them has no merit. By laches is meant:

...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 a presumption that the party entitled to assert it either has abandoned it or declined to assert it. The defense of laches is an equitable one and does not concern itself with the character of the defendant's title but only with whether or not by reason of plaintiff's long inaction or inexcusable neglect, he should be barred from asserting his claim at all, because to allow him to do so would be inequitable and unjust to defendant.^[31]

In our jurisdiction, it is an enshrined rule that even a registered owner of property may be barred from recovering possession of property by virtue of laches.^[32] Thus, in the case of *Lola v. Court of Appeals*,^[33] this Court held that petitioners acquired title to the land owned by respondent by virtue of the equitable principles of laches due to respondent's failure to assert her claims and ownership for thirty-two (32) years. In *Miguel v. Catalino*,^[34] this Court said that appellant's passivity and inaction for more than thirty-four (34) years (1928-1962) justifies the defendant-appellee in setting up the equitable defense of laches in his behalf. Likewise, in the case of *Mejia de Lucas v. Gamponia*,^[35] we stated that while the defendant may not be considered as having acquired title by virtue of his and his predecessor's long continued possession for thirty-seven (37) years, the original owner's right to recover possession of the property and the title thereto from the defendant has, by the latter's long period of possession and by patentee's inaction and neglect, been converted into a stale demand.^[36]

In this case, both the lower court and the appellate court found that contrary to respondent's claim of possession, it was Salcedo, respondent's predecessor-in-interest who had been in actual possession of the property. In fact, when the lower court conducted an ocular inspection on the subject premises sometime on 16 March 1993, the court-appointed Commissioner elicited from the people residing near the