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SECOND DIVISION

[G.R. No. L-20090. December 29, 1975]

THE DIRECTOR OF LANDS, *petitioner, vs.* **MARTINA ABANTAO, ET AL.,** *claimants,* **NARCISA ROSALES, ET AL.,** *claimants-appellants,* **LORENZO F. CINCO, ET AL.,** *claimants-appellees.*

SYLLABUS

1. **LAND REGISTRATION; REPURCHASE BY CO-HEIR OF LAND FOR HER EXCLUSIVE BENEFIT FORFEITED TO THE GOVERNMENT FOR TAX DELINQUENCY.** — Where a property declared for taxation purposes in the name of an heir is forfeited to the Government for tax delinquency, and another heir twelve years after such forfeiture, repurchased said land stating in her application to repurchase that "I be allowed to redeem my property" she shall be deemed to have wanted to repurchase the same for her own exclusive personal benefit, and that while she identified herself as "One of the legal heirs" such identification did not in any way intend to include the other legal heirs as co-purchasers of the property.

2. **ID.; ID.; ACQUISITIVE PRESCRIPTION; POSSESSION FOR THIRTY TWO YEARS.** — Where a property was forfeited to the government in 1910 and had been in its possession since then until the same was sold in 1922 to one of the heirs who took possession thereof and who declared the property in her name for taxation purposes in the same year, enjoying actual, adverse and uninterrupted possession in concept of owner, for almost 32 years, including that of her predecessor in interest, the Government, up to June 14, 1932, when said possession was interrupted by filing of a cadastral answer by her co-heirs who claimed to be co-owners thereof, the former shall be deemed to have acquired the lot not only by way of purchase but also by way of acquisitive prescription to the exclusion of her co-heirs.

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APPEARANCES OF COUNSEL

Jacinto R. Bohol for appellants.
Aurino P. Paraso for appellees.

DECISION

CONCEPCION, JR., *J.*:

Appeal from the decision of the Justice of the Peace of Catbalogan, Samar in Cadastral Case No. 4, LRC Rec. No. 1378, adjudicating Lots 378 and 1885 of the Catbalogan Cadastre to the claimant Silvina Borja, certified to this Court by the Court of Appeals, the issue involved being purely one of law.

Lots 378 and 1885 of the Catbalogan Cadastre originally belonged to Juanson Rosales, common ancestor of the claimants herein. It appears that after the death of Juanson Rosales, the said lots were declared for taxation purposes in the name of Angel Rosales, one of the co-heirs, under Tax Declaration No. 1572. These properties became delinquent in the payment of taxes for the year 1908, amounting to P101.07, so that on November 16, 1908, the Provincial Treasurer of Samar caused a notice of the fact to be sent to Angel Rosales, said notice containing a statement of the taxes due as well as the penalties and costs which have to be paid, with a warning that at the expiration of one (1) year from the date of delinquency, unless said tax and penalties be sooner paid or judicially set aside, the delinquent real property will be forfeited and escheated to the Government of the Philippines, the occupants thereof will be ejected and title thereto will be vested in the Government. The period of one (1) year elapsed without Angel Rosales or his legal representative paying the taxes due and the corresponding penalties thereon. Consequently, on October 1, 1909, the Provincial Treasurer of Samar ordered the dispossession and ejectment from the properties of all tenants and occupants thereof.[1] On April 25, 1910, the disputed lots were forfeited to

[1] Exhibit D.

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the Government.[2] Twelve (12) years thereafter, or on June 17, 1922, Silvina Borja applied to the Director of Lands for the repurchase of said lots and tendered payment of all taxes and penalties due up to the year 1921.[3] The application of Silvina Borja was approved by the Director of Lands on September 30, 1922.[4] Silvina Borja then paid the corresponding taxes due, as well as the penalties thereon, and ownership over said lots was transferred to her.

On March 22, 1932, the Director of Lands commenced Cadastral Case No. 4, G.L.R.O. Record No. 1378, for the judicial settlement and adjudication of titles to the parcels of land embraced within the Catbalogan Cadastre, and on June 6, 1932, the spouses Lorenzo Cinco and Silvina Borja filed their answers thereto claiming ownership of Lots 378 and 1885, "*por compra del Director de Terrenos; el terreno era anteriormente de Angel Rosales y coherederos, el cual fue lanzado y mas tarde embargado y confiscado por el Gobierno.*"[5]

On June 14, 1932, Ignacia Rosales and Narcisa Rosales filed similar answers claiming co-ownership over the said lots by inheritance from Juanson Rosales.[6]

Thereafter, the cadastral court issued orders of general default.[7]

On March 10, 1956, the claimant spouses Lorenzo Cinco and Silvina Borja, through counsel, filed a motion in court to set the hearing of their claims over Lots 378 and 1885.[8] The cadastral court, finding the assessed value of the lots to be not

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[2] Exhibit C.

[3] Exhibit A.

[4] Exhibit B.

[5] pp. 5, 18, Record on Appeal.

[6] pp. 10, 14, Record on Appeal.

[7] pp. 23, 24, Record on Appeal.

[8] p. 25, Record on Appeal.

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more than ₱2,000.00, designated the Justice of the Peace of Catbalogan, Samar to hear the claims of the parties over the lots in question and to adjudicate the same accordingly.[9]

On May 21, 1956, Bebiana Asuncion Bermudes, in her behalf and in representation of her brothers, Alberto, Filomena, Leonor surnamed Doroja and Asuncion, and nephews Clara and Epifanio Doroja, filed a cadastral answer claiming co-ownership in the lots in question through inheritance from Juanson Rosales, then Basilia Rosales, then Francisco Rosales, Cesaria Rosales, all now dead.[10]

After appropriate proceedings, on July 2, 1956, judgment was rendered declaring Silvina Borja, married to Lorenzo Cinco, owner of Lots Nos. 378 and 1885 of the Catbalogan Cadastre. Hence, the instant appeal by the other claimants.

In certifying this case to this Court, the Court of Appeals found that the fundamental issue involved in this appeal is, whether the repurchase made by Silvina Borja of the two lots in dispute from the Director of Lands inures to the benefit of her former co-owners and co-heirs.

After going over the record of the case, we are of the opinion and so hold that the repurchase of the two lots in question by Silvina Borja did not inure to the benefit of her co-heirs. We take note of the fact that her application to purchase the lots in question dated June 17, 1922 begins with the sentence: "I have the honor to request that I be allowed to redeem my property under Tax No. 1978, situated in the barrio of Ubanon, municipality of Catbalogan, Samar, P. I., that had been forfeited to the Government for delinquency in the payment of taxes due thereon for the year 1908, by paying all taxes and penalties due up to and including the year 1921, in which the previous owner has been ejected therefrom, plus the additional penalty of 10 per cent in accordance with Section 380 of the Revised Administrative

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[9] p. 26, Record on Appeal.

[10] p. 29, Record on Appeal.

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Code." It is, therefore, clear that she wanted to repurchase the property as in fact she did for her own exclusive and personal benefit. While she identified herself as "One of the legal heirs," such identification did not in any way intend to include the other legal heirs as co-purchasers of the property. It should also be noted that the said property was forfeited in favor of the Government way back in 1910[11] and has been in its possession since then until the property was sold to Silvina Borja. Her period of possession, therefore, should be tacked to her predecessor's. The record shows that her application to repurchase the contested parcels of lands was approved on September 30, 1922. She took possession thereof and declared them in her name for taxation purposes in December, 1922, enjoying actual, adverse and uninterrupted possession in concept of owner, for almost 32 years, including that of her predecessor in interest, the Government, up to June 14, 1932, when said possession was interrupted by the filing of a Cadastral answer by Narcisa Rosales and Ignacia Rosales who claimed to be co-owners thereof[12] Silvina Borja, therefore, acquired the two lots in dispute not only by way of purchase but also by way of acquisitive prescription to the exclusion of her co-heirs.

WHEREFORE, the judgment appealed from is hereby affirmed, with costs against appellants.

Fernando (Chairman), Barredo, Antonio, and *Aquino, JJ.*, concur.

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[11] Exh. C.

[12] pp. 10-14, Record on Appeal.