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What prompted the vicious attack must remain a mystery to this Court. Proof of motive is, of course, not necessary for the conviction of the accused-appellant in view of his positive identification as one of the killers. Even so, one may well wonder why a human life was taken for no apparent reason and another life must now be needlessly spent in the shadow of the prison bars.

WHEREFORE, the appealed judgment is AFFIRMED *in toto* with costs against the accused-appellant.

SO ORDERED.

Narvasa, Gancayco, Griño-Aquino, and *Medialdea, JJ.*, concur.

FIRST DIVISION

[G.R. No. 76148. December 20, 1989]

ELISEO CARO, CARLOS CARO, BENITO CARO, CARMEN CARO, BATAYOLA AND LORENZO CARO, *petitioners, vs.* **HON. COURT OF APPEALS, SERAFIN V. RONZALES, JOSE RONZALES, JR. AND GEMME RONZALES,** *respondents.*

SYLLABUS

1. CIVIL LAW; LAND REGISTRATION; BASIS FOR AN ACTION FOR RECONVEYANCE. — An action for reconveyance has its basis in Section 53, paragraph 3 of Presidential Decree No. 1529, which provides: "In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder of the decree of registration on the original petition or application, x x x." This provision

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should be read in conjunction with Article 1456 of the Civil Code, which provides: "Article 1456. If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes." The law thereby creates the obligation of the trustee to reconvey the property and the title thereto in favor of the true owner.

2. ID.; ACTION FOR RECONVEYANCE OF FRAUDULENTLY REGISTERED REAL PROPERTY; PRESCRIPTIVE PERIOD FOR FILING THEREOF. — Correlating Section 53, paragraph 3 of Presidential Decree No. 1529 and Article 1456 of the Civil Code with Article 1144(2) of the Civil Code, the prescriptive period for the reconveyance of fraudulently registered real property is ten (10) years reckoned from the date of the issuance of the certificate of title. In the present case, therefore, inasmuch as Civil Case No. 10235 was filed on June 4, 1975, it was well-within the prescriptive period often (10) years from the date of the issuance of Original Certificate of Title No. 0-6836 on September 17, 1970.

3. ID.; ESTOPPEL BY LACHES; CONSIDERABLE DELAY IN ASSERTING ONE'S RIGHT, PERSUASIVE OF THE LACK OF MERIT OF HIS CLAIM. — It is clear, therefore, that as early as 1948, Epifanio Caro was already aware of the adverse claim of the private respondents. He should have been vigilant of his right as the allegedly new owner of the questioned land. What he did was the reverse, he slept on his rights for a number of years. In the recent case of *Bagtas v. Court of Appeals, et al.*, G.R. No. 50732, August 10, 1989, We held that 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, he is estopped by laches from questioning the ownership of the questioned land.

4. ID.; ESTOPPEL *IN PAIS*; PRESENT IN CASE AT BAR. — There is also estoppel *in pais* in this case because Epifanio Caro filed his answer with respect to Lot No. 54 only while Purificacion Villanueva filed her answer with respect to Lot No. 55. In addition, the trial court observed: "The Tax Declaration of the land bought by Epifanio Caro, Exhibit 4, states that its adjacent owner on the east is Pascual (*sic*) Lacson who is the grandmother

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of the defendants. When said land was declared in the name of Epifanio Caro in 1969, the adjacent owner on the East is still Pascuala Lacson, Exhibit E. The Tax Declaration of the land bought by Epifanio Caro from the heirs of Custodia Jalandoni, Exhibit 8 shows that the land in question is not an adjacent property. The same is true with the Tax Declaration of the land bought by Epifanio Caro from the heirs of Rafael Gaylan, Exhibit 9. This clearly shows that Lot No. 55 which originally belonged to Pascuala Lacson is a different and distinct parcel from the lands bought by Epifanio Caro from Simeon Gallego, from the heirs of Custodia Jalandoni and from the heirs of Rafael Gaylen (sic)."

APPEARANCES OF COUNSEL

Resurreccion S. Salvilla for petitioners.
Tirol & Tirol for private respondents.

D E C I S I O N

MEDIALDEA, J.:

This is a petition for review on *certiorari* of the decision of the Court of Appeals in AC-G.R. CV No. 01016 entitled, "*Epifanio Caro, Plaintiff-Appellant v. Serafin V. Ronsales, et al., Defendants-Appellees*," dated January 28, 1986 affirming the decision of the Court of First Instance (now Regional Trial Court) of Iloilo; and its resolution dated September 11, 1986 denying the motion for reconsideration.

The subject matter of the present controversy is a 260 square meter parcel of land which, according to petitioners, is included in the parcel of land purchased by their predecessor, Epifanio Caro, from Simeon Gallego; but contradicted by the private respondents by claiming it as their own evidenced by a certificate of title issued in their favor. We gathered from the records that the questioned land is the eastern portion allegedly included in the parcel of land purchased from Simeon Gallego. The trial court ruled in favor of the private respondents on the grounds of estoppel, absence of fraud in the registration of the questioned

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land and prescription. This ruling was affirmed by the respondent court. Likewise, We affirm, based on the first two grounds but not on the ground of prescription.

The antecedent facts are as follows:

It appears that on May 14, 1946, Simeon Gallego bought a parcel of land from Loreto Martinez, Presentacion Jereza, Hermenigildo Jereza, Maria Luz Nele Jereza and Maria Elena Jereza, situated within the poblacion of Jordan, Sub-Province of Guimaras with an area of 5,031 square meters and bounded on the North by Jordan River, Joaquin Galve and Custodia Jalandoni; on the East by Roman Catholic Church and the Municipality of Jordan; on the South by Graciana Martinez; and on the West by Jordan River. The above-described parcel of land was then declared for taxation purposes under Tax Declaration No. 6437. This land was later on sold by Simeon Gallego to Epifanio Caro in 1948. On May 15, 1962, Trinidad Castem, Rolando Iranaya and Eriberto Iranaya sold a parcel of land which they inherited from Custodia Jalandoni, situated in the poblacion of Jordan, Sub-Province of Guimaras, with an area of 1,011 square meters and bounded on the North by Jordan River; on the East by Roman Catholic Archbishop of Jaro; on the South by Rafael Gaylan; and on the West by Jordan River, to Epifanio Caro. The land was then declared for taxation purposes under Tax Declaration No. 4135. In the same year, Epifanio Caro bought another parcel of land from the heirs of Rafael Gaylan, situated in the poblacion of Jordan, Sub-Province of Guimaras, with an area of 1,750 square meters and bounded on the North and East by the heirs of Custodia Jalandoni; on the South by Simeon Gallego; and on the West by Jordan River, and declared for taxation purposes under Tax Declaration No. 3638.

In 1963, Epifanio Caro had those three (3) parcels of land surveyed and were then designated as Lot No. 54. When Blas Gonzales conducted the survey, he prepared a plan. Epifanio Caro was given a copy of the plan and he just kept it. During that survey, Epifanio Caro pointed the boundaries of his parcels of land to the survey team. These parcels of land were relocated

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in 1968 by the Sirilan Surveying Company and Plan Psu-207820 was prepared. The parcels of land of Epifanio Caro were denominated as Lot No. 54 and the land claimed by the private respondents Serafin V. Ronzales, Jose Ronzales, Jr. and Gemme Ronzales as Lot No. 55. Epifanio Caro had the three lots consolidated after the survey into one lot, and Tax Declaration No. 7688 was issued. During the cadastral proceeding, Epifanio Caro filed an answer for Lot 54. There is no showing whether or not a title was issued to him.

On the other hand, the private respondents claim that the questioned land was formerly owned by Pascuala Lacson and was declared in her name under Tax Declaration No. 4234. Pascuala Lacson was married to Domingo Ronzales. Long before World War II, private respondents and their predecessors-in-interest had been living on the questioned land. When Epifanio Caro bought a parcel of land from Simeon Gallego, Jose Ronzales, Sr., his brother Serafin Ronzales and sister Gemme Ronzales, children of Domingo Ronzales and Pascuala Lacson, were already living in a house of semi-strong materials on the questioned land.

Sometime in 1964, another survey was conducted. The parcels of land claimed by Epifanio Caro were denominated as Lot No. 54 and the land claimed by the private respondents was denominated as Lot No. 55. Epifanio Caro filed an answer for Lot No. 54 and Purificacion Ronzales, mother of private respondent Jose Ronzales, Jr. filed an answer for Lot No. 55. No other person or persons filed an answer for Lot No. 55. Consequently, Original Certificate of Title No. 0-6836 was issued in the names of the private respondents, in equal shares of 1/3 portion each on September 17, 1970.

In June, 1973, the spouses Epifanio Caro and Paz Caro filed an ejectment case against Augusto Chavez, Naciso Galila, Timoteo Parreno, Ramon Aranduque and Rafael Galotera, involving Lot Nos. 56, 59 and 60. In 1974, the spouses filed an ejectment and illegal detainer case against Ramon Aranduque, Timoteo Parreno and Augusto Chavez, involving Lot No. 54.

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On June 4, 1975, Epifanio Caro filed a complaint before the Court of First Instance of Iloilo (Civil Case No. 10235) for cancellation of Certificate of Title No. 0-6836, reconveyance, recovery of possession and damages on the ground of fraud. During the pendency of the case, Epifanio Caro died, so he was substituted by his heirs, namely, Eliseo Caro, Carlos Caro, Benito Caro, Carmen Caro Batayola and Lorenzo Caro.

On November 22, 1982, the trial court dismissed the complaint. On appeal, the dismissal was affirmed by the respondent Court of Appeals. The motion for reconsideration was denied. Hence, the present petition for review on *certiorari*.

The issues may be limited to the following:

1) Whether or not the action in Civil Case No. 10235 has prescribed;

2) Whether or not fraud attended the issuance of Original Certificate of Title No. 0-6836; and

3) Whether or not the plaintiff in said civil case was in estoppel.

Petitioners contend that since private respondents do not own the questioned land, they are mere trustees and this being the case, prescription does not lie in an action for reconveyance.

In this regard, the trial court held (p. 413, Records):

"An action for reconveyance on the ground of fraud prescribes in four (4) years from the time of the decree of registration, for the reason that the registration of the decree constitutes constructive notice to the whole world (*Gerona v. de Guzman*, G.R. No. 19060, May 29, 1964, citing the cases of *J.M. Tuason and Co. vs. Magdangal*, G.R. No. 15539, June 30, 1962; *Abdon v. Abella*, C.A. G.R. No. 29846-R, August 31, 1964)."

Affirming, the respondent court said (p. 29, *Rollo*):

"x x x, even if a trust relationship had existed, the right to seek reconveyance prescribed ten (10) years after 1948 when Epifanio Caro was informed by the wife of Jose Ronzales that she inherited the land from her grandmother (*de la Cerna vs. de la Cerna*, 72 SCRA

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515; *Alzona vs. Calupitan*, 4 SCRA 450; *Carantes vs. Court of Appeals*, 76 SCRA 516). Since there is no trust relationship between the ancestors of and between plaintiffs and defendants, the same action prescribed in 4 years from the issuance of title on September 17, 1970, because the complaint was filed only on June 4, 1975, as ruled by the lower court (*de la Cerna vs. de la Cerna*, 72 SCRA 515)."

We disagree. The case of *Liwalug Amerol, et al. v. Molok Bagumbaran*, G.R. No. L-33261, September 30, 1987, 154 SCRA 396 illuminated what used to be a gray area on the prescriptive period for an action to reconvey the title to real property and, corollarily, its point of reference:

"x x x. It must be remembered that before August 30, 1950, the date of the effectivity of the new Civil Code, the old Code of Civil Procedure (Act No. 190) governed prescription. It provided:

'SEC. 43. Other civil actions; how limited. — Civil actions other than for the recovery of real property can only be brought within the following periods after the right of action accrues:

'xxx xxx xxx

'3. Within four years: x x x An action for relief on the ground of fraud, but the right of action in such case shall not be deemed to have accrued until the discovery of the fraud;

'xxx xxx xxx.'

"In contrast, under the present Civil Code, we find that just as an *implied or constructive trust is an offspring of the law* (Art. 1456, Civil Code), so is the corresponding obligation to reconvey the property and the title thereto in favor of the true owner. In this context, and *vis-a-vis* prescription, Article 1144 of the Civil Code is applicable.

'Article 1144. *The following actions must be brought within* ten years from the time the right of action accrues:

(1) Upon a written contract;

(2) Upon an obligation created by law;

(3) Upon a judgment.

xxx xxx xxx

(Italics supplied).'

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"An action for reconveyance based on an implied or constructive trust must perforce prescribe in ten years and not otherwise. A long line of decisions of this Court, and of very recent vintage at that, illustrates this rule. Undoubtedly, it is now well-settled that an action for reconveyance based on an implied or constructive trust prescribes in ten years from the issuance of the Torrens title over the property. The only discordant note, it seems, is *Balbin vs. Medalla*, which states that the prescriptive period for a reconveyance action is four years. However, this variance can be explained by the erroneous reliance on *Gerona vs. de Guzman*. But in Gerona, the fraud was discovered on June 25, 1948, hence Section 43 (3) of Act No. 190, was applied, the new Civil Code not coming into effect until August 30, 1950 as mentioned earlier. It must be stressed, at this juncture, that Article 1144 and Article 1456, are new provisions. They have no counterparts in the old Civil Code or in the old Code of Civil Procedure, the latter being then resorted to as legal basis of the four-year prescriptive period for an action for reconveyance of title of real property acquired under false pretenses."

An action for reconveyance has its basis in Section 53, paragraph 3 of Presidential Decree No. 1529, which provides:

"In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder of the decree of registration on the original petition or application, x x x."

This provision should be read in conjunction with Article 1456 of the Civil Code, which provides:

"Article 1456. If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes."

The law thereby creates the obligation of the trustee to reconvey the property and the title thereto in favor of the true owner. Correlating Section 53, paragraph 3 of Presidential Decree No. 1529 and Article 1456 of the Civil Code with Article 1144(2) of the Civil Code, *supra*, the prescriptive period for the reconveyance of fraudulently registered real property is ten (10) years reckoned from the date of the issuance of the

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certificate of title. In the present case, therefore, inasmuch as Civil Case No. 10235 was filed on June 4, 1975, it was well-within the prescriptive period often (10) years from the date of the issuance of Original Certificate of Title No. 0-6836 on September 17, 1970.

Unfortunately for the petitioners, however, We agree with the respondent court and the trial court that the private respondents did not employ any fraud in securing title to the questioned land. A perusal of the pertinent portions of the deposition of Epifanio Caro supports this finding, to wit:

"ATTY. TANEO:

"Q Now, at the time you bought this land from Simeon Gallego in 1948, who was residing in that shack?

A *There was no more shack, but there was a big house.*

"Q And who was residing on that big house?

A Jose and his wife and children, and his sister.

"Q Since according to you at the time you bought this land from Simeon Gallego there was already that big house occupied by Jose Ronzales and his wife, their children and sister, did you make any demand from them to vacate the premises since you have already purchased the land from Simeon Gallego?

A I informed them that I have already bought the lot from Simeon Gallego, and I demanded from them rental of the house, because their house was already there at the time I bought the land.

"Q And what was their answer, if any, to your demand?

A They promised me that they will also pay the rent, or if I wish to sell the land to them, they will buy the same. But I told them that I will not sell the land.

"Q Now, since you told them that you did not want to sell to them the portion of the land occupied by their big house, what did they, if any, suggest to you regarding their occupancy of the land?

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"ATTY. ALINIO:

We would like now to object to this line of questioning because this is irrelevant, immaterial, and impertinent, not being raised in the complaint. Not one of the issues in this case.

"ATTY. GRIJALVO:

Subject to the objection, witness may answer.

"WITNESS:

A They told me that they will just pay the rent.

"ATTY. TANEO:

"Q Did you agree?

A I agreed. I consented, but they merely promised and promised to me, but they did not pay anything.

"Q In other words you mean that after they suggested to rent the land and you agreed, you made several demands from them to pay the rentals?

A Yes, sir, I demanded from them the rentals. But later when I demanded from them the payment of the rent, they told me that it is not my land being occupied by their house, but it is the land of the municipality.

"Q Around how many times did you demand from them for the payment of the rentals?

A Two times.

"Q And on the second time you demanded for the payment of rentals and they did not still pay, what was their reason, if any?

"ATTY. ALINIO:

Objection, because the witness has already answered the same or similar questions.

"ATTY. TANEO:

The witness stated that he made around two demands for the payment of rentals. When he made the demand later after there was an agreement that they would just pay the rental,

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they reasoned out that the land occupied by their house is a portion of the land of the municipality. Since the witness stated that there was a second demand, the purpose now of the pending question is if there was any other reason stated by them.

"ATTY. GRIJALVO:

Subject to the objection, witness may answer.

"WITNESS:

A They will not pay, because according to them the land on which their house stands is a portion of the land owned by the municipality. But actually it is my own, and the municipality has nothing to do with it." (pp. 207-212, Records)

"x x x x x x x x x

"ATTY. TANEO:

"Q The last time you stated that you know Lot No. 55. When for the first time did you know about this Lot 55?

A I know this lot for the first time when I bought this lot from Simeon Gallego.

"Q At that time did you know that this lot already bears Lot No. 55?

A I know it because one Purit told me that she inherited the same from her grandmother.

"Q This Purit you are mentioning, are you referring to Purificacion Villanueva Ronsales who is the widow of Jose Ronsales?

A Yes, sir.

"Q When was this when this Purit mentioned to you about this Lot 55?

A When I bought said land." (pp. 215-216, Records).

It is clear, therefore, that as early as 1948, Epifanio Caro was already aware of the adverse claim of the private respondents. He should have been vigilant of his right as the allegedly new owner of the questioned land. What he did was

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the reverse, he slept on his rights for a number of years. In the recent case of *Bagtas v. Court of Appeals, et al.*, G.R. No. 50732, August 10, 1989, We held that 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, he is estopped by laches from questioning the ownership of the questioned land. Not only that. There is also estoppel *in pais* in this case because Epifanio Caro filed his answer with respect to Lot No. 54 only while Purificacion Villanueva filed her answer with respect to Lot No. 55 (see *Tijam, et al. v. Sibonghanoy, et al.*, G.R. No. L-21450, April 15, 1968, 23 SCRA 29). In addition, the trial court observed (pp. 414-415, Records):

"The Tax Declaration of the land bought by Epifanio Caro, Exhibit 4, states that its adjacent owner on the east is Pascual (sic) Lacson who is the grandmother of the defendants. When said land was declared in the name of Epifanio Caro in 1969, the adjacent owner on the East is still Pascuala Lacson, Exhibit E. The Tax Declaration of the land bought by Epifanio Caro from the heirs of Custodia Jalandoni, Exhibit 8 shows that the land in question is not an adjacent property. The same is true with the Tax Declaration of the land bought by Epifanio Caro from the heirs of Rafael Gaylan, Exhibit 9. This clearly shows that Lot No. 55 which originally belonged to Pascuala Lacson is a different and distinct parcel from the lands bought by Epifanio Caro from Simeon Gallego, from the heirs of Custodia Jalandoni and from the heirs of Rafael Gaylen (sic)."

While We commiserate with the petitioners because of Epifanio Caro's lack of formal education still, his negligence and belated action were undoubtedly the root cause of the present controversy:

"Q Is this the same survey plan which Mr. Gonzales gave you?

A That is the one but I have not read it because I do not understand English or Spanish because I have never gone to school (p. 217, Records)."

"x x x x x x x x x

Q Now, when the cadastral survey was conducted, did you take occasion to verify also the cadastral survey of your lot?

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A I did not bother anymore because I entrusted everything to them (p. 232, Records)."

"x x x x x x x x x x x x

"Q Now, when you purchased the lot from Simeon Gallego because you said you could not read English nor Spanish, did you ask the help of somebody else to explain to you the document?

A I have not asked the help of anybody.

"Q In other words you did not read nor understand the sale in your favor executed by Simeon Gallego?

A I have confidence in him because it was prepared by the father of the mayor.

"Q Did you not inquire from Simeon Gallego of the boundaries of the church from him?

A Before that I knew that the boundaries of the lot of Loreta Martinez was the municipal building, a road and a church.

"Q Now, before you purchased the property from Simeon Gallego did you not also ask the help of somebody to examine the tax declaration in the name of Simeon Gallego?

A No, because I already knew that lot was owned by Martinez.

"Q And therefore, I gather from you that you relied on your knowledge, own knowledge when you purchased the land from Simeon Gallego about the boundaries of the land?

A I relied on my own knowledge because I know it fully well.

"Q You did not, you said, anymore examine the tax declaration?

A I did not bother because I knew that the lot was owned by Martinez.

"Q Did you inquire also from the Martinezes the boundaries of their lots?

A I did not bother because I knew fully well because since 1909 I was already there in the church (pp. 251-253, Records)."

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ACCORDINGLY, the petition is hereby DENIED. The decision dated January 28, 1986 and the resolution dated September 11, 1986 of the respondent Court of Appeals are AFFIRMED subject to the MODIFICATION regarding prescription.

SO ORDERED.

Narvasa, Cruz, and *Gancayco, JJ.*, concur.

Griño-Aquino, J., took no part.

FIRST DIVISION

[G.R. No. 81403. December 20, 1989]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **BONIFACIO ANDO, JR.,** *defendant-appellant.*

SYLLABUS

1. ***REMEDIAL LAW; EVIDENCE; IN RAPE CASES, ABSENCE OF SPERMATOZOA IN THE PRIVATE PART OF THE VICTIM DOES NOT BELIE PENETRATION.*** — The absence of spermatozoa in the vaginal smear of the private part of the complainant, suffice it to say that the absence thereof does not necessarily mean that the rape was not consummated. The physical findings of the physician is to the effect that there were superficial lacerations in the vaginal canal showing that there was penetration by force. And if there was no spermatozoa that was deposited in the vagina of the complainant, it must have been because it was expelled by her menstrual flow.

2. **ID.; ID.; CREDIBILITY OF WITNESSES; DEFENSE OF MERE DENIAL CANNOT PREVAIL OVER POSITIVE TESTIMONY OF VICTIM.** — The defense of the appellant through his sole testimony is a mere denial. The Court is not convinced that