

THIRTEENTH DIVISION

[CA-G.R. CV NO. 100194, May 28, 2014]

SUSANA LUCILA BARLETA, PLAINTIFF-APPELLANT, VS. LORENZO V. RODRIGUEZ, AS TRUSTEE OF THE ESTATE OF MARGARITA RODRIGUEZ, AND THE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, DEFENDANTS-APPELLEES.

DECISION

DIMAAMPAO, J.:

Impugned in this *Appeal* is the *Order*^[1] dated 14 June 2012 of the Regional Trial Court, Fourth Judicial Region, Lucena City, Branch 56, in Civil Case No. 2010-33, dismissing the *Complaint for Conveyance of Property*, the *fallo* of which reads:

“WHEREFORE, premises considered, the instant case is hereby ordered DISMISSED upon the ground of pres-cription.

SO ORDERED.”

The material precursor facts are synthesized hereunder:

Plaintiff-appellant Susan Lucila Barleta (appellant), lodged a *Complaint for Conveyance of Property with Application for Issuance of Ex-parte Temporary Restraining Order and Preliminary Injunction*^[2] averring, *inter alia*, that she is the granddaughter of Luis Barleta (Luis) who died in 1919. Luis owned a parcel of land described as Lot 1180 with an area of 294,383 square meters located in Castanas, Sariaya, Quezon covered by Decree No. 151883.^[3] The subject realty was then administered by Margarita Rodriguez (Margarita). However, through fraud and breach of trust, Margarita registered the disputed property in her own name and obtained the corresponding Original Certificate of Title (OCT) No. 4587.

In the years 2009-2010, the Department of Public Works and Highway (DPWH) initiated a road project over a portion of the lot in question and decided to pay a just compensation to the estate of Margarita through its trustee, herein defendant-appellee Lorenzo Rodriguez (appellee). In 1998, appellant discovered that the aforesaid land was part of her inheritance from Luis. Whence, appellant prayed for the reconveyance of the property in dispute, and for the DPWH to be restrained from paying just compensation to appellee.

Traversing the material allegations of the *Complaint*, appellee asserted that Margarita was the absolute and lawful owner of the land. There was no fraud and irregularity in her title. She was in continuous possession of the property since 1924 until her death in 1960. Her heirs and estate had been paying the real estate taxes therein. Appellant's cause of action had long prescribed as the case for reconveyance was filed after the lapse of 86 years or more than eight decades from the time the realty was registered in Margarita's name. In actual fact, appellant was

never in possession of the land. Thence, appellee prayed for the dismissal of the *Complaint* on the ground of prescription. In the same vein, co-appellee DPWH moved for the dismissal of the case for lack of cause of action.

In due course, the court *a quo* rendered the repugned judgment.

Unruffled, appellant is now before Us asseverating that the court *a quo* erred in dismissing the *Complaint* based on the ground of prescription.

The Appeal lacks merit.

Appellant intransigently maintains that her cause of action is imprescriptible.

The evidence on record belies appellant's stance.

An action for reconveyance can be barred by prescription. It is settled that an action for reconveyance based on fraud must be filed within 10 years from discovery of the fraud which as to titled lands referred to the registration of the title with the register of deeds. An action for reconveyance is a legal remedy granted to a landowner whose property has been wrongfully or erroneously registered in another's name, but then the action must be filed within ten years from the issuance of the title since such issuance operates as a constructive notice.^[4]

In the case at bench, records evince that OCT No. 4587 was issued to Margarita in 1924. However, appellant sought the recovery of the property only in 2010. Quite palpably, appellant's right to the reconveyance thereof, and the annulment of the covering title have no leg to stand on. *Tout court*, such an action has long prescribed.

Our jurisprudence abounds with iterations that the prescriptive period for the reconveyance of fraudulently registered real property is 10 years, reckoned from the date of the issuance of the certificate of title, if the plaintiff is not in possession, but imprescriptible if he is in possession of the property.^[5] Here, the exception to the 10-year prescriptive period to commence an action for reconveyance is wanting as appellant failed to establish that she was in actual possession of the property. In order for prescription not to set in, the plaintiff must be in actual possession of the disputed property. The reason for this is that 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. The reason being, that his undisturbed possession gives him the continuing right to seek the aid of a court of equity to ascertain the nature of the adverse claim of a third party and its effect on his title, which right can be claimed only by one who is in possession.^[6]

By the same token, appellant is guilty of laches.

Laches is the failure or neglect, for an unreasonable and unexplained length of time, to do that which—by the exercise of due diligence—could or should have been done earlier. It is the negligence or omission to assert a right within a reasonable period, warranting the presumption that the party entitled to assert it has either abandoned or declined to assert it. Under this time-honored doctrine, relief has been denied to litigants who, by sleeping on their rights for an unreasonable length of time— either by negligence, folly or inattention — have allowed their claims to become stale.