



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 10, 2020 which reads as follows:

“G.R. No. 247892 — PRISCILLA DOMINGUEZ AND CHILDREN, AS HEIRS OF THE LATE DANTE B. DOMINGUEZ, petitioners, versus DIOSDADO DOMINGUEZ, JR., REPRESENTED BY HIS ATTORNEY-IN-FACT, FELICIANA B. RAGASA, respondent.

RESOLUTION

Before the Court is a Petition for Review on Certiorari, assailing the November 21, 2018 Decision¹ and May 16, 2019 Resolution² of the Court of Appeals (CA) in CA-G.R. CV No. 108167, which affirmed the Order dated December 3, 2015³ issued by the Regional Trial Court of Balanga City, Branch 1 (RTC) in Civil Case No. 9491.

Petitioners Priscilla Dominguez and children (Petitioners), as heirs of the late Dante B. Dominguez, assail for the first time the jurisdiction of the RTC over the case. Petitioners also question the propriety of the public auction of the subject property, arguing that respondent Diosdado Dominguez, Jr. (Respondent) only asked for a public auction after the RTC assigned the subject property to Petitioners. Petitioners further contend that Respondent’s real intention is to acquire the subject property for himself and that it would be the height of injustice not to assign the subject property to Petitioners.

¹ *Rollo*, pp. 50-64. Penned by Associate Justice Geraldine C. Fiel-Macaraig with Associate Justices Ramon R. Garcia and Eduardo B. Peralta, Jr. concurring.

² *Id.* at 74-75.

³ *Id.* at 164-166. Penned by Judge Angelito I. Balderama.

A handwritten signature in the bottom right corner of the page.

The Petition has no merit. The CA Decision and Resolution are hereby affirmed.

Although the general rule is that lack of jurisdiction of a court may be raised at any stage of the proceedings, the Court carved out an exception in the case of *Tijam v. Sibonghanoy*,⁴ thus:

A party may be estopped or barred from raising a question in different ways and for different reasons. Thus we speak of estoppel *in pais*, of estoppel by deed or by record, and of estoppel by *laches*.

Laches, in a general sense, is failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.

The doctrine of laches or of “stale demands” is based upon grounds of public policy which requires, for the peace of society, the discouragement of stale claims and, unlike the statute of limitations, is not a mere question of time but is principally a question of the inequity or unfairness of permitting a right or claim to be enforced or asserted.

x x x x

Furthermore, it has also been held that after voluntarily submitting a cause and encountering an adverse decision on the merits, it is too late for the loser to question the jurisdiction or power of the court x x x.⁵

In the case at bar, Petitioners raised the issue of lack of jurisdiction of the RTC, 10 years after the complaint was filed and only after the CA had ruled against them. Thus, laches has set in.

To dismiss the case at this stage of the proceedings and have the same retried before the municipal trial court would be unjust, not to mention pointless, especially since the Court will, in all probability, be confronted again with the same issue involving the same parties. To write *finis* to the controversy, the Court will address the issue on the propriety of the public auction — an issue which the RTC and CA had already discussed.

⁴ 131 Phil. 556 (1968).

⁵ Id. at 563-564. Emphasis and underscoring supplied.

First, the RTC correctly ruled that a co-ownership exists among the six children of Spouses Diosdado M. Dominguez, Sr. and Juanita Baluyot Dominguez (Spouses Dominguez, Sr.), including Petitioners herein as the heirs of the late Dante B. Dominguez.⁶

Second, since it is impracticable to physically divide a 128-square-meter property among the six children of Spouses Dominguez, Sr., and both Petitioners and Respondent have expressed their intention to buy the subject property, the RTC properly ordered a public auction pursuant to Article 498 of the Civil Code in relation to Section 5, Rule 69 of the Rules of Court:

Article 498. **Whenever the thing is essentially indivisible and the co-owners cannot agree that it be allotted to one of them who shall indemnify the others, it shall be sold** and its proceeds distributed.⁷

Section 5. *Assignment or sale of real estate by commissioners.* — **When it is made to appear to the commissioners that the real state, or a portion thereof, cannot be divided without prejudice to the interests of the parties, the court may order it assigned to one of the parties willing to take the same, provided he pays to the other parties such amount as the commissioners deem equitable, unless one of the interested parties asks that the property be sold instead of being so assigned, in which case the court shall order the commissioners to sell the real estate at public sale under such conditions and within such time as the court may determine.**⁸

Petitioners' own Memorandum⁹ dated December 20, 2014 filed before the RTC belies their claim that Respondent did not express his desire to buy the subject property during trial. The Court quotes the relevant portion of the CA Decision, *viz.*:

Section 5 of Rule 69 of the Rules of Court is clear in that the court may order the public sale of the property subject of an action for partition instead of assigning the same to one of the parties if there is a request among the parties to that effect. This Court also notes with interest the allegation made by defendants-

⁶ CIVIL CODE, Art. 484. There is co-ownership whenever the ownership of an undivided thing or right belongs to different persons.

In default of contracts, or of special provisions, co-ownership shall be governed by the provisions of this Title.

⁷ Emphasis and underscoring supplied.

⁸ Emphasis and underscoring supplied.

⁹ *Rollo*, pp. 120-131.

appellants in paragraph 19 of their *Memorandum* dated 20 December 2014, to wit:

19. x x x [D]uring the oral arguments on 05 December 2014 before this Honorable Court, Plaintiff, through counsel, opposed the Commissioner's Report and manifested that they are amenable to the option of selling the ancestral house and dividing the proceeds among the heirs.

Thus, contrary to the allegation of the defendants-appellants, as early as 05 December 2014, the plaintiff-appellee had already expressed his willingness to have the subject property sold at public auction instead of having it assigned to the defendants-appellants. No reversible error can thus be imputed upon the court *a quo* when it ordered for the sale of the subject property in its 3 December 2015 *Order*, the same being in accordance with the express provision of Section 5, Rule 69 of the Rules of Court.¹⁰

Finally, Petitioners did not acquire any preference over the subject property by virtue of their occupation thereof. That Respondent and the other heirs of Spouses Dominguez, Sr. have their own houses is not sufficient reason to assign the subject property to Petitioners. There is no law or jurisprudence mandating that the subject property be assigned to Petitioners simply because they have been living on the subject property for a long time. On the contrary, the law provides that if the co-owners cannot agree on the allotment of an indivisible co-owned property then the same shall be sold and the proceeds thereof distributed to the co-owners. Nothing is prohibiting the Petitioners from participating in the public auction. If Petitioners wish to acquire the subject property, all they have to do is make a bid on the property during the public auction.

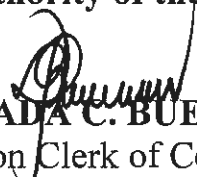
In view of the foregoing, the petition is hereby dismissed for lack of merit.

The respondent's comment on the petition for review on certiorari and the petitioners' compliance with the Resolution dated August 14, 2019, are both **NOTED**; and the respondent's first and second motions for early resolution are both **NOTED WITHOUT ACTION**.

¹⁰ Id. at 63.

SO ORDERED.” (ZALAMEDA, J., on official leave)

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court 6/11/20

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
123-B

SANCHEZ-MALIT & ARIETE
LAW OFFICES
Counsel for Petitioners
Sanchez-Malit Building
Sta. Isabela, Dinalupihan
2110 Bataan

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M. No. 12-
7-1-SC)

Judgment Division (x)
Supreme Court

UR

Court of Appeals (x)
Manila
(CA-G.R. CV No. 108167)

Atty. Reynaldo Z. Calabio
Counsel for Respondent
Unit 259, CPT (Cityland) Condo.
6264 Calle Estacion, Pio Del Pilar
1230 Makati City

The Presiding Judge
Regional Trial Court, Branch 1
Balanga City, 2100 Bataan
(Civil Case No. 9491)

JLP

