

SECOND DIVISION

G.R. No. 201405 – LIWAYWAY ANDRES, RONNIE ANDRES, AND PABLO B. FRANCISCO, Petitioners, v. STA. LUCIA REALTY & DEVELOPMENT, INCORPORATED, Respondent.

Promulgated:  
24 AUG 2015

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CONCURRING OPINION

LEONEN, J.:

I concur in the denial of the Petition for Review on Certiorari.

Article 649 of the Civil Code provides that an easement of right of way may be demanded only by the owner of an immovable property, or a person who may use or cultivate the property on account of a real right. Petitioners attempted to establish their ownership through the two modes of acquisitive prescription. Their main argument was that they obtained ownership over the property through ordinary acquisitive prescription.<sup>1</sup> However, petitioners failed to sufficiently establish that their possession was in good faith and with just title, falling short of the requirements set by Article 1117<sup>2</sup> of the Civil Code.

In the alternative, petitioners asserted that they became owners of the property through extraordinary acquisitive prescription.<sup>3</sup> In *Heirs of Maningding v. Court of Appeals*,<sup>4</sup> this court held that while extraordinary acquisitive prescription did not require a title or the existence of good faith, the immovable property should have been under uninterrupted adverse possession for 30 years.<sup>5</sup> With regard to the issue of the length of possession, the trial court based its ruling on respondent's alleged failure to deny in its Answer petitioners' allegation of uninterrupted adverse possession.<sup>6</sup> This was subsequently overturned by the Court of Appeals, alongside the finding that petitioners failed to produce evidence to support their allegations.<sup>7</sup> At best, petitioners may rely on the April 13, 1998 letter

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<sup>1</sup> *Rollo*, pp. 10–11.

<sup>2</sup> ARTICLE 1117. Acquisitive prescription of dominion and other real rights may be ordinary or extraordinary.

Ordinary acquisitive prescription requires possession of things in good faith and with just title for the time fixed by law. (1940a)

<sup>3</sup> *Rollo*, pp. 11–12.

<sup>4</sup> 342 Phil. 567 (1997) [Per J. Bellosillo, First Division].

<sup>5</sup> *Id.* at 567–578.

<sup>6</sup> *Rollo*, pp. 22–23.

<sup>7</sup> *Id.*

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of Carlos Andres for their claim of adverse possession.<sup>8</sup> However, considering that 30 years have not elapsed thus far since the letter was made,<sup>9</sup> petitioners' claim has not yet ripened to ownership through extraordinary acquisitive prescription.

For having failed to prove ownership over the property, petitioners are not entitled to demand an easement of right of way against respondent.

However, I reiterate my position in *Heirs of Mario Malabanan v. Republic of the Philippines*<sup>10</sup> regarding lands of public domain and state ownership.

Article XII, Section 2 of the Constitution provides:

Section 2. *All lands of the public domain*, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources *are owned by the State*. With the exception of agricultural lands, all other natural resources shall not be alienated.  
... (Emphasis supplied)

The provision only refers to "all lands of the public domain" as subject to state ownership. It does not create a presumption that the state owns all lands that do not appear to be within the scope of private ownership. It also does not create a presumption that all lands not yet reclassified or alienated to a private person by the state remain part of public dominion.

In my view, the state's reclassification of lands from public domain to patrimonial lands or lands of private ownership is not the reckoning act in all cases from which a person may establish his or her ownership over a property. For instance, occupation in the concept of an owner, either through themselves or their predecessors in interest, since time immemorial has been recognized by this court as early as 1909 in *Cariño v. Insular Government of the Philippine Islands*:<sup>11</sup>

It is true that, by section 14, the Government of the Philippines is empowered to enact rules and prescribe terms for perfecting titles to public lands where some, but not all, Spanish conditions had been fulfilled, and to issue patents to natives for not more than 16 hectares of public lands actually occupied by the native or his ancestors before August 13, 1898. But this section perhaps might

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<sup>8</sup> Id. at 11.

<sup>9</sup> Id.

<sup>10</sup> G.R. No. 179987, September 3, 2013, 704 SCRA 561 [Per J. Bersamin, En Banc].

<sup>11</sup> 212 U.S. 449 (1909) [Per J. Holmes].

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be satisfied if confined to cases where the occupation was of land admitted to be public land, and had not continued for such a length of time and under such circumstances as to give rise to the understanding that the occupants were owners at that date. *We hesitate to suppose that it was intended to declare every native who had not a paper title a trespasser, and to set the claims of all the wilder tribes afloat.* It is true again that there is excepted from the provision that we have quoted as to the administration of the property and rights acquired by the United States, such land and property as shall be designated by the President for military or other reservations, as this land since has been. But there still remains the question what property and rights the United States asserted itself to have acquired.

Whatever the law upon these points may be, and we mean to go no further than the necessities of decision demand, every presumption is and ought to be against the government in a case like the present. It might, perhaps, be proper and sufficient to say that *when, as far back as testimony or memory goes, the land has been held by individuals under a claim of private ownership, it will be presumed to have been held in the same way from before the Spanish conquest, and never to have been public land.*<sup>12</sup> (Emphasis supplied)

Property rights, in all their forms, are protected by no less than the Constitution.<sup>13</sup> This protection is not necessarily rendered weak for lack of paper title that puts it within a particular legal classification.

ACCORDINGLY, I vote to deny the Petition.

  
MARVIC M.V.F. LEONEN  
Associate Justice

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<sup>12</sup> Id.

<sup>13</sup> Art. III, sec. 1. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied equal protection of the laws.