Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

JACK ARROYO,
Petitioner,

- *versus* -

BOCAGO INLAND DEV'T. CORP. (BIDECO), represented by CARLITO BOCAGO and/or the HEIRS OF THE DECEASED RAMON BOCAGO, namely, BASILISA VDA. DE BOCAGO, CARLITO BOCAGO, SANNIE BOCAGO ARRENGO, and INDAY BUENO,
Respondents.

G.R. No. 167880

Present:

VELASCO, JR., *J., Chairperson*,
PERALTA,
ABAD,
PEREZ,* and
MENDOZA, *JJ.*

Promulgated:

14 November 2012

x----------x

DECISION

PERALTA, *J.*:

This resolves the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, praying that the Decision[1] of the Court of Appeals (CA) promulgated on November 18, 2004, and its Resolution[2] dated April 14, 2005, denying petitioner's Motion for Reconsideration, be reversed and set aside.

The records reveal the CA's narration of facts to be accurate, to wit:

---

* Designated Acting Member, per Special Order No. 1299 dated August 28, 2012.

1 Penned by Associate Justice Jose C. Reyes, Jr., with Associate Justices Perlita J. Tria Tirona and Rebecca De Guia-Salvador, concurring; *rollo*, pp. 12-34.

2 *Id.* at 40.

The case commenced on February 28, 1997 when herein plaintiff-appellee Jack Arroyo filed with the Regional Trial Court (Branch 56) of Libmanan, Camarines Sur, a complaint (Records, pp. 1-6) for recovery of possession and damages against herein defendants-appellants, Bocago Inland Development Corporation (BIDECO), represented by its President and General Manager Carlito Bocago, Basilisa Vda. de Bocago, Sammy Bocago Arringo and Inday Bueno.

In his complaint, plaintiff-appellee averred that he is the owner of the three (3) parcels of land located at Del Gallego, Camarines Sur, which are now covered by TCT No. RT-854 (14007), TCT No. RT-853 (10065) and RT-855 (19085), all under his name. Plaintiff-appellee claimed that since his acquisition thereof in 1972, he has been paying the taxes for the said lands. He likewise claimed that when he bought the properties from the Development Bank of the Philippines, the same were already sixty percent (60%) developed, which was the reason for the purchase and, in addition, the said properties are natural breeding grounds for crabs and prawns.

Later on, plaintiff-appellee discovered that defendants-appellants had been occupying the above-mentioned parcels of land since 1974. Plaintiff-appellee, through counsel, sent demand letters (Records, pp. 14-15) to defendants-appellants to return the peaceful possession of the parcels of land. But despite such demands, defendants-appellants never bothered to make a reply. Thus, because of the unlawful occupation by the defendants-appellants of the properties of plaintiff-appellee, the latter was forced to litigate. Plaintiff-appellee claimed for an award of damages in the form of unpaid rentals, attorney's fees of ₱100,000.00 and litigation expenses of ₱100,000.00.

On the other hand, defendants-appellants in their Answer (Records, pp. 24-29) maintained that plaintiff-appellee has no cause of action for he does not possess the said parcels of land nor manage the cultivation of the alleged fishpond. That the truth of the matter remains that the late Ramon Bocago was in possession of the said fishpond as early as 1967 when it was merely a swampy area and was not yet converted into a fishpond. In fact, it was Ramon Bocago, with the assistance of some of his sons, who personally introduced improvements in the area after the original applicant of the land, Mr. Anselmo Delantar, transferred his rights to the deceased Ramon Bocago. And after the death of Ramon Bocago in 1984, it was his heirs who continued the occupation, possession and development of the fishpond. In the year 1974, only about 25% of the area occupied was converted into fishpond until gradually an area of about 154,768 square meters, more or less, was finally developed with dikes enclosing the fishpond in the year 1991, all done at the sole expense of Ramon Bocago and then later on, by his heirs.

Defendants-appellants likewise contended that considering that the subject property is an agricultural land, the relief prayed for in the complaint will eventually result in the ejectment of the defendants-appellants which would clearly violate the agrarian reform laws, thus making the case fall within the exclusive jurisdiction of the DARAB. Furthermore, defendants-appellants also insisted that plaintiff-appellee's cause of action has already been barred by prescription, laches and estoppel. Thus, defendants-appellants not only prayed for the dismissal of

the complaint but also for the payment of exemplary, actual and compensatory damages, attorney's fees and reimbursable litigation expenses.

On June 5, 1997, plaintiff-appellee filed a "Reply and Answer to Counterclaim" (Records, pp. 31-32) contending that he, being the owner of the aforesaid properties, has the right to enjoy the possession and enjoyment of the same and definitely has all the right to exclude anybody from their occupancy thereof.

The last pleading having been filed, the case was set for a pre-trial conference on July 21, 1997 (See: Order, Records, p. 34; Notice of Pre-trial Conference, Records, p. 35). Meanwhile, defendants-appellants filed on July 7, 1997 an Urgent Motion for Postponement (Records, pp. 36-37), stating that they cannot attend the July 21, 1997 pre-trial because their counsel has a prior commitment to appear in another hearing.

In an Order (Records, p. 52) dated July 21, 1997, the RTC, on motion of plaintiff-appellee, declared defendants-appellants as in default for failure to appear in the pre-trial and for failure to file a pre-trial brief. Plaintiff-appellee, as early as July 14, 1997 filed his pre-trial brief (Records, pp. 38-41), while defendants-appellants filed their pre-trial brief, through registered mail on July 18, 1997 and received by the RTC only on July 24, 1997 (Records, pp. 44-49).

The case was then reset to August 7, 1997 for the presentation of plaintiff-appellee's evidence (See: Order, Records, p. 52). On August 7, 1997, plaintiff-appellee's counsel failed to attend the scheduled hearing. The RTC reset the presentation of evidence to September 23, 1997 (Records pp. 53-54).

On August 29, 1997, defendants-appellants filed a "Motion to Set Aside Order of Default and to Declare Plaintiff's *Ex-Parte* Presentation of Evidence Made Thereafter Null and Void" (Records, pp. 55-62) stating that they had made a timely motion for postponement and their pre-trial brief was timely filed as it was sent through registered mail on July 18, 1997, three (3) days before the trial date.

On September 22, 1997, defendants-appellants filed a "Motion to Hold in Abeyance the Presentation of Plaintiff's Evidence Scheduled on September 23, 1997" (Records, pp. 65-A to 65-C) insisting to postpone the September 23, 1997 hearing until after the resolution of their motion to set aside the order of default.

The RTC, in an Order (Records, pp. 66-68) dated September 23, 1997 denied the two (2) Motions filed by defendants-appellants. The RTC further ruled that the motion for postponement of the pre-trial did not contain a date of hearing, and hence, it was treated as a mere scrap of paper and does not toll the running of the period to appeal.

On November 20, 1997, plaintiff-appellee filed a Motion to Admit Amended complaint. In his amended Complaint (Records, pp. 74-79), plaintiff-appellee impleaded the heirs of Ramon Bocago as new party defendants. The amended complaint was admitted by the RTC in an Order (Records, p, 80) dated March 5, 1998. On September 15, 1998, defendants-appellants filed a Manifestation and Motion (Records, pp. 90-

92), stating that considering the four (4) newly impleaded defendants are actually being charged in the complaint, then the defendant corporation must be dropped as party defendant. This motion was denied by the RTC in an Order (Records, pp. 98-99) dated January 29, 1999. Reconsideration of the said January 29, 1999 Order was likewise denied by the RTC (See: Order, Records, p.108).

Service of summons was effected on the newly impleaded party defendants (Records, p. 111). On January 6, 2000, defendants-appellants, through counsel, filed an "Urgent Motion for Extension of Time to File Memorandum" (Records pp. 113-114). On January 13, 2000, defendants-appellants filed a "Second Urgent Motion for Extension of Time to File Responsive Pleading to the Amended Complaint" (Records, pp. 116-117). Both Motions were denied by the RTC in an Order (Records, p. 119) dated January 19, 2000 for being worthless pieces of paper as they do not contain a notice of hearing. Before defendants-appellants received the said January 19, 2000 Order, they again filed an "Urgent *Ex-Parte* Motion for Final Extension of Time to File Responsive Pleading to the Amended Complaint" (Records, pp. 120-121). On February 18, 2000, defendants-appellants filed a "Motion for Reconsideration of the Order of the court dated January 19, 2000" (Records, pp. 127-130).

On Motion of plaintiff-appellee, the RTC set the case for pre-trial conference on April 12, 2000 (See: Order, Records, p. 125). On February 16, 2000, defendants-appellants filed a "Motion to Hold in Abeyance the Pre-Trial Conference" (Records, pp. 132-133), which was scheduled on April 12, 2000 pending the resolution of the Motion for Reconsideration seeking to allow the filing of a responsive pleading. This Motion was granted in an Order dated March 31, 2000 (Records, p. 135). Meanwhile, in an Order of the RTC dated June 19, 2000, the RTC then considered the answer submitted to the initial complaint as the answer to the amended complaint, as defendants-appellants have not yet filed a responsive pleading. The case was then set for pre-trial on July 28, 2000 (Records, p. 136).

On July 28, 2000, both parties appeared, however, the pre-trial did not push through due to the illness of the Presiding Judge. Pre-trial was reset to September 22, 2000 (Records, p. 139). Two (2) days before the scheduled pre-trial, an Urgent Motion for Postponement was filed by defendants-appellants as the counsel was indisposed, a medical certificate to that effect was attached to the Motion (Records, pp. 141-143). The pre-trial was reset to October 20, 2000. But because defendants-appellants' counsel was stranded due to a typhoon, the pre-trial was reset to December 18, 2000 (Records, p. 148). Defendants-appellants' counsel urgently moved for the postponement of the December 18, 2000 hearing as he was already committed to appear in another case (Records, pp. 149-150). Pre-trial was reset to February 26, 2001 (Records, p. 155). Defendants-appellants' counsel failed to appear. On that same day, one of the parties, Carlito Bocago arrived and informed the Court that their counsel was brought to the hospital. Thus, the pre-trial was reset to May 28, 2001 (Records, p. 158). On May 28, 2001, counsel for both parties appeared but plaintiff-appellee's counsel manifested that his client is out of the country, hence, he prayed for the resetting to July 12, 2001. Both counsels agreed (Records, p. 161).

> On July 12, 2001, counsel for defendants-appellants failed to appear. Plaintiff-appellee then prayed that defendants-appellants be declared in default and that he be allowed to present evidence *ex-parte*. On that date, one of the incorporators of defendant-appellant corporation, Divina Bocago-Legaspi arrived and informed the court that defendants-appellants' counsel was ill. But nonetheless, the RTC, in an Order (Records, p. 162) dated July 12, 2001, declared defendants-appellants in default and directed plaintiff-appellee to present evidence *ex-parte* anytime at plaintiff-appellee's convenience. And in an Amended Order (Records, pp. 163-164) dated July 26, 2001, the RTC, corrected itself, deleting the portion declaring defendant in default, but allowing plaintiff-appellee to present evidence *ex-parte*.
>
> After plaintiff-appellee's presentation of evidence *ex-parte*, the RTC, on October 15, 2001, rendered a decision in favor of plaintiff-appellee Jack Arroyo and against defendants-appellants Bocago Inland Development Corporation and all its officers and members, including defendants-appellants Carlito Bocago, Basilisa Vda. de Bocago, Sammy Bocago Arringo and Inday Bueno. x x x
>
> On October 26, 2001, plaintiff-appellee filed a "Motion for Partial Reconsideration" (Records, pp. 198-200) alleging that the award of reasonable rental adjudged by the RTC in the amount of ₱2,581,560.00 was insufficient. The proper reasonable rental, after considering the total area occupied by the defendants-appellants, as well as the duration of their stay should be ₱5,887,845.00. On the other hand, defendants-appellants filed on November 20, 2001, a "Motion for Reconsideration and/or to Declare the Decision Null and Void" (Records, pp. 202-214). Defendants-appellants contended that the absence of counsel in the pre-trial was based on a reasonable ground, as the counsel was ill. A medical certificate to prove the contention was attached to the motion. Defendants-appellants likewise prayed that they be allowed to present their own evidence. The RTC, in an Order (Records, p. 234) dated February 8, 2002, denied the two (2) Motions filed by both counsels.[3]

In a Decision[4] dated October 15, 2001, the Regional Trial Court (RTC) of Libmanan, Camarines Sur, Branch 56, ruled in favor of herein petitioner by disposing as follows:

> WHEREFORE, on the basis of the evidence presented, decision is rendered in favor of plaintiff, Jack Arroyo, and against defendants, Bocago Inland Development Corporation (BIDECO), and all its officers and members, including defendants Carlito Bocago, Basilisa Vda. de Bocago, Sunny Bocago Arengo and Inday Bueno. The defendants are directed:
>
> > 1. To vacate the properties described in the complaint and return the peaceful possession of the same to the plaintiff;

---

3 *Rollo*, pp. 13-23.

4 *Id.* at 183-189.

> 2. To pay plaintiff the amount of ₱2,581,560.00, as reasonable rentals of the property; and
>
> 3. To pay plaintiff ₱100,000.00 as attorney's fees.
>
> SO ORDERED.[5]

Respondents appealed to the CA, and in a Decision promulgated on November 18, 2004, the CA upheld the propriety of the RTC's order allowing herein petitioner (plaintiff-appellee below) to present his evidence *ex-parte*, as said ruling is pursuant to the provisions of Section 5, Rule 18 of the Rules of Court allowing such *ex-parte* presentation of plaintiff's evidence if the defendant fails to appear at the pre-trial; it likewise upheld the RTC finding that herein petitioner is the registered owner of the subject parcels of land being utilized as fishponds. Nevertheless, the CA set aside the RTC judgment and, instead, ordered petitioner's complaint dismissed on the ground of laches. The CA opined that petitioner failed to assert his right over said land for over twenty years, thus, laches had set in. Petitioner filed a motion for reconsideration of said Decision, but the same was denied in a Resolution dated April 14, 2005.

Hence, the present petition, where the main issue for resolution is whether petitioner's complaint should be deemed barred by laches.

The Court cannot agree with the appellate court that the principle of laches is applicable in this case.

The established rule, as reiterated in *Heirs of Tomas Dolleton vs. Fil-Estate Management, Inc.*,[6] is that "the elements of laches must be proven positively. Laches is evidentiary in nature, a fact that cannot be established by mere allegations in the pleadings x x x."[7] Evidence is of utmost importance in establishing the existence of laches because, as stated in

---

5 *Id.* at 188.
6 G.R. No. 170750, April 7, 2009,l 584 SCRA 409.
7 *Id*. at 430.

Department of Education, Division of Albay vs. Oñate,[8] 'there is "no absolute rule as to what constitutes laches or staleness of demand; **each case is to be determined according to its particular circumstances**." x x x Verily, the application of laches is addressed to the sound discretion of the court as **its application is controlled by equitable considerations**.[9]

In this case, respondents (defendants-appellants below) did not present any evidence in support of their defense, as they failed to take advantage of all the opportunities they had to do so. The Court stressed in *Heirs of Anacleto B. Nieto vs. Municipality of Meycauayan, Bulacan*,[10] that:

> x x x **laches is not concerned only with the mere lapse of time. The following elements must be present** in order to constitute laches:
>
> (1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which complaint is made for which the complaint seeks a remedy;
> (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice, of the defendant's conduct and having been afforded an opportunity to institute a suit;
>
> (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and
> (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred.[11]

In this case, there is no evidence on record to prove the concurrence of all the aforementioned elements of laches. The first element may indeed be established by the admissions of both parties in the Complaint and Answer – *i.e.*, that petitioner is the registered owner of the subject property, but respondents had been occupying it for sometime and refuse to vacate the same – but the crucial circumstances of delay in asserting petitioner's right, lack of knowledge on the part of defendant that complainant would assert his right, and the injury or prejudice that defendant would suffer if the suit is not

---

8 G.R. No. 161758, June 8, 2007, 524 SCRA 200; See also *Heirs of Rosa Dumaliang and Cirila Dumaliang, etc. v. Serban*, G.R. No. 155133, February 21, 2007, 516 SCRA 343.
9 *Id*. at 216-217, 221. (Emphasis supplied)
10 G.R. No. 150654, December 13, 2007, 540 SCRA 100.
11 *Id*. at 107-108. (Emphasis supplied)

held to be barred, have not been proven. Therefore, in the absence of positive proof, it is impossible to determine if petitioner is guilty of laches.

At this juncture, it is best to emphasize the Court's ruling in *Labrador vs. Perlas*,[12] to wit:

> x x x As a registered owner, petitioner has a right to eject any person illegally occupying his property. This right is imprescriptible and can never be barred by laches. In *Bishop v. Court of Appeals*, we held, thus:
>
> > As registered owners of the lots in question, the private respondents have a right to eject any person illegally occupying their property. This right is imprescriptible. Even if it be supposed that they were aware of the petitioners' occupation of the property, and regardless of the length of that possession, the lawful owners have a right to demand the return of their property at any time as long as the possession was unauthorized or merely tolerated, if at all. This right is never barred by laches.
>
> x x x Social justice and equity cannot be used to justify the court's grant of property to one at the expense of another who may have a better right thereto under the law. These principles are not intended to favor the underprivileged while purposely denying another of his right under the law.[13]

To rule that herein petitioner is guilty of laches even in the absence of evidence to that effect would truly run afoul of the principle of justice and equity.

IN VIEW OF THE FOREGOING, the Petition is **GRANTED**. The Decision of the Court of Appeals, dated November 18, 2004, and its Resolution dated April 14, 2005 in CA-G.R. CV No. 74603, are hereby **SET ASIDE**, and the Decision of the Regional Trial Court of Libmanan, Camarines Sur, Branch 56, dated October 15, 2001 in Civil Case No. L-829, is **REINSTATED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

---

12 G.R. No. 173900, August 9, 2010, 627 SCRA 265.
13 *Id.* at 272.

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

ROBERTO A. ABAD
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice