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We hold that Abing's commission of two rapes was proven beyond reasonable doubt. The trial court erred in convicting him of only one rape and in imposing upon him the penalty of *reclusion temporal* and not *reclusion perpetua,* which is the penalty applicable to this case under Republic Act No. 4111.

However, considering the circumstances of the case, particularly Abing's old age and the fact that his constant association with his niece-in-law and his propinquity to her had tempted him to lust after her, had weakend his moral fiber and scruples and undermined his self-control, we are impelled, under Article 5 of the Revised Penal Code, to recommend to the Chief Executive, through the Minister of Justice, that after Abing had served an additional term of his two life sentences consistent with the demands of retributive justice, executive clemency may be extended to him.

WHEREFORE, the judgment of conviction is affirmed but the lower court's decision is modified by sentencing accused-appellant Jose Abing to two *reclusion perpetuas,* subject to the forty-year limit, and ordering him to pay Norma Banagua two indemnities of five thousand pesos each, or a total indemnity of ten thousand pesos, in addition to the support of his child, Joselito Banagua. Costs against the appellant.

SO ORDERED.

*Barredo (Chairman), Concepcion Jr., Abad Santos, De Castro* and *Ericta, JJ.,* concur.

*Escolin, J.,* did not take part.

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SECOND DIVISION

[G.R. No. 52741. March 15, 1982]

SALUD RAMOS, petitioner, *vs.* COURT OF APPEALS, ALEJANDRO CATAMBAY and ADELA MENDE-NACELI, respondents.

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SYNOPSIS

Petitioner, a natural child of Catalina Ramos, the only child and heir of the original owners of the property in question, filed before the Court of First Instance of Rizal on March 13, 1973, a complaint for reconveyance against private respondents, whom she claimed were guilty of fraud in obtaining the signature of her mother in a fictitious and simulated deed of sale, making the same appear as a mere guarantee of payment. Private respondents denied the material allegations thereof and alleged as affirmative defenses that the property was sold to them by Catalina Ramos on December 30, 1933 and by virtue of the registration of the deed of sale in their favor, they were issued TCT No. 25962 on May 12, 1934. Since then, they had been in public, peaceful and adverse possession as exclusive owners and paid their real estate taxes religiously. The lower court rendered judgment declaring the petitioner as the rightful owner but said judgment was reversed on appeal, to the Court of Appeals.

On review by certiorari, the Supreme Court held, that apart from the questioned deed of sale which may be a source of respondents' right of ownership over the property, their said right had been rendered indisputable by the effects of acquisitive prescription in their favor, which had commenced to run since May 12, 1934 and applying Art. 1116 of the New Civil Code, such adverse possession had ripened into ownership after the lapse of ten years under Sec. 40 of the Code of Civil Procedure.

Decision appealed from, affirmed.

SYLLABUS

1. CIVIL LAW; PRESCRIPTION; ACQUISITIVE PRESCRIPTION; ACQUISITION OF TITLE TO THE LAND BY POSSESSION IN CONCEPT OF OWNER.— Where it is of record that private respondents have been in continuous possession of the litigated parcel of land since they bought the same in 1934 and since then, have been paying the real estate taxes due thereon and had declared said property in their name for taxation purposes, it appears too clear, even from the standpoint of acquisitive prescription, which seems to be more decisive, that private respondents have acquired title to the land in suit by virtue of possession in the concept of an owner.

2. REMEDIAL LAW; EVIDENCE; DOCUMENTARY EVIDENCE; TAX DECLARATION AND TAX RECEIPTS; STRONG EVIDENCE OF POSSESSION.— As correctly ruled by the appellate court, "while tax declaration and tax receipts are not necessarily evidence of title,

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they are strong evidence of possession for no one in his right mind would be paying taxes year after year for a property that is not in his actual possession."

3. ID.; CIVIL PROCEDURE; COMPLAINT FOR RECONVEYANCE OF REGISTERED PROPERTY; COMMENCEMENT OF CAUSE OF ACTION; FROM REGISTRATION WITH REGISTRY OF DEEDS; CASE AT BAR.— Petitioner's complaint for reconveyance was filed in the lower court only on March 13, 1973, 39 years after the registration of the deed of absolute sale in favor of private respondents and the issuance of a certificate of title in their name exclusively on May 12, 1934, from which latter date petitioner's cause of action, if any, must be deemed to have commenced, since the registration of the aforesaid deed of sale in the office of the Registry of Deeds constitutes a constructive notice to the whole world of its contents and all interests, legal and equitable, included therein.

4. CIVIL LAW; PRESCRIPTION; ACQUISITIVE PRESCRIPTION; COMMENCEMENT OF PRESCRIPTIVE PERIOD PRIOR TO EFFECTIVITY OF THE NEW CIVIL CODE; LAWS APPLICABLE; CASE AT BAR.— Where the prescriptive period had already run since May 12, 1934, prior to the effectivity of the new Civil Code on August 30, 1950, there can be no doubt that the former laws on prescription apply here, pursuant to Article 1116 of the Civil Code. Under Section 40 of the Code of Civil Procedure formerly in force, adverse possession ripened into ownership after the lapse of ten (10) years, good or bad faith of the possessor being immaterial for purposes of acquisitive prescription. In like manner, an action to recover title to or possession of immovable property prescribed in the same period of 10 years. (Banawa *v.* Mirano 97 SCRA 517; Ongsiaco *v.* Dallo, 27 SCRA 161).

5. ID.; ID.; ID.; FAVORABLE EFFECTS; RIGHT OF OWNERSHIP BECOMES INDISPUTABLE; CASE AT BAR.— It becomes apparent, that private respondents, apart from being the vendee of the parcel of land in question as evidenced by the questioned deed of sale which may be a source of their right of ownership over the property, their said right had been rendered indisputable when the favorable effects of acquisitive prescription had set in on their side. The instant case, not having been filed within 10 years from the time the cause of action accrued on May 12, 1934, prescribed in 1944 because the complaint was filed only on March 13, 1973, about 39

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years later. Consequently, the possession of private respondents over the litigated property ripened into full ownership in 1944, ten years after May 12, 1934, when their possession which was actual, open, public and continuous, under a claim of title exclusive of any right and adverse to all other claims, commenced.

APPEARANCES OF COUNSEL

*Galicano E. San Jose* for petitioner.
*Ernesto P. Pangalangan* for private respondents.

DECISION

DE CASTRO, *J.*:

This is a petition for certiorari under Rule 45 of the Revised Rules of Court to review the decision[1] of the respondent Court of Appeals in CA-G.R. No. 58743-R, entitled "Salud Ramos, plaintiff-appellee, *vs.* Alejandro Catambay and Adela Mendenaceli, defendants-appellants," promulgated on February 5, 1980, setting aside the decision of the Court of First Instance of Rizal, Seventh Judicial District, Branch II, which declared petitioner as the rightful owner of the litigated parcel of land described in paragraph 3 of her complaint and ordering the private respondents to execute the necessary deed of reconveyance in her favor.

Records show that the property in question was owned and registered in the name of Gabriel Ramos, married to Francisca Catambay under Transfer Certificate of Title No. 13823.[2] On June 18, 1928, the spouses mortgaged the above-mentioned land with the Philippine National Bank to guarantee payment of a loan in the amount of ₱500. The couple died on September 19, 1930 and March 26, 1930, respectively, leaving the said land burdened with the mortgage in favor of PNB, and were survived by their only child Catalina Ramos. Being the only heir, Catalina Ramos summarily settled and adjudicated to herself the descendible estate

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[1] Annex "E" Petition, pp, 53-62, Rollo.

[2] Exhs. "A" & "B", Records of Exhibits.

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of her parents, including the land in question, and as a result of which, she was issued a new Transfer Certificate of Title No. 25961 for said land, upon cancellation of T.C.T. No. 13823; her parent's title. Meanwhile, or on May 12, 1933, the mortgage in favor of PNB was cancelled as shown in the memorandum of encumbrances appearing on T.C.T. No. 13823.[3]

After Catalina Ramos became the registered owner of the aforesaid land, she sold it to respondent Alejandro Catambay, as evidenced by a Deed of Absolute Sale of Registered Property[4] dated December 30, 1933, on the basis of which, the latter was issued Transfer Certificate of Title No. 25962[5] on May 12, 1934, cancelling T.C.T No.25961 in the name of the former. It also appears that since 1934 and every year thereafter, respondent Catambay has been paying the realty tax due on said property and had declared the same in his name.[6]

On March 13, 1973, petitioner filed a complaint[7] for reconveyance against private respondents with the Court of First Instance of Rizal, praying that she be declared the sole and absolute owner of the questioned parcel of land, which covers an area of 159.791 square meters, originally owned by the spouses Gabriel Ramos and Francisca Catambay, but which was inherited by her late mother, Catalina Ramos, as the only heir of said spouses. Petitioner alleged in substance, in her complaint that during the lifetime of said spouses, they mortgaged the property to the Philippine National Bank; that upon their death, her mother, Catalina Ramos, paid the mortgage indebtedness with the Bank partly from funds coming from the private respondents, Alejandro Catambay and Adela Mendenaceli, for which reason Catalina Ramos was made to sign a document guaranteeing

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[3] p. 2, Record on Appeal.

[4] Exh. "1", Records of Exhibits.

[5] Exh. "2", *Id.*

[6] Exhs. "4, 4-A to 4-D" & "5, 5-A to 5-H", *(Id.)*

[7] Annex "A", Petition, pp. 34-38, Rollo.

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payment of the amount advanced by said respondents; that Catalina Ramos died intestate last June 18, 1943; that in May 1971, she discovered for the first time that the title to said property had already been transferred in the name of private respondents by virtue of an extrajudicial adjudication executed by her mother pursuant to which the original certificate of title in the name of Gabriel Ramos and Francisca Catambay was cancelled and a new one issued in the name of her mother, who thereafter executed a deed of absolute sale in favor of the private respondents; that the aforestated extrajudicial adjudication and deed of sale where fictitious and simulated because private respondents, who claim to be the owners of the litigated property, were guilty of fraud in obtaining the signature of her mother to a document to which they claimed was merely to guarantee payment of the money advanced by them for the redemption of the property from the bank, but which in reality was a deed of sale.

Answering said complaint,[8] private respondents denied the material allegations thereof, and alleged as special and affirmative defense that the property was sold to them by Catalina Ramos on December 30, 1933, after she became the owner thereof by virtue of a summary adjudication as the only heir of the original owners, and that by virtue of the registration of the deed of sale in their favor, they were issued T.C.T. No. 25962 on May 12, 1934, and that since then, or for a period of more than 39 years, they had been in possession of said property as the exclusive owners thereof publicly, peacefully and adversely against the world and had religiously paid the real estate taxes thereof since 1934. They likewise alleged that the action is already barred by the statute of limitations. Private respondents further questioned the legal capacity of petitioner to bring the action since her right to inherit as heir of Catalina Ramos, claiming to be the latter's natural child, had not been duly established, because said Catalina had left a legitimate son.

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[8] Annex "B" Petition, pp. 39-42, *Id.*

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After hearing, the lower court rendered judgment[9] on October 22, 1975, declaring, as earlier indicated, the petitioner as the rightful owner of the litigated land and ordered private respondents to execute the necessary deed of reconveyance in her favor. However, on appeal at the instance of private respondents, the Court of Appeals set aside the decision of the lower court and dismissed petitioner's complaint. Hence, the present recourse filed by petitioner.

It is worthy of note that private respondents have in their favor the presumption of regularity in the issuance of the certificate of title in their names in the ordinary course of law. The questioned deed of absolute sale, being a public document, is by law likewise entitled to full faith and credit upon its face by the Courts unless it is shown by competent evidence that its execution was tainted by defects or irregularities that would warrant its declaration of nullity. The person claiming its invalidity, therefore, has the burden of producing such evidence to support his allegation because the presumption prevails until it is overcome. In order to contradict this, as petitioner attempted to do, it is incumbent upon her to prove said claim with clear, convincing, strong and irrefutable proof, more than merely preponderant evidence which will not suffice.[10]

The evidence adduced by the petitioner in her attempt to prove that private respondents were guilty of fraud because what the latter had represented to her mother, Catalina Ramos, as a mere document guaranteeing repayment of the amount advanced by them for the payment of the mortgage indebtedness of Gabriel Ramos and Francisca Catambay with the bank was actually a deed of sale and this fact, petitioner claimed, she discovered only in May 1971 when she checked the title of the litigated property

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9 Annex "D" Petition, pp. 46-52, *Id.*

10 Robinson *v.* Villafuerte, 18 Phil 171; Camacho *v.* Municipality of Baliuag, 28 Phil. 466; Mendezona *v.* Phil. Sugar Estates Development Co., 41 Phil. 475; cf. Jocson *v.* Estacion, G.R. No. L-41867, July 22, 1935, cited in Lopez *v.* Casaclang, 24 SCRA 731.

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with the Office of the Register of Deeds, has not resulted in defeating the validity, authenticity and force of the questioned deed of absolute sale executed by Catalina Ramos in favor of private respondents as well as the transfer certificate of title subsequently issued in the name of the latter. We have conscientiously reviewed the evidence and the entire records of the case and We see no reason to disagree with the conclusion made by the Court of Appeals that the evidence presented by petitioner to overcome the presumptions adverted to, failed far short of the requirement of clear, strong and convincing evidence. As aptly found by said court, thus:

"As a matter of fact, the only evidence presented by plaintiff to support her claim that defendants were guilty of fraud in the execution of the deed of sale and that they deceived plaintiff's mother by making her sign a deed of sale upon their representation that the same was merely a document guaranteeing payment of the amount advanced by them for the redemption of the property from the Philippine National Bank was the testimony of the plaintiff that her mother told her that defendants had no interest on the land in question because it was merely mortgaged to them.

"Q. You said awhile ago that your mother died in 1943. My question is: Before the death of your mother, were you able to talk to her regarding the land mortgaged to Catambay?

"A. Yes, sir. I asked my mother before she died that my uncle, Kuya Ardong, have interest on the land or on their homestead land but she said that he could not make [sic] interest on the land because it was merely mortgaged to him." (T.S.N. March 8, 1974. page 18).

"Although plaintiff testified that her mother was made to sign a document by defendant Alejandro Catambay which, according to him was merely a document evidencing her mother's indebtedness to him, she did not elaborate nor explain further the basis of her statement. Her testimony on this point merely was:

"Q. Now after Mr. Catambay has paid the loan with the Philippine National Bank, do you remember if there is any document signed by your mother?

"A. Yes, sir. She was made to sign a document which, according to Alejandro Catambay, was merely a document evidencing her indebtedness to him" (T.S.N. March 8, 1974. page 14).

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"Was she present when her mother signed the document which was supposed to be merely a document evidencing her mother's indebtedness to Catambay? From whom then did she learn that at the time her mother signed the document which, as it now appears, is a deed of sale Alejandro Catambay told her that the document she was signing was merely a document evidencing her indebtedness to Catambay? Whoever her informant was, be it her mother or another person present during the occasion, her testimony as quoted above is pure hearsay.

"We have conscientiously studied the testimony of plaintiff and her witness and We are unable to find any evidence other than that quoted above, which refers to the execution of the deed of sale, much less to the deception of defendants in securing the signature of Catalina Ramos to the deed of sale (Exhibit "1").

"We find, therefore, no evidence sufficient to justify Our declaring the deed of sale executed by plaintiff's mother in favor of defendants to be other than what it purports and which would justify Us in making a finding that defendants were guilty of fraud in securing title in their name over the property in question on the basis of a simulated or fictitious deed of sale. On this basis alone, We would be justified in sustaining defendants' title to the property under the certificate of title issued in their name in 1934."[11]

Even from the standpoint of acquisitive prescription, which seems to be more decisive, it appears too clear that private respondents have acquired title to the land in suit by virtue of possession in the concept of an owner. It is of record that private respondents have been in continuous possession of the litigated parcel of land since they bought the same in 1934 and since then, have been paying the real estate taxes due thereon and had declared said property in their name for taxation purposes. As correctly ruled by the appellate court, "while tax declaration and tax receipts are not necessarily evidence of title, they are strong evidence of possession for no one in his right mind would be paying taxes year after year for a property that is not in his actual possession."

The records of the case further disclose that petitioner's complaint for reconveyance was filed in the lower court only on

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[11] pp. 6-7, CA Decision, Annex "E" Petition.

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March 13, 1973, 39 years after the registration of the deed of absolute sale in favor of private respondents and the issuance of a certificate of title in their name exclusively on May 12, 1934, from which latter date petitioner's cause of action, if any, must be deemed to have commenced, since the registration of the aforesaid deed of sale in the office of the Registry of Deeds constitutes a constructive notice to the whole world of its contents and all interests, legal and equitable, included therein.[12]

Since the prescriptive period in this case had already run since May 12, 1934 prior to the effectivity of the new Civil Code on August 30, 1950, there can be no doubt that the former laws on prescription apply here, pursuant to Article 1116 of the Civil Code. Under Section 40 of the Code of Civil Procedure formerly in force, adverse possession ripened into ownership after the lapse of ten (10) years, good or bad faith of the possessor being immaterial for purposes of acquisitive prescription. In like manner, an action to recover title to or possession of immovable property prescribed in the same period of 10 years.[13] The instant case, not having been filed within 10 years from the time the cause of action accrued on May 12, 1934, prescribed in 1944 because the complaint was filed only on March 13, 1973, about 39 years later. Consequently, the possession of private respondents over the litigated property ripened into full ownership in 1944, ten years after May 12, 1934, when their possession which was actual, open, public and continuous, under a claim of title exclusive of any other right and adverse to all other claims, commenced.

It becomes apparent, therefore, based on the foregoing considerations, that apart from being the vendee of the parcel of land in question as evidenced by the questioned deed of sale, which may be a source of respondents' right of ownership over the property, their said right had been rendered indisputable when

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12 Gatioan *v.* Gaffud, 27 SCRA 706; see also Gerona *v.* De Guzman, 11 SCRA 153, cited in Balbin *v.* Medalla, G.R. No. L-46410, October 30, 1981.

13 Banawa *v.* Mirano, 97 SCRA 517; Ongsiaco *v.* Dallo, 27 SCRA 161.

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the favorable effects of acquisitive prescription had set in on their side. Even the thirty-year period fixed in the new Civil Code for the acquisition of ownership by extraordinary prescription or for the extinction of the right of action over immovables had expired when the present action was filed.

In view of the above, We deem it no longer necessary to have a detailed discussion on the other points raised by the parties, especially on the applicability of the doctrine of laches to the instant case. Suffice it to say, since May 12, 1934, when the deed of sale was registered in the office of the Registry of Deeds and a certificate of title was issued in the name of private respondents, Catalina Ramos had not impugned the validity and efficacy of said documents until her death on June 18, 1943. Petitioner, who claimed to be an heir of said Catalina Ramos, had likewise failed to dispute said documents until she filed her complaint in the lower court on March 13, 1973, almost thirty years after the death of her alleged mother. Finally, the ruling in Sotto *v.* Teves, 86 SCRA 154, invoked by herein petitioner, is not applicable to this case, the facts not being in all fours.

WHEREFORE, this petition is dismissed for lack of merit. No special pronouncement as to costs.

SO ORDERED.

*Barredo (Chairman), Aquino, Concepcion Jr., Ericta* and *Escolin, JJ.,* concur.

*Abad Santos, J., concurring opinion*:

The petition raises factual questions and I would have dismissed it by minute resolution instead of writing a true concurring decision. I concur in the result.

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SECOND DIVISION

[G.R. Nos. L-55243-44. March 15, 1982]

PHILIPPINE NATIONAL BANK and JOSE P. PANLILIO (In his personal capacity and as [former] Manager of the PNB