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SECOND DIVISION

[G.R. No. 129977. February 1, 2001]

JOSELITO VILLEGAS and DOMINGA VILLEGAS, *petitioners, vs.* **COURT OF APPEALS and FORTUNE TOBACCO CORPORATION,** *respondents.*

SYNOPSIS

Subject property was previously registered under TCT No. 68641. In 1973, it was sold to respondent Fortune Tobacco Corporation where TCT No. T-68737 was issued. In August 1976, subject property was again sold to Domingo, mother of petitioner Joselito, where TCT No. T-91864 was issued. In December 1976, the titles were destroyed by fire and T-91864 was administratively reconstituted. Later, in 1991, upon petition of Fortune, the trial court ordered the reconstitution of TCT No. T-68737. This was affirmed by the Court of Appeals.

Fortune's claim over the subject property is predicated upon the alleged prior issuance of its title in 1973, which was lost during the fire and judicially reconstituted in 1991. The Court, however, noted that Sec. 110 of PD 1529 and Secs. 3, 9 and 10 of RA 26 for judicial reconstitution of title has been violated. Specifically, there appeared no compliance of the posting of notice of the petition in the provincial or municipal building of the city or municipality where the subject property is located. This deprived the court of jurisdiction over the petition. But even if Fortune had validly acquired the subject property, it would still be barred from asserting title because of laches. Fortune instituted the suit 15 years after registration of Domingo's title in 1976. This is constructive notice to the whole world, including Fortune, of the existence of such adverse title.

SYLLABUS

1. **REMEDIAL LAW; APPEALS; COURT CAN REVIEW MATTERS EVEN IF NOT ASSIGNED AS ERRORS.** — The Court is clothed with ample authority to review matters, even if they are not assigned as errors in the appeal, if it finds that

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their consideration is necessary in arriving at a just decision of the case.

2. **CIVIL LAW; LAND TITLES; JUDICIAL RECONSTITUTION OF TITLE; REQUIREMENTS; POSTING OF NOTICE OF THE PETITION IN THE MUNICIPAL BUILDING WHERE PROPERTY IS LOCATED; NOT PRESENT.** — In the case at bar, Fortune's title was judicially reconstituted by virtue of an order issued by the Regional Trial Court. However, considering Sec. 110 on P.D. 1529 and Sections 3, 9 and 10 of R.A. 26, it is evident that the requirements for judicial reconstitution of certificates of title were not fully complied with. Although the order of reconstitution reveals that there was publication of the notice of the petition for reconstitution in the Official Gazette as required by law, there was, however, no mention of compliance with the requirement of posting of the notice of the petition in the provincial or municipal building of the city or municipality where the subject property is located. While proof of publication of the notice of the petition was submitted by Fortune, there was no proof of posting of the notice, presumably because no such posting was accomplished. The lack of compliance with these requirements for the judicial reconstitution of certificates of title deprived the court of jurisdiction over the petition. The jurisdiction of the Regional Trial Court to hear and decide a petition for reconstitution of title is conferred by R.A. 26. The Act prescribes a special procedure that must be followed in order that the court may act on the petition and grant the remedy sought. The specific requirements and procedure are as laid down in Sections 9 and 10 of R.A. 26. The proceedings therein being *in rem*, the court acquires jurisdiction to hear and decide the petition for the reconstitution of the owner's title upon compliance with the required posting of notices and publication in the Official Gazette. These requirements and procedure are mandatory and must strictly be complied with, otherwise, the proceedings are utterly void, which is why the petitioner is required to submit proof of the publication and posting of the notice. Non-compliance with the jurisdictional requirement of posting of the notice renders the order of reconstitution null and void. Consequently, the reconstituted title of Fortune is likewise void. Fortune cannot now invoke the prior title rule, as it in effect has no valid title to speak of.

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3. **REMEDIAL LAW; ACTIONS; LACHES; APPLICABLE IN CLAIM OF RIGHT OVER REAL PROPERTIES.** — Even if Fortune had validly acquired the subject property, it would still be barred from asserting title because of laches. The failure or neglect, for an unreasonable length of time to do that which by exercising due diligence could or should have been done earlier constitutes laches. It is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it has either abandoned it or declined to assert it. While it is by express provision of law that no title to registered land in derogation of that of the registered owner shall be acquired by prescription or adverse possession, it is likewise an enshrined rule that even a registered owner may be barred from recovering possession of property by virtue of laches.

4. **ID.; ID.; ELEMENTS.** — The elements of laches are: (1) conduct on the part of the defendant, or one under whom he claims, giving rise to the situation that led to the complaint and for which the complaint seeks a remedy; (2) delay in asserting the complainant's rights, having had knowledge or notice of the defendant's conduct and having been afforded an opportunity to institute a suit; (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, or the suit is not held barred.

APPEARANCES OF COUNSEL

Atty. Severo M. Lorenzo for petitioners.
Atty. Constante A. Foronda, Jr. for private respondents.

D E C I S I O N

QUISUMBING, *J.*:

This petition assails the decision dated November 15, 1996[1] of the Court of Appeals and its resolution promulgated on July

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[1] *Rollo*, pp. 15-20.

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29, 1997,[2] affirming the decision dated July 30, 1993[3] of the Regional Trial Court, Cauayan, Isabela, Branch 19.

The facts of the case, as found by the trial court and the Court of Appeals, are as follows:

Before September 6, 1973, Lot B-3-A, with an area of four (4) hectares situated at Dapdap, now San Fermin, Cauayan, Isabela was registered under TCT No. 68641 in the names of Ciriaco D. Andres and Henson Caigas. This land was also declared for real estate taxation under Tax Declaration No. C2-4442.

On September 6, 1973, Andres and Caigas, with the consent of their respective spouses, Anita Barrientos and Consolacion Tobias, sold the land to Fortune Tobacco Corporation (Fortune) for ₱60,000.00. Simultaneously, they executed a joint affidavit declaring that they had no tenants on said lot. An affidavit to the effect was a prerequisite for the registration of the sale under the LRC Circular No. 232. On the same date, the sale was registered in the Office of the Register of Deeds of Isabela. TCT No. 68641 was cancelled and TCT No. T-68737 was issued in Fortune's name.

On August 6, 1976, Andres and Caigas executed a Deed of Reconveyance of the same lot in favor of Filomena Domingo, the mother of Joselito Villegas, defendant in the case before the trial court. Although no title was mentioned in this deed, Domingo succeeded in registering this document in the Office of the Register of Deeds on August 6, 1976, causing the latter to issue TCT No. T-91864 in her name. It appears in this title that the same was a transfer from TCT No. T-68641. On April 13, 1981, Domingo declared the lot for real estate taxation under Tax Declaration No. 10-5633.

On December 4, 1976, the Office of the Register of Deeds of Isabela was burned together with all titles in the office. On December 17, 1976, the original of TCT No. T-91864 was administratively reconstituted by the Register of Deeds. On June

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[2] *Id.* at 29.

[3] *Id.* at 103-113.

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2, 1979, a Deed of Absolute Sale of a portion of 20,000 square meters of Lot B-3-A was executed by Filomena Domingo in favor of Villegas for a consideration of ₱1,000.00. This document was registered on June 3, 1981 and as a result TCT No. T-131807 was issued by the Register of Deeds to Villegas. On the same date, the technical description of Lot B-3-A-2 was registered and TCT No. T-131808 was issued in the name of Domingo. On January 22, 1991, this document was registered and TCT No. 154962 was issued to the defendant, Joselito Villegas.[4]

On April 10, 1991, the trial court upon a petition filed by Fortune ordered the reconstitution of the original of TCT No. T-68737.

In the pre-trial, the parties admitted that Lot B-3-A covered by the plaintiff's TCT No. T-68737 is identical to Lot B-3-A described in TCT No. T-91864 and Villegas' titles were mere transfers from TCT No. T-91864.[5]

After trial on the merits, the trial court rendered its assailed decision in favor of Fortune Tobacco, declaring it to be entitled to the property. Petitioners thus appealed this decision to the Court of Appeals, which affirmed the trial court's decision, with a modification on the award of damages and attorney's fees, disposing:

> IN VIEW OF ALL THE FOREGOING, the Decision appealed from is hereby *AFFIRMED* with the *MODIFICATION* that the award of damages and attorney's fees are deleted. No pronouncement as to costs.
>
> SO ORDERED.[6]

Petitioners are now before us, asserting that the Court of Appeals committed the following errors:

1. THE RESPONDENT COURT ERRED IN THE APPLICATION OF THE PRIOR TITLE RULE, AS BOTH PARTIES HAVE THEIR

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[4] *Id.* at 16-17.

[5] *Id.* at 107.

[6] *Id.* at 20.

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OWN REGISTERED TITLE. THE BETTER, OR BEST EVIDENCE RULE, OR THE EQUIPONDERANCE RULE OF EVIDENCE SHOULD BE APPLIED TO AVOID AND ABOMINABLE TRAVESTY OF JUSTICE;

2. THE DEED OF SALE, OR TITLE ACQUIRED BY THE PRIVATE RESPONDENT HAD BEEN LEFT UN-ENFORCED, AND UN-ASERTED (*SIC*) FOR A SPAN OF EIGHTEEN (18) YEARS FROM ITS SO-CALLED ISSUANCE, FOR IT HAS STILL TO WAIT FOR ITS RE-CONSTITUTION IN 1991, AND SUBJECT TO THE ANNOTATION, OR RESERVATION ON ITS DORSAL SIDE, MAKES IT GUILTY OF LACHES AND WHATEVER RIGHT IT MAY HAVE THEREUNDER HAD BEEN LOST THRU LACHES, PRESCRIPTION OR INACTION;

3. THE PRIVATE RESPONDENT DEFINITELY IS A BUYER IN BAD FAITH; HE HAS NO BETTER RIGHT THAN ITS PREDECESSOR IN INTEREST, AND IS SUBJECT TO ALL THE DEFECTS AND INFIRMITIES THE TITLE HAS BEFORE ITS TRANSMITTAL TO IT.[7]

In the main, we are to resolve (a) Who among the parties is entitled to the property, based on the validity of their respective titles? and (b) Has laches set in against private respondent Fortune Tobacco Corporation?

It is petitioners' contention that Fortune was a buyer in bad faith. They allege that Fortune should have investigated if the property had any occupants. If it had done so, it would have found petitioners and their predecessors-in-interest in possession thereof. Petitioners also allege that Andres and Caigas were not the owners of the property at the time it was sold to Fortune. Throughout their pleadings before this Court, petitioners claim that Fortune's title is "fake and spurious," having proceeded from its "so-called reconstitution." Lastly, petitioners invoke the doctrine of laches against Fortune's bid to recover the property.

Invoking the prior title rule, Fortune declares that it is the lawful owner of the property, as the certificate of title in its name was issued before issuance of another title to petitioners'

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[7] *Id.* at 10.

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predecessor-in-interest, Filomena Domingo. Fortune claims that petitioners' title is spurious. It also alleges that petitioners admitted the validity of Fortune's title, and that petitioners' continuous possession of the property cannot defeat said title. Fortune also asserts that it bought the property in good faith.

It must be noted at the outset that Fortune's claim over the subject property is predicated upon the alleged prior issuance of its title in 1973, which was lost in a fire and reconstituted only in 1991. Hence, the soundness of Fortune's claims is hinged upon the validity of its reconstituted title. It is thus imperative for us to look into whether or not Fortune's title was properly reconstituted. This question was not raised as an issue by petitioners, and neither was the grant of Fortune's reconstituted title assigned as an error in the petition. We have held however, that the Court is clothed with ample authority to review matters, even if they are not assigned as errors in the appeal, if it finds that their consideration is necessary in arriving at a just decision of the case.[8]

In the case at bar, Fortune's title was judicially reconstituted by virtue of an order dated April 10, 1991, issued by the Regional Trial Court, Branch 19 of Cauayan, Isabela, also the court *a quo*. It disposed:

> This is a verified petition filed by the petitioner Fortune Tobacco Corporation for the reconstitution of Transfer Certificate of Title No. T-68737 issued in its name by the Register of Deeds of Isabela.
>
> The petition was set for hearing on January 31, 1991. *The notice of hearing was caused to be published for two (2) successive issues in the Official Gazette.*
>
> On the scheduled date of hearing, Johnson Fernandez, Assistant Manager of the petitioner and his counsel appeared. *Nobody appeared to oppose the petition.*

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[8] *Barons Marketing Corp. v. Court of Appeals*, 286 SCRA 96, 108 (1998); *Korean Airlines Co., Ltd. v. Court of Appeals*, 234 SCRA 717, 725 (1994); *Vda. De Javellana v. Court of Appeals*, 123 SCRA 799, 805 (1983).

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To prove the jurisdictional facts, the petitioner presented as exhibits the following:

Exh. A, The Amended Notice of Hearing;

Exh. B, *the Affidavit of Publication of the notice of hearing in the Official Gazette;*

Exh. C, *the owner's duplicate copy of TCT No. T-68737 issued in the name of the petitioner by the Register of Deeds of Isabela.*

There being no opposition, the petitioner was ordered to present its evidence ex-parte.

From the evidence presented, it has been established that the petitioner is the registered owner of that certain parcel of land situated at Dadap, Cauayan, Isabela, described in and covered by Transfer Certificate of Title No. T-68737 issued in the name of the petitioner by the Register of Deeds of Isabela; that sometime in December, 1976, the office of the Register of Deeds was burned as a result of which the original of TCT No. T-68737 on file with the Registry of Deeds was burned as shown by the certification issued by the Registry of Deeds of Isabela (Exh. D); that as basis for the reconstitution of the original copy of the title, the petitioner has in its possession the owner's duplicate copy of TCT No. T-68737.

Finding the petition to be well-founded;

WHEREFORE, the Register of Deeds of Isabela is hereby ordered to reconstitute the original copy of TCT No. T-68737 in the name of the petitioner on the basis of the owner's duplicate copy thereof, upon payment of the corresponding legal fees.

SO ORDERED. (Italics supplied.)[9]

Section 110 of Presidential Decree No. 1529[10] provides:

SEC. 110. *Reconstitution of lost or destroyed original of Torrens title.* — Original copies of certificates of title lost or destroyed in the offices of Register of Deeds as well as liens and encumbrances affecting the lands covered by such titles shall be reconstituted

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[9] Records, Folder of Exhibits for the Plaintiff, Exh. E.

[10] Amending and Codifying the Laws Relative to Registration of Property and for Other Purposes.

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judicially in accordance with the procedure described in Republic Act No. 26 insofar as not inconsistent with this Decree....

In turn, Sections 3, 10 and 9 of Republic Act No. 26[11] provide —

SEC. 3. Transfer certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:

(a) The owner's duplicate of the certificate of title;

x x x x x x x x x

SEC. 10. Nothing hereinbefore provided shall prevent any registered owner or person in interest from filing the petition mentioned in section five of this Act directly with the proper Court of First Instance, based on sources enumerated in Sections 2(a), 2(b), 3(a), 3(b), and/or 4(a) of this Act: Provided, *however*, That the Court shall cause a notice of the petition, before hearing and granting the same, to be published in the manner stated in section nine hereof...

SEC. 9. ... Thereupon, the court shall cause a notice of the petition to be published, at the expense of petitioner, twice in successive issues of the Official Gazette, and to be posted on the main entrance of the provincial building and of the municipal building of the municipality or city where the land lies, at least thirty days prior to the date of hearing, and after hearing, shall determine the petition and render such judgment as justice and equity may require. The notice shall specify, among other things, the number of the certificate of title, the name of the registered owner, the names of the interested parties appearing in the reconstituted certificate of title, the location of the property, and the date on which all persons having an interest in the property must appear and file such claim as they may have. The petitioner shall, at the hearing, submit proof of the publication and posting of the notice...

Juxtaposing the facts as disposed by Branch 19 *vis-à-vis* Sec. 110 on P.D. 1529 and Sections 3, 9 and 10 of R.A. 26, it is evident that the requirements for judicial reconstitution of certificates of title were not fully complied with. Although the

[11] An Act Providing a Special Procedure for the Reconstitution of *Torrens* Certificate of Title Lost or Destroyed.

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order of reconstitution reveals that there was publication of the notice of the petition for reconstitution in the Official Gazette as required by law, there was, however, no mention of compliance with the requirement of posting of the notice of the petition in the provincial or municipal building of the city or municipality where the subject property is located. While proof of publication of the notice of the petition was submitted by Fortune, there was no proof of posting of the notice, presumably because no such posting was accomplished. The lack of compliance with these requirements for the judicial reconstitution of certificates of title deprived the court of jurisdiction over the petition. The jurisdiction of the Regional Trial Court to hear and decide a petition for reconstitution of title is conferred by R.A. 26. The Act prescribes a special procedure that must be followed in order that the court may act on the petition and grant the remedy sought. The specific requirements and procedure are as laid down in Sections 9 and 10 of R.A. 26.[12] The proceedings therein being *in rem*, the court acquires jurisdiction to hear and decide the petition for the reconstitution of the owner's title upon compliance with the required posting of notices and publication in the Official Gazette.[13] These requirements and procedure are mandatory and must strictly be complied with, otherwise, the proceedings are utterly void, which is why the petitioner is required to submit proof of the publication and posting of the notice.[14] Non-compliance with the jurisdictional requirement of posting of the notice renders the order of reconstitution null and void. Consequently, the reconstituted title of Fortune is likewise void. Fortune cannot now invoke the prior title rule, as it in effect has no valid title to speak of.

But even if Fortune had validly acquired the subject property, it would still be barred from asserting title because of laches.

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[12] *Republic v. Court of Appeals,* 218 SCRA 773, 778 (1993), citing *Director of Lands v. Court of Appeals, et al.*, 102 SCRA 370 (1981), citing the case *of Caltex, et al. v. CIR, et al.*, 23 SCRA 492 (1968).

[13] *Municipality of Legaspi v. A.L. Ammen Transportation Co., Inc.*, 26 SCRA 218, 222 (1968).

[14] *Supra*, note 13 at 778.

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The failure or neglect, for an unreasonable length of time to do that which by exercising due diligence could or should have been done earlier constitutes laches. It is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it has either abandoned it or declined to assert it.[15] While it is by express provision of law that no title to registered land in derogation of that of the registered owner shall be acquired by prescription or adverse possession,[16] it is likewise an enshrined rule that even a registered owner may be barred from recovering possession of property by virtue of laches.[17]

The elements of laches are: (1) conduct on the part of the defendant, or one under whom he claims, giving rise to the situation that led to the complaint and for which the complaint seeks a remedy; (2) delay in asserting the complainant's rights, having had knowledge or notice of the defendant's conduct and having been afforded an opportunity to institute a suit; (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, or the suit is not held barred.[18]

In the case at bar, there is no question on the presence of the first element. The object of Fortune's complaint before the trial court was to recover possession of the property in question, which is presently in the hands of petitioners.

The second element of delay is also present in this case. Fortune's suit for recovery of possession and damages was instituted only on May 29, 1991, *fifteen* years after the registration of Filomena Domingo's title to the property in 1976. Domingo's

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[15] *Lim Tay v. Court of Appeals*, 293 SCRA 634, 659 (1998).

[16] Section 47, Presidential Decree No. 1529.

[17] *Vda. De Cabrera v. Court of Appeals*, 267 SCRA 339, 356 (1997).

[18] *Metropolitan Waterworks and Sewerage System (MWSS) v. Court of Appeals*, 297 SCRA 287, 306 (1998).

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registration was constructive notice to the whole world, including Fortune of the existence of such adverse title. In applying the doctrine of laches, we have ruled that where a party allows the following number of years to lapse from the emergence of his cause of action to enforce his claim, such action would be barred by the equitable defense of laches: 36 years; 12 years; 50 years; 34 years; 37 years; 32 years; 20 years; 47 years; 11 years; 25 years; 40 years; 19 years; 27 years; 7 years; 44 years; 4 years; and 67 years.[19]

The third element of laches also present in this case. There is nothing in the record which shows that petitioners had any inkling of Fortune's intent to possess the subject property. While Fortune claims that it protested and demanded over several years that petitioners vacate the land and surrender its possession, there is nothing on record to support such contention; they remain self-serving, unsubstantiated claims. Petitioners controverted this assertion, stating that they only received such notice during the confrontation before the *barangay* captain of San Fermin, Cauayan, Isabela on May 12, 1991, which was a condition precedent to the filing of Fortune's complaint before the trial court. This is the only prior notice to petitioners which is supported by the records.[20]

As to the fourth element of laches, it goes without saying that petitioners will be prejudiced if Fortune's complaint is accorded relief, or not held barred, as then petitioners would be deprived of the property on which their households stand. Needless to say, laches has set in against Fortune, precluding its right to recover the property in question.

WHEREFORE, the petition is *GRANTED* and the Decision of the Court of Appeals promulgated on November 15, 1996 and its Resolution dated July 29, 1997, are *REVERSED*. The complaint of private respondent Fortune Tobacco Corporation is hereby *DISMISSED*. Costs against private respondent.

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[19] *Catholic Bishop of Balanga v. Court of Appeals,* 264 SCRA 181, 197 (1996).

[20] Records, p. 16.

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SO ORDERED.

Bellosillo (Chairman), Mendoza, and *De Leon, Jr., JJ.,* concur.

Buena, J., no part, signatory to CA decision.

EN BANC

[G.R. No. 137647. February 1, 2001]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **WILFREDO FERNANDEZ *y* MALINAO,** *accused-appellant.*

SYNOPSIS

An information for rape was filed before the Regional Trial Court of Pasig charging accused Wilfredo Fernandez *y* Malinao of rape committed sometime in December 1996 against Melissande Pasasala, then thirteen years of age. Upon arraignment, accused entered a plea of not guilty and interposed the defense of denial.

At the trial, the prosecution presented the victim, Melissande Pasasala who testified that her mother Dionisia had been living together with accused since she was nine (9) years old. Melissande claimed that it was not the first time that accused raped her. The first incident happened in 1994, but she chose to suffer in silence since he threatened to kill her and her mother. This time, however, she mustered the courage to file the rape charge against him.

Giving credence to the testimony of private complainant, the court, after trial, convicted accused of the crime charged aggravated by the fact that the same was committed by the accused, who is the common-law spouse of the parent of the