Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

HEIRS OF RAFAEL GOZO represented by CASTILLO GOZO and RAFAEL GOZO, JR.,

Petitioners,

- versus -

PHILIPPINE UNION MISSION CORPORATION OF THE SEVENTH DAY ADVENTIST CHURCH (PUMCO), SOUTH PHILIPPINE UNION MISSION OF SDA (SPUMCO) and SEVENTH DAY ADVENTIST CHURCH AT SIMPAK, LALA, LANAO DEL NORTE represented by BETTY PEREZ ,

Respondents.

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G.R. No. 195990

Present:

SERENO, *C.J.*,
Chairperson,
LEONARDO DE-CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, *JJ.*

Promulgated:

AUG 05 2015

DECISION

PEREZ, *J.:*

This is a Petition for Review on *Certiorari*[1] filed by petitioners Heirs of Rafael Gozo seeking to reverse and set aside the 10 November 2010 Decision[2] of the Court of Appeals and its 14 February 2011 Resolution[3] in CA-G.R. CV No. 00188. The assailed decision and resolution reversed the

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1 *Rollo,* pp. 10-24.

2 Id. at 50-64; Penned by Associate Justice Edgardo T. Lloren with Associate Justices Romulo V. Borja and Ramon Paul L. Hernando, concurring.

3 Id. at 71-72.

30 June 2004 Decision of the Regional Trial Court (RTC) of Kapatagan, Lanao del Norte and held that the action for nullification and recovery of possession filed by the petitioners is already barred by laches. The dispositive portion of the Court of Appeals Decision reads:

> **ACCORDINGLY**, the Decision dated 30 June 2004 of the court *a quo* is REVERSED and SET ASIDE. The South Philippine Union Mission of the Seventh Day Adventist Church remains the absolute owner of the donated property.[4]

The Facts

Petitioners claim that they are the heirs of the Spouses Rafael and Concepcion Gozo (Spouses Gozo) who, before their death, were the original owners of a parcel of land with an area 236,638 square meters located in Sitio Simpak, Brgy. Lala, Municipality of Kolambugan, Lanao del Norte. The respondents claim that they own a 5,000 square-meter portion of the property. The assertion is based on the 28 February 1937 Deed of Donation[5] in favor of respondent Philippine Union Mission Corporation of the Seventh Day Adventist (PUMCO-SDA). Respondents took possession of the subject property by introducing improvements thereon through the construction of a church building, and later on, an elementary school. On the date the Deed of Donation is executed in 1937, the Spouses Gozo were not the registered owners of the property yet although they were the lawful possessors thereof. It was only on 5 October 1953 that the Original Certificate of Title (OCT) No. P-642 covering the entire property was issued in the name of Rafael Gozo (Rafael) married to Concepcion Gozo (Concepcion) pursuant to the Homestead Patent granted by the President of the Philippines on 22 August 1953.[6]

In view of Rafael's prior death, however, his heirs, Concepcion, and their six children, namely, Abnera, Benia, Castillo, Dilbert, Filipinas and Grace caused the extrajudicial partition of the property. Accordingly, the Register of Deeds of Lanao del Norte issued a new certificate of title under Transfer Certificate of Title (TCT) No. (T-347)-292[7] under the names of the heirs on 13 January 1954.

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4 Id. at 63.
5 Records, p. 101.
6 Id. at 8.
7 Id. at 143-145.

On 30 July 1992, Concepcion caused the survey and the subdivision of the entire property including the portion occupied by PUMCO-SDA.[8] It was at this point that respondents brought to the attention of Concepcion that the 5,000 square-meter portion of the property is already owned by respondent PUMCO-SDA in view of the Deed of Donation she executed together with her husband in their favor in 1937. When Concepcion, however, verified the matter with the Register Deeds, it appeared that the donation was not annotated in the title. The absence of annotation of the so-called encumbrance in the title prompted petitioners not to recognize the donation claimed by the respondents. The matter was left unresolved until Concepcion died and the rest of the owners continued to pursue their claims to recover the subject property from the respondents.

A compromise was initially reached by the parties wherein the petitioners were allowed by respondents to harvest from the coconut trees planted on the subject property but a misunderstanding ensued causing respondents to file a case for qualified theft against the petitioners.

On 19 June 2000 or around six decades after the Deed of Donation was executed, petitioners filed an action for Declaration of Nullity of Document, Recovery of Possession and Ownership with Damages against PUMCO-SDA before the RTC of Kapatagan, Lanao del Norte.[9] In their Complaint docketed as Civil Case No. 21-201, petitioners claimed that the possession of PUMCO-SDA on the subject property was merely tolerated by petitioners and therefore could not ripen into ownership.[10] In addition, petitioners argued that the signatures of the Spouses Gozo were forged underscoring the stark contrast between the genuine signatures of their parents from the ones appearing in the deed.[11] Finally, petitioners averred that granting for the sake of argument that the said signatures were genuine, the deed of donation will remain invalid for lack of acceptance which is an essential requisite for a valid contract of donation.[12]

For their part, respondents insisted on the validity of the donation and on the genuineness of the signatures of the donors who had voluntarily parted with their property as faithful devotees of the church for the pursuit of social and religious ends.[13] They further contended that from the moment the Spouses Gozo delivered the subject property to respondents in 1937, they were already in open, public, continuous and adverse possession thereof

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8 Id. at 146.
9 Id. at 1-7.
10 Id.
11 Id.
12 Id.
13 Id. at 19-24.

in the concept of an owner.[14] A considerable improvement was claimed to have been introduced into the property in the form of church and school buildings.[15] The argument of the petitioners, therefore, that the donation was invalid for lack of acceptance, a question which came 63 years after it was executed, is already barred by laches.

After the pre-trial conference, trial on the merits ensued. Both parties adduced documentary and testimonial evidence to support their respective positions.

On 30 June 2004, the RTC rendered a Decision[16] in favor of the petitioners thereby declaring that they are the rightful owners of the subject property since the contract of donation which purportedly transferred the ownership of the subject property to PUMCO-SDA is void for lack of acceptance. In upholding the right of the petitioners to the land, the court *a quo* held that an action or defense for the declaration of nullity of a contract does not prescribe. Anent the claim that petitioners slept on their rights, the RTC adjudged that the equitable doctrine of *laches* is inapplicable in the case at bar because the action of the registered owners to recover possession is based on Torrens title which cannot be barred by *laches*. The RTC disposed in this wise:

> WHEREFORE, in view of the foregoing consideration, judgment is hereby rendered in favor of the [petitioners], to wit:
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> (1) Declaring the 5,000 square meter portion of the land covered by TCT [No.] (T-347)-292 part of the common property of the [petitioners]; and
> (2) Declaring the Deed of Donation as void.
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> The [petitioners], however, are not entitled to damages, attorney's fees and cost of litigation prayed for.[17]

On appeal, the Court of Appeals reversed the RTC Decision[18] and ordered the dismissal of petitioners' complaint on the ground of *laches*. The appellate court opined that petitioners failed to assert their rights over the land for more than 60 years, thus, *laches* had set in. Even if petitioners were the registered owners of the land in dispute, *laches* would still bar them from recovering possession of the same.

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14 Id.
15 Id.
16 *Rollo*, pp. 28-49.
17 Id. at 48-49.
18 Id. at 50-64.

The Motion for Reconsideration filed by the petitioners was likewise denied by the appellate court in a Resolution[19] dated 14 February 2011.

Petitioners are now before this Court *via* this instant Petition for Review on *Certiorari* seeking the reversal of the Court of Appeals Decision and Resolution on the sole ground that:

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> THE HONORABLE COURT OF APPEALS ERRED IN REVERSING AND SETTING ASIDE THE DECISION OF THE COURT *A QUO* ON THE GROUND OF LACHES.[20]

The Court's Ruling

While the opposing parties center their arguments and counter-arguments on the timeliness of raising the question of the validity of donation, a careful scrutiny of the records, however, reveals a significant fact that at the time the Deed of Donation was executed by the Spouses Gozo on **28 February 1937**, the subject property was part of the inalienable public domain. It was only almost after two decades later or on **5 October 1953** that the State ceded its right over the land in favor of the Spouses Gozo by granting their patent application and issuing an original certificate of title in their favor. Prior to such conferment of title, the Spouses Gozo possessed no right to dispose the land which, by all intents and purposes, belongs to the State.

Under the Regalian doctrine, which is embodied in Article XII, Section 2 of our Constitution, all lands of the public domain belong to the State, which is the source of any asserted right to any ownership of land. All lands not appearing to be clearly within private ownership are presumed to belong to the State. Accordingly, public lands not shown to have been reclassified or released as alienable agricultural land or alienated to a private person by the State remain part of the inalienable public domain.[21]

The classification of public lands is an exclusive prerogative of the executive department of the government and not the Courts. In the absence of such classification, the land remains as an unclassified land until it is released therefrom and rendered open to disposition. This is in consonance with the Regalian doctrine that all lands of the public domain belong to the

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19 Id. at 71-72.

20 Id. at 15.

21 *Republic-Bureau of Forest Development v. Roxas*, G.R. No. 157988, 11 December 2013, 712 SCRA 177, 201.

State and that the State is the source of any asserted right to ownership in land and charged with the conservation of such patrimony.[22]

All lands not appearing to be clearly within private ownership are presumed to belong to the State. Accordingly, all public lands not shown to have been reclassified or released as alienable agricultural land or alienated to a private person by the State remain part of the alienable public domain. As already well-settled in jurisprudence, no public land can be acquired by private persons without any grant, express or implied, from the government; and it is indispensable that the person claiming title to public land should show that his title was acquired from the State or any other mode of acquisition recognized by law. To prove that the land subject of an application for registration is alienable, the applicant must establish the existence of a positive act of the government such as a presidential proclamation or an executive order, an administrative action, investigation reports of Bureau of Lands investigators, and a legislative act or a statute. The applicant may also secure a certification from the Government that the land applied for is alienable and disposable.[23]

Commonwealth Act No. 141, also known as the Public Land Act, as amended by Presidential Decree No. 1073, remains to this day the existing general law governing the classification and disposition of lands of the public domain, other than timber and mineral lands. The following provisions under Title I, Chapter II of the Public Land Act, as amended, is very specific on how lands of the public domain become alienable or disposable:[24]

> SEC. 6. The President, upon the recommendation of the Secretary of Agriculture and Natural Resources, shall from time to time classify the lands of the public domain into:
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> (a) Alienable or disposable,
> (b) Timber, and
> (c) Mineral lands,
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> and may at any time and in a like manner transfer such lands from one class to another, for the purposes of their administration and disposition.
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> SEC. 7. For the purposes of the administration and disposition of alienable or disposable public lands, the Batasang Pambansa or the President, upon recommendation by the Secretary of Natural Resources,

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22 *Republic of the Phils. v. Intermediate Appellate Court*, 239 Phil. 393, 401 (1987).
23 *Rep. of the Phils. v. Muñoz,* 562 Phil. 103, 115-116 (2007).
24 *Republic-Bureau of Forest Development v. Roxas*, supra note 21.

> may from time to time declare what public lands are open to disposition or concession under this Act.
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> x x x x
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> SEC. 8. Only those lands shall be declared open to disposition or concession which have been officially delimited and classified and, when practicable, surveyed, and which have not been reserved for public or quasi-public uses, nor appropriated by the Government, nor in any manner become private property, nor those on which a private right authorized and recognized by this Act or any other valid law may be claimed, or which, having been reserved or appropriated,have ceased to be so. However, the President may, for reasons of public interest, declare lands of the public domain open to disposition before the same have had their boundaries established or been surveyed, or may, for the same reason, suspend their concession or disposition until they are again declared open to concession or disposition by proclamation duly published or by Act of the Congress.
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> SEC. 9. For the purpose of their administration and disposition, the lands of the public domain alienable or open to disposition shall be classified, according to the use or purposes to which such lands are destined, as follows:
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> (a) Agricultural;
> (b) Residential, commercial, industrial, or for similar productive purposes;
> (c) Educational, charitable, or other similar purposes; and
> (d) Reservations for townsites and for public and quasi-public uses.
>
> The President, upon recommendation by the Secretary of Agriculture and Natural Resources, shall from time to time make the classifications provided for in this section, and may, at any time and in a similar manner, transfer lands from one class to another.[25]

By virtue of Presidential Decree No. 705, otherwise known as the Revised Forestry Code, the President delegated to the DENR Secretary the power to determine which of the unclassified lands of the public domain are (1) needed for forest purposes and declare them as permanent forest to form part of the forest reserves; and (2) not needed for forest purposes and declare them as alienable and disposable lands.[26]

Per the Public Land Act, alienable and disposable public lands suitable for agricultural purposes can be disposed of only as follows:

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25 Id. at 201-202.
26 Id. at 203.

1. For homestead settlement;
2. By sale;
3. By lease; and
4. By confirmation of imperfect or incomplete titles:

(a)By judicial legalization;
(b)By administrative legalization (free patent).[27]

Homestead over alienable and disposable public agricultural land is granted after compliance by an applicant with the conditions and requirements laid down under Title II, Chapter IV of the Public Land Act, the most basic of which are quoted below:

> SEC. 12. Any citizen of the Philippines over the age of eighteen years, or the head of a family, who does not own more than twenty-four hectares of land in the Philippines or has not had the benefit of any gratuitous allotment of more than twenty-four hectares of land since the occupation of the Philippines by the United States, may enter a homestead of not exceeding twenty-four hectares of agricultural land of the public domain.
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> SEC. 13. Upon the filing of an application for a homestead, the Director of Lands, if he finds that the application should be approved, shall do so and authorize the applicant to take possession of the land upon the payment of five pesos, Philippine currency, as entry fee. Within six months from and after the date of the approval of the application, the applicant shall begin to work the homestead, otherwise he shall lose his prior right to the land.
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> SEC. 14. No certificate shall be given or patent issued for the land applied for until at least one-fifth of the land has been improved and cultivated. The period within which the land shall be cultivated shall not be less than one nor more than five years, from and after the date of the approval of the application. The applicant shall, within the said period, notify the Director of Lands as soon as he is ready to acquire the title. If at the date of such notice, the applicant shall prove to the satisfaction of the Director of Lands, that he has resided continuously for at least one year in the municipality in which the land is located, or in a municipality adjacent to the same and has cultivated at least one-fifth of the land continuously since the approval of the application, and shall make affidavit that no part of said land has been alienated or encumbered, and that he has complied with all the requirements of this Act, then, upon the payment of five pesos, as final fee, he shall be entitled to a patent.[28]

It is clear under the law that before compliance with the foregoing conditions and requirements the applicant has no right over the land subject

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27 Id. at 204.
28 Id. at 204-205.

of the patent and therefore cannot dispose the same even if such disposal was made gratuitously. It is an established principle that no one can give what one does not have, *nemo dat quod non habet.*[29] It is true that gratuitous disposal in donation may consist of a thing or a right but the term right must be understood in a "proprietary" sense over which the possessor has *jus disponendi.*[30] This is because in true donations there results a consequent impoverishment of the donor or diminution of his assets.[31] In *Republic v. Court of Appeals*,[32] the Court declared the contract of donation, executed by the donor who has no proprietary right over the object of the contract, null and void, *viz:*

> Even on the gratuitous assumption that a donation of the military "camp site" was executed between Eugenio de Jesus and Serafin Marabut, **such donation would anyway be void because Eugenio de Jesus held no dominical rights over the site when it was allegedly donated by him** in 1936. In that year, Proclamation No. 85 of President Quezon already withdrew the area from sale or settlement and reserved it for military purposes. x x x Eugenio de Jesus cannot be said to be possessed of that "proprietary" right over the whole 33 hectares in 1936 including the disputed 12.8081 hectares for at the time this 12.8081-hectare lot had already been severed from the mass disposable public lands by Proclamation No. 85 and excluded from the Sales Award. Impoverishment of Eugenio's asset as a result of such donation is therefore farfetched. (Emphasis supplied)

It is beyond question that at the time the gratuitous transfer was effected by the Spouses Gozo on **28 February 1937**, the subject property was part of the public domain and is outside the commerce of man. It was only on **5 October 1953** that the ownership of the property was vested by the State to the Spouses Gozo by virtue of its issuance of the OCT pursuant to the Homestead Patent granted by the President of the Philippines on **22 August 1953**. Hence, the donation of the subject property which took place before **5 October 1953** is null and void from the very start.[33]

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29 *Naval v. Court of Appeals,* 518 Phil. 271, 282 (2006).

30 That is why future property cannot be donated because ownership does not reside yet in the donor. (Art. 751, New Civil Code) as cited in *Republic v. Court of Appeals*, 165 Phil. 142, 159 (1976).

31 *Republic v. Court of Appeals*, 165 Phil. 142, 159 (1976).

32 Id.

33 Art. 1409, New Civil Code. The following contracts are inexistent and void from the beginning:

(1) Those whose cause, object or purpose is contrary to law, morals, good customs, public order or public policy;
(2) Those which are absolutely simulated or fictitious;
(3) Those whose cause or object did not exist at the time of the transaction;
(4) Those whose object is outside the commerce of men;
(5) Those which contemplate an impossible service;
(6) Those where the intention of the parties relative to the principal object of the contract cannot be ascertained;
(7) Those expressly prohibited or declared void by law. (Emphasis supplied)

As a void contract, the Deed of Donation produces no legal effect whatsoever. *Quod nullum est, nullum producit effectum.*[34] That which is a nullity produces no effect.[35] Logically, it could not have transferred title to the subject property from the Spouses Gozo to PUMCO-SDA and there can be no basis for the church's demand for the issuance of title under its name. Neither does the church have the right to subsequently dispose the property nor invoke acquisitive prescription to justify its occupation. A void contract is not susceptible to ratification, and the action for the declaration of absolute nullity of such contract is imprescriptible.[36]

The lack of respondents' right over the property was confirmed when the Spouses Gozo had the entire property, including the portion occupied by the church, surveyed and patented, and covered by their homestead patent. Further, after a certificate of title was issued under their names, the Spouses Gozo did not effect the annotation thereon of the supposed donation. Registration is the operative act that gives validity to the transfer or creates a lien upon the land.[37] Indeed it has been ruled that where there was nothing in the certificate of title to indicate any cloud or vice in the ownership of the property, or any encumbrance thereon, the purchaser is not required to explore farther than what the Torrens title upon its face indicates in quest for any hidden defect or inchoate right that may subsequently defeat his right thereto.[38] If the rule were otherwise, the efficacy and conclusiveness of the certificate of title which the Torrens system seeks to insure would entirely be futile and nugatory.[39] The public shall then be denied of its foremost motivation for respecting and observing the Land Registration Act.[40]

Just as significantly, the homestead application of the Spouses Gozo over the entire area of the property including that occupied by respondents and the issuance in their favor of the corresponding title without any complaint or objection from the respondents, remove the case of the petitioners from the operation of the doctrine of laches.

And, further than the issuance of an original title, the entire property was made subject of an extrajudicial partition of the property by the Gozo heirs resulting in the issuance of TCTs in their names in 1954. Again, in no

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34 *Spouses Tan v. Bantegui*, 510 Phil. 434, 447 (2005).
35 Id.
36 *Binayug v. Ugaddan*, G.R. No, 181623, 5 December 2012, 687 SCRA 260, 273.
37 *Spouses Peralta v. Heirs of Abalon*, G.R. No. 183448, 30 June 2014, 727 SCRA 477, 494 citing *Fule v. De Legare*, 117 Phil. 367 (1963).
38 Id. at 494-495.
39 Id. at 495.
40 Id.

instance during the partition did the respondents make known their claim over the property.

Clearly from the facts, the petitioners asserted their rights repeatedly; it was the respondents who kept silent all throughout about the supposed donee's rights.

WHEREFORE, premises considered, the instant petition is hereby **GRANTED**. The assailed Decision dated 10 November 2010 and Resolution dated 14 February 2011 of the Court of Appeals in CA-G.R. CV No. 00188 are hereby **REVERSED and SET ASIDE.**

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO DE-CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision were 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