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FIRST DIVISION

[G.R. No. 168222. April 18, 2006]

SPS. TEODULO RUMARATE,(deceased) and ROSITA RUMARATE; deceased TEODULO RUMARATE is represented herein by his Heirs/Substitutes, namely, ANASTACIA RUMARATE, CELSO RUMARATE, MARINA RUMARATE, ROMEO RUMARATE, GUILLERMO RUMARATE, FIDEL RUMARATE, MERLINDA RUMARATE, MARISSA RUMARATE, CLEMENCIA RUMARATE, SANCHO RUMARATE and NENITA RUMARATE, *petitioners, vs.* **HILARIO HERNANDEZ, JOAQUIN HERNANDEZ, SALVADOR HERNANDEZ, BENJAMIN HERNANDEZ, LEONORA HERNANDEZ-LAZA, VICTORIA HERNANDEZ-MERCURIO, RODRIGO HERNANDEZ, BERNARDO HERNANDEZ, LOURDES HERNANDEZ-CABIDA, MARIO SALVATIERRA, ADELAIDA FONTILA-CIPRIANO, and THE REGISTER OF DEEDS OF QUEZON PROVINCE,** *respondents.*

SYLLABUS

1. CIVIL LAW; LAND REGISTRATION; QUIETING OF TITLE; INDISPENSABLE REQUISITES TO PROSPER. — In an action for quieting of title, the court is tasked to determine the respective rights of the parties so that the complainant and those claiming under him may be forever free from any danger of hostile claim. Under Article 476 of the Civil Code, the remedy may be availed of only when, by reason of any instrument, record, claim, encumbrance or proceeding, which appears valid but is, in fact, invalid, ineffective, voidable or unenforceable, a cloud is thereby cast on the complainant's title to real property or any interest therein. Article 477 of the same Code states that the plaintiff must have legal or equitable title to, or interest in the real property which is the subject matter of the suit. For an action to quiet title to prosper, two indispensable requisites must concur, namely: (1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of

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the action; and (2) the deed, claim, encumbrance or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.

2. ID.; ID.; PUBLIC LAND ACT, SECTION 48 (B); POSSESSOR DEEMED TO HAVE ACQUIRED A RIGHT TO GOVERNMENT GRANT, BY OPERATION OF LAW, WITHOUT THE NECESSITY OF A CERTIFICATE OF TITLE BEING ISSUED, WHEN ALL THE CONDITIONS SPECIFIED THEREIN HAVE BEEN COMPLIED WITH. — In the instant case, we find that Teodulo's open, continuous, exclusive, notorious possession and occupation of Lot No. 379, in the concept of an owner for more than 30 years vested him and his heirs title over the said lot. The law applicable at the time Teodulo completed his 30-year possession (from 1929 to 1959) of Lot No. 379, in the concept of an owner was Sec. 48(b) of Commonwealth Act No. 141 or the Public Land Act, as amended by Republic Act (RA) No. 1942, effective June 22, 1957 x x x. When the conditions specified therein are complied with, the possessor is deemed to have acquired, by operation of law, a right to a government grant, without necessity of a certificate of title being issued, and the land ceases to be part of the public domain. The confirmation proceedings would, in truth be little more than a formality, at the most limited to ascertaining whether the possession claimed is of the required character and length of time; and registration thereunder would not confer title, but simply recognize a title already vested. The proceedings would not originally convert the land from public to private land, but only confirm such conversion already effected by operation of law from the moment the required period of possession became complete.

3. ID.; ID.; ID.; PETITIONER'S POSSESSION OF THE LAND WAS OPEN, CONTINUOUS, ADVERSE, EXCLUSIVE AND IN THE CONCEPT OF AN OWNER; FINDINGS OF THE TRIAL COURTS WITH RESPECT TO THE CREDIBILITY OF WITNESSES GIVEN GREAT WEIGHT AND HIGHEST DEGREE OF RESPECT. — In the instant case, the trial court gave full faith and credence to the testimony of Teodulo and his witnesses that his (Teodulo's) possession of the land since 1929 was open, continuous, adverse, exclusive, and in the concept of an owner. It is a settled rule in civil cases as well as in criminal cases that in the matter of credibility of witnesses, the findings of the trial courts are given great weight and highest degree of respect by the appellate

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court considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial.

4. **ID.; ID.; ID.; REGISTRATION OF LAND IN THE NAME OF SUCCESSORS-IN-INTEREST OF THE DONEE MAY BE SUSTAINED NOTWITHSTANDING THE INVALIDITY OF THE DONATION WHERE THE DONEE POSSESSED THE PROPERTY IN THE CONCEPT OF AN OWNER.** — A careful examination of the evidence on record shows that Teodulo possessed and occupied Lot No. 379 in the concept of an owner. Since 1929, Teodulo cultivated the controverted land, built his home, and raised his 11 children thereon. In 1957, he filed a homestead application over Lot No. 379 but failed to pursue the same. After his demise, all his 11 children, the youngest being 28 years old, continued to till the land. From 1929 to 1960, Santiago never challenged Teodulo's possession of Lot No. 379 nor demanded or received the produce of said land. For 31 years Santiago never exercised any act of ownership over Lot No. 379. And, in 1960, he confirmed that he is no longer interested in asserting any right over the land by executing in favor of Teodulo a quitclaim. Indeed, all these prove that Teodulo possessed and cultivated the land as owner thereof since 1929. While the oral donation in 1929 as well as the 1960 quitclaim ceding Lot No. 379 to Teodulo are void for non-compliance with the formalities of donation, they nevertheless explain Teodulo and his family's long years of occupation and cultivation of said lot and the nature of their possession thereof. In *Bautista v. Poblete*, the Court sustained the registration of a parcel of land in the name of the successors-in-interest of the donee notwithstanding the invalidity of the donation inasmuch as said donee possessed the property in the concept of an owner. Thus – There is no question that the donation in question is invalid because it involves an immovable property and the donation was not made in a public document as required by Article 633 of the old Civil Code, in connection with Article 1328 of the same Code (concerning gifts *propter nuptias)*, but it does not follow that said donation may not serve as basis of acquisitive prescription when on the strength thereof the donee has taken possession of the property adversely and in the concept of owner.

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5. ID.; ID.; ID.; SHORT-LIVED POSSESSION AND CULTIVATION OF LAND COULD NOT VEST TITLE; POSSESSION OF THE LAND MUST NOT BE MERE FICTION. — However, the records do not support the argument of respondents that Santiago's alleged possession and cultivation of Lot No. 379 is in the nature contemplated by the Public Land Act which requires more than constructive possession and casual cultivation. As explained by the Court in *Director of Lands v. Intermediate Appellate Court*: It must be underscored that the law speaks of "possession and occupation." Since these words are separated by the conjunction *and*, the clear intention of the law is not to make one synonymous with the other. Possession is broader than occupation because it includes constructive possession. When, therefore, the law adds the word *occupation*, it seeks to delimit the all-encompassing effect of constructive possession. Taken together with the words *open, continuous, exclusive* and *notorious*, the word *occupation* serves to highlight the fact that for one to qualify under paragraph (b) of the aforesaid section, his possession of the land must not be mere fiction. x x x. In the instant case, Santiago's short-lived possession and cultivation of Lot No. 379 could not vest him title. While he tilled the land in 1925, he ceased to possess and cultivate the same since 1928. He abandoned the property and allowed Teodulo to exercise all acts of ownership. His brief possession of Lot No. 379 could not thus vest him title. *Nemo potest plus juris ad alium transferre quam ipse habet.* No one can transfer a greater right to another than he himself has. Hence, spouses Cipriano Hernandez and Julia Zoleta and herein respondents did not acquire any right over the questioned lot and the title issued in their names are void, because of the legal truism that the spring cannot rise higher than the source.

6. ID.; ID.; PURCHASER IN GOOD FAITH; PARTY CANNOT BE CONSIDERED A PURCHASER IN GOOD FAITH WHERE HE HAD KNOWLEDGE OF FACTS AND CIRCUMSTANCES THAT WOULD IMPEL A REASONABLY CAUTIOUS MAN TO MAKE SUCH INQUIRY. — Furthermore, spouses Cipriano Hernandez and Julia Zoleta cannot be considered as purchasers in good faith because they had knowledge of facts and circumstances that would impel a reasonably cautious man to make such inquiry. The Court notes that Santiago was not residing in Lot No. 379 at the time of the sale. He was already 81 years old, too old to cultivate and maintain an 18-hectare land. These circumstances should

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have prompted the spouses to further inquire who was actually tilling the land. Had they done so, they would have found that Teodulo and his family are the ones possessing and cultivating the land as owners thereof. In the same vein, respondents could not be considered as third persons or purchasers in good faith and for value or those who buy the property and pay a full and fair price for the same because they *merely inherited* Lot No. 379 from spouses Cipriano Hernandez and Julia Zoleta.

7. ID.; ID.; QUIETING OF TITLE; ACTION IMPRESCRIPTIBLE WHERE PARTY SEEKING RELIEF IS IN POSSESSION OF THE DISPUTED PROPERTY. — On the issue of prescription, the settled rule is that an action for quieting of title is imprescriptible, as in the instant case, where the person seeking relief is in possession of the disputed property. A person in actual possession of a piece of land under claim of ownership may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right, and that his undisturbed possession gives him the continuing right to seek the aid of a court of equity to ascertain and determine the nature of the adverse claim of a third party and its effect on his title. Considering that petitioners herein continuously possessed Lot No. 379 since 1929 up to the present, their right to institute a suit to clear the cloud over their title cannot be barred by the statute of limitations.

8. ID.; ID.; ID.; ACTION CANNOT BE BARRED BY LACHES WHERE PARTY CONTINUOUSLY ENJOYED THE POSSESSION AND FRUITS OF THE PROPERTY WITHOUT ANY INTERFERENCE; CASE AT BAR. — Neither could petitioners' action be barred by laches because they continuously enjoyed the possession of the land and harvested the fruits thereof up to the present to the exclusion of and without any interference from respondents. They cannot therefore be said to have slept on their rights as they in fact exercised the same by continuously possessing Lot No. 379. On the contrary, we find that it is respondents who are actually guilty of laches. Though not specifically pleaded, the Court can properly address the issue of laches based on petitioners' allegation in the complaint that "[n]either spouses Cipriano Hernandez and Julia Zoleta x x x nor [herein respondents] had taken steps to possess or lay adverse claim to said parcel of land from the date of their registration of title in November, 1965 up to the present." Such averment is sufficient to impute abandonment of right on the part of respondents. At any rate, laches need not be specifically

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pleaded. On its own initiative, a court may consider it in determining the rights of the parties.

9. ID.; ID.; ID.; A REGISTERED OWNER MAY BE BARRED FROM RECOVERING POSSESSION OF PROPERTY BY VIRTUE 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.

10. ID.; ID.; ID.; ID.; APPLICATION OF THE DOCTRINE OF LACHES. — 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 without enforcing his claim, laches sets in: 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.

11. ID.; ID.; ID.; ID.; ELEMENTS OF LACHES ; PRESENT IN CASE AT BAR. — The elements of laches are: (1) conduct of a party on the basis of which the other party seeks a remedy; (2) delay in asserting one's rights, despite having had knowledge or notice of the other party's conduct and having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of a party that the person against whom laches is imputed would assert the right; and (4) injury or prejudice to the party asserting laches in the event the suit is allowed to prosper. All these elements are present in this case.

12. ID.; ID.; ID.; PAYMENT OF TAXES ALONE, WITHOUT POSSESSION, NOT CONSTRUED AS AN EXERCISE OF OWNERSHIP. — Payment of taxes alone will not save the day for respondents. Only a positive and categorical assertion of their supposed rights against petitioners would rule out the application of laches. It means taking the offensive by instituting legal means to wrest possession of the property which, however, is absent in this case. Respondents' payment of taxes alone, without

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possession could hardly be construed as an exercise of ownership. What stands out is their overwhelming passivity by allowing petitioners to exercise acts of ownership and to enjoy the fruits of the litigated lot for 22 years without any interference.

APPEARANCES OF COUNSEL

Eliezer L. Castellano for petitioners.
Manuel M. Maramba for respondents.

D E C I S I O N

YNARES-SANTIAGO, *J.*:

Assailed in this petition for review is the May 26, 2005 Decision[1] of the Court of Appeals in CA-G.R. CV No. 57053, which reversed and set aside the March 31, 1997 Decision[2] of the Regional Trial Court of Calauag, Quezon, Branch 63, in Civil Case No. C-964, declaring petitioners as owners of Lot No. 379 with an area of 187,765 square meters and located in Barrio Catimo,[3] Municipality of Guinayangan, Province of Quezon.

The facts show that on September 1, 1992, petitioner spouses Teodulo Rumarate (Teodulo) and Rosita Rumarate filed an action for reconveyance of real property and/or quieting of title with damages against respondent heirs of the late spouses Cipriano Hernandez and Julia Zoleta.[4] Teodulo averred that Lot No. 379 was previously possessed and cultivated by his godfather, Santiago Guerrero (Santiago), a bachelor, who used to live with the Rumarate family in San Pablo City. Between 1923 and 1924, Santiago and the Rumarate family transferred residence to avail of the land

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[1] Penned by Associate Justice Amelita G. Tolentino and concurred in by Associate Justices Roberto A. Barrios and Vicente S.E. Veloso, *rollo*, pp. 39-58.

[2] Penned by Judge Rodolfo V. Garduque, *id.* at 59-91.

[3] Also spelled as "Katimo" in the records.

[4] Records, p. 1.

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distribution in Catimo, Guinayangan, Quezon. From 1925 to 1928, Santiago occupied Lot No. 379 cultivating five hectares thereof. Before moving to Kagakag, Lopez, Quezon in 1929, Santiago orally bequeathed his rights over Lot No. 379 to Teodulo and entrusted to him a copy of a Decision of the Court of First Instance (CFI) of Tayabas dated April 21, 1925 recognizing his (Santiago) rights over Lot No. 379.[5] Since Teodulo was only 14 years old then, his father helped him cultivate the land.[6] Their family thereafter cleared the land, built a house[7] and planted coconut trees, corn, palay and vegetables thereon.[8] In 1960, Santiago executed an "Affidavit (quit-claim)"[9] ratifying the transfer of his rights over Lot No. 379 to Teodulo. Between 1960 and 1970, three conflagrations razed the land reducing the number of coconut trees growing therein to only 400, but by the time Teodulo testified in 1992, the remaining portions of the land was almost entirely cultivated and planted with coconuts, coffee, jackfruits, mangoes and vegetables.[10] From 1929, Teodulo and later, his wife and 11 children possessed the land as owners and declared the same for taxation, the earliest being in 1961.[11]

In 1970, Teodulo discovered that spouses Cipriano Hernandez and Julia Zoleta, respondents' predecessors-in-interest, were able to obtain a title over Lot No. 379. He did not immediately file a case against respondents because he was advised to just remain on the land and pay the corresponding taxes thereon.[12]

Respondents, on the other hand, claimed that on November 11, 1964, Santiago sold the questioned lot to their parents, the

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[5] TSN, September 23, 1993, pp. 14-22.

[6] TSN February 9, 1994, pp. 7-11.

[7] *Id.*, pp. 7-8.

[8] TSN, September 23, 1993, p. 28.

[9] Exhibit "B", Folder of Exhibits for the Plaintiffs.

[10] TSN, September 23, 1993, pp. 29-30.

[11] Exhibit "C-1", Folder of Exhibits for the Plaintiffs.

[12] TSN, February 9, 1994, pp. 33-36.

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spouses Cipriano Hernandez and Julia Zoleta, for ₱9,000.00.[13] Respondents alleged that on April 21, 1925, the CFI of Tayabas rendered a Decision written in Spanish, declaring Lot No. 379 as a public land and recognizing Santiago as claimant thereof in Cadastral Proceeding No. 12. However, no title was issued to Santiago because he failed to file an Answer. Spouses Cipriano Hernandez and Julia Zoleta filed a motion to re-open Cadastral Proceeding No. 12, alleging that though no title was issued in the name of Santiago, the same decision is, nevertheless, proof that Santiago was in possession of Lot No. 379 since 1925 or for more than 30 years. Having succeeded in the rights of Santiago, the spouses prayed that Cadastral Proceeding No. 12 be re-opened and that the corresponding title over Lot No. 379 be issued in their name. On September 13, 1965, the CFI of Tayabas rendered a decision adjudicating Lot No. 379 in favor of the spouses, in whose name Original Certificate of Title (OCT) No. O-11844[14] was issued on the same date.[15] Cipriano Hernandez planted coconut trees on the land through the help of a certain Fredo[16] who was instituted as caretaker. In 1970, Fredo informed Cipriano Hernandez that he will no longer stay on the land because there are people instructing him to discontinue tilling the same.[17]

After the death of the spouses,[18] respondents executed a deed of partition over the subject lot and were issued TCT No. T- 237330 on June 28, 1988 in lieu of OCT No. O-11844.[19]

Respondent Joaquin Hernandez (Joaquin) testified that in 1964, he accompanied his father in inspecting the lot which

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[13] "*Bilihang Lampasan ng mga Mejoras na Nakatani sa Isang Palagay na Lupang Govierno*," Folder of Exhibit "1", records of Cadastral Case No. 12.

[14] Exhibit "3", Folder of Exhibits for the Plaintiffs.

[15] Exhibit "1", records of Cadastral Case No. 12, Folder of Exhibits for the Defendants.

[16] Referred to as "Alfredo" in the Answer.

[17] TSN, April 25, 1996, pp. 7-10.

[18] Cipriano Hernandez died in 1971 while Julia Zoleta died in 1973 (TSN, May 10, 1996, p. 25).

[19] Exhibit "4", Folder of Exhibits for the Plaintiffs.

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was then planted with coconut trees.[20] Thereafter, he visited the land twice, once in 1966 and the other in 1970. From 1966 up to the time he testified, his family declared the lot for taxation and paid the taxes due thereon.[21] Joaquin explained that after the death of his father in 1971, he no longer visited the land and it was only when the complaint was filed against them when he learned that petitioners are in actual possession of the property.[22] He added that his siblings had planned to convert Lot No. 379 into a grazing land for cattle but decided to put it off for fear of the rampant operations then of the New People's Army between the years 1965-1970.[23]

On March 31, 1997, the trial court rendered a decision in favor of petitioners. It held that since the latter possessed the land in the concept of an owner since 1929, they became the owners thereof by acquisitive prescription after the lapse of 10 years, pursuant to the Code of Civil Procedure. Thus, when Santiago sold the lot to respondents' parents in 1964, the former no longer had the right over the property and therefore transmitted no title to said respondents. The dispositive portion of the trial court's decision, reads:

> WHEREFORE, in the light of all the foregoing considerations judgment is hereby rendered in favor of the plaintiffs and against the defendants, to wit:
>
> 1. Declaring that the parcel of land (Lot No. 379 of the Cadastral Survey of Guinayangan, Cadastral Case No. 12, LRC Cadastral Record No. 557), situated in Brgy. Katimo, Tagkawayan, Quezon had been fraudulently, deceitfully and mistakenly registered in the names of the spouses Cipriano Hernandez and Julia Zoleta;
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> 2. Declaring that herein defendants [heirs] of spouses Cipriano Hernandez and Julia Zoleta have no better rights than their parents/predecessors-in-interest, they having stepped only on (sic) their shoes;

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[20] TSN, May 10, 1996, pp. 5-6.

[21] *Id.* at 11-14.

[22] *Id.* at 15-16.

[23] *Id.* at 18-20.

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3. Declaring that the plaintiff Rosita Victor Rumarate and substitute plaintiffs-[heirs] of the deceased Teodulo Rumarate are the true, real and legal owners/or the owners in fee simple absolute of the above described parcel of land;

4. Ordering the defendants to convey the above-described parcel of land to plaintiff Rosita Victor Rumarate and to the substitute plaintiffs (heirs) of the deceased Teodulo Rumarate;

5. Ordering the Register of Deeds for Quezon Province in Lucena City to cancel Transfer Certificate of Title No. T-237330 and to issue in lieu thereof a new certificate of title in favor of plaintiff Rosita Victor Rumarate and the substitute plaintiffs (heirs) of the deceased plaintiff Teodulo Rumarate, in accordance with law and settled jurisprudence; and

6. Ordering the defendants to pay the costs of the suit.

SO ORDERED.[24]

Respondents appealed to the Court of Appeals which on May 26, 2005, reversed and set aside the decision of the trial court. It ruled that Teodulo did not acquire title over Lot No. 379, either by donation or acquisitive prescription; that Teodulo's bare allegation that Santiago orally bequeathed to him the litigated lot is insufficient to prove such transfer of ownership; and that even assuming that the property was truly donated by Santiago to Teodulo in 1929, or in the 1960 Affidavit, said conveyance is void for not complying with the formalities of a valid donation which require the donation and the acceptance thereof by the donee to be embodied in a public instrument. Both requirements, however, are absent in this case because in 1929, the alleged donation was not reduced to writing while the purported 1960 donation was never accepted in a public document by Teodulo. The appellate court thus surmised that since it was not established that Santiago donated Lot No. 379 to Teodulo, it follows that the latter also failed to prove that he possessed the land adversely, exclusively and in the concept of an owner, a vital requisite before one may acquire title by acquisitive prescription. In

[24] *Rollo*, pp. 90-91.

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conclusion, the Court of Appeals ruled that even assuming further that Teodulo had a right over the property, his cause of action is now barred by laches because he filed an action only in 1992 notwithstanding knowledge as early as 1970 of the issuance of title in the name of spouses Cipriano Hernandez and Julia Zoleta. The decretal portion of the decision states:

> WHEREFORE, premises considered, the instant appeal is GRANTED. The assailed March 31, 1997 decision of the Regional Trial Court of Calauag, Quezon, Branch 63, in *Civil Case No. C-964* is hereby REVERSED and SET ASIDE. No costs.
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> SO ORDERED.[25]

Hence, the instant appeal.

The issue to be resolved is to whom should Lot No. 379 be awarded? To petitioners who possessed and cultivated the lot since 1929 up to the present, but do not have a certificate of title over the property, or to respondents who have a certificate of title but are not in possession of the controverted lot?

In an action for quieting of title, the court is tasked to determine the respective rights of the parties so that the complainant and those claiming under him may be forever free from any danger of hostile claim.[26] Under Article 476[27] of the Civil Code, the remedy may be availed of only when, by reason of any instrument, record, claim, encumbrance or proceeding, which appears valid but is, in fact, invalid, ineffective, voidable or unenforceable, a cloud is thereby cast on the complainant's title to real property or any interest

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[25] *Id.* at 57.

[26] *Calacala v. Republic*, G.R. No. 154415, July 28, 2005, 464 SCRA 438, 443.

[27] Article 476. Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet An action may also be brought to prevent a cloud from being cast upon title to real property. x x x.

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therein. Article 477 of the same Code states that the plaintiff must have legal or equitable title to, or interest in the real property which is the subject matter of the suit.

For an action to quiet title to prosper, two indispensable requisites must concur, namely: (1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.[28]

In *Evangelista v. Santiago*,[29] it was held that title to real property refers to that upon which ownership is based. It is the evidence of the right of the owner or the extent of his interest, by which means he can maintain control and, as a rule, assert a right to exclusive possession and enjoyment of the property.

In the instant case, we find that Teodulo's open, continuous, exclusive, notorious possession and occupation of Lot No. 379, in the concept of an owner for more than 30 years vested him and his heirs title over the said lot. The law applicable at the time Teodulo completed his 30-year possession (from 1929 to 1959) of Lot No. 379, in the concept of an owner was Sec. 48(b) of Commonwealth Act No. 141 or the Public Land Act, as amended by Republic Act (RA) No. 1942, effective June 22, 1957[30] which provides:

Sec. 48. The following-described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed,

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[28] *Calacala v. Republic*, *supra* at 444.

[29] G.R. No. 157447, April 29, 2005, 457 SCRA 744, 766.

[30] Sec. 48(b) has been further amended by Presidential Decree (PD) No. 1073 which took effect on January 25, 1977. Sec. 48(b) of the Public Land Act, now reads:

"(b) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition

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may apply to the Court of First Instance (now Regional Trial Courts) of the province where the land is located for confirmation of their claims and the issuance of a certificate of title thereafter, under the Land Registration Act (now Property Registration Decree), to wit:

xxx xxx xxx

(b) Those who by themselves or through their predecessors-in-interest have been, in continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition or ownership, *for at least thirty years* immediately preceding the filing of the application for confirmation of title, except when prevented by war or *force majeure*. Those shall be conclusively presumed to have performed all the conditions essential to a government grant and shall be entitled to a certificate of title under the provisions of this chapter.

When the conditions specified therein are complied with, the possessor is deemed to have acquired, by operation of law, a right to a government grant, without necessity of a certificate of title being issued, and the land ceases to be part of the public domain. The confirmation proceedings would, in truth be little more than a formality, at the most limited to ascertaining whether the possession claimed is of the required character and length of time; and registration thereunder would not confer title, but simply recognize a title already vested. The proceedings would not originally convert the land from public to private land, but only confirm such conversion already effected by operation of law from the moment the required period of possession became complete.[31]

In the instant case, the trial court gave full faith and credence to the testimony of Teodulo and his witnesses that his (Teodulo's)

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or ownership, *since June 12, 1945, or earlier, immediately preceding the filing of the application for confirmation of title*, except when prevented by *wars or force majeure*. Those shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter."(*Abejaron v. Nabasa*, 411 Phil. 552, 570 [2001]).

[31] *Abejaron v. Nabasa*, *supra* at 568-570, citing *Director of Lands v. Intermediate Appellate Court*, 230 Phil. 590 (1986).

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civil cases as well as in criminal cases that in the matter of credibility of witnesses, the findings of the trial courts are given great weight and highest degree of respect by the appellate court considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial.[32]

A careful examination of the evidence on record shows that Teodulo possessed and occupied Lot No. 379 in the concept of an owner. Since 1929, Teodulo cultivated the controverted land, built his home, and raised his 11 children thereon. In 1957, he filed a homestead application over Lot No. 379 but failed to pursue the same.[33] After his demise, all his 11 children, the youngest being 28 years old,[34] continued to till the land. From 1929 to 1960, Santiago never challenged Teodulo's possession of Lot No. 379 nor demanded or received the produce of said land. For 31 years Santiago never exercised any act of ownership over Lot No. 379. And, in 1960, he confirmed that he is no longer interested in asserting any right over the land by executing in favor of Teodulo a quitclaim.

Indeed, all these prove that Teodulo possessed and cultivated the land as owner thereof since 1929. While the oral donation in 1929 as well as the 1960 quitclaim ceding Lot No. 379 to Teodulo are void for non-compliance with the formalities of donation, they nevertheless explain Teodulo and his family's long years of occupation and cultivation of said lot and the nature of their possession thereof.

In *Bautista v. Poblete*,[35] the Court sustained the registration of a parcel of land in the name of the successors-in-interest of the donee notwithstanding the invalidity of the donation inasmuch as said donee possessed the property in the concept of an owner. Thus –

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[32] *Concepcion v. Court of Appeals*, 381 Phil. 90, 96 (2000).

[33] TSN, November 26, 1993, pp. 46-49.

[34] Notice of Death and Request for Substitution of Deceased Plaintiff, records, p. 185.

[35] G.R. No. 141007, September 13, 2005, 469 SCRA 579, 585, citing *Espique v. Espique*, 99 Phil. 448 (1956).

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There is no question that the donation in question is invalid because it involves an immovable property and the donation was not made in a public document as required by Article 633 of the old Civil Code, in connection with Article 1328 of the same Code (concerning gifts *propter nuptias)*, but it does not follow that said donation may not serve as basis of acquisitive prescription when on the strength thereof the donee has taken possession of the property adversely and in the concept of owner.

It follows therefore that Teodulo's open, continuous, exclusive, and notorious possession and occupation of Lot No. 379 for 30 years, or from 1929 to 1959 in the concept of an owner, earned him title over the lot in accordance with Sec. 48 (b) of the Public Land Act. Considering that Lot No. 379 became the private property of Teodulo in 1959, Santiago had no more right to sell the same to spouses Cipriano Hernandez and Julia Zoleta in 1964. Consequently, the latter and herein respondents did not acquire ownership over Lot No. 379 and the titles issued in their name are void.

Interestingly, respondents adopted the theory that Santiago acquired title over Lot No. 379 not from the April 21, 1925 Decision of the CFI of Tayabas which merely recognized his rights over said lot, but from his more than 30 years of possession since 1925 up to 1964 when he sold same lot to their (respondents) predecessors-in-interest, the spouses Cipriano Hernandez and Julia Zoleta. On the basis of said claim, said spouses filed an action for, and successfully obtained, confirmation of imperfect title over Lot No. 379, pursuant to Sec. 48 (b) of the Public Land Act.

However, the records do not support the argument of respondents that Santiago's alleged possession and cultivation of Lot No. 379 is in the nature contemplated by the Public Land Act which requires more than constructive possession and casual cultivation. As explained by the Court in *Director of Lands v. Intermediate Appellate Court*:[36]

It must be underscored that the law speaks of "possession and occupation." Since these words are separated by the conjunction *and*,

[36] G.R. No. 68946, May 22, 1992, 209 SCRA 214, 222-223.

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the clear intention of the law is not to make one synonymous with the other. Possession is broader than occupation because it includes constructive possession. When, therefore, the law adds the word *occupation*, it seeks to delimit the all-encompassing effect of constructive possession. Taken together with the words *open, continuous, exclusive* and *notorious*, the word *occupation* serves to highlight the fact that for one to qualify under paragraph (b) of the aforesaid section, his possession of the land must not be mere fiction. As this Court stated, through then Mr. Justice Jose P. Laurel, in *Lasam vs. The Director of Lands*:

> "x x x Counsel for the applicant invokes the doctrine laid down by us in *Ramos vs. Director of Lands* (39 Phil. 175, 180). (See also *Rosales vs. Director of Lands,* 51 Phil. 302, 304). But it should be observed that the application of the doctrine of constructive possession in that case is subject to certain qualifications, and this court was careful to observe that among these qualifications is 'one particularly relating to the size of the tract in controversy with reference to the portion actually in possession of the claimant.' While, therefore, 'possession in the eyes of the law does not mean that a man has to have his feet on every square meter of ground before it can be said that he is in possession,' possession under paragraph 6 of Section 54 of Act No. 926, as amended by paragraph (b) of Section 45 of Act No. 2874, is not gained by mere nominal claim. The mere planting of a sign or symbol of possession cannot justify a Magellan-like claim of dominion over an immense tract of territory. Possession as a means of acquiring ownership, while it may be constructive, is not a mere fiction x x x."

Earlier, in *Ramirez vs. The Director of Lands*, this Court noted:

> "x x x The mere fact of declaring uncultivated land for taxation purposes and visiting it every once in a while, as was done by him, does not constitute acts of possession."

In the instant case, Santiago's short-lived possession and cultivation of Lot No. 379 could not vest him title. While he tilled the land in 1925, he ceased to possess and cultivate the same since 1928. He abandoned the property and allowed Teodulo to exercise all acts of ownership. His brief possession of Lot No. 379 could not thus vest him title. *Nemo potest plus juris ad alium transferre quam ipse habet.* No one can transfer a greater right to another than he himself has. Hence, spouses Cipriano Hernandez and

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Julia Zoleta and herein respondents did not acquire any right over the questioned lot and the title issued in their names are void, because of the legal truism that the spring cannot rise higher than the source.[37]

Furthermore, spouses Cipriano Hernandez and Julia Zoleta cannot be considered as purchasers in good faith because they had knowledge of facts and circumstances that would impel a reasonably cautious man to make such inquiry.[38] The Court notes that Santiago was not residing in Lot No. 379 at the time of the sale. He was already 81 years old, too old to cultivate and maintain an 18-hectare land. These circumstances should have prompted the spouses to further inquire who was actually tilling the land. Had they done so, they would have found that Teodulo and his family are the ones possessing and cultivating the land as owners thereof.

In the same vein, respondents could not be considered as third persons or purchasers in good faith and for value or those who buy the property and pay a full and fair price for the same[39] because they *merely inherited* Lot No. 379 from spouses Cipriano Hernandez and Julia Zoleta.

Then too, even if Santiago acquired title over Lot No. 379 by virtue of the April 21, 1925 Decision of the CFI of Tayabas, and not on account of his alleged 30-year possession thereof, we will still arrive at the same conclusion. This is so because the declaration of this Court that petitioners are the rightful owners of the controverted lot is based on Teodulo's own possession and occupation of said lot under a *bona fide* claim of acquisition of ownership, regardless of the manner by which Santiago acquired ownership over same lot.

On the issue of prescription, the settled rule is that an action for quieting of title is imprescriptible, as in the instant case,

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[37] *Dela Merced v. Government Service Insurance System*, 417 Phil. 324, 340 (2001).

[38] *Sigaya v. Mayuga*, G.R. No. 143254, August 18, 2005, 467 SCRA 341, 354-355.

[39] *Occeña v. Esponilla*, G.R. No. 156973, June 4, 2004, 431 SCRA 116, 124.

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where the person seeking relief is in possession of the disputed property. A person in actual possession of a piece of land under claim of ownership may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right, and that his undisturbed possession gives him the continuing right to seek the aid of a court of equity to ascertain and determine the nature of the adverse claim of a third party and its effect on his title.[40] Considering that petitioners herein continuously possessed Lot No. 379 since 1929 up to the present, their right to institute a suit to clear the cloud over their title cannot be barred by the statute of limitations.

Neither could petitioners' action be barred by laches because they continuously enjoyed the possession of the land and harvested the fruits thereof up to the present to the exclusion of and without any interference from respondents. They cannot therefore be said to have slept on their rights as they in fact exercised the same by continuously possessing Lot No. 379.

On the contrary, we find that it is respondents who are actually guilty of laches. Though not specifically pleaded, the Court can properly address the issue of laches based on petitioners' allegation in the complaint that "[n]either spouses Cipriano Hernandez and Julia Zoleta x x x nor [herein respondents] had taken steps to possess or lay adverse claim to said parcel of land from the date of their registration of title in November, 1965 up to the present."[41] Such averment is sufficient to impute abandonment of right on the part of respondents. At any rate, laches need not be specifically pleaded. On its own initiative, a court may consider it in determining the rights of the parties.[42]

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

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[40] *David v. Malay*, 376 Phil. 825, 835-836 (1999).

[41] Complaint, records, p. 5.

[42] *Logronio v. Taleseo*, 370 Phil. 907, 918 (1999).

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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.[43]

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 without enforcing his claim, laches sets in: 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.[44]

The elements of laches are: (1) conduct of a party on the basis of which the other party seeks a remedy; (2) delay in asserting one's rights, despite having had knowledge or notice of the other party's conduct and having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of a party that the person against whom laches is imputed would assert the right; and (4) injury or prejudice to the party asserting laches in the event the suit is allowed to prosper.[45]

All these elements are present in this case. Petitioners' continuous possession and occupation of Lot No. 379 should have prompted the respondents to file an action against petitioners, but they chose not to. Respondents cannot deny knowledge of said possession by petitioners as they even asserted in their Answer that in 1970, Teodulo ousted the tenant they (respondents) instituted in the lot. From 1970 up to the filing of petitioners' complaint in 1992, or after 22 years, respondents never bothered to assert any right over Lot No. 379. Respondent

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[43] *Villegas v. Court of Appeals*, G.R. No. 129977, February 1, 2001, 351 SCRA 69, 77.

[44] *Id.* at 78.

[45] *Id.*

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Joaquin Hernandez testified that he and his siblings had a plan to convert the land into a grazing land for cattle but decided to put it off for fear of the rampant operations of the New People's Army between the years 1965-1970. However, even after said years, respondents took no step to implement their plan. Worse, among the siblings of spouses Cipriano Hernandez and Julia Zoleta who are all living in the Philippines,[46] only Joaquin Hernandez visited the land and only thrice, *i.e.*, once in each years of 1964, 1966 and 1970. Thereafter, not one of them paid visit to Lot No. 379, up to the time Joaquin Hernandez testified in 1996,[47] despite the fact that two of them are living only in Calauag, Quezon; one in Agdangan, Quezon;[48] and two in Lucena City.[49] Neither did they send a notice or correspondence to petitioners invoking their right over the property. From all indications, the late spouses Cipriano Hernandez and Julia Zoleta as well respondents, have neglected Lot No. 379. Were it not for this action instituted by petitioners in 1992, their conflicting claims over the property could not have been settled. It goes without saying that to lose a property that has been in the family from 1929 up to the present, or for 77 years will certainly cause irreparable pecuniary and moral injury to petitioners, especially so if the same ancestral land will be lost under most unfair circumstances in favor of respondents who appear to have no real interest in cultivating the same.

Finally, payment of taxes alone will not save the day for respondents. Only a positive and categorical assertion of their supposed rights against petitioners would rule out the application of laches. It means taking the offensive by instituting legal means to wrest possession of the property which, however, is absent in this case. Respondents' payment of taxes alone, without possession could hardly be construed as an exercise of ownership. What stands out is their overwhelming passivity by allowing petitioners

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[46] TSN, May 10, 1996, p. 215.

[47] *Id.* at 28.

[48] *Id.* at 15.

[49] *Id.* at 23-24.

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to exercise acts of ownership and to enjoy the fruits of the litigated lot for 22 years without any interference.

In sum, the Court finds that Lot No. 379 should be adjudicated in favor of petitioners.

One last point. Notwithstanding this Court's declaration that Lot No. 379 should be awarded in favor of petitioners, their title over the same is imperfect and is still subject to the filing of the proper application for confirmation of title under Section 48 (b) of the Public Land Act, where the State and other oppositors may be given the chance to be heard. It was therefore premature for the trial court to direct the Register of Deeds of Lucena City to issue a certificate of title in the name of petitioners.

Nevertheless, the imperfect title of petitioners over Lot No. 379 is enough to defeat the certificate of title issued to respondents.[50]

WHEREFORE, the petition is *GRANTED* and the May 26, 2005 Decision of the Court of Appeals in C.A. GR. CV No. 57053, is *REVERSED* and *SET ASIDE*. The March 31, 1997 Decision of the Regional Trial Court of Calauag, Quezon, Branch 63, in Civil Case No. C-964, awarding Lot No. 379 in favor petitioners and ordering the cancellation of respondents' Transfer Certificate of Title No. T- 237330, is *REINSTATED* with the *MODIFICATION* deleting the trial court's order directing the Register of Deed of Lucena City to issue a certificate of title in the name of petitioners.

SO ORDERED.

Panganiban, C.J. (Chairperson), Austria-Martinez, Callejo, Sr., and *Chico-Nazario, JJ.,* concur.

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[50] *Heirs of Simplicio Santiago v. Heirs of Mariano Santiago*, G.R. No. 151440, June 17, 2003, 404 SCRA 193, 204.