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between ERI/MPSI and MARINA so as to make the latter a common or even substitute employer that it should be burdened with the obligations of the former.

WHEREFORE, the petition is hereby DISMISSED and the assailed orders AFFIRMED, with costs against petitioner.

SO ORDERED.

Feliciano (Chairman), Bidin, Davide, Jr., and *Romero, JJ.*, concur.

THIRD DIVISION

[G.R. No. 98709. May 13, 1993]

MAGDALENA LLENARES, *petitioner, vs.* **HON. COURT OF APPEALS and APOLINAR ZABELLA,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; FINDINGS OF FACTS OF THE TRIAL COURT, GENERALLY UPHELD ON APPEAL; CASE AT BAR, AN EXCEPTION. —** The public respondent's factual findings on the issue of possession — on the basis of which it rejected the findings of fact and conclusions of the trial court — are conjectural and speculative. Hence, We cannot be bound by such findings under the rule that findings of fact of the Court of Appeals are conclusive on this Court. The trial court gave credence to the petitioner's account that she had legally possessed the property in respondent's "evidence does not convincingly establish that he possessed the property publicly, exclusively and peacefully in the concept of owner."

2. **ID.; ID.; ID.; ID.; REASON. —** The reasons for this pronouncement have already been given. Clearly, these matters are inexorably

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anchored on the witnesses' credibility. It is a settled judicial precept that the issue of the credibility of witnesses is primarily addressed to the trial court since it is in a better position to decide such a question, having seen and heard the witnesses and having observed their deportment and manner of testifying during the trial. Moreover, its findings on such credibility carry great weight and respect, and will be sustained by the appellate court unless certain facts of substance and value have been overlooked which, if considered, might affect the result of the case.

3. CIVIL LAW; PRESCRIPTION OF ACTIONS; LACHES; FAILURE FOR THIRTY-NINE (39) YEARS TO PROTECT AND PRESERVE RIGHT ACQUIRED UNDER THE DEED OF SALE; CASE AT BAR. — The respondent Court erroneously applied the rule on prescription against the petitioner and not against the private respondent. The evidence conclusively established that at an appropriate cadastral proceedings, Lot No. 5015 was awarded by the cadastral court to Juan Zabella and Anastacio Llenares in equal pro-indiviso shares; the decision became final; and on 28 July 1937, OCT No. 43073 was issued in favor of Juan Zabella and Anastacio Llenares. It was only on 17 February 1977, or after the lapse of over thirty-nine (39) years, that the private respondent, as a successor-in-interest of Ariston Zabella, took the first legal step - *i.e.*, the filing of the affidavit of adverse claim - to protect and preserve his supposed right acquired under the deed of sale. Unfortunately, however, this move did not produce any legal effect. An adverse claim under Section 110 of the Land Registration Act (Act No. 496), the governing law at that time, referred to a claim of "any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration." In the instant case, the private respondent's "adverse claim" is one based on a transaction which had occurred long before the rendition of the decision in the cadastral proceedings and the issuance of OCT No. 43073. This seems to have escaped the attention of the public respondent which instead concluded that it was the petitioner who did not take any legal action from 1937, when OCT No. 43073 was issued, until 26 August 1976, when TCT No. 27166 was issued following her execution on 22 June 1976 of the affidavit of "self-adjudication." This conclusion has no basis.

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4. ID.; LAND REGISTRATION ACT; ADVERSE CLAIM; CONSTRUED. — An adverse claim under Section 110 of the Land Registration Act (Act No. 496), the governing law at that time, referred to a claim of "any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration."

5. ID.; SUCCESSION; TRANSFER OF OWNERSHIP OF PROPERTY TO HEIRS TAKES PLACE BY OPERATION OF LAW; AFFIDAVIT OF ADJUDICATION, NOT REQUIRED. — The continued existence of OCT No. 43073 in Juan Zabella's name protected the petitioner as the sole heir of Anastacio Llenares. There is no law which requires her, as a sole heir, to execute an affidavit of adjudication and cause both the cancellation of the OCT and the issuance of a new one in her name and in the names of the heirs of co-owner Juan Zabella in order to transfer the ownership of the property to her, or protect her rights and interests therein. The transfer in her favor took place, *ipso jure*, upon the death of Anastacio Llenares.

6. CIVIL LAW; CADASTRAL ACT; CADASTRAL PROCEEDING, A PROCEEDING *IN REM*; JUDGMENT THEREON BINDS THE WHOLE WORLD. — The deed of sale executed by Anastacio Llenares in 1929 had lost its efficacy after the judgment in the cadastral proceedings adjudicating Lot No. 5015 to him and Juan Zabella became final. Ariston Zabella, the vendee in the said sale, did not file any answer in the cadastral proceedings under the Cadastral Act (Act No. 2259, as amended) are judicial and *in rem*. As such, they bind the whole world. The final judgment rendered therein is deemed to have settled the status of the land subject thereof; any claim over it not noted thereon by other parties is therefore deemed barred under the principle of *res judicata*. In a cadastral proceeding, the Government is actually the plaintiff and all the claimants are defendants. This is because the former, represented by the Solicitor General, institutes the proceedings by a petition against the holder, claimants, possessors or occupants of such lands or any part thereof while the latter, or those claiming interest in the entire land or any part of it, whether named in the notice or not, are required to appear before the court and file an answer on or before the return day or within such further time as may be allowed by the court. All conflicting interests shall be adjudicated therein and the decree awarded in favor of the

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party entitled to the land; when it has become final, the decree shall serve as the basis for an original certificate of title in favor of the said party. This shall have the same effect as a certificate of title granted under the Land Registration Act.

7. ID.; ID.; ID.; REMEDIES AVAILABLE TO AN AGGRIEVED PARTY; CASE AT BAR. — A party fraudulently deprived of his property in a cadastral proceeding may nevertheless file, within one (1) year from the entry of the decree, a petition for review. After the lapse of the said period, if the property has not yet passed on to an innocent purchaser for value, an action for reconveyance may still be filed by the aggrieved party. In the instant case, that action for reconveyance could have only been based on an implied trust defined in Article 1456 of the Civil Code.

8. ID.; PRESCRIPTION OF ACTIONS; ACTION FOR RECONVEYANCE ON IMPLIED TRUST PRESCRIBES IN TEN (10) YEARS. — It is now settled that an action for the reconveyance of property based on an implied or constructive trust prescribes in ten (10) years.

APPEARANCES OF COUNSEL

Florante P. Pamfilo for petitioner.
Renato A. Martinez for private respondent.

D E C I S I O N

DAVIDE, JR., *J.*:

Petitioner availed of this recourse under Rule 45 of the Revised Rules of Court to obtain a reversal of the Decision of the Seventh Division of the Court of Appeals in CA-G.R. CV No. 09853, promulgated on 24 April 24, 1991,[1] and the reinstatement of the 4 April 1986 Decision of Branch 57 of the Regional Trial Court (RTC), Lucena City, in a case[2] involving the recovery

[1] Annex "A" of Petition; *Rollo*, 12-18. Per Associate Justice Serafin E. Camilon, concurred in by Associate Justice Celso L. Magsino and Artemon D. Luna.

[2] Entitled "*Magdalena Llenares vs. Apolinar Zabella*."

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of the possession and quieting of title over a parcel of land. The dispositive portion of the trial court's decision reads as follows:

"'WHEREFORE, judgment is hereby rendered for the plaintiff who is declared the true and absolute owner of the land covered by TCT No. 28170 (Registry of Deeds, Lucena City) particularly described in par. 2 of plaintiff's complaint and it is hereby ordered —

1. That the defendant or any person acting in his behalf surrender and transfer possession of the land in question (covered by TCT No. 28170 to the plaintiff;

2. That the defendant render an accounting of the fruits he received from the aforementioned property from August 1976 until possession is transferred to the plaintiff, said accounting to be approved by the court;

3. That in keeping with the findings of this court, the Register of Deeds, Lucena City, should, as he is hereby ordered cancel Entry No. 35285 in TCT No. 28170, said entry being an annotation of the adverse claim of defendant Apolinar Zabella inscribed on Feb. 17, 1977;

4. That the defendant pay to plaintiff the amount of ₱2,500.00 as attorney's fees and ₱1,000.00 as expenses of litigation.'"[3]

Petitioner filed the aforementioned complaint on 12 July 1977 after she had been allegedly dispossessed of the property in question by private respondent Apolinar Zabella in 1976, and after the latter had caused to be annotated in Transfer Certificate of Title (TCT) No. 28170 an affidavit of adverse claim on 17 February 1977. She prayed therein that, inter alia, she be restored to the possession of the said property and that the adverse claim be cancelled.[4]

As disclosed by the pleadings and the challenged decision, the antecedent facts are as follows:

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[3] *Rollo*, 16.

[4] *Id.*, 12-13.

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Juan Zabella and Anastacio Llenares were co-owners, in equal shares, of a parcel of land situated in barrio Silangang Mayao of the then Municipality, now City, of Lucena. In the cadastral survey of the said municipality, the lot was designated as Cadastral Lot No. 4804-D. This designation was later changed to Lot No. 5015.

On 21 December 1929, Anastacio Llenares sold his one-half (1/2) share in the lot to Ariston Zabella, private respondent's father. Subsequently, after due proceedings, the cadastral court awarded Lot No. 5015 to Juan Zabella and Anastacio Llenares in equal shares. Decree No. 54398 was issued to both of them and on the basis thereof, Original Certificate of Title (OCT) No. 43073 was issued in their names on 28 July 1937.

Anastacio Llenares passed away on 27 March 1931 leaving the petitioner, his only child, as his sole heir. On the other hand, Juan Zabella died on 27 June 1952 and was survived by his sister Rosario Zabella and niece Irene Catapat. On 5 February 1960, Rosario and Irene adjudicated to themselves Juan Zabella's one-half (½) share in the lot. This adjudication was annotated in OCT No. 43073. Rosario died on 5 June 1962 leaving, as her only heirs, her children Godofredo, Noemi, Natividad, Olimpio and Numeriana, all surnamed Zaracena.

On 22 June 1976, petitioner, as the sole heir of Anastacio Llenares, adjudicated to herself, by way of a *Salaysay ng Pagmamana ng Nag-iisang Tagapagmana* (Exhibit "A"), the one-half (½) share in the property belonging to Anastacio Llenares. This fact was likewise annotated in OCT No. 43073.

On 26 August 1976, however, OCT No. 43073 was cancelled and in its place, TCT No. T-27166 was issued for the entire lot. On 16 February 1977, private respondent Zabella filed an adverse claim which was duly annotated in TCT No. T-27166.

As a consequence of a *Kasunduan ng Pagpasukat* (Exhibit "I") executed by and between Irene Catapat and the heirs of Rosario Zabella Zaracena, Lot No. 5015 was subdivided into Lot Nos. 5015-A, 5015-B and 5015-C. Lot No. 5015-A, which comprises one-half (½) of Lot No. 5015 corresponding to

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Anastacio's share, was allotted to the petitioner. TCT No. T-27166 was thereafter cancelled and separate Transfer Certificates of Title were issued for each of the subdivided lots. TCT No. 28170 was issued in the petitioner's name for Lot No. 5015-A.

As regards the issue of possession, the petitioner's evidence discloses that since she was only four (4) years old when her father died, her cousin Rosario Zabella administered the land in question until 1959 when she (petitioner) placed Rufo Orig as tenant therein. The latter worked as such, delivering to the petitioner her share of the harvest until 1976, when he stopped doing so as he was ordered by the private respondent not to give the petitioner her share anymore. Private respondent allegedly claimed ownership over the property. Petitioner further proved that she had been paying the land taxes on the property until the filing of the case.

On the other hand, according to his own version, private respondent and his siblings took possession of that portion of the land sold by Anastacio Llenares after Ariston Zabella's death on 21 March 1930. He then converted the same into riceland. It was irrigated in 1955 and he has been paying the irrigation charges thereon since 1960. Moreover, he and his co-heirs have been in possession of the property without interference by any party until "the present."[5]

The trial court limited the issues to the following: whether the private respondent had acquired absolute ownership of the land in question by prescription and whether the plaintiff's (petitioner) action is barred by laches.[6] In finding for the petitioner, the lower court made the following disquisitions:

"'It is beyond cavil that the land in question (then part of a big parcel) has been registered and titled in the name of plaintiff's father Anastacio Llenares since July 28, 1937 even as it is now registered in the name of plaintiff who made an affidavit of self-adjudication on June 22, 1976 being the only of Anastacio Llenares. Anastacio

[5] *Rollo,* 12-14.

[6] *Id.,* 14.

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Llenares became the registered owner by virtue of a cadastral proceedings, a proceedings *in rem* that is binding and conclusive against the whole world. No evidence of irregularity or fraud in the issuance of the title has been adduced, and even if there is intrinsic fraud, the period of one year within which to ventilate this infirmity has long expired. It is a postulate in law that `no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession. Prescription is unavailing not only against the registered owner but also against his hereditary successors because the latter merely step into the shoes of the decedent by operation of law and are merely the continuation of the personality of their predecessor in interest.' (*Barcelona vs. Barcelona*, 100 Phil. 251). On this score alone, defendant's claim of prescription should fail. The court also notes, in passing, that defendant's evidence does not convincingly establish that he possessed the property publicly, exclusively and peacefully in the concept of owner. For one thing, he has not even paid any realty tax on the property as the property is not declared for taxation purposes in his name. The court is neither impressed with the credibility of defendant's witnesses. For example, the witness Sergio Dalida testified that in 1918 the land in litigation was in the possession of Ariston Zabella (T.S.N. 8-21-84 p. 8). There seems to be no truth to this because the property was bought by Ariston Zabella only in the year 1929. And then, there was that other witness Cosme Ranillo who unequivocally admitted during cross-examination that he was coached by the defendant (vide: t.s.n. 11-20-84, p. 24-26).

'As regards the Deed of Sale of the property in litigation in favor of Ariston Zabella (Exh. "1") which is apparently the cornerstone of defendant's claim over the property the court concurs with the submission of the defendant that after final judgment has been rendered in the cadastral proceedings, all rights or claims prior thereto are deemed barred by the principle of *res judicata*. Hence after the finality of the judgment in the cadastral case, the Deed of Sale has lost its efficacy being *functus officio*.

'With respect to the defense of laches so emphatically and exhaustively discussed by defendant's counsel in his brief we find this to be devoid of merit because of the following cogent reasons, *viz*:

> 'Firstly, the defense of laches was never interposed or pleaded in the answer filed by the defendant. Not even in our most gratuitous moment can we see a nuance of this defense being

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asserted in the answer: It is a rule of procedure that defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. (Sec. 2 Rule 9 of the Rules of Court).

'Secondly, the evidence shows that plaintiff has not been sleeping on her rights. According to her she was dispossessed of the land in 1976. It is admitted by the defendant that in 1977, plaintiff lodged a complaint against the defendant regarding the land in question with the Presidential Action Committee, On Land Problems (PACLAP) as (sic) Camp Wilhelm, Lucena City. And then the instant action was filed in court on July 12, 1977.

'On the contrary it is the defendant and/or his predecessor in interest who have been sleeping on their rights, if any. They did not assert their right of ownership over the land in question arising from the Deed of Sale during the cadastral proceedings in the year 1937 or thereabout (sic). Except for filing an adverse claim on February 17, 1977, defendant has not taken any step to have the title of the property and its tax declaration transferred to his name.

'Thirdly, as adverted to, a title once registered cannot be defeated even by adverse, open and notorious possession. In the same vein, laches, too, may not be considered a valid defense for claiming ownership of registered land. Where prescription would not lie, neither would laches be available (*De La Cruz vs. De La Cruz*, CA-G.R. No. 4700-R, Aug. 14, 1950; *Adove vs. Lopez*, CA-G.R. No. 18060-R, Aug. 30, 1957).'"[7]

From this adverse decision, the private respondent appealed to the respondent Court of Appeals, which docketed the case as CA-G.R. CV No. 09853. He asked the respondent Court to reverse the RTC because the latter erred: (a) in not considering the unsullied testimonial and documentary evidence for the appellant; (b) in appreciating the plaintiff-appellee's flimsy and insufficient testimonial evidence; (c) in not declaring that prescription and laches were raised by the defendant; (d) in declaring that the failure to present to the cadastral court the

[7] *Rollo*, 14-16.

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deed of absolute sale bars the defendant (private respondent) from proving his ownership over the land in suit; and (e) in rendering judgment in favor of the petitioner.[8]

In its Decision, the respondent Court upheld the private respondent's position and decreed as follows:

"WHEREFORE, the appealed decision is reversed and another one entered —

1) declaring defendant-appellant the true and lawful owner of the 12,501 square meters of land described in and covered by Transfer Certificate of Title No. T-28170 of the Registry of Deeds of Lucena City;

2) ordering the plaintiff-appellee to execute to the defendant-appellant the proper deed of conveyance transferring full ownership of Transfer Certificate of Title No. T-28170 to the said defendant-appellant;

3) ordering the Register of Deeds of Lucena City to cancel said Transfer Certificate of Title No. T-28170 and to issue thereafter a new one in the name of defendant-appellant, in the event the plaintiff-appellee shall fail or refuse to execute the conveyance;

4) ordering the plaintiff-appellee to pay attorney's fees of ₱10,000.00.

Costs against the plaintiff-appellee."[9]

In resolving the appeal against the petitioner, the respondent Court stressed the fact that although OCT No. 43073 was issued in 1937, it was only on 26 August 1976 that the petitioner initially moved "to change the registered ownership" of the property with the issuance of TCT No. 27166. At that time, petitioner was already forty-nine (49) years old. In short, the respondent Court observed that she allowed twenty-eight (28) years to pass — from the time she attained the age of majority — before taking any affirmative action to protect her rights over the

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[8] *Rollo*, 6-7.

[9] *Id.*, 18.

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property. It thus concluded that "suspicion then is not altogether unjustified that the inaction was because the appellee knew of the sale by her father to Juan Zabella (sic)," and that such knowledge is notice "that appellee had no right over half of the land."[10]

Anent the petitioner's contention that the private respondent is not only guilty of laches but that prescription had already set in against him, the respondent Court ruled that the former's evidence speaks otherwise because after TCT No. T-27166 was issued on 26 August 1976, the private respondent promptly filed his adverse claim, thereby making of record his interest in the land. Thus, neither prescription nor laches applies against him.[11]

Public respondent also overturned the trial court's finding that the petitioner was in possession of the property until she was dispossessed in 1976 by the private respondent principally because it was only in the third quarter of 1977 that she (petitioner) declared the questioned property in her name, and had paid land taxes thereon only for the same third quarter of 1977. The other tax payments were not in her name, but in the names of Godofredo Zaracena and Juan Zabella. The respondent Court opined that "[N]ormally, one who claims possession in ownership will declare the property in his name and will pay taxes on it,"[12] and concluded that the petitioner's claimed possession "is not possession in law that deserves protection and recognition."[13] On the other hand, it gave credit to the private respondent's version chiefly because he has been paying irrigation charges since 1960.

Aggrieved thereby, the petitioner took this recourse, and raises the following issues:

"1. Whether or not the alleged sale of a property by virtue of an instrument which was not filed or registered under Act

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[10] *Rollo,* 17.

[11] *Id.*

[12] *Rollo,* 17.

[13] *Id.*

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3344 and was not submitted before the Cadastral Court during the hearing thereof may deprived (sic) an adjudicated-declared owner the (sic) enjoyment of possession and the improvements thereof.

2. Whether or not a party in (sic) whose title was vested by virtue of a rendition of judgment and issuance of the decree of registration in a judicial proceeding *in rem* which as such, binds the whole world and who ever claim (sic) thereafter on the said land are (sic) deemed barred under the principle of *res judicata.*

3. Whether (sic) or not a property covered by Torence (sic) Title can be acquired by prescription or adverse possession."[14]

After the private respondent filed his Comment, We gave due course to the petition and directed both parties to submit their respective Memoranda, which they complied with.

The petition is impressed with merit.

1. In the first place, the public respondent's factual findings on the issue of possession — on the basis of which it rejected the findings of fact and conclusions of the trial court — are conjectural and speculative. Hence, We cannot be bound by such findings under the rule that findings of fact of the Court of Appeals are conclusive on this Court.[15] The trial court gave credence to the petitioner's account that she had legally possessed the property in respondent's "evidence does not convincingly establish that he possessed the property publicly, exclusively and peacefully in the concept of owner."[16] The reasons for this pronouncement have already been given. Clearly, these matters are inexorably anchored on the witnesses' credibility. It is a settled judicial precept that the issue of the credibility of

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[14] *Id.,* 7.

[15] *Joaquin vs. Navarro,* 93 Phil. 257 [1953]; *Salazar vs. Gutierrez,* 33 SCRA 242 [1970]; *Remalante vs. Tibe,* 158 SCRA 138 [1988]; *Medina vs. Asistio, Jr.,* 191 SCRA 218 [1990].

[16] *Rollo,* 15.

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witnesses is primarily addressed to the trial court since it is in a better position to decide such a question, having seen and heard the witnesses and having observed their deportment and manner of testifying during the trial.[17] Moreover, its findings on such credibility carry great weight and respect, and will be sustained by the appellate court unless certain facts of substance and value have been overlooked which, if considered, might affect the result of the case.[18] That the petitioner neither declared the property in her name nor paid the taxes thereon until 1977 is not, contrary to the public respondent's conclusion, fatal to her cause. Until 27 June 1976, the property remained covered by OCT No. 43073 in the names of Juan Zabella and Anastacio Llenares. The private respondent's alleged claim was not annotated thereon. There is, as well, no evidence to show that the private respondent had earlier made any extrajudicial or judicial demands to enforce his claim on the property based on the so-called deed of sale which Anastacio had executed on 21 December 1929 in favor of Ariston Zabella, the private respondent's predecessor-in-interest. Since the petitioner is Anastacio Llenares's sole heir, the continued existence of OCT No. 43073 fully protected her rights; and her failure to declare for taxation purposes the one-half (½) portion of the land pertaining to Anastacio did not, therefore, prejudice her because the payments of the real estate taxes by others — such as Godofredo Zaracena and Juan Zabella, as found by the public respondent per Exhibits "C", "C-1" and "C-2"[19] — for and in behalf of the registered owners — benefited the registered owners themselves and their successors-in-interest. On the other hand, the private respondent neither had the property declared in his name for taxation purposes nor paid the real estate taxes thereon. All that he paid, and this was only beginning in 1960, were the irrigation charges. And yet, the respondent Court resolved the

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[17] *People vs. Bantac,* 167 SCRA 109 [1988]; *People vs. de la Cruz,* 184 SCRA 416 [1990]; *People vs. Beringuel,* 192 SCRA 561 [1990].

[18] *People vs. Arciaga,* 98 SCRA 1 [1980]; *People vs. Marzan,* 128 SCRA 203 [1984]; *People vs. Alcid,* 135 SCRA 280 [1985].

[19] *Rollo,* 17.

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issue in his favor. This palpable inconsistency on the part of the Court of Appeals defies all logic.

Furthermore, the respondent Court's conclusion that the petitioner made no move to have the property declared in her name or pay the real estate taxes thereon before 1976 because she knew all along about the 1929 sale executed by her father to Ariston Zabella, is plain speculation and, as characterized by the public respondent, a mere "suspicion," thus:

> "x x x The suspicion then is not altogether unjustified that the inaction was because the appellee knew of the sale by her father to Juan (sic) Zabella. x x x"[20]

Such a suspicion has no basis at all. The parties do not dispute the fact that at the time of Anastacio Llenares' death on 27 March 1931, the petitioner was only four (4) years old. The deed of sale was executed by Anastacio Llenares on 21 December 1929, when the petitioner was only two (2) years old. Being at that time very much below the age of reason, the petitioner could not have been expected to be aware of the existence of the said deed of sale, much less understand its contents. The evidence failed to show that the private respondent informed the petitioner of such a sale at any time before the former filed the adverse claim on 17 February 1977.

2. Secondly, the respondent Court erroneously applied the rule on prescription against the petitioner and not against the private respondent. The evidence conclusively established that at an appropriate cadastral proceedings, Lot No. 5015 was awarded by the cadastral court to Juan Zabella and Anastacio Llenares in equal pro-indiviso shares; the decision became final; and on 28 July 1937, OCT No. 43073 was issued in favor of Juan Zabella and Anastacio Llenares. It was only on 17 February 1977, or after the lapse of over thirty-nine (39) years, that the private respondent, as a successor-in-interest of Ariston Zabella, took the first legal step — *i.e.*, the filing of the affidavit of adverse claim — to protect and preserve his supposed right

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[20] *Rollo,* 17.

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acquired under the deed of sale. Unfortunately, however, this move did not produce any legal effect. An adverse claim under Section 110 of the Land Registration Act (Act No. 496), the governing law at that time, referred to a claim of "any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration."[21] In the instant case, the private respondent's "adverse claim" is one based on a transaction which had occurred long before the rendition of the decision in the cadastral proceedings and the issuance of OCT No. 43073. This seems to have escaped the attention of the public respondent which instead concluded that it was the petitioner who did not take any legal action from 1937, when OCT No. 43073 was issued, until 26 August 1976, when TCT No. 27166 was issued following her execution on 22 June 1976 of the affidavit of "self-adjudication." This conclusion has no basis. As has been earlier adverted to, the continued existence of OCT No. 43073 in Juan Zabella's name protected the petitioner as the sole heir of Anastacio Llenares. There is no law which requires her, as a sole heir, to execute an affidavit of adjudication and cause both the cancellation of the OCT and the issuance of a new one in her name and in the names of the heirs of co-owner Juan Zabella in order to transfer the ownership of the property to her, or protect her rights and interests therein. The transfer in her favor took place, *ipso jure*, upon the death of Anastacio Llenares.[22]

3. Finally, the so-called deed of sale executed by Anastacio Llenares in 1929 had lost its efficacy after the judgment in the cadastral proceedings adjudicating Lot No. 5015 to him and Juan Zabella became final. Ariston Zabella, the vendee in the said sale, did not file any answer in the cadastral proceedings under the Cadastral Act (Act No. 2259, as amended)[23] are judicial

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[21] Under Section 70 of the Property Registration Decree (P.D. No. 1529), the lifetime of an adverse claim is limited to thirty (30) days from its registration.

[22] Article 774, Civil Code.

[23] Cadastral proceedings are now governed by the Property Registration Decree (P.D. No. 1529).

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and *in rem*. As such, they bind the whole world. The final judgment rendered therein is deemed to have settled the status of the land subject thereof; any claim over it not noted thereon by other parties is therefore deemed barred under the principle of *res judicata*.[24] In a cadastral proceeding, the Government is actually the plaintiff and all the claimants are defendants.[25] This is because the former, represented by the Solicitor General, institutes the proceedings by a petition against the holder, claimants, possessors or occupants of such lands or any part thereof while the latter, or those claiming interest in the entire land or any part of it, whether named in the notice or not, are required to appear before the court and file an answer on or before the return day or within such further time as may be allowed by the court.[26] All conflicting interests shall be adjudicated therein and the decree awarded in favor of the party entitled to the land; when it has become final, the decree shall serve as the basis for an original certificate of title in favor of the said party. This shall have the same effect as a certificate of title granted under the Land Registration Act.[27]

A party fraudulently deprived of his property in a cadastral proceeding may nevertheless file, within one (1) year from the entry of the decree, a petition for review.[28] After the lapse of the said period, if the property has not yet passed on to an innocent purchaser for value, an action for reconveyance may still be filed by the aggrieved party.[29] In the instant case, that action for reconveyance could have only been based on an implied trust defined in Article 1456 of the Civil Code:

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[24] *Nieto vs. Quines*, 6 SCRA 74 [1962]; *Rodriguez vs. Toreno*, 79 SCRA 356 [1977]; *Cachero vs. Marzan*, 196 SCRA 601 [1991].

[25] *Director of Lands vs. Roman Catholic Archbishop of Manila*, 41 Phil. 120 [1920].

[26] Sections 5 and 9, Cadastral Act (see Sections 36 and 37, P.D. No. 1529).

[27] Section 11, Cadastral Act (see Section 38, P.D. No. 1529).

[28] Section 38, Land Registration Act; Section 32 of P.D. No. 1529.

[29] *Director of Lands vs. Register of Deeds of Rizal*, 92 Phil. 826 [1953].

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"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."

It is now settled that an action for the reconveyance of property based on an implied or constructive trust prescribes in ten (10) years.[30]

WHEREFORE, judgment is hereby *rendered GRANTING* the *instant petition, ANNULLING* the *challenged decision of the public respondent Court of Appeals of 24 April 1991 in CA-G.R. CV No. 09853 and REINSTATING* the *decision of the trial court* subject of the appeal in the latter case.

Costs against the private respondent.

SO ORDERED.

Feliciano (Chairman), Bidin, Romero, and *Melo, JJ*., concur.

THIRD DIVISION

[G.R. No. 102970. May 13, 1993]

LUZAN SIA, *petitioner, vs.* **COURT OF APPEALS and SECURITY BANK AND TRUST COMPANY,** *respondents*.

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; FINDINGS OF FACT OF THE COURT OF APPEALS, GENERALLY

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[30] *Heirs of Revilleza vda. de Vega vs. Court of Appeals*, 199 SCRA 168 [1991]; *Gonzales vs. Intermediate Appellate Court*, 204 SCRA 106 [1991].