

SECOND DIVISION

[G.R. No. 127783, June 05, 1998]

**BIENVENIDA SALANDANAN, CATALINA SALANDANAN, AND
HEIRS OF CONCEPCION SALANDANAN, PETITIONERS, VS. THE
COURT OF APPEALS, HON. JUDGE LUIS TONGCO, REGIONAL
TRIAL COURT OF BIÑAN, LAGUNA, REGISTRY OF DEEDS OF
BIÑAN & CALAMBA, LAGUNA, AND HEIRS OF ELVIRA PANDINCO,
RESPONDENTS.**

DECISION

MARTINEZ, J.:

This case illustrates the application of the legal precept that the law aids the vigilant, not those who slumber on their rights. *Vigilantibus, sed non dormientibus jura subverniant.*

The facts:

On September 14, 1955, Edilberta Pandinco filed a petition^[1] for the settlement of the testate estate of Vicenta Alviar, before then Court of First Instance (now Regional Trial Court) of Biñan, Laguna, which was docketed as Special Proceeding No. 4749. The subject thereof for probate is the will^[2] of Vicenta Alviar, portions of which read:

"xxx xxx xxx

'Aking sinasaysay at ipinaliliwanag na ako'y tatlo (3) ang naging anak sa nasirang asawa, MONICO PANDINCO, na ang mga pangalan ay itong sumusunod:

ELVIRA Pandinco, buhay pa;
LEONOR Pandinco, buhay pa; at
GADIOSA Pandinco, patay na.

Ang anak kong GADIOSA PANDINCO ay nagkaroon ng labing dalawang (12) anak na ang mga pangalan ay:

Edilberta Pandinco,
Catalina Salandanan,
Alfredo Salandanan,
Arsenio Salandanan,
Belen Salandanan,
Bienvenida Salandanan
Concepcion Salandanan,
Antonio Salandanan,
Natalia Salandanan,
Aurora Salandanan,

Melania Salandanan, at
Vedasto Salandanan.

Ako'y may apo sa tuhod na ang pangalan ay Ambrocio Salandanan, anak ni Belen Salandanan.

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Ipinatatanto ko na sa kasalukuyan ay ako'y viuda, at ang aking mga taga pagmana ay wala kundi ang aking dalawang anak at mga apo na binabangit sa itaas."

The will was admitted to probate on July 8, 1957. Thereafter, a project of partition^[3] dated August 13, 1960, duly signed by all the heirs and acknowledged before a notary public, was approved by the probate court on August 29, 1960.^[4]

On September 17, 1966, the probate court approved and declared as valid the transfer of the petitioners' shares to their co-heir, respondent Elvira Pandinco, over the estate of Vicenta Alviar.

On August 18, 1995, petitioners filed a "Motion To Reopen The Case and Set Aside Partition with Preliminary Injunction" before the Regional Trial Court of Biñan, Laguna (Branch XXV). The motion alleged inter alia that petitioners never signed the project of partition or acknowledged the same before a notary public; that they never appeared or testified before the probate court to affirm their agreement to the partition; that they never sold their shares to Elvira Pandinco; that while Catalina Salandanan testified in the probate of the will, she did not testify regarding the sale; that they never received any order from the court approving the project of partition and the order finding valid and binding the transfer and sale of their shares to respondent Elvira Pandinco; and that they came to know of the Order of September 17, 1966 only in 1990 when they secured a copy thereof from the court.^[5]

The motion was opposed by private respondents who are the heirs of Elvira Pandinco.

On December 19, 1995, the lower court denied petitioners' motion on the ground of estoppel by laches ratiocinating thus:

"There is no showing that movants ever filed a Petition for Review on Appeal of the Court of Appeals' Resolution dated July 16, 1960 dismissing the appeal on the aforementioned first Order, or an Appeal on the second and third Orders, thereby making the triple Orders final and executory since twenty nine (29) years ago.

'It was only in August, 1995 or more than twenty nine (29) years from date of the above-stated Court Orders that herein movants filed the subject Motion to Reopen the above-entitled case, to Set Aside the project of partition which was already implemented in the light of its finality and to NULLIFY the sales and/or transfers to Elvira Pandinco.

'Jurisprudence on this matter is well-settled. Where a party sleeps on his rights and allows laches to set in, the same is fatal to his case (Periquet, Jr. vs. Intermediate Appellate Court, 238 SCRA 697). Laches had been defined as the failure or neglect for an unreasonable and unexplained