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to the evidence related to the IBRD account, thus, the rudiments of fair play had been properly observed.

Since we have affirmed the ruling of the trial court and the Court of Appeals which held DMWAI liable to FPI for the IBRD account, we likewise affirm the ruling of the Court of Appeals on DMWAI's liability to pay interest on the IBRD account.

WHEREFORE, we *DENY* the petition. We *AFFIRM* the 10 August 2004 Decision and 21 January 2005 Resolution of the Court of Appeals in CA-G.R. CV No. 58093.

SO ORDERED.

Puno, C.J. (Chairperson), Corona, Leonardo-de Castro, and *Bersamin, JJ.,* concur.

THIRD DIVISION

[G.R. No. 167995. September 11, 2009]

JULITA V. IMUAN, RODOLFO VELASQUEZ, ARTURO VELASQUEZ, ARCADIO VELASQUEZ, BETTY VELASQUEZ, ROSA V. PETUYA, FELICIDAD VELASQUEZ, RAYMUNDO IMUAN, GERARDO IMUAN, JR., and ANDONG VELASQUEZ, *petitioners, vs.* **JUANITO CERENO, FEBELINDA G. CERENO, GEMMA C. GABARDA, LEDESMA G. CERENO, BLECERIA C. SULA and SALLY G. CERENO,** *respondents.*

SYLLABUS

1. CIVIL LAW; MODES OF ACQUIRING OWNERSHIP; PRESCRIPTION; ELABORATED. — Prescription is another mode of acquiring ownership and other real rights over immovable

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property. It is concerned with lapse of time in the manner and under conditions laid down by law, namely, that the possession should be in the concept of an owner, public, peaceful, uninterrupted and adverse. Possession is open when it is patent, visible, apparent, notorious and not clandestine. It is continuous when uninterrupted, unbroken and not intermittent or occasional; exclusive when the adverse possessor can show exclusive dominion over the land and an appropriation of it to his own use and benefit; and notorious when it is so conspicuous that it is generally known and talked of by the public or the people in the neighborhood. The party who asserts ownership by adverse possession must prove the presence of the essential elements of acquisitive prescription.

2. ID.; ID.; ID.; ACQUISITIVE PRESCRIPTION; KINDS. — Acquisitive prescription of real rights may be ordinary or extraordinary. Ordinary acquisitive prescription requires possession in good faith and with just title for ten years. In extraordinary prescription, ownership and other real rights over immovable property are acquired through uninterrupted adverse possession for thirty years without need of title or of good faith. The good faith of the possessor consists in the reasonable belief that the person from whom he received the thing was the owner thereof, and could transmit his ownership. For purposes of prescription, there is just title when the adverse claimant came into possession of the property through one of the modes recognized by law for the acquisition of ownership or other real rights, but the grantor was not the owner or could not transmit any right.

3. ID.; ID.; ID.; ID.; 10-YEAR PERIOD REQUIREMENT SATISFIED IN CASE AT BAR. — Notably, one of the affiants in the joint affidavit which was executed in 1970 was Alfredo, Pablo's son by his first marriage, where he attested that the property was given by his father Pablo to Juana by donation *propter nuptias*. Not one among Alfredo's children had ever come out to assail the validity of the affidavit executed by their father. In fact, not one of Alfredo's heirs joined petitioners in this case. Moreover, not one among the children of the first marriage when they were still alive ever made a claim on their successional rights over the property by asking for its partition. Such joint affidavit could constitute a legal basis for Juana's adverse and exclusive character of the possession of the property

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and would show the Spouses Cereno's good faith belief that Juana was the owner of the property. Thus, when petitioners filed the instant case, more than 29 years had already elapsed, thus, the ten-year period for acquisitive prescription has already been satisfied.

4. ID.; ID.; ID.; POSSESSION IN THE CONCEPT OF OWNER; PAYMENT OF TAXES, COUPLED WITH ACTUAL POSSESSION OF THE LAND COVERED IN THE DECLARATION, STRONGLY SUPPORTS A CLAIM OF OWNERSHIP. — Moreover, immediately after the sale of the property to the Spouses Cereno, they declared the property in their names for taxation purposes and since then religiously paid the taxes due on the property. Petitioners admitted that they knew that the Spouses Cerenos are the ones paying the taxes; yet, they never challenged the same for a long period of time which clearly establishes respondents' claim as owners of the property. Jurisprudence is clear that although tax declarations or realty tax payments of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of owner, for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property. As is well known, the payment of taxes, coupled with actual possession of the land covered by the tax declaration, strongly supports a claim of ownership.

5. ID.; LACHES; DEFINED; PETITIONER'S CLAIM ALREADY BARRED BY LACHES. — We likewise agree with the CA when it found that petitioners are guilty of laches that would bar them from belatedly asserting their claim. Laches is defined as the failure to assert a right for an unreasonable and unexplained length of time, warranting a presumption that the party entitled to assert it has either abandoned or declined to assert it. This equitable defense is based upon grounds of public policy, which requires the discouragement of stale claims for the peace of society. Juana sold the property to the Spouses Cereno in 1970 and since then have possessed the property peacefully and publicly without any opposition from petitioners. While petitioners claim that they knew about the sale only in 1980 yet they did not take any action to recover the same and waited until 1999 to file a suit without offering any excuse for such

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delay. Records do not show any justifiable reason for petitioners' inaction for a long time in asserting whatever rights they have over the property given the publicity of respondents' conduct as owners of the property.

APPEARANCES OF COUNSEL

Public Attorney's Office for petitioners.
Fernando P. Cabrera for respondents.

D E C I S I O N

PERALTA, *J.*:

Before us is a petition for review on *certiorari* which seeks to set aside the Decision[1] dated August 24, 2004 of the Court of Appeals (CA) in CA-G.R. CV No. 69446, which reversed the Decision of the Regional Trial Court (RTC), Branch 41, Dagupan City, in Civil Case No. 99-02910-D. Also assailed is the CA Resolution[2] dated April 29, 2005 denying petitioners' motion for reconsideration.

The facts are as follows:

During his lifetime, Pablo de Guzman (Pablo) contracted two marriages. His first marriage was with Teodora Soriano (Teodora), with whom he had three children, namely, Alfredo de Guzman (Alfredo), Cristita G. Velasquez (Cristita), and Inday G. Soriano (Inday). His second marriage was in 1919 with Juana Velasquez (Juana), with whom he also had three children, namely: Nena De Guzman (Nena), Teodora de Guzman (Teodora), and Soledad G. Cereno (Soledad). All these children are now dead.

Petitioners are Pablo's grandchildren by his first marriage, while respondent Juanito Cereno (Juanito) is Soledad's husband and the other respondents are their children.

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[1] Penned by Associate Justice Arturo D. Brion (now a member of this Court), with Associate Justices Delilah Vidallon-Magtolis and Eliezer R. de los Santos, concurring; *rollo*, pp. 90-105.

[2] *Id*. at 112-114.

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On July 15, 1936, Pablo died intestate leaving two parcels of land, to wit: (1) a parcel of coconut land located at Salaan Mangaldan, Pangasinan, containing an area of nine hundred eighty-six (986) square meters, more or less, declared under Tax Declaration No. 8032; and (2) a parcel of cornland located at (Inlambo) Palua, Mangaldan, Pangasinan, containing an area of three thousand three hundred thirty-four (3,334) square meters, more or less, declared under Tax Declaration No. 5155.

After Pablo's death in 1936, his second wife Juana and their children continued to be in possession of the parcel of land located at Salaan, Mangaldan, Pangasinan (the disputed property), where they lived since they were married in 1919.

On January 24, 1970, Juana executed a Deed of Absolute Sale[3] in favor of respondents-spouses, Soledad, Juana and Pablo's daughter, and her husband Juanito conveying the subject property. The deed was duly registered with the Register of Deeds of Lingayen, Pangasinan.

On January 26, 1970, a Joint Affidavit[4] was executed by Alfredo de Guzman and Teofilo Cendana attesting to the fact that Pablo ceded the property in favor of Juana on the occasion of their marriage, but the document was lost.

Subsequently, Tax Declaration No. 23803[5] was issued in the names of respondents-spouses who religiously paid the taxes due on the property. Since then respondents-spouses enjoyed exclusive, open and uninterrupted possession of the property. Later, the disputed property which originally consisted of one whole lot was traversed by a *barangay* road dividing it into two (2) lots, namely, Lot 3533, with an area of 690 square meters covered by Tax Declaration No. 21268;[6] and Lot 3559, with an area of 560 square meters covered by Tax declaration No. 21269.[7]

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[3] Exhibit "19", folder of exhibits, p. 23.

[4] Exhibit "21", *id.* at 25.

[5] Exhibit "23", *id.* at 32.

[6] Exhibit "9", *id.* at 9.

[7] Exhibit "10", *id.* at 10.

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Respondents-spouses Cereno built their house on Lot 3559 and had planted fruit-bearing trees on Lot 3533. Meanwhile, the parcel of cornland in Palua, Mangaldan, Pangasinan has never been in possession of any of the parties since it eroded and was submerged under water, eventually forming part of the riverbed.

Sometime in January 1999, petitioners entered and took possession of Lot 3533 by building a small nipa hut thereon. Respondents then filed before the Municipal Trial Court (MTC) of Mangaldan, Pangasinan an ejectment case against petitioners. In an Order[8] dated December 9, 1999, the MTC dismissed the case as both parties prayed for its dismissal considering that petitioners had already left Lot 3533 immediately after the filing of the complaint.

On April 5, 1999, petitioners filed with the RTC of Dagupan City a Complaint for annulment of document, reconveyance and damages against respondents alleging that: (1) the estate of their grandfather Pablo has not yet been settled or partitioned among his heirs nor had Pablo made disposition of his properties during his lifetime; (2) it was only through their tolerance that Juana and his children constructed their house on Lot 3559; (3) the sale of the disputed property made by Juana to respondents-spouses Cereno and the issuance of tax declarations in the latter's names are null and void. Petitioners prayed for the annulment of the deed of sale, cancellation of Tax Declaration Nos. 21268 and 21269, the reconveyance of the property to them and damages.

In their Answer, respondents claimed that after the death of Pablo's first wife, Pablo partitioned his property among his children and that spouses Nicomedes and Cristita Velasquez acquired most of the properties as they were more financially capable; that at the time Pablo married Juana, the properties he had were his exclusive share in the partition; that of the two parcels of land Pablo had at that time, he donated the subject property to Juana in a donation *propter nuptias* when they married; that the deed of donation was lost during the Japanese

[8] Exhibit "34", *id*. at 68-69.

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occupation and such loss was evidenced by the Joint Affidavit executed by Alfredo de Guzman and Teofilo Cendana attesting to such donation; that Juana could validly convey the property to the Spouses Cereno at the time of the sale because she was the owner; and that they have been in public and uninterrupted possession of the disputed lot since its acquisition and have been paying the realty taxes due thereon. As affirmative defense, respondents contended that petitioners' rights over the property were already barred by the statute of limitations.

After trial, the RTC rendered its Decision[9] dated November 10, 2000, the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants:
>
> (a) Declaring as null and void the Deed of Absolute Sale; Tax Declaration Nos. 21268 for Lot 3533 & 21269 for Lot 3559 in the names of Juanito Cereno and Soledad de Guzman;
>
> (b) Ordering the defendants (1) to reconvey the property in question to the plaintiffs and to peacefully surrender the possession of the premises to the plaintiffs; and (2) to pay plaintiffs litigation expenses in the amount of ₱10,000.00.
>
> SO ORDERED.[10]

The RTC found that Juana and her children of the second nuptial built their house on the disputed property by tolerance of Pablos' children of the first marriage; that Juana alone sold the property to respondents Spouses Cereno and such sale was not valid because she was not the owner of the property at the time she sold the same; that the estate of Pablo has not been settled among the heirs since the property was still in the name of Pablo at the time Juana sold the same; that respondents Spouses Cereno's claim that the property was donated to Juana by Pablo by way of donation *propter nuptias* was not supported by evidence; that Pablo could not have donated the property to Juana because Pablo's children were the legal heirs of his first

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[9] Penned by Judge Deodoro J. Sison; *rollo*, pp. 43-48.

[10] *Id*. at 48.

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wife, and have rights and interests over the property. The RTC found the Joint Affidavit dated January 26, 1970 executed by Alfredo, Pablo's son by first marriage, and Teofilo Cendana, a former Chief of Police of Mangaldan, Pangasinan, attesting that the donation *propter nuptias* executed by Pablo in favor of Juana was lost during the Japanese occupation was inconsequential, since it cannot substitute for the donation which validity was highly questionable; that petitioners were able to prove that the property was the conjugal property of Pablo and his first wife which has not been divided between Pablo and his children of the first nuptial.

On appeal, the CA rendered its assailed Decision, the dispositive portion of which reads as follows:

> WHEREFORE, premises considered, we hereby GRANT the appeal. The assailed decision dated November 10, 2000, of the Regional Trial Court (RTC), Branch 41, Dagupan City, in Civil Case No. 99-02910-D is consequently REVERSED and SET ASIDE. Costs against the plaintiffs-appellees.
>
> SO ORDERED.[11]

While the CA agreed with the findings of the RTC that there was no evidence that Pablo undertook a partition of the properties of his first marriage before he contracted his second marriage and that the Joint Affidavit dated January 26, 1970 could not be considered as conclusive proof of the transfer of the property by Pablo to Juana, it was not a sufficient basis for Juana to validly transfer the property to respondent Spouses Cereno, however, the CA gave probative value to the joint affidavit as it was executed long before the present controversy arose. The CA found that the joint affidavit was executed by Alfredo, one of Pablo's children by his first marriage who was necessarily affected by the claimed donation *propter nuptias* and who ought to know the facts attested to; that the affidavit was evidence of the basis of Juana's own good faith belief that the property was hers to dispose of when she sold it to respondents Spouses

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[11] *Id*. at 104.

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Cereno; that the same affidavit can also be the basis of respondents Spouses Cereno's good faith belief that Juana, who had undisputably been in possession of the disputed property at the time of the sale, was the owner and could transfer the property to them by sale.

The CA also gave probative value to the deed of sale executed by Juana in favor of respondents Spouses Cereno as it is still an evidence of the fact of transaction between Juana and respondents Spouses Cereno for the sale of the disputed property. The CA found that the deed of sale and the joint affidavit assumed great importance on the issue of prescription.

The CA found that Juana possessed the property in the concept of an owner, which is a sufficient basis for the belief that Juana was the owner of the property she conveyed by sale and respondents Spouses Cereno had the good faith that acquisition by prescription requires when they became the purchasers in the contract of sale with her . The CA further stated that a sale, coupled with the delivery of the property sold, is one of the recognized modes of acquiring ownership of real property and that respondents Spouses Cereno immediately took possession of the property which showed that respondent Spouses Cereno have just title to the property.

The CA further found that respondents Spouses Cereno are in peaceful possession of the property for 29 years and, thus, have satisfied the ten-year period of open, public and adverse possession in the concept of an owner that the law on prescription requires. The CA added that petitioners are now barred by laches from claiming ownership of the disputed property as they have been negligent in asserting their rights.

Petitioners' motion for reconsideration was denied in a Resolution dated April 29, 2005.

Petitioners raise the following issues for our consideration:

WHETHER THE COURT OF APPEALS ERRED IN REVERSING THE DECISION OF THE REGIONAL TRIAL COURT, BRANCH 41, DAGUPAN CITY.

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WHETHER THE COURT OF APPEALS ERRED IN DISREGARDING THE NATURE OF THE PROPERTY IN ISSUE WHEN IT RENDERED ITS DECISION.

WHETHER LACHES/PRESCRIPTION BARRED HEREIN PETITIONERS FROM CLAIMING THEIR RIGHTFUL SHARE IN THE PROPERTY IN ISSUE.[12]

Petitioners contend that since the CA and the RTC found that there was no partition of the property and no valid donation *propter nuptias* was made by Pablo to Juana, the rule on co-ownership among Pablo's heirs should govern the property; that when Juana sold the property to respondents Cerenos, the rights of petitioners as co-owners should not have been affected; that the CA's finding that the joint affidavit attesting to the donation *propter nuptias* can be the basis of a belief in good faith that Juana was the owner of the disputed property is erroneous, since Juana had knowledge from the time she got married to Pablo that the property was acquired during the latter's first marriage; that respondents Spouses Cereno could not be considered in good faith since Soledad is the daughter of Juana with her marriage to Pablo and could not be considered a third party to the dispute without knowledge of the nature of the property; that being co-owners, neither prescription nor laches can be used against them to divest them of their property rights.

In their Comment, respondents argue that Juana in her own right had acquired the property by prescription; that the CA correctly considered respondents' 29 years of actual and peaceful possession of the property aside from their purchase of the property from Juana in finding them as the true owners.

Petitioners and respondents submitted their respective memoranda.

The petition has no merit.

We agree with the CA that respondents have acquired the disputed property by acquisitive prescription.

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[12] *Id.* at 17-18.

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Prescription is another mode of acquiring ownership and other real rights over immovable property.[13] It is concerned with lapse of time in the manner and under conditions laid down by law, namely, that the possession should be in the concept of an owner, public, peaceful, uninterrupted and adverse.[14] Possession is open when it is patent, visible, apparent, notorious and not clandestine.[15] It is continuous when uninterrupted, unbroken and not intermittent or occasional;[16] exclusive when the adverse possessor can show exclusive dominion over the land and an appropriation of it to his own use and benefit; and notorious when it is so conspicuous that it is generally known and talked of by the public or the people in the neighborhood.[17] The party who asserts ownership by adverse possession must prove the presence of the essential elements of acquisitive prescription.[18]

Acquisitive prescription of real rights may be ordinary or extraordinary.[19] Ordinary acquisitive prescription requires possession in good faith and with just title for ten years.[20] In extraordinary prescription, ownership and other real rights over immovable property are acquired through uninterrupted adverse possession for thirty years without need of title or of good faith.[21]

The good faith of the possessor consists in the reasonable belief that the person from whom he received the thing was the

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[13] *Heirs of Marcelina Arzadon-Crisologo v. Rañon*, G.R. No. 171068, September 5, 2007, 532 SCRA 391,404, citing *Calicdan v. Cendaña*, 466 Phil. 894, 902 (2004).

[14] *Id*.

[15] *Id*., citing *Director of Lands v. Intermediate Appellate Court*, 209 SCRA 214, 224 (1992).

[16] *Id*.

[17] *Id*.

[18] *Id*.

[19] Civil Code, Art. 1117.

[20] Civil Code, Art. 1134

[21] Civil Code, Art. 1137.

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owner thereof, and could transmit his ownership.[22] For purposes of prescription, there is just title when the adverse claimant came into possession of the property through one of the modes recognized by law for the acquisition of ownership or other real rights, but the grantor was not the owner or could not transmit any right.[23]

Records show that as early as 1970, when the property was sold by Juana to respondents Spouses Cereno, the latter immediately took possession of the property. Since then, respondents possessed the property continuously, openly, peacefully, in the concept of an owner, exclusively and in good faith with just title, to the exclusion of the petitioners and their predecessors-in-interest until the filing of the complaint in 1999 which is the subject of this present petition.

Notably, the property was traversed by a *barangay* road, thus, it was divided into two lots. The house of respondents is located on the eastern part of the road, while the lot on the western part of the road was planted to fruit-bearing trees by respondents.[24] It was admitted by petitioners that they saw the house of respondents constructed on the lot and yet never questioned the same.[25] It was also established that respondents are the ones gathering the fruits of the land and enjoying the same[26] to the exclusion of petitioners and yet the latter never prevented them from doing so. In fact, while petitioners learned of the sale of the property by Juana to the Spouses Cereno in 1980, they never took any action to protect whatever rights they have over the property nor raised any objection on respondents' possession of the property. Petitioners' inaction is aggravated by the fact that petitioners just live a mere 100 meters away from the property.[27]

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[22] *Calicdan v. Cendaña*, *supra* note 13, at 903, citing Civil Code, Art. 1127.

[23] *Id*., citing Civil Code, Art. 1129.

[24] TSN, July 7, 1999, p. 4.

[25] TSN, July 21,1999, p. 16

[26] TSN, July 7, 1999 (Betty Velasquez), p. 4; TSN, August 11, 1999 (Rodolfo Velasquez), p. 5.

[27] TSN, July 21, 1999, p. 15.

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Moreover, immediately after the sale of the property to the Spouses Cereno, they declared the property in their names for taxation purposes[28] and since then religiously paid the taxes[29] due on the property. Petitioners admitted that they knew that the Spouses Cerenos are the ones paying the taxes;[30] yet, they never challenged the same for a long period of time which clearly establishes respondents' claim as owners of the property. Jurisprudence is clear that although tax declarations or realty tax payments of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of owner, for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession.[31] They constitute at least proof that the holder has a claim of title over the property.[32] As is well known, the payment of taxes, coupled with actual possession of the land covered by the tax declaration, strongly supports a claim of ownership.[33]

Respondent Juanito also exercised dominion over the property by mortgaging the same to Manaoag Rural Bank in 1994[34] and the mortgage was cancelled only in January 1999.[35]

While there is a question regarding the alleged donation *propter nuptias* at the time Juana executed the deed of sale in favor of the Spouses Cereno in 1970, however, the requirement of just title and good faith are still satisfied in this case. As the CA said:

x x x [T]he joint affidavit that the defendants-appellants presented, attesting to the donation *propter nuptias* of the disputed property

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[28] Exhibit "23", folder of exhibits, p. 32.

[29] Annexes "25" to "25-A to 25-P", *id*. at 34-49.

[30] TSN, July 21, 1999, p. 16.

[31] *Heirs of Marcelina Arzadon-Crisologo v. Rañon, supra* note 13, at 410, citing *Republic v. Court of Appeals*, 328 Phil. 238, 248 (1996).

[32] *Id*.

[33] *Id*., citing *Spouses Reyes v. Court of Appeals*, 393 Phil. 493 (2000).

[34] TSN, November 10, 1999, p. 18.

[35] Exhibit "24", folder of exhibits, p. 33.

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by Pablo to Juana, can be the basis of the belief in good faith that Juana was the owner of the disputed property. Related to this, it is undisputed that Pablo and Juana had lived in the disputed property from the time of their marriage in 1919, and Juana continued to live and to possess this property in the concept of an owner from the time of Pablo's death in 1936 up to the time she sold it to spouses Cereno in 1970. These circumstances, in our view, are sufficient bases for the belief that Juana was the owner of the property she conveyed by sale, and leave us convinced that the spouses Cereno had the "good faith" that acquisition by prescription requires when they became the purchasers in the contract of sale with Juana.[36]

Notably, one of the affiants in the joint affidavit which was executed in 1970 was Alfredo, Pablo's son by his first marriage, where he attested that the property was given by his father Pablo to Juana by donation *propter nuptias*. Not one among Alfredo's children had ever come out to assail the validity of the affidavit executed by their father. In fact, not one of Alfredo's heirs joined petitioners in this case.[37] Moreover, not one among the children of the first marriage when they were still alive ever made a claim on their successional rights over the property by asking for its partition. Such joint affidavit could constitute a legal basis for Juana's adverse and exclusive character of the possession of the property[38] and would show the Spouses Cereno's good faith belief that Juana was the owner of the property. Thus, when petitioners filed the instant case, more than 29 years had already elapsed, thus, the ten-year period for acquisitive prescription has already been satisfied.

We likewise agree with the CA when it found that petitioners are guilty of laches that would bar them from belatedly asserting their claim.

Laches is defined as the failure to assert a right for an unreasonable and unexplained length of time, warranting a presumption that the

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[36] *Rollo,* p. 102.

[37] TSN, July 21, 1999, p. 5.

[38] See *Heirs of Segunda Maningding v. Court of Appeals,* G.R. No. 121157, July 31, 1997, 276 SCRA 601.

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party entitled to assert it has either abandoned or declined to assert it. This equitable defense is based upon grounds of public policy, which requires the discouragement of stale claims for the peace of society.[39]

Juana sold the property to the Spouses Cereno in 1970 and since then have possessed the property peacefully and publicly without any opposition from petitioners. While petitioners claim that they knew about the sale only in 1980 yet they did not take any action to recover the same and waited until 1999 to file a suit without offering any excuse for such delay. Records do not show any justifiable reason for petitioners' inaction for a long time in asserting whatever rights they have over the property given the publicity of respondents' conduct as owners of the property.

WHEREFORE, the petition is *DENIED*. The Decision dated August 24, 2004 and the Resolution dated April 29, 2005 of the Court of Appeals in CA-G.R. CV No. 69446 are *AFFIRMED*.

SO ORDERED.

Ynares-Santiago (Chairperson), Chico-Nazario, Velasco, Jr., and *Nachura, JJ.,* concur.

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[39] *Vda. de Rigonan v. Derecho*, G.R. No. 159571, July 15, 2005, 463 SCRA 627, 648, citing *Tijam v. Sibonghanoy*, 23 SCRA 29 (1968).