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In fine, as the killing of Malaki took place on the occasion of robbery, appellant was correctly convicted by the trial court of the special complex crime of robbery with homicide, defined and penalized under Article 294, paragraph 1 of the Revised Penal Code.

WHEREFORE, the appealed judgment of conviction is hereby AFFIRMED *in toto*.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., Melo, and *Panganiban, JJ.*, concur.

FIRST DIVISION

[G.R. No. 112519. November 14, 1996]

CATHOLIC BISHOP OF BALANGA, represented by CRISPULO TORRICO, *petitioner, vs.* THE HON. COURT OF APPEALS and AMANDO DE LEON, *respondents.*

SYLLABUS

1. **REMEDIAL LAW; ACTIONS; APPEALS; AS A GENERAL RULE, ONLY THOSE ASSIGNED AS ERRORS SHALL BE CONSIDERED.**— The appealing party is legally required to indicate in his brief an assignment of errors, and only those assigned shall be considered by the appellate court in deciding the case.

2. **ID.; ID.; ID.; APPELLATE COURTS ACCORDED BROAD DISCRETIONARY POWER TO WAIVE**

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LACK OF PROPER ASSIGNMENT OF ERRORS AND TO CONSIDER ERRORS NOT ASSIGNED.— We have ruled in a number of cases that the appellate court is accorded a broad discretionary power to waive the lack of proper assignment of errors and to consider errors not assigned. It is clothed with ample authority to review rulings even if they are not assigned as errors in the appeal. Inasmuch as the Court of Appeals may consider grounds other than those touched upon in the decision of the trial court and uphold the same on the basis of such other grounds, the Court of Appeals may, with no less authority, reverse the decision of the trial court on the basis of grounds other than those raised as errors on appeal. We have applied this rule, as a matter of exception, in the following instances: (1) Grounds not assigned as errors but affecting jurisdiction over the subject matter; (2) Matters not assigned as errors on appeal but are evidently plain or clerical errors within contemplation of law; (3) Matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case or to serve the interests of justice or to avoid dispensing piecemeal justice; (4) Matters not specifically assigned as errors on appeal but raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored; (5) Matters not assigned as errors on appeal but closely related to an error assigned; and (6) Matters not assigned as errors on appeal but upon which the determination of a question properly assigned, is dependent.

3. **CIVIL LAW; LACHES; CONSTRUED.**— Laches means 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 the presumption that the party entitled to assert it either has abandoned

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or declined to assert it. It has also been defined as such neglect or omission to assert a right taken in conjunction with the lapse of time and other circumstances causing prejudice to an adverse party, as will operate as a bar in equity. The principle of laches is a creation of equity which, as such, is applied not really to penalize neglect or sleeping upon one's right, but rather to avoid recognizing a right when to do so would result in a clearly inequitable situation. As an equitable defense, laches does not concern itself with the character of the defendant's title, but only with whether or not by reason of the plaintiff's long inaction or inexcusable neglect, he should be barred from asserting this claim at all, because to allow him to do so would be inequitable and unjust to the defendant. "*The doctrine of laches or of stale demands is based upon grounds of public policy which requires, for the peace of society, the discouragement of stale claims and x x x is principally a question of the inequity or unfairness of permitting a right or claim to be enforced or asserted.*"

4. **ID.; ID.; ID.**— The time-honored rule anchored on public policy is that relief will be denied to a litigant whose claim or demand has become "stale," or who has acquiesced for an unreasonable length of time, or who has not been vigilant or who has slept on his rights either by negligence, folly or inattention. In other words, public policy requires, for the peace of society, the discouragement of claims grown stale for non-assertion; thus laches is an impediment to the assertion or enforcement of a right which has become, under the circumstances, inequitable or unfair to permit.

5. **ID.; ID.; ELEMENTS.**— The following are the essential elements of laches: (1) Conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation complained of; (2) Delay in asserting complainant's right after he had knowledge of the defendant's conduct and after he has an opportunity to sue; (3) Lack of knowledge

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or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and (4) Injury or prejudice to the defendant in the event relief is accorded to the complainant.

6. **ID.; ID.; INACTION FOR 49 YEARS TO RECOVER POSSESSION.**— In this case, petitioner filed its complaint in court only after forty nine (49) years had lapsed since the donation in its behalf of the subject property to private respondent's prodecessor-in-interest. There is nary an explanation for the long delay in the filing by petitioner of the complaint in the case at bench, and that inaction for an unreasonable and unexplained length of time constitutes laches. As such, petitioner cannot claim nullity of the donation as an excuse to avoid the consequences of its own unjustified inaction and as a basis for the assertion of a right on which they had slept for so long. Courts cannot look with favor at parties who, by their silence, delay and inaction, knowingly induce another to spend time, effort, and expense in cultivating the land, paying taxes and making improvements thereon for an unreasonable period only to spring an ambush and claim title when the possessor's efforts and the rise of land values offer an opportunity to make easy profit at their own expense. Considerable delay in asserting one's right before a court of justice is strongly persuasive of the lack of merit of his claim, since it is human nature for a person to enforce his right when same is threatened or invaded; thus, it can also be said that petitioner is estopped by laches from questioning private respondent's ownership of the subject property. At any rate, petitioner's right to recover the possession of the subject property from private respondent has, by the latter's long period of possession and by petitioner's inaction and neglect, been converted into a stale demand. Such passivity in the face of what might have given rise to an action in court is visited with the loss of such right, and ignorance resulting from inexcusable negligence does not suffice to explain such failure to file seasonably the necessary suit.

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7. ID.; ID.; A GROUND WHERE A REGISTERED OWNER MAY LOSE RIGHT TO RECOVER POSSESSION OF REGISTERED PROPERTY.— We agree with the respondent Court of Appeals that, while petitioner is admittedly still the registered owner of the donated property, and jurisprudence is settled as to the imprescriptibility and indefeasibility of a Torrens Title, there is equally an abundance of cases in the annals of our jurisprudence where we categorically ruled that a registered landowner may lose his right to recover the possession for his registered property by reason of laches.

APPEARANCES OF COUNSEL

Navarro Ortiguera Zuniga Law Offices for petitioner.

Ricardo M. Sagmit, Jr. for private respondent.

D E C I S I O N

HERMOSISIMA, JR., *J.*:

It is the cardinal principle in Land Registration that a torrens title is indefeasible and inprescriptible. Considering that private respondent in this case, by himself and through his predecessor-in-interest, had been in uninterrupted, open and adverse possession of a portion of the land covered by said title for 49 years, by virtue of a duly accepted donation, although unregistered, will private respondent, under this circumstance, prevail over the titled owner?

Thus, we have before us this petition for review of a decision[1] of the Court of Appeals[2] reversing the Regional

[1] In CA-G.R. CV No. 25683, dated October 29 1992, penned by Associate Justice Luis A. Javellana and concurred in by Associate Justices Alfredo L. Benipayo and Fermin A. Martin, Jr., *Rollo*, pp. 28-34.

[2] Seventh Division.

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Trial Court (RTC)[3] which rendered judgment[4] in favor of petitioner and ordered private respondent to vacate the subject property and surrender possession thereof to petitioner and to pay rent from the finality of the RTC judgment until the said property is actually vacated.

We quote, as the herein parties have done so in their pleadings, the following narration of facts rendered by the respondent appellate court:

"*The parties do not dispute that the Roman Catholic Archbishop* [sic] *of Manila was the owner of a parcel of land (Lot No. 1272, Balanga Cadastre) situated in the Barrio of Puerto Rivas, Municipality of Balanga, Bataan, having an area of 3,368 sq. m. more or less covered by OCT No. 14379 of the Registry of Deeds for the province of Bataan. With respect to its rights over its properties in Bataan (inclusive of Lot No. 1272), the said church was succeeded by the Roman Catholic Bishop of San Fernando, Pampanga which was, likewise, succeeded by x x x Catholic Bishop of Balanga — registered as a corporation on 15 December 1975.*

Prior thereto, or on 23 August 1936, by virtue of the authority given him by the Roman Catholic Archbishop of Manila to donate a portion of Lot No. 1272, the then parish priest and administrator of all the properties of the said church in the Municipality of Balanga, Bataan, Rev. Fr. Mariano Sarili, executed an Escritura De Donacion donating an area of 12.40 meters by 21.40 meters or 265.36 sq. m. (the subject property) of Lot No. 1272 to Ana de los Reyes and her heirs, as a reward for her long and satisfactory service to the church. Her acceptance of the donation, as well as her possession of the subject

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[3] Branch 1, Balanga, Bataan, Third Judicial Region, presided over by Judge Romeo G. Maglalang.

[4] Dated November 13, 1989 in Civil Case No. 5324.

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property, is indicated in the deed of donation, which deed, for unknown reasons, was refused registration by the Register of Deeds. Six (6) years later, or in 1939, Ana de los Reyes died without issue.

Nevertheless, before her death, she had given the subject property to her nephew who had been living with her, the herein defendant-appellant [private respondent]. *The latter immediately took possession of the property in the concept of owner, built his house thereon and, through the years, declared the land for taxation purposes as well as paid the taxes due thereon.*

His possession of the subject property was never disturbed by anybody until plaintiff-appellee [petitioner] *filed the instant complaint against him on 5 November 1985, or more than 49 years after the deed of donation was executed, alleging, among others, that: (1) during the Japanese occupation of the country, defendant-appellant* [private respondent], *without the knowledge and prior consent of the plaintiff-appellee* [petitioner], *and its predecessors-in-interest, entered and occupied the subject property, and (2) despite requests by plaintiff-appellee* [petitioner], *defendant-appellant* [private respondent] *refused to vacate the property in question. In support of the above contention, Crispulo Torrico, the sole witness and authorized representative of plaintiff-appellee* [petitioner] *testified, among others, that: the subject property is situated at the corner of Lot No. 1272, and defendant-appellant* [private respondent] *has, on the strength of the deed of donation, publicly claimed ownership and occupied the same as early as before the 2nd World War and has built his store thereon.*

As his defense, defendant-appellant [private respondent] *maintains that by virtue of the deed of donation of 23 August 1936 executed in favor of his predecessor-in-interest, he is the lawful owner of the subject property and the complaint states no cause of action as it was filed only to harass him.*

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On 27 and 30 October 1986, 10 months after he filed his answer on 10 December 1985 and almost 3 months after plaintiff-appellee [petitioner] *rested its case x x x defendant-appellant* [private respondent] *filed his motions [sic] to dismiss the complaint on the ground that x x x the instant action is barred by the statute of limitations. Plaintiff-appellee* [petitioner] *filed on 3 November 1986 its opposition to the motion alleging that the defense of prescription was not raised in a timely filed motion to dismiss, and as an affirmative defense in the answer. x x x*

On 13 November 1989 the lower court rendered the judgment x x x It opined that, since: (1) defendant-appellant [private respondent] *failed to present the necessary power of attorney executed by the Roman Catholic Archbishop of Manila giving Rev. Fr. Mariano Sarili the authority to execute the deed of donation; (2) the first 2 paragraphs of the Excritura de Donacion indicates that the parish priest x x x was only the administrator of all, hence, had no authority to dispose in whatever manner any of the properties of the Roman Catholic Church of Balanga, Bataan; (3) the parish priest was not a corporation sole and registered owner of Lot No. 1272; and, (4) he did not, in his own behalf or that of the Roman Catholic Archbishop of Manila, secure any prior leave of court to donate a portion of Lot No. 1272 in consonance with Sec. 159 of the old Corporation Code x x x Rev. Fr. Mariano Sarili was not authorized to, and could not validly, donate the subject lot. Thus, the deed of donation he executed is unenforceable under Art. 1403 of the New Civil Code and defendant-appellant* [private respondent], *as well as his predecessor-in-interest, never acquired ownership of the subject property.*"[5]

The court *a quo* having rendered judgment against private respondent, the latter lost no time in bringing the case to the respondent Court of Appeals for review.

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[5] Decision in CA-G.R CV No. 25683, *supra*, pp. 1-3, *Rollo*, pp. 28-30.

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"*In his appeal, defendant-appellant* [private respondent] *contend*[ed] *that the lower court erred in not ruling on the issue of prescription which he raised in his amended answer and motion to dismiss. The thrust of his argument* [was] *that, since the instant case* [was] *basically and fundamentally a suit for the recovery of possession of a real property and the complaint was filed x x x more than 49 years after the deed of donation was executed x x x the instant action should have been dismissed on the ground of prescription. x x x.*"[6]

Respondent court is in agreement with private respondent's insistence that the defense of prescription is not deemed waived when prescription is apparent from the allegations in the complaint, citing this court's ruling in the cases of *Gicano vs. Gegato*,[7] *Garcia vs. Mathis*,[8] and *PNB vs. Pacific Commission House*.[9] But respondent court also stated that private respondent could not have acquired ownership over the subject property through acquisitive prescription because the same having been duly registered under the Torrens system, title thereto was indefeasible.

Nonetheless, respondent Court of Appeals ultimately ruled that under the doctrine of laches, the consequence of petitioner's inaction for 49 years since the execution of the deed of donation, despite its apparently undeniable knowledge of private respondent's adverse, peaceful and continuous possession of the subject property in the concept of an owner from 1936 to the institution of the recovery suit in 1985, is that it has lost its rights to the subject property and can no longer recover the same due to its own inexcusable negligence and grave lack of vigilance

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[6] *Ibid.*, p. 4, *Rollo*, p. 31.

[7] 157 SCRA 140.

[8] 100 SCRA 250.

[9] 27 SCRA 766.

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in protecting its rights over a tremendously long period of time. In the words of the respondent court:

"*x x x He* [private respondent] *and his predecessor-in-interest have been in adverse, peaceful and continuous possession of the subject property in the concept of owners since the execution of the deed of donation on 23 August 1936 and were never ousted therefrom by plaintiff-appellee's* [petitioner's] *predecessors-in-interest. It was not until almost 5 decades later or on 5 November 1985 that plaintiff-appellee* [petitioner] *instituted the instant action. The inaction for almost half a century now bars plaintiff-appellee* [petitioner] *from recovering the land in question on the equitable principles of laches, which is defined as 'such neglect or omission to assert a right taken in conjunction with the lapse of time and other circumstances causing prejudice to the adverse party as will operate as a bar in equity.' Registered lands may not be acquired by prescription but the same can be lost or acquired by Laches.* [*citing Lola vs. CA,* 145 SCRA 439] *Plaintiff-appellee* [petitioner] *has lost, while defendant-appellant* [private respondent] *has acquired, the subject property by laches.*"[10]

Now aggrieved by the aforecited decision of the respondent Court of Appeals, petitioner comes before us mainly claiming that it was contrary to the law and settled jurisprudence for the respondent court to have applied the doctrine of lachès in the instant case and to have considered a mere administrator as authorized to donate one of the properties under administration.

Petitioner's asseverations are devoid of merit.

First, petitioner postulates that the respondent Court of Appeals should not have, in the first place, applied the doctrine of laches in the instant controversy because private respondent did not assign the same as an error on appeal.

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[10] Decision in CA-G.R. CV No. 25683, *supra*, pp. 6-7, *Rollo*, pp. 33-34.

[11] Section 16 [b], Rule 46, Rules of Court.

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True, the appealing party is legally required to indicate in his brief an assignment of errors,[11] and only those assigned shall be considered by the appellate court in deciding the case.[12] However, equally settled in jurisprudence is the exception to this general rule.

"*x x x Roscoe Pound states that 'according to Ulpian in Justinian's Digest, appeals are necessary to correct the unfairness or unskillfulness of those who judge.' Pound comments that 'the purpose of review is prevention quite as much as correction of mistakes. The possibility of review by another tribunal, especially a bench of judges x x x is an important check upon tribunals of first instance. It is a preventive of unfairness. It is also a stimulus to care and thoroughness as not to make mistakes.' Pound adds that 'review involves matters of concern both to the parties to the case and to the public x x x. It is of public concern that full justice be done to* [e]*very one.' This judicial injunction would best be fulfilled and the interest of full justice would best be served if it should be maintained that x x x appeal brings before the reviewing court the totality of the controversy resolved in the questioned judgment and order apart from the fact that such full-scale review by appeal is expressly granted as a matter of right and therefore of due process by the Rules of Court.*"[13]

Guided by the foregoing precepts, we have ruled in a number of cases that the appellate court is accorded a broad discretionary power to waive the lack of proper assignment of errors and to consider errors not assigned.[14] It is clothed with ample authority to review rulings even if they are not assigned as errors in the appeal.[15] Inasmuch as the

[12] Hernandez *v.* Andal, 78 Phil. 198.

[13] Silverio *v.* Court of Appeals, 141 SCRA 527, 545 [1986].

[14] Hernandez *v.* Andal, *supra*, cited in Saura Import & Export Co., Inc. *v.* Philippine International Surety Co., Inc., 8 SCRA 143, 148 [1963].

[15] Servicewide Specialists, Inc. *v.* Court of Appeals, et al., G.R. No. 117728, promulgated on June 26, 1996; Hydro Resources Contractors Corp. *v.* Court of Appeals, 204 SCRA 314, 315 [1991];

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Court of Appeals may consider grounds other than those touched upon in the decision of the trial court and uphold the same on the basis of such other grounds,[16] the Court of Appeals may, with no less authority, reverse the decision of the trial court on the basis of grounds other than those raised as errors on appeal. We have applied this rule, as a matter of exception, in the following instances:

(1) Grounds not assigned as errors but affecting jurisdiction over the subject matter;[17]

(2) Matters not assigned as errors on appeal but are evidently plain or clerical errors within contemplation of law;[18]

(3) Matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case[19] or to serve the interest of justice[20] or to avoid dispensing piecemeal justice;[21]

(4) Matters not specifically assigned as errors on appeal but raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored;[22]

Ortigas, Jr. *v.* Lufthansa German Airlines, 64 SCRA 610, 633 [1975]; Roman Catholic Archbishop of Manila *v.* Court of Appeals, 198 SCRA 300, 311 [1991].

[16] Espina *v.* Court of Appeals, 215 SCRA 484, 488 [1992].

[17] Sec. 7, Rule 51, Rules of Court.

[18] *Id.*

[19] Korean Airlines Co., Ltd. *v.* Court of Appeals, 234 SCRA 717, 725 [1994]; Vda. de Javellana *v.* Court of Appeals, 123 SCRA 799 [1983]; Saura Import & Export Co., Inc. *v.* Philippine International Surety Co., Inc., *supra*; Servicewide Specialists, Inc. *v.* Court of Appeals, et al., *supra*.

[20] Ortigas, Jr. *v.* Lufthansa German Airlines, *supra*.

[21] Servicewide Specialists, Inc. *v.* Court of Appeals, et al., *supra*.

[22] Baquiran *v.* Court of Appeals, 2 SCRA 873 [1961]; Korean Airlines Co., Ltd. *v.* Court of Appeals, *supra*; Ortigas, Jr. *v.* Lufthansa

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(5) Matters not assigned as errors on appeal but closely related to an error assigned;[23] and

(6) Matters not assigned as errors on appeal but upon which the determination of a question properly assigned, is dependent.[24]

The instant controversy falls squarely under the exception to the general rule that only assigned errors may be passed upon by the appellate court. A just, fair and complete resolution of the present case necessitates the consideration and the application of the doctrine of laches which is not the same as but is undoubtedly closely related to, the issue of prescription which was properly raised by private respondent before the respondent Court of Appeals.

Laches means 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 the presumption that the party entitled to assert it either has abandoned or declined to assert it.[25] It has also been defined as such neglect or

German Airlines, *supra*; Hernandez *v.* Andal, 78 Phil. 196; Philippine Commercial and Industrial Bank *v.* Court of Appeals, 159 SCRA 24 [1988], Servicewide Specialists, Inc. *v.* Court of Appeals, et al., *supra*.

[23] Garrido *v.* Court of Appeals, 236 SCRA 450, 455 [1994], Medida *v.* Court of Appeals, 208 SCRA 887 [1992]; Roman Catholic Archbishop of Manila *v.* Court of Appeals, 198 SCRA 300 [1991]; Philippine Commercial and Industrial Bank *v.* Court of Appeals, *supra*, Ortigas, Jr. *v.* Lufthansa German Airlines, *supra*; Hernandez *v.* Andal, *supra*; Espina *v.* Court of Appeals, 215 SCRA 484, 488 [1992]; Soco *v.* Militante, 123 SCRA 160 [1983]; Servicewide Specialists, Inc. *v.* Court of Appeals, et al., *supra*.

[24] *Id.*

[25] Cormero *v.* Court of Appeals, et al., 247 SCRA 291 [1995]; Tijam, et al. *v.* Sibonghanoy, 23 SCRA 29, 35 [1968]; Tejido *v.* Zamacoma, 138 SCRA 78, 90 [1985]; Sotto *v.* Teves, 86 SCRA

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omission to assert a right taken in conjunction with the lapse of time and other circumstances causing prejudice to an adverse party, as will operate as a bar in equity.[26]

The principle of laches is a creation of equity which, as such, is applied not really to penalize neglect or sleeping upon one's right, but rather to avoid recognizing a right when to do so would result in a clearly inequitable situation.[27] As an equitable defense, laches does not concern itself with the character of the defendant's title, but only with whether or not by reason of the plaintiff's long inaction or inexcusable neglect, he should be barred from asserting this claim at all, because to allow him to do so would be inequitable and unjust to the defendant.[28]

"*The doctrine of laches or of stale demands is based upon grounds of public policy which requires, for the peace of society, the discouragement of stale claims and x x x is principally a*

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154 [1978]; de Castro *v.* Tan, 129 SCRA 85 [1984]; Burgos, Sr. *v.* Chief of Staff, AFP, 133 SCRA 800 [1984]; Corro *v.* Lising, 137 SCRA 541 [1985]; Medija *v.* Patcho, 132 SCRA 540 [1984]; Gumonpin *v.* Court of Appeals, 120 SCRA 687 [1983]; Vda. de Alberto *v.* Court of Appeals, 173 SCRA 436, 449 [1989]; Bailon-Casilao *v.* Court of Appeals, 160 SCRA 738, 747 [1988]; Chung Ka Bio *v.* Intermediate Appellate Court, 163 SCRA 534, 541 [1988]; Bergado *v.* Court of Appeals, 173 SCRA 502, 503 [1989]; Ching *v.* Court of Appeals, 181 SCRA 9, 17 [1990]; Villamor *v.* Court of Appeals, 126 SCRA 574 [1988]; Solomon *v.* Intermediate Appellate Court, 185 SCRA 352 [1990]; Marcelino *v.* Court of Appeals, 210 SCRA 444, 447 [1992].

[26] Heirs of Batiog Lacamen *v.* Heirs of Laruan, 65 SCRA 125 [1975]; Victoriano *v.* Court of Appeals, 194 SCRA 19, 24 [1991]; Jacob *v.* Court of Appeals, 224 SCRA 189, 196 [1993].

[27] Arradaza *v.* Court of Appeals, 170 SCRA 12, 20 [1989]; Asuncion *v.* Court of Appeals, et al., 150 SCRA 353 [1987].

[28] Pabalate *v.* Echarri, Jr., 37 SCRA 518, 522 [1971]; Lola *v.* Court of Appeals, 145 SCRA 459, 450 [1986].

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question of the inequity or unfairness of permitting a right or claim to be enforced or asserted."[29]

The time-honored rule anchored on public policy is that relief will be denied to a litigant whose claim or demand has become "stale", or who has acquiesced for an unreasonable length of time, or who has not been vigilant or who has slept on his rights either by negligence, folly or inattention.[30] In other words, public policy requires, for the peace of society, the discouragement of claims grown stale for non-assertion; thus laches is an impediment to the assertion or enforcement of a right which has become, under the circumstances, inequitable or unfair to permit.[31]

The following are the essential elements of laches:

(1) Conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation complained of;

(2) Delay in asserting complainant's right after he had knowledge of the defendant's conduct and after he has an opportunity to sue;

(3) Lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and

(4) Injury or prejudice to the defendant in the event relief is accorded to the complainant.[32]

Under the present circumstances, all of the aforegoing elements are attendant in this case.

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[29] Tijam *v.* Sibonghanoy, 23 SCRA 29 [1968], quoted in Bergado *v.* Court of Appeals, 173 SCRA 500, 503 [1989].

[30] Arradaza *v.* Court of Appeals, *supra*.

[31] Chung Ka Bio *v.* Intermediate Appellate Court, 163 SCRA 534, 541 [1988].

[32] Go Chi Gun, et al. *v.* Co Cho, et al., 96 Phil. 622 [1955]; Mejia de Lucas *v.* Gamponia, 100 Phil. 277 [1956]; Z.E. Lotho, Inc. *v.* Ice & Cold Storage Industries, Inc., 3 SCRA 744 [1961];

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On or some time before August 23, 1936, Rev. Fr. Mariano Sarili, the parish priest and administrator of the church property in the Municipality of Balanga, Bataan, executed a deed of donation over a 265-square meter church lot in favor of Ana de los Reyes and her heirs in recognition of her long and satisfactory service to the church of Balanga, Bataan. For some reason or another, the said deed was refused registration by the Register of Deeds. However, she accepted the donation, indicated such acceptance in the said deed, occupied the donated property, and exercised acts of ownership thereupon.

In 1945, the donee, Ana de los Reyes, died without issue. She had, however, given the subject property to her nephew who is the private respondent in the instant case. Upon acceptance of the gift, private respondent immediately took possession of the subject property in the concept of owner, built his house thereon, and thenceforth paid land taxes therefor after declaring the subject property for that purpose.

The act of petitioner-defendant that culminated in the filing of the present action is thus clearly his occupation since 1945 of the subject property in the concept of owner in continuation of the occupation of the same nature regarding the same property by the donee Ana de los Reyes starting in 1936. Undoubtedly, the first element of laches exists.

The second element also exists in this case. The second element is three-tiered: (a) knowledge of defendant's action;

Abraham *v.* Intestate Estate of Juan C. Ysmael, 4 SCRA 298 [1962]; Custodio *v.* Casiano, 9 SCRA 841 [1963]; Nielsen & Co., Inc. *v.* Lepanto Consolidated Mining Co., 18 SCRA 1040 [1966]; Miguel *v.* Catalino, 26 SCRA 234 [1968]; Yusingco *v.* Ong Hing Lian, 42 SCRA 589 [1971]; Perez *v.* Ong Chua, 116 SCRA 732 [1982]; Rafols *v.* Barba, 119 SCRA 146 [1982]; Bailon-Casilao *v.* Court of Appeals, 160 SCRA 738, 747 [1988]; Chung Ka Bio *v.* Intermediate Appellate Court, *supra*; Claverias *v.* Quingco, 207 SCRA 66, 83 [1992]; Buenaventura *v.* Court of Appeals, 216 SCRA 818, 824 [1992].

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(b) opportunity to sue defendant after obtaining such knowledge; and (c) delay in the filing of such suit. Petitioner, in his complaint filed in the trial court, alleged that without its consent, private respondent entered and occupied the subject property during the Second World War. By its own admission, therefore, petitioner was clearly aware of private respondent's possession of the subject property in the concept of owner. Petitioner did not also rebut the testimony of its own authorized representative and sole witness, one Crispulo Torrico, that the subject property was so proximately located to the rest of petitioner's church property as to foreclose assertion of ignorance of private respondent's possession of the subject property, on the part of petitioner.

From that time during the Second World War to 1985 when petitioner actually commenced suit against private respondent, there was doubtlessly all the opportunity to file the appropriate action to have the donation of the subject property to Ana de los Reyes and her heirs, declared null and void and to demand reconveyance of said property from its present occupants.

Notwithstanding such opportunity available to petitioner, however, forty (40) years had to first pass by for petitioner to finally institute the appropriate court proceedings. As such, the second element of knowledge, opportunity to file suit, and delay in filing such suit, is undoubtedly present in the instant controversy.

The third element of laches is likewise present. There is nothing on the record that impresses us as clear evidence of at least an inkling on the part of private respondent as to petitioner's serious intention to revoke the donated property. There was neither a demand letter nor positive testimony of any person who actually informed private respondent of petitioner's intentions. In other words, private

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respondent manifestly had every reason to believe that, with the passing of almost half a century since his predecessor-in-interest accepted the donated property and without-unambiguous intimation of petitioner's non-recognition of such donation, he was secure in his possession of the subject property in the concept of owner.

In the light of all the above, it goes without saying that private respondent will suffer irreparable injury under the most unfair circumstances, were we to disregard petitioner's inaction for more than forty (40) years in asserting its rights.

In applying the doctrine of laches, we had ruled that where a party allows the following number of years to lapse from the emergence of his cause of action, before instituting court action to enforce his claim, such action would be barred by the equitable defense of laches: 36 years;[33] 12 years;[34] 50 years;[35] 34 years;[36] 37 years;[37] 32 years;[38] 20 years;[39] 47 years;[40] 11 years;[41] 25 years;[42] 40

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[33] Claverias *v.* Quingco, 207 SCRA 66 [1992]; Tambot *v.* Court of Appeals, 181 SCRA 202, 207 [1990].

[34] de la Calzada-Cierras *v.* Court of Appeals, 212 SCRA 390, 396 [1992].

[35] Marcelino *v.* Court of Appeals, 210 SCRA 444, 447 [1992].

[36] Miguel *v.* Catalino, 26 SCRA 234, 239 [1968]; Bergado *v.* Court of Appeals, 173 SCRA 497, 502 [1989].

[37] Mejia de Lucas *v.* Gamponia, 100 Phil., 277 [1956].

[38] Lola *v.* Court of Appeals, 145 SCRA 439, 449 [1986].

[39] Gabriel *v.* Court of Appeals, 159 SCRA 461, 470 [1988]; Caragay-Layno *v.* Court of Appeals, 133 SCRA 718, 723 [1984].

[40] Golloy *v.* Court of Appeals, 173 SCRA 26, 31 [1989].

[41] Vda. de Alberto *v.* Court of Appeals, 173 SCRA 436, 449 [1989].

[42] Wright, Jr., et al. *v.* Lepanto Consolidated Mining Co., 11 SCRA 508 [1964].

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years;[43] 19 years;[44] 27 years;[45] 7 years;[46] 44 years;[47] 4 years[48] and 67 years.[49]

In this case, petitioner filed its complaint in court only after forty nine (49) years had lapsed since the donation in its behalf of the subject property to private respondent's predecessor-in-interest. There is nary an explanation for the long delay in the filing by petitioner of the complaint in the case at bench, and that inaction for an unreasonable and unexplained length of time constitutes laches. As such, petitioner cannot claim nullity of the donation as an excuse to avoid the consequences of its own unjustified inaction and as a basis for the assertion of a right on which they had slept for so long.[50] Courts cannot look with favor at parties who, by their silence, delay and inaction, knowingly induce another to spend time, effort, and expense in cultivating the land, paying taxes and making improvements thereon for an unreasonable period only to spring an ambush and claim title when the possessor's efforts and the rise of land values offer an opportunity to make easy profit at their own expense.[51] Considerable delay in asserting one's

[43] Bautista *v.* Court of Appeals, 165 SCRA 507, 514 [1988].

[44] Ching *v.* Court of Appeals, 181 SCRA 9, 10 [1990].

[45] Arradaza *v.* Court of Appeals, 170 SCRA 12, 19 [1989].

[46] Philippine National Bank *v.* Court of Appeals, 217 SCRA 347, 358 [1993].

[47] J.M. Tuason & Co., Inc. *v.* Macalingdong, 6 SCRA 938 [1962].

[48] Chung Ka Bio *v.* Intermediate Appellate Court, 163 SCRA 534, 540 [1988].

[49] Cormero *v.* Court of Appeals, et al., 247 SCRA 291 [1995].

[50] Pabalate *vs.* Echarri, 37 SCRA 518 [1971]; Tijam *v.* Sibonghanoy, 23 SCRA 29 [1968]; Arcuino *v.* Aparis, 22 SCRA 417 [1968]; Bautista *v.* Court of Appeals, *supra*.

[51] Miguel *v.* Catalino, 26 SCRA 234 [1968]; Mejia de Lucas *v.* Gamponia, *supra*; Bautista *v.* Court of Appeals, *supra*.

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right before a court of justice is strongly persuasive of the lack of merit of his claim, since it is human nature for a person to enforce his right when same is threatened or invaded; thus, it can also be said that petitioner is estopped by laches from questioning private respondent's ownership of the subject property.[52] At any rate, petitioner's right to recover the possession of the subject property from private respondent has, by the latter's long period of possession and by petitioner's inaction and neglect, been converted into a stale demand. Such passivity in the face of what might have given rise to an action in court is visited with the loss of such right, and ignorance resulting from inexcusable negligence does not suffice to explain such failure to file seasonably the necessary suit.[53]

Finally, we agree with the respondent Court of Appeals that, while petitioner is admittedly still the registered owner of the donated property, and jurisprudence is settled as to the imprescriptibility and indefeasibility of a Torrens Title, there is equally an abundance of cases in the annals of our jurisprudence where we categorically ruled that a registered landowner may lose his right to recover the possession of his registered property by reason of laches.[54]

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[52] Caro *v.* Court of Appeals, 180 SCRA 401, 409 [1989]; Vda. de Alberto *v.* Court of Appeals, *supra*; Buenaventura *v.* David, 37 Phil. 435 [1971].

[53] Vda. de Lima *v.* Tio, 32 SCRA 516 [1970]; Tambot *v.* Court of Appeals, 181 SCRA 202, 208 [1990]; Mejia de Lucas *v.* Gamponia, 100 Phil. 277, 280 [1956].

[54] Victoriano *v.* Court of Appeals, 194 SCRA 19, 24 [1991]; Lola *v.* Court of Appeals, 145 SCRA 439, 449 [1986]; Golloy *v.* Court of Appeals, 173 SCRA 26, 32 [1989]; Miguel *v.* Catalino, *supra*; Pabalate *v.* Echarri, Jr., *supra*; Bergado *v.* Court of Appeals, 173 SCRA 500, 503 [1989]; Republic *v.* Court of Appeals, 204 SCRA 160, 180 [1991]; Tambot *v.* Court of Appeals, *supra*; Marcelino

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WHEREFORE, the instant petition is DISMISSED with costs against petitioner.

SO ORDERED.

Bellosillo, Vitug, and *Kapunan, JJ.*, concur.

Padilla (Chairman), J., No part, former counsel for petitioner.

THIRD DIVISION

[G.R. No. 112984. November 14, 1996]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* CRESENCIO DE GRACIA AND BONIFACIO DE GRACIA, *accused-appellants.*

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY; NOT ADVERSELY AFFECTED BY MINOR DISPARITY BETWEEN THE TESTIMONY OF PROSECUTION WITNESSES ON THE SITE OF THE CRIME AND THE WEAPONS USED.**— Appellants lay stress on the apparent contradiction between the testimony of the prosecution witnesses Aries Almazan and Anita Almazan as to the location of the incident and the weapons used on the assault. Thus, they point out that while Anita

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v. Court of Appeals, 210 SCRA 444, 447 [1992]; de la Calzada-Cierras *v.* Court of Appeals, 212 SCRA 390, 394 [1992]; Claverias *v.* Quingco, 207 SCRA 66, 83 [1992]; Mejia de Lucas *v.* Gamponia, *supra*.