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SECOND DIVISION

[G.R. No. L-36566. November 7, 1979]

URBANO JAVIER and LEONILA ALBIELA, *petitioners*, *vs.* **HON. HERMOGENES CONCEPCION JR., Hon. ANDRES REYES, Hon. LUIS REYES, LIM CHUA, TAN TIAN ON alias TAN TIAN UNA and TAN SIOK TAN alias TAN SIOK TUAN**, *respondents*.

SYLLABUS

1. **CIVIL LAW; LAND TITLES AND DEEDS; FRAUD AS LEGAL BASIS FOR REVIEW OF REGISTRATION DECREE, DEFINED.**— Fraud as a legal basis for review of a decree means actual or positive fraud as distinguished from constructive or legal fraud. Since the existence or attendance of actual or positive fraud is a question of fact, and respondent Court having ruled out the same, We have no basis to sustain defendants-petitioners' contention that it attended the procurement of the title.

2. **ID.; ID.; LAND REGISTRATION ACT; PETITION FOR REVIEW ON GROUND OF FRAUD SHOULD BE FILED WITHIN ONE YEAR AFTER THE ENTRY OF REGISTRATION DECREE; CONDITION.**— Under Section 38 of the Land Registration Act, as amended, the person allegedly deprived of the land by a decree of registration obtained by fraud should file in the competent Court of First Instance a petition for review within one year after the entry of the decree provided no innocent purchaser for value has acquired an interest.

APPEARANCES OF COUNSEL

Diogracias de Luna for petitioners.

Bengzon, Bengzon, Villaroman & De Vera for private respondents.

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DECISION

SANTOS, *J.*:

This is a petition for review by *certiorari* filed on April 12, 1973, of the decision of the Court of Appeals, in CA-G.R. No. 46801-R, entitled "*Lim Chua, et al., plaintiffs-appellees versus Urbano Javier, et al., defendants-appellants,*" which upheld the decision of the Court of First Instance of Quezon in Civil Case 6253 ordering the reconveyance of the landholdings subject matter of the case to herein private respondents, plaintiffs-appellees below.

On April 24, 1973, We resolved, without giving due course to the petition, to require the private respondents, plaintiffs-appellees below to comment within ten (10) days from notice.[1] On May 16, 1973 they filed their comment claiming that the petition raises no important and substantial question of law as would warrant a review of the appealed decision, since only questions of fact were raised in the Court of Appeals, and that the decision itself "will show conclusively" that it was based on the findings of fact of respondent Court.[2] In a resolution of May 21, 1973, We gave due course to the petition.[3] On September 29, 1973, petitioners, defendants-appellants below filed their brief.[4] Respondents' brief having been filed out of time, We resolved on December 17, 1973 to expunge the said brief from the records, and to return the same to the said parties.[5] On January 10, 1974, the case was considered submitted for decision without respondents' brief.[6] On January 26, 1974, respondents, through counsel, filed a petition for leave to file the incorporated

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[1] *Rollo*, p. 39.

[2] *Id.*, p. 40.

[3] *Id.*, p. 41.

[4] *Id.*, p. 44.

[5] *Id.*, p. 54.

[6] *Id.*, p. 56.

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memorandum,[7] but We resolved on February 8, 1974 to deny the same.[8]

The factual and procedural antecedents which gave rise to this petition follow. On October 17, 1959, respondents as plaintiffs, Lim Chua, Tan Tian On *alias* Tan Tian Una and Tan Siok Tan *alias* Tan Shiok Tuan filed against herein petitioners, then defendants-spouses, Urbano Javier and Leonila Albiela, with the Court of First Instance of the Province of Quezon, Civil Case No. 6253, for the reconveyance to the former of a parcel of land with improvements thereon, known as Lot 12 consisting of fifty (50) hectares, more or less, and an accounting and recovery of the produce of the land from the time the latter, *i.e.*, petitioners herein, took possession of the same in 1945 up to the time possession is returned to the former.[9] Lot 12 is allegedly a portion of a big parcel of land designated as Lot 6, Psu-5967, located in Quezon Province and covered by Transfer Certificate of Title No. 16817 issued by the Office of the Register of Deeds of Quezon Province in the name of herein respondents, which parcel of land is more particularly described as follows:

"A parcel of land (Lot No. 6, Plan Psu-5967), with improvements thereon, situated in the Barrio of Ayusan, Municipality of Dolores. Bounded on the NE. by a creek and properties of Vicente Gaurano, Dionisio Capino, Isidro Briones and Macario G. Caranto; on the S. by property of Crispo Ella; on the SW. by properties of Francisco Natividad, Rufino Flores, Isidro Bumiel and Margarita Valenzuela; on the SW by the property of Bernardo Marquez; and on the NW. by the Cabatang River, properties of Marcos Gaurano, Luciano Santos and Juan Poloa, a creek and property of Vicente Gaurano; containing an area of ONE MILLION EIGHT HUNDRED FORTY NINE THOUSAND ONE HUNDRED AND SEVENTY-TWO SQUARE METERS (1,849,172), more or less."[10]

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[7] *Id.*, p. 62.

[8] *Id.*, p. 71.

[9] Record on Appeal, pp. 1-3.

[10] Folder of Exhibits, p. 1, Exh. "A".

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It was further alleged that on April 10, 1930, in *Expediente* No. 1509, G.L.R.O. Record No. 25133, and in *Expediente* No. 1679, G.L.R.O. Record No. 26112 in which Cosme U. Castillo and Florentina Arcoires were applicants, said Lot 12 was ordered excluded from Psu-16536, G.L.R.O. Record No. 25133 and in Plan Psu-13449, G.L.R.O. Record No. 26112 for the reason that the same was already awarded to herein respondents as owners in *Expediente* No. 356, Record No. 14322.[11]

In an amended answer filed on November 11, 1959, defendants below, now petitioners denied the material averments of the complaint and pointed out that Lot 12 could never be a part of Lot 6, Plan Psu-5967, because between the two lots there exists a big river more than fifty (50) meters wide and more than twenty (20) meters deep known as the Guhit River which serves as the natural boundary between the municipalities of Dolores and Candelaria of Quezon Province; that Lot No. 6, Plan Psu-5967 is situated within the jurisdiction of Dolores, Quezon while Lot No. 12 is situated within the jurisdiction of Candelaria, Quezon.[12]

As special defenses, defendants-petitioners alleged *inter alia*: (1) that they acquired Lot No. 12 partly by purchase and partly by inheritance and they, as well as their predecessors-in-interest, have been in possession of the same adversely, publicly, continuously, peacefully, and in the concept of owners against the whole world since the Spanish time up to the present; (2) that they have title to it granted of the Spanish government on March 11, 1888; (3) that the lot in question had been adjudicated to defendants-petitioners' predecessors-in-interest by the Court of First Instance of Tayabas (now Quezon) in the decision dated January 14, 1930 rendered in Land Registration Cases Nos. 1509 and 1679; (4) that they have declared the land for tax purposes since 1906 paying taxes therefor: (5) that they have cleared the land and planted on it numerous trees, like

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[11] Record on Appeal, pp. 3-4.

[12] *Id.*, pp. 8-9.

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coconuts, coffee, bananas, mangoes, lanzones, oranges, avocado, jack fruits and bamboos, without any interference from plaintiffs-respondents or their predecessors-in-interest; (6) that plaintiffs-respondents had never been the owners and possessors of Lot No. 12 or portion thereof, and if the same had been included in their title, *i.e.* TCT No. 16817 of the Register of Deeds of Quezon Province, the registration and issuance of the same in their favor had been secured thru fraud and deceit, by making it appear in the application for registration and the notices of publication that said Lot No. 6 belonged to them and is within the jurisdiction of Dolores, Quezon, which is not true since the same is within the jurisdiction of Candelaria, Quezon, thus deceiving the whole world of the proper location of the land subject of registration and publication; and (7) that if plaintiffs-respondents have cause or causes of action the same have already been barred by the statute of limitations.[13]

By way of counterclaim, defendants-petitioners claimed ₱5,000.00 for attorney's fees and ₱1,000.00 for litigation expenses, and that in the event that plaintiffs-respondents are declared the lawful owners of the lot in question, they be reimbursed the amount of ₱150,000.00 for the reasonable value of improvements they introduced thereon consisting of a house, *camarin* made of strong materials and various fruit trees.[14]

On June 25, 1968 the court *a quo* rendered a decision the pertinent portions of which read as follows:

"After a careful scrutiny and deliberation on the evidence presented by the plaintiffs and the defendants and after a long search in the archive of this court for the expediente of Case No. 1679, Record No. 26112, Land Registration Case No. 1509 and Case No. 356 which involves said records, the court has arrived at the ineludable (sic) conclusion that the property in question, consisting of about sixty (60) hectares, more or less, and known as Lot No. 12, Psu-13449, now Psu-16536-Amd. GLRO Record No. 27112, is included and comprised within Plan Psu-5967, for Lot No. 6, GLRO Record No.

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[13] *Id.*, pp. 7-9.

[14] *Id.*, pp. 9-11.

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14232. That Lot No. 6 covering and which includes Lot No. 12, the property in question, is covered by Transfer Certificate of Title No. 16817 of the Register of Deeds of Quezon and issued in the name of the herein plaintiffs; that the defendant Urbano Javier, since 1924, knew of the fact that the property in question, Lot No. 12, plan Psu-13449, now Psu-16536-Amd, is a part and parcel of Lot No. 6.

"This conclusion of the Court is supported by the records of Case No. 1679 wherein the defendant Urbano Javier was one of the oppositors; Case No. 356, and Land Registration Case No. 1509. From the records of Case No. 1679, the Chief Surveyor of the General Land Registration Office filed with this Court on February 15, 1927 a manifestation calling the attention of the Court to the fact that the land described in plan Psu-13449, Record No. 26112 which refer to Lot No. 12 and which is the property in question, is also included in plan Psu-5967 for Lot No. 6. This Chief Surveyor of the General Land Registration Office again on April 28, 1939 filed another manifestation reiterating his previous manifestation of February 15, 1927 and at the same time informing this court that Lot No. 6 of Plan Psu-5967 has already been adjudicated to the herein plaintiffs as could be found in Expediente 356, GLRO Record No. 14912 and that in said plan Psu-5967 for Lot No. 6, is included Lot No. 12 (the property in question) of plan Psu-13449 and in said manifestation of the Chief Surveyor of the General Land Registration Office, he recommended to this Court the issuance of an order for the exclusion from plan Psu-16536, GLRO Record No. 15113 and plan Psu-13449, GLRO Record No. 26112 involving Lot No. 12, from portion now in conflict with Lot No. 6 of Plan Psu-395967 which was included and formerly decreed in Expediente 356, GLRO Record No. 14232 in favor of the herein plaintiffs.

"From the indubitable document found in the record of the court, one could readily see that the claim of the defendants to the effect that Lot No. 12 which is the property in question, is not a part of Lot No. 6 is untenable. The defendants' contention that the commissioner's report, Exhibit "X", and the plotted area in conflict prepared by the court's commissioner, should not be admitted and given credit because the I.R. (Investigation Report) 268 wherein the commissioner's report was based was not presented finds no merit because the commissioner's report is confirmed by the manifestation of the Chief Surveyor of the General Land Registration Office filed with this court dated February 15, 1927 and April 18, 1939.

"With respect to the claim of the defendants that they acquired the property by prescription, the same is without merit taking into

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consideration that the defendant Urbano Javier knew that the property in question is within Lot No. 6 and covered by a certificate of title in favor of the plaintiffs since 1924 when he filed an opposition to the registration of the land in question and, therefore, could not be said to have acted in good faith for the purpose of applying the provision of the Civil Code in ordinary prescription. Neither could the defendants acquire the property by ordinary prescription because the defendant has not possessed the property for a period of thirty (30) years. Finally, the defendant could not acquire the property in question for the simple reason that the same is titled in the name of the plaintiffs and as such the law and jurisprudence says that no title to registered land may be acquired by prescription or adverse possession. (Section 46, Act No. 496; *Rodriguez Sr. vs. Francisco*, L-12039, June 30, 1961).

"VIEWED IN THE LIGHT OF ALL THE FOREGOING, and by preponderance of evidence, the court hereby renders judgment in favor of the plaintiffs and against the defendants:

1. Declaring the plaintiffs as the owners of the land in question;

2. Ordering the defendants to surrender the possession of the same to the plaintiffs;

3. Ordering the defendants to render an accounting of the fruits received by them from 1945 up to the time they shall deliver possession to the plaintiffs;

4. To pay the plaintiffs the amount of ₱20,000.00 as attorney's fees; and to pay the cost of the proceedings."[15]

Appellants, now petitioners, appealed the above decision to respondent Court of Appeals. On January 31, 1973 the said Court rendered a decision affirming that of the court *a quo*, with the modification that the award of attorney's fees be disallowed on the ground that appellants, petitioners herein, did not act with evident bad faith in occupying the land in question.[16] Motion for reconsideration of the Court of Appeals decision having been denied, appellants-petitioners resorted to this Court by way of this petition for review by *certiorari*.

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[15] *Id.*, pp. 18-22; See also *rollo*, pp. 22, 25 and 26 (C.A. decision).

[16] *Rollo*, p. 30 (C.A. Decision).

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Petitioners aver in their brief before this Court that the Court of Appeals erred —

(1) in holding that there was no fraud in the registration of Lot No. 12, Plan Psu-16536-AMD-3;

(2) in holding that the cause of action of the private respondents has not been barred by the Statute of Limitation or by laches;

(3) in not ordering the private respondents to reconvey the land in question to the petitioners; and

(4) in not ordering private respondents to pay for the improvements introduced by them on the land in question from 1945.[17]

We shall now consider and resolve the foregoing *in seriatim.*

1. Defendants-petitioners assail the registration of the land in question (Lot No. 12, Plan Psu-16536-AMD-3) as having been secured through fraud and misrepresentation, considering that in the Notice of Initial Hearing in Land Registration Case No. 365, G.L.R.O. Record No. 14232, Lot No. 6, which, as found by the lower court includes Lot No. 12, was made to appear as situated in Barrio Ayusan, Municipality of Dolores only, when in fact it is also situated in Barrio Masalocot, Municipality of Candelaria, both of the province of Quezon, thereby depriving the whole world, including the petitioners, defendants below, of their opportunity to oppose the registration thereof. In this connection, respondent Court of Appeals explicitly found that "after going over the records, the pleadings and the evidence adduced, We found no trace of fraud and misrepresentation in the procurement of the transfer certificate of title."[18] Fraud as a legal basis for review of a decree means actual or positive fraud as distinguished from constructive or legal fraud.[19] Since the existence or attendance of actual or positive fraud is a question of fact, and respondent Court having ruled out the same, We have no basis to sustain defendants-

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[17] See Brief for Defendants-Petitioners, pp. 2, 3, 13 to 22.

[18] *Rollo*, p. 26 (C.A. Decision).

[19] *Grey Alva, et al. v. Cruz*, 17 Phil. 49 (1910).

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petitioners' contention that it attended the procurement of the title. The lot in question, Lot No. 12, Plan Psu-16536-AMD was also found to be "part and parcel of Lot No. 6" for which TCT No. 16817 of the Register of Deeds of Quezon was issued on July 9, 1941 in the name of plaintiffs, now respondents.[20] This factual finding stands in the absence of weighty considerations to warrant its reversal. As held in *Evangelista & Co., et al. v. Abad Santos*[21] "(I)t is not the function of the Supreme Court to analyze or weigh such evidence all over again, its jurisdiction being limited to reviewing errors of law that might have been committed by the lower court." Moreover, the factual conclusion in the case at bar, as in *Evangelista & Co., et al. v. Abad Santos*, has been arrived at after weighing both the testimonial and documentary evidence presented. Finally, the decree of registration has long become final, absent a showing that the same was questioned within one (1) year after the entry thereof was made. Under Section 38 of the Land Registration Act, as amended, the person allegedly deprived of the land by a decree of registration obtained by fraud should file in the competent Court of First Instance a petition for review within one year after the entry of the decree provided no innocent purchaser for value has acquired an interest. Thus, granting that there was actual or positive fraud in securing the title, defendants-petitioners are now barred from questioning the same.

2. Petitioners next contend that respondents' cause of action has already been barred by the statute of limitations or by laches

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[20] See *Rollo*, p. 25 (C.A. Decision); See also Exh. "B", Folder of Exhibits, p. 3.

[21] L-31684, June 28, 1973, 51 SCRA 416. See also *De Gala-Sison vs. Manalo*, L-18181, July 31, 1963, 8 SCRA 595; *Goduco vs. Court of Appeals*, L-17647, June 16, 1965, 14 SCRA 282; *Ramos, et al. vs. Pepsi-Cola Bottling Company of the P.I., et al.*, L-22533, Feb. 9, 1967, 19 SCRA 289; *Lucero vs. Loot*, L-16995, Oct. 28, 1968, 25 SCRA 687; *Ramirez Telephone Corp. vs. Bank of America*, L-22614, Aug. 29, 1969, 29 SCRA 191; *Chan vs. Court of Appeals*, L-27488, June 30, 1970, 33 SCRA 737; and *Mendoza vs. CA*, L-36637, July 14, 1978, 84 SCRA 67.

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since they never asserted their right over the land in question while petitioners, defendants below, were in continuous, public and peaceful possession thereof during the period from December 29, 1927 when the Original Certificate of Title was issued up to October 17, 1959 when the complaint was filed, and, therefore, the land in question should be reconveyed to them.

In a similar case[22] for recovery of possession of registered land, the defendant set up the defense of prescription and title in himself through "open, continuous, exclusive and public and notorious possession under claim of ownership, adverse to the entire world x x x from time immemorial" and that the registration of the land in dispute was obtained through "fraud or error and without knowledge (of) or notice either personal or thru publication to defendant and/or predecessors-in-interest." This Court there held, citing *Soroñgon v. Makalintal*,[23] thus:

> As the land in dispute is covered by plaintiff's Torrens Certificate of Title and was registered in 1914, the decree of registration can no longer be impugned on the ground of fraud, error or lack of notice to defendant, as more than one year has already elapsed from the issuance and entry of the decree. Neither could the decree be collaterally attacked by any person claiming title to, or interest in, the land prior to the registration proceedings."

Defendants', now petitioners', position is untenable, the established rule being that one cannot acquire title to a registered land by prescription or adverse possession. Thus, in the same case of *Tuason v. Bolaños*, *supra*, this Court reiterated this principle when it held:

> "x x x Nor could title to that land in derogation of that of plaintiff, the registered owner, be acquired by prescription or adverse possession. (Section 46, Act No. 496). Adverse, notorious and continuous possession under claim of ownership for the period fixed by law is ineffective against a Torrens title. (*Valiente vs. Judge of*

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[22] *Tuason vs. Bolaños*, 95 Phil. 106 (1954), reiterated in *Bolaños vs. J.M. Tuason & Co., Inc.*, L-25894, January 30, 1971.

[23] 80 Phil. 259 (1948).

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CFI of Tarlac, etc., 45 Off. Gaz., Supp. 9, p. 43) and it is likewise settled that the right to secure possession under a decree of registration does not prescribe. (*Francisco vs. Cruz*, 43 Off. Gaz., 5105, 5109-5110) A recent decision of this Court on this point is that rendered in the case of *Jose Alcantara, et al. vs. Mariano, et al.*, 92 Phil. 796. x x x."

Hence, defendants-petitioners' claim that plaintiffs-respondents' cause of action has prescribed is without merit.

On the defense of laches, petitioners rely on the authority of *Mejia de Lucas vs. Gamponia*, 100 Phil. 277 (1956). There is no parallelism between the case at bar and that cited by petitioners. In the *Mejia de Lucas case*, which was an action for reconveyance, the land was acquired by Domingo Mejia by means of free patent. Eleven (11) days after the issuance of the patent and before that of the certificate of title, Domingo Mejia sold the land to Zacarias Ciscar who immediately took possession and enjoyed the fruits thereof. Upon the latter's death the land was included in the distribution of his estate and adjudicated to Roque Sanchez who in turn sold the same to Andres Gamponia, the defendant. The time during which the land in question was successively held in possession by Ciscar, Sanchez and Gamponia covered a period of 37 years. Meanwhile, Domingo Mejia died leaving his brother, Pedro Mejia, as his only surviving kin. When the latter also died, he was survived by his daughter Concordia Mejia de Lucas, the plaintiff therein.

On the foregoing facts, this Court upheld the equitable defense of laches in this wise:

"Upon a careful consideration of the facts and circumstances, we are constrained to find, however, that while no legal defense to the action lies, an equitable one lies in favor of the defendant and that is, the equitable defense of laches. No (*sic*, should be *We*) hold that the defense of prescription or adverse possession in derogation of the title of the registered owner Domingo Mejia does not lie, but that of the equitable defense of laches. Otherwise, stated, We hold that while defendant may not be considered as having acquired title by virtue of his and his predecessors' long continued possession for 37 years, the original owner's right to recover back the possession

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of the property and the title thereto from the defendant has, by the long period of 37 years and by patentee's inaction and neglect, been converted into a stale demand."[24]

It can be readily seen that in the above-cited case the land in question came into the possession of the defendant-appellant Gamponia after a series of transfers from Domingo Mejia, the original owner and plaintiff-appellee's (Mejia de Lucas') predecessor-in-interest to three other persons and their successors-in-interest, whose rights and obligation would have been affected by a contrary decision. Said the Court:

"x x x All of these transfer(s) from Zacarias Ciscar to his heirs, to Roque Sanchez and to defendant Andres Gamponia, acts which covered a period of 37 years would all have to be undone and the respective rights and obligations of the parties affected adjusted, unless the defense is sustained."[25]

This circumstance obtaining in the *Mejia de Lucas case* is not present in the case at bar. Here, there are no intervening rights of third persons which may be affected or prejudiced by a decision directing the return of Lot No. 12 to plaintiffs-respondents. Hence, the equitable defense of laches will not also apply as against the registered owners in this case.

3. The third assigned error does not raise an issue, and is merely a consequence of the first and second assigned errors. In the light of our resolution therein as shown in the foregoing, the same is without merit.

4. As regards the 4th and last issue, We agree with respondent Court of Appeals' finding that petitioners did not act with evident bad faith in occupying the land in question. This being likewise a question of fact, and there being substantial evidence in the records to support the finding, We reiterate the established principle applied in *Evangelista v. Abad Santos, et al., supra*, and a host of other cases cited, that as a rule the same should not be disturbed.

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[24] *Op. Cit.*, at p. 280.

[25] *Id.*, at p. 281.

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As possessors in good faith, petitioners are entitled to the fruits received before their possession was legally interrupted[26] upon receipt of judicial summons[27] in connection with the filing of the complaint for reconveyance on October 17, 1959.[28] However, the records do not show when the summons were received by the defendants-spouses, Javier. In the absence of such proof, and in the interest of justice, We hold that possession in good faith was legally interrupted on November 11, 1959, when their amended answer was filed,* — which is less than a month from the date the summons was apparently received. For the difference of a few days or about two (2) weeks in reckoning the starting date of possession in bad faith will not materially affect the prevailing party's entitlement to the fruits of the holding since the same will be reckoned seasonally. Petitioners should also be refunded the necessary and useful expenses, with the right to retain the land until reimbursed of the same, pursuant to Article 546 of the Civil Code. Under the said provision, respondents have the option to refund the amount of useful expenses or to pay the increase in value which the land may have acquired by reason thereof. In this connection, petitioners have placed the market value of improvements on the property consisting of various fruit trees, bamboos, a house and *camarin* made of strong materials, at ₱150,000.00[29] and this amount does not appear to be disputed. The average share of the owner was likewise compromised at sixty (60) cavans per year,[30] at an average price of seven pesos (₱7.00) per cavan[31] as of the date of the hearing on September 23, 1960.

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[26] Civil Code Act 544.

[27] Civil Code, Art. 1123.

[28] See note 9, *supra*.

* The date the original answer was filed is not also reflected in the records: Cf. *Tacas vs. Tabon*, 53 Phil. 356, 362, 363.

[29] Test. of Urbano Javier, T.S.N., of Jan. 14, 1965, p. 207; See also counterclaim, Record on Appeal, p. 10.

[30] T.S.N. of Sept. 23, 1960, p. 5; See also Stipulation of Facts, *Id.*, p. 8.

[31] *Ibid.*

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In view of Article 544 of the Civil Code, *supra*, petitioners shall be accountable for the fruits of subject property only after 1959, not from 1945.

WHEREFORE, the decision of the Court of Appeals is hereby AFFIRMED, with the modification that petitioners render an accounting of the entire produce of the holding from November 11, 1959, which, with respect to palay crop had been fixed at sixty (60) cavans a year at seven pesos (₱7.00) per cavan as of September 23, 1960, up to the time the subject land is actually reconveyed to private respondents. The value of necessary and useful expenses due petitioners in the amount of One Hundred Fifty Thousand Pesos (₱150,000.00) having been proved and not controverted, no further proof is required.

Let the records of this case be remanded to the Court of origin for the determination of the value of the entire produce, in addition to the palay crop, to which private respondents are entitled from November 11, 1959 to the time possession of subject property is delivered to them by petitioners.

SO ORDERED.

Barredo (Chairman), Antonio, and *Abad Santos, JJ.*, concur.

Aquino, J., concurs in the result.

Concepcion Jr., J.,* took no part.

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* The then Court of Appeals Associate Justice. Hermogenes Concepcion Jr., wrote the decision subject of this appeal.