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SECOND DIVISION

[G.R. No. 127608, September 30, 1999]

GUADALUPE S. REYES, PETITIONER, VS. COURT OF APPEALS AND JUANITA L. RAYMUNDO, RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

Petitioner Guadalupe S. Reyes sold to respondent Juanita L. Raymundo on 21 June 1967 one-half (1/2) of a 300 - square meter lot located at No. 4-F Calderon St., Project 4, Quezon City, denominated as Lot 8-B, for P10,000.00. Consequently, a new title, TCT No. 119205, was issued for the whole lot in the name of original owner Guadalupe S. Reyes and vendee Juanita L. Raymundo in equal shares.

Thereafter respondent was granted a P17,000.00 loan by the Government Service Insurance System (GSIS), where she was employed as records processor, with her one-half (1/2) share of the property as collateral. On 24 September 1969 petitioner sold her remaining interest in the property to respondent for P15,000.00 as evidenced by a deed of absolute sale, Exh. "E,"[1] and TCT No. 149036 was issued in the name of respondent in lieu of TCT No. 119205.

Since 1967 the house standing on the property subject of the second sale was being leased by the spouses Mario Palacios and Zenaida Palacios from petitioner. In December 1984 petitioner allegedly refused to receive the rentals thus prompting the Palacios spouses to file on 13 March 1985 a petition for consignation before the Metropolitan Trial Court of Quezon City. Later, the parties entered into a compromise agreement principally stating that the Palacios spouses would pay to petitioner the accrued rentals and that the leased period would be extended to 24 November 1986. On 28 May 1985 the compromise agreement was approved and judgment was rendered in accordance therewith.

It appears however that the Palacios spouses were subsequently ejected from the premises but managed somehow to return. When a contempt case was filed by petitioner against her lessees, respondent intervened and claimed ownership of the entire 300 - square meter property as well as the existence of a lease contract between her and the Palacios spouses supposedly dated 17 March 1987 but retroactive to 1 January 1987. On 12 August 1987 the trial court dismissed the case and from then on, the Palacioses paid rentals to respondent.

On 23 August 1987 petitioner filed a complaint against respondent before the Regional Trial Court of Quezon City for cancellation of TCT No. 149036 and reconveyance with damages. Petitioner alleged that the sale of 24 September 1969 was simulated since she was merely constrained to execute the deed without any material consideration pursuant to an agreement with respondent that they would construct an apartment on the property through the proceeds of an additional loan

respondent would secure from the GSIS with the entire 300 - square meter property as collateral. But should the loan fail to materialize, respondent would reconvey the property subject of the second sale to petitioner. After petitioner learned that the loan was disapproved she repeatedly asked respondent for reconveyance but to no avail. Their true agreement was embodied in a private writing dated 10 January 1970.[2]

The trial court found that the second deed of sale was indeed simulated as it held that since the date of its execution respondent allowed petitioner to exercise ownership over the property by collecting rentals from the lessees until December 1986. It was only in 1987 when respondent intervened in the contempt case that she asserted ownership thereof. Likewise, the trial court sustained petitioner's claim that she was only prevailed upon to transfer the title to the whole lot to respondent in order to obtain a loan from the GSIS which, after all, did not materialize. Thus, on 29 May 1992 the trial court cancelled and declared null and void TCT No. 149036 as well as the second deed of sale. It ordered respondent to reconvey subject property to petitioner and to pay P25,000.00 as actual and exemplary damages, P10,000.00 as attorney's fees, and to pay the costs.[3]

Respondent Court of Appeals however held otherwise. It ruled that as between a notarized deed of sale earlier executed and the agreement of 10 January 1970 contained in a private writing, the former prevailed. It also found that petitioner's cause of action had prescribed since the complaint should have been filed either within ten (10) years from 1969 as an action to recover title to real property, or within ten (10) years from 1970 as an action based on a written contract. The appellate court further found that petitioner's cause of action was barred by laches having allowed respondent to stay in possession of the lot in question for eighteen (18) years after the execution of the second deed of sale. On 19 July 1996 the Court of Appeals set aside the ruling of the trial court and dismissed petitioner's complaint.[4] On 22 October 1996 it denied the motion to reconsider its decision.[5]

Petitioner posits that it was only in 1987 - when respondent intervened in the contempt case alleging to be the owner and lessor - did her cause of action accrue; hence, her complaint filed on 23 August 1987 has not yet prescribed. Petitioner asserts that the 10 January 1970 agreement is more credible and probable than the second deed of sale because such document contains their real intention.

In *Heirs* of *Jose Olviga v. Court of Appeals*[6] we restated the rule that an action for reconveyance of a parcel of land based on implied or constructive trust prescribes in ten (10) years, the point of reference being the date of registration of the deed or the date of the issuance of the certificate of title over the property. However, we emphasized that this rule applies only *when the plaintiff or the person enforcing the trust is not in possession of the property since* if a person claiming to be the owner thereof is in actual possession of the property the right to seek reconveyance, which in effect seeks to quiet title to the property, does not prescribe. The reason is that the one who is in actual possession of a piece of land claiming to be the owner thereof may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right. His undisturbed possession gives him a continuing right to seek the aid of a court of equity to ascertain and determine the nature of the adverse claim of a third party and its effect on his own title, which right can be claimed only by one who is in possession.

Actual possession of land consists in the manifestation of acts of dominion over it of such a nature as those a party would naturally exercise over his own property.[7] It is not necessary that the owner of a parcel of land should himself occupy the property as someone in his name may perform the act. In other words, the owner of real estate has possession, either when he himself is physically in occupation of the property, or when another person who recognizes his rights as owner is in such occupancy.[8] This declaration is conformably with Art. 524 of the Civil Code providing that possession may be exercised in one's own name or in the name another.

An example of actual possession of real property by an owner through another is a lease agreement whereby the lessor transfers merely the temporary use and enjoyment of the thing leased.[9] The Palacios spouses have been the lessees of petitioner since 1967 occupying the house erected on the property subject of the second sale. Petitioner was in actual possession of the property through the Palacioses and remained so even after the execution of the second deed of sale. It was only in 1987 - when respondent asserted ownership over the property and showed a lease contract between her and the Palacioses dated 17 March 1987 but effective 1 January 1987 - that petitioner's possession was disturbed. Consequently, the action for reconveyance filed on 23 August 1987 based on circumstances obtaining herein and contrary to the finding of respondent court has not prescribed. To be accurate, the action does not prescribe. Under Art. 1144, par. (1), of the Civil Code, an action upon a written contract must be brought within ten (10) years from the time the right of action accrues. And so respondent court also relied on this provision in ruling that petitioner's cause of action had prescribed. This is error. What is applicable is Art. 1410 of the same Code which explicitly states that the action or defense for the declaration of the inexistence of a contract, such as the second deed of sale, does not prescribe.

Respondent court declared petitioner guilty of laches anchored on the finding that for eighteen (18) years after the execution of the contract, respondent was in possession of the lot in question. But this finding is utterly unsupported by the evidence. On the contrary, the Palacioses alleged in their petition for consignation filed 13 March 1985 that they were "renting the apartment of the respondent (petitioner herein) located at No. 4-F Calderon Street, Project 4, Quezon City, since 1967 up to the present."[10] Even respondent herself admitted in her lease contract of 17 March 1987 with the Palacios spouses that "the LESSEES have been staying in the premises since 1967 under a previous lease contract with Guadalupe S. Reyes which, however, already expired."[11] Having thus corrected the finding of respondent court, our concern now is to determine whether laches should be appreciated against petitioner. The essence of laches is 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 the 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.[12]

To be sure, there is no absolute rule as to what constitutes staleness of demand; each case is to be determined according to its particular circumstances. The question of laches is addressed to the sound discretion of the court and since laches is an equitable doctrine, its application is controlled by equitable considerations. It