



**Republic of the Philippines
Supreme Court
Manila**

SECOND DIVISION

**BALDOMERA FOCULAN-
FUDALAN,**

Petitioner,

G.R. No. 194516

Present:

- versus -

CARPIO, J., *Chairperson,*
BRION,
DEL CASTILLO,
MENDOZA, and
JARDELEZA,* JJ.

**SPOUSES DANILO OCIAL
and DAVIDICA BONGCARAS-
OCIAL, EVAGRIA F. BAGCAT,
CRISTINA G. DOLLISEN,
EULALIA F. VILLACORA,
TEOFREDO FUDERANAN,
JAIME FUDERANAN,
MARIANO FUDERANAN,
FILADELFO FUDERANAN,
MUSTIOLA F. MONTEJO,
CORAZON LOGMAO,
DIONESIO FUDERANAN,
EUTIQUIA FUDERANAN,
ASTERIA FUDERANAN,
ANTONIO FUDERANAN,
ROMEO FUDERANAN,
FLORENTINO FUDERANAN,
DOMECIANO FUDERANAN,
ERLINDA SOMONTAN,
FELICIANA FUDERANAN,
BONIFACIO FUDERANAN,
QUIRINO FUDERANAN, MA.
ASUNCION FUDERANAN,
MARCELINA ARBUTANTE,
SALOME GUTUAL,**

* Designated Acting Member in lieu of Associate Justice Marvic M.V.F. Leonen, per Special Order No. 2056, dated June 10, 2015.

**LEONARDO LUCILLA,
IMELDA L. ESTOQUE,
CIRILA OLANDRIA, TITA G.
BONGAY and MUNICIPAL
ASSESSOR OF PANGLAO,
BOHOL,**

Respondents.

Promulgated:

JUN 17 2015

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DECISION

MENDOZA, J.:

Before this Court is a petition for review under Rule 45 of the Rules of Court assailing the November 5, 2009 Resolution¹ of the Court of Appeals (*CA*), in CA-G.R. CEB-CV No. 01733, which granted the respondents’ “Urgent Motion to Dismiss Appeal,”² dated September 23, 2009, on the ground that petitioner Baldomera Foculan-Fudalan (*Baldomera*) failed to file her appellant’s brief within the non-extendible period of forty-five (45) days; and the October 26, 2010 Resolution³ which denied her “Omnibus Motion for Reconsideration of the Resolution dated November 5, 2009, with Leave of Court to Admit Appellant’s Brief for the Intervenor-Third Party Plaintiff.”⁴

The Antecedents

The present controversy began when the spouses Danilo Ocial and Davidica Bongcaras-Ocial (*Spouses Ocial*), represented by their Attorney-in-Fact, Marcelino Bongcaras, filed an action for the declaration of validity of partition and sale, recovery of ownership and possession and damages against Flavio Fudalan (*Flavio*) and Cristobal Fudalan (*Cristobal*) before the Regional Trial Court, Branch 3, Tagbilaran City (*RTC*), docketed as Civil Case No. 6672.

Later, Baldomera, the wife of Flavio and mother of Cristobal, intervened as 3rd party plaintiff against third-party defendants, Heirs of Pedro and Ulpiano Fuderanan (*the Fuderanans*), the predecessors-in-interest of Spouses Ocial.

¹ Penned by Associate Justice Amy C. Lazaro-Javier and concurred by Associate Justices Rodil V. Zalameda and Samuel H. Gaerlan, *rollo* p.134.

² Cited in the November 5, 2009 Resolution of the Court of Appeals; *id.*

³ Penned by Associate Justice Pampio A. Abarintos and concurred by Associate Justice Ramon A. Cruz and Associate Justice Myra V. Garcia-Fernandez, *id.* at 192-194.

⁴ *Id.* at 136-141.

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The subject of the said action was a parcel of land designated as Cad. Lot No. 56-A located at Tangnan, Panglao, Bohol, which was a portion of Lot No. 56, Cad 705-D, Panglao Cadastre, in the name of Juana Fuderanan (*Juana*).

Spouses Ocial alleged in their complaint⁵ that on March 13, 2001, the heirs of Juana executed the Extrajudicial Settlement Among Heirs with Simultaneous Deed of Absolute Sale over Lot 56-A including two (2) fruit bearing mango trees in their favor as lawful vendees; that as the new owners of the subject land, they caused the planting of thirty (30) gemelina seedlings, twenty (20) mahogany seedlings, and two (2) mango seedlings, and in October 2001, they claimed the landowner's share of the mango produce from Maximo Bolongaita who had been taking care of the two (2) fruit-bearing mango trees; that in October 2001, they caused the placement of a "no-trespassing" sign on one of the mango trees; that they also caused the processing of the Deed of Extrajudicial Settlement Among Heirs with Simultaneous Sale for the cancellation of Tax Declaration No. 93-009-00247 and the issuance of a new tax declaration in their favor; that in June 2001, the Fudalans, without any lawful right or authorization, surreptitiously planted "ubi" on a portion of Lot No. 56-A and they also claimed the landowner's share of the mango produce from Maximo Bolongaita who refused to give the same and instead deposited the amount in a bank in Tagbilaran City; that in November 2001, the Fudalans illegally placed two "no-trespassing" signs inside the questioned property; that for this reason, they complained to the barangay captain of Tangnan, Panglao, Bohol, who conducted conciliation proceedings on November 14 and 29, 2001; that no settlement was reached between the parties; that the Office of the Lupong Tagapamayapa later on issued the Certification to File Action; and that they learned that on December 14 and 15, 2001, while the Lupong Tagapamayapa had not yet issued the required Certification to File Action, the Fudalans unjustifiably caused the installation of a fence consisting of barbed wires with cemented posts around Lot No. 56-A, without the necessary permit from the barangay captain of Tangnan and the municipal officials of Panglao, Bohol.⁶

The Fudalans, on the other hand, claimed that they were the rightful owners of the subject land having purchased the same from the Fuderanans on November 4, 1983; that the sale was evidenced by a private document printed in a *blue paper*; that as owners, they planted "ubi," posted two "no-trespassing" signs and installed a barb wire fence around the land; that since their purchase, they had been in possession of the land in the concept of

⁵ Id. at 94-99.

⁶ Id. at 95-96.

owners and had been paying the real property taxes religiously; and that it was for this reason that they insisted that if there was any deed of extrajudicial settlement of estate and simultaneous sale of the land by the the Fuderanans, the same was null and void for being without legal basis.⁷

On May 6, 2002, Baldomera filed, with leave of court, an *Answer in Intervention with Third-Party Complaint* against the Fuderanans for specific performance, quieting of title and nullification of the deed of extra-judicial settlement with simultaneous sale in favor of Spouses Ocial. She alleged therein that, although still declared in the name of the late Juana Fuderanan, the property was absolutely owned by her parents, the late Spouses Eusebio Fucolan and Catalina Boliás,⁸ who acquired the property in 1935 and thereafter took actual possession of the land. She averred that the possession was continuous, peaceful, open, public, adverse, and in the concept of an owner which was never disturbed by any person until Spouses Ocial, through their Attorney-in-Fact, informed the Fudalans and Baldomera that they had already bought the land from the Fuderanans.⁹

Baldomera also claimed that sometime in 1983, two of the Fuderanans, Teofredo and Eutiquia, approached her and her husband. They represented themselves as the duly authorized representatives of their co-heirs and agreed to settle their claims over the subject lot in their favor for the amount of ₱1,000.00. This agreement was evidenced by a memorandum, dated November 4, 1983.¹⁰

Baldomera further claimed that in the year 2000, a certain Salome Getual, supposedly another heir of Juana, told her that all the heirs of Juana were claiming their rights of inheritance over the land but were willing to enter into a settlement if the price would be acceptable. Unfortunately, no agreement was reached which prompted Spouses Ocial to file an action before the barangay chairman of the place where the property was situated. A mediation proceeding was conducted between the parties where an amicable settlement was reached. Baldomera agreed to pay the Fuderanans the amount of ₱50,000.00 as purchase price of the lot. The latter, however, did not comply with their obligation in the agreed settlement. Instead, they sold the land to Spouses Ocial for ₱20,000.00.¹¹

⁷ Id. at 124.

⁸ Id. at 102.

⁹ Id. at 104.

¹⁰ Id. at 107.

¹¹ Id.

The RTC Decision

On August 22, 2006, the RTC rendered a Decision,¹² confirming the validity of the extrajudicial settlement with simultaneous sale, thus, recognizing the right of the third-party defendants, the Fuderanans, to sell the land in question to the Spouses Ocial. The trial court explained its conclusion in this wise:

After a perusal of the evidence, the Court acknowledges the right of third party defendants Heirs of Pedro and Ulpiano Fuderanan to sell the land in question to plaintiffs Ocial spouses and upholds the validity of the sale. The claim of intervenor Baldomera Fucolan-Fudalan that the land was purchased by her parents from Juana Fuderanan in 1935 is not only doubtful being oral but more than that, it is unenforceable under the Statute of Frauds as provided in Art. 1403 (e) of the Civil Code, as follows:

“Art. 1403. The following contracts are unenforceable, unless they are ratified:

XXXX

(e) An agreement for the leasing for a longer period than one year, or for the sale of real property or of an interest therein;

No efforts were exerted by the intervenor and her predecessor parents for the ratification of the sale despite the lapse of considerable time so that their failure and neglect to do it amounts to laches and equitable estoppel on their part to lay claim of ownership of the land. Furthermore, upon a perusal of the tax declarations of the land from 1940 to 1985 the administrators mentioned therein were Modesta Bongcaras, Ulpiano Fuderanan and Leoncia Estoreras, who took turn in its administration. There was no mention of the predecessor parents of Baldomera as one of the administrators which would only fairly suggest that they were never in possession of the land. It was only in 1994 when Flavio Fudalan came to be named as its administrator per TD-93-009-00247 evidently after the execution of the blue paper receipt of ₱1,000.00 by Teofredo and Teofista Fuderanan in their favor. And it was also only then that the Fudalans started paying taxes thereto, as shown by the numerous receipts submitted. Thus, the parents of Baldomera could not have paid taxes to the land before that period for being not in actual possession of the land contrary to their claim. It could be for this reason that defendants and intervenor agreed to buy the land from the heirs of Pedro and Ulpiano Fuderanan to whom the land was adjudicated which act was tantamount to an abandonment of their claim.

¹² Id. at 123.

xxx Besides, it is to be noted from the testimony of Baldomera Fucolan-Fudalan in her direct examination on July 13, 2005 when she acknowledged that the amount of ₱1,000.00 as mentioned in the blue paper receipt was not actually a payment of the land but was given to Toribio and Juana Fuderanan as a consideration for them to prepare the deed of sale for the land in their favor but to which the latter did not comply. Instead, they filed a complaint along with the other heirs before the barangay captain of Tangnan, Paglao, Bohol for the repossession and partition of the property among the heirs. This admission of Baldomera Fucolan-Fudalan is credible for the amount of ₱1,000.00 is grossly inadequate to be a consideration for the sale of the whole lot of 7,334 sq. m. or even for the combined shares of Teofredo and Teofista of their common property 1,018 sq. m. Furthermore, the alleged agreement was not signed by the parties as required by the Local Government Code for its validity and no time or period was set for its compliance, thus, leaving it to the Fudalans the choice as to when they would pay the purchase price of the land which is against the provision of Art. 1308 of the Civil Code on the qualifications of a valid contract.

On the alleged promise of the heirs of Pedro and Ulpiano Fuderanan to sell the property to defendants Fudalan for ₱50,000.00 as shown in the minutes of the mediation proceedings before the barangay captain of Tangnan, Panglao, Bohol of which they did not comply, there is no evidence of tender of payment made by the defendants. In fact, in the testimony of Maria Salome Gutual in the witness stand during her cross-examination on March 10, 2003 which was not refuted by defendants, the Fudalans did not allegedly comply with their promise to buy the land, and instead, they even signified refusal to pay it claiming that they had already bought it from Teofredo and Teofista Fuderanan so that the heirs of Pedro and Ulpiano Fuderanan were forced to sell the land to herein plaintiffs Ocial spouses. Their act of selling the land to the plaintiffs was therefore justified as it was the defendants who first reneged from their agreement. Moreover, as there was no tender of payment or earnest money given by defendants as a consideration therefor, no contract to sell was perfected that would bind the parties to it (Art. 1479, par. 2, Civil Code) nor is there any basis for an action of specific performance which defendants only initiated lately upon the filing of the third-party complaint.¹³

[Emphasis Supplied]

Consequently, the Fudalans and Baldomera were ordered to vacate the subject land. Thus, the decretal portion of the decision reads:

¹³ Id. at 128-130.

WHEREFORE, in view of all the foregoing, the Court hereby confirms the Deed of Extra-Judicial Settlement with Simultaneous Sale executed by the Heirs of Pedro Fuderanan and Ulpiano Fuderanan of Lot 56-A to herein plaintiffs Danilo Ocial and Davidica Bongcaras-Ocial as one valid and enforceable. Consequently, herein defendants Flavio Fudalan, Cristobal Fudalan and Intervenor Baldomera Fucolan-Fudalan are hereby ordered to vacate from the premises of Lot 56-A CAD 705-D of Panglao Cadastre which is located at barangay Tangnan, Panglao, Bohol having an area of 6,316 sq. m. Furthermore, defendants and intervenor are hereby ordered to pay jointly and severally reasonable attorney's fee in the amount of P30,000.00 and the costs of the proceedings which shall earn legal interest from the filing of the complaint until the same shall have been fully paid. The landowner shares of the fruits of the two mango trees which are deposited in the bank are hereby adjudicated to plaintiffs if the same are found to be within Lot 56-A.

SO ORDERED.¹⁴

Not in conformity, the Fudalans and Baldomera filed their respective notices of appeal with the trial court.

The CA Decision

On March 18, 2009, upon receipt of the records, the CA issued a Resolution,¹⁵ requiring the Fudalans and Baldomera, as well as Spouses Ocial; and Evagra F. Bacat, as third-party defendants, to file their respective briefs within the non-extendible period of forty-five (45) days.

In their Urgent Motion to Dismiss Appeal, dated September 23, 2009, Spouses Ocial prayed for the dismissal of the appeal for failure of the appellants to file the required appellants' brief within the prescribed non-extendible period of 45 days.

Acting thereon, the CA granted the motion and dismissed the appeal in its November 5, 2009 Resolution, which in its entirety reads:

Finding merit in appellee's Urgent Motion to Dismiss Appeal dated September 23, 2009, citing as ground therein appellants' failure to file their respective appeal briefs within the non-extendible period required under Resolution, dated March 18, 2009, the court resolves to grant the same. Accordingly, the case is considered closed and terminated.

SO ORDERED.¹⁶

¹⁴ Id. at 130.

¹⁵ Id. at 131-132.

¹⁶ Id. at 134.

Baldomera filed her *Omnibus Motion for Reconsideration of the Resolution dated November 5, 2009 with Leave of Court to Admit Appellant's Brief for the Intervenor-Third Party Plaintiff*. On October 26, 2010, however, the CA issued another resolution denying her motion, to wit:

WHEREFORE, the Omnibus Motion for Reconsideration of the Resolution dated November 5, 2009 with Leave of Court to Admit Appellant's Brief for the Intervenor-Third Party Plaintiff is DENIED.

SO ORDERED.¹⁷

According to the CA, “[b]laming the failure to file the required brief on counsel’s heavy workload, on the mistake or ignorance of his client, and excusable neglect on his part is not acceptable.”¹⁸ What happened was simply the negligence of the counsel in the monitoring of notices and resolutions from the courts. The attendant circumstances did not make a case of gross negligence that would fall under the exception to the rule that the inadvertence of counsel could be considered as an adequate excuse to call for the court’s leniency. The CA further stated that “the delay in the filing of the brief, **206 days** after the last day to file the same which is May 22, 2009, is unreasonably long.”¹⁹

Hence, this petition.

Petitioner Baldomera states, among others, that the main reason for the late filing of the appellant’s brief was both her mistake and simple negligence and that of her counsel; and that the CA should have been lenient in the application of technical rules in resolving the appeal considering their peculiar situation.

Spouses Ocial, on the other hand, counter that the CA was correct in denying the omnibus motion for reconsideration because the records were bereft of any factual justification for Baldomera’s failure to file the required appellant’s brief. Furthermore, even granting *arguendo*, that the CA gravely abused its discretion in promulgating the November 5, 2009 and October 26, 2010 Resolutions, still the subject petition must be dismissed because abuse of discretion is not among the allowable grounds for a petition for review under Rule 45 to prosper.

¹⁷ Id. at 194.

¹⁸ Id. at 193.

¹⁹ Id. at 194.

The Court's Ruling

The Court finds the petitioner's contention wanting in merit.

*There was inexcusable
negligence where a brief
was filed 206 days late*

It appears from the record that the counsel for Baldomera received a copy of the March 18, 2009 CA Resolution on April 7, 2009, thus, giving him until May 22, 2009 to file the appellant's brief; that he did not file any motion for extension of the period to file the brief; that he did not file either a comment or opposition to the Urgent Motion to Dismiss Appeal, filed by Spouses Ocial on September 24, 2009, a copy of which he was furnished by mail; and that he filed the brief for his client only at the time he filed the omnibus motion for reconsideration on December 14, 2009, or **206 days late**.²⁰

In this regard, Section 1 (e), Rule 50 of the Rules of Court succinctly provides that:

Section 1. Grounds for dismissal of appeal. – An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x x

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules; x x x

Baldomera posits that it was erroneous for the CA to dismiss her appeal on the ground that she failed to file her appellant's brief on time. She cited the case of *Sebastian v. Morales*²¹ where it was written that liberal construction of the rules is the controlling principle to effect substantial justice.

²⁰ CA Resolution, id. at 193.

²¹ 445 Phil. 595 (2003).

Nevertheless, the Court in the same case made qualifications with respect to the application of the said principle. It was held therein,

Litigation is not a game of technicalities, but every case must be prosecuted in accordance with the prescribed procedure so that issues may be properly presented and justly resolved. Hence, rules of procedure must be faithfully followed except only when for persuasive reasons, they may be relaxed to relieve a litigant of an injustice not commensurate with his failure to comply with the prescribed procedure. Concomitant to a liberal application of the rules of procedure should be an effort on the part of the party invoking liberality to explain his failure to abide by the rules.²²

[Emphases and Underscoring Supplied]

In other words, procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.²³ Besides, as the oft quoted quip would put it, the bare invocation of "in the interest of substantial justice" is not a magic wand that will automatically compel this Court to suspend procedural rules.²⁴

Although the authority of the CA to dismiss an appeal for failure to file the appellant's brief is a matter of judicial discretion, a dismissal based on this ground is neither mandatory nor ministerial; the fundamentals of justice and fairness must be observed, bearing in mind the background and web of circumstances surrounding the case.²⁵

Petitioner's assertion that her counsel is partly to be blamed for her legal predicament is not persuasive. Indeed, there have been myriad of instances when the Court has relaxed the rule on the binding effect of counsel's negligence and allowed a litigant another chance to present his case, to wit: (1) where the reckless or gross negligence of counsel deprives the client of due process of law; (2) when application of the rule will result in outright deprivation of the client's liberty or property; or (3) where the

²² Id. at 605.

²³ *Sps. Bergonia v. CA*, G.R. No. 189151, January 25, 2012, 664 SCRA 322, 331.

²⁴ Id.

²⁵ *Bachrach Corp. v. PPA*, 600 Phil. 1, 6 (2009).

interests of justice so require. Unfortunately, none of these exceptions obtain here.²⁶

For a claim of counsel's gross negligence to prosper, nothing short of clear abandonment of the client's cause must be shown. Here, petitioner's counsel failed to file the appellant's brief. While this omission can plausibly qualify as simple negligence, it does not amount to gross negligence to justify the annulment of the proceeding.²⁷

Baldomera herself should have exerted some efforts to inquire as to the status of her appeal. She should not have been complacent. "While this Court has recognized that a non-lawyer litigant is not expected to be familiar with the intricacies of the legal procedures, a layman nonetheless must not be allowed to conveniently profit from his improvident mistakes. Thus, it has been equally stressed that litigants represented by counsel should not expect that all they need to do is sit back, relax and await the outcome of the case; instead, they should give the necessary assistance to their counsel for what is at stake is ultimately their interest."²⁸

*Even on the merits, the
petition must fail*

Even on the merits, the petitioner's quest must fail.

In essence, Baldomera claims that because they have been in adverse possession for the requisite period, their possession has now ripened into ownership through acquisitive prescription.

Baldomera's argument fails to convince the Court.

Prescription, as a mode of acquiring ownership and other real rights over immovable property, is concerned with lapse of time in the manner and under conditions laid down by law, namely, that the possession should be in the concept of an owner, public, peaceful, uninterrupted, and adverse. Acquisitive prescription of real rights may be ordinary or extraordinary. Ordinary acquisitive prescription requires possession in good faith and with just title for 10 years.²⁹ When the Court speaks of possession in "good faith," it consists in the reasonable belief that the person from whom the thing is received has been the owner thereof, and can transmit his ownership. There is "just title," on the other hand, when the adverse claimant comes into

²⁶ *Dimarucot v. People*, 645 Phil. 218, 228 (2010).

²⁷ *Id.*

²⁸ *Apostol v. Court of Appeals*, 590 Phil. 88, 100-101 (2008).

²⁹ *Mercado v. Espinocilla*, G.R. No. 184109, February 1, 2012, 664 SCRA 724, 730.

possession of the property through one of the modes recognized by law for the acquisition of ownership or other real rights, but the grantor is not the owner or cannot transmit any right.³⁰

In the present controversy, aside from Baldomera's bare allegation that her family had been in possession of the subject property since it was sold to her parents, no other evidence, documentary or otherwise, showing that the title to the subject property was indeed transferred from Juana to her parents was presented. In fact, she never denied that the tax declaration of the property was still in the name of Juana Fuderanan. As such, for lack of "just title," she could not have acquired the disputed property by ordinary prescription through possession of ten (10) years. Occupation or use alone, no matter how long, cannot confer title by prescription or adverse possession unless coupled with the element of hostility towards the true owner, that is, possession under the claim of title.³¹

Even the allegation that sometime on November 4, 1983, a *blue paper* was executed wherein Teofredo and Eutiquia, allegedly the duly authorized representatives of the heirs of Juana to settle their claims over the land, acknowledged to have received the sum of ₱1,000.00,³² cannot be considered a valid basis for a possession in good faith and just title. The alleged agreement which is, at best, a compromise agreement cannot be made as the foundation of a conclusion that Baldomera is a possessor in good faith and with just title who acquired the property through ordinary acquisitive prescription. By the nature of a compromise agreement, which brings the parties to agree to something that neither of them may actually want, but for the peace it will bring them without a protracted litigation, no right can arise therefrom because the parties executed the same only to buy peace and to write *finis* to the controversy. It did not create or transmit ownership rights over the subject property.³³

That being settled, the next question now is: Can Baldomera acquire the property through extraordinary acquisitive prescription?

The Court is still constrained to rule in the negative.

³⁰ *Tan v. Ramirez*, 640 Phil. 370, 380-381(2010).

³¹ *Olegario v. Mari*, 623 Phil. 48, 59 (2009).

³² *Rollo*, p. 86.

³³ *Tan v. Ramirez*, supra note 30, at 381.

In extraordinary prescription, ownership and other real rights over immovable property are acquired through uninterrupted adverse possession for 30 years even without need of title or of good faith.³⁴

As observed by the trial court,

There was no mention of the predecessor parents of Baldomera as one of the administrators which would only fairly suggest that they were never in possession of the land. It was only in 1994 when Flavio Fudalan came to be named as its administrator per TD-93-009-00247 evidently after the execution of the blue paper receipt of P1,000.00 by Teofredo and Teofista Fuderanan in their favor. And it was only then that the Fudalans started paying taxes thereto, as shown by the numerous receipts submitted. Thus, the parents of Baldomera could not have paid taxes to the land before that period for being not in actual possession of the land contrary to their claim. It could be for this reason that defendants and intervenor agreed to buy the land from the heirs of Pedro and Ulpiano Fuderanan to whom the land was adjudicated which act was tantamount to an abandonment of their claim.³⁵

Taking cue from the foregoing, Baldomera's alleged possession could not have amounted to an ownership by way of extraordinary acquisitive prescription. According to the factual findings of the trial court, it was only in 1994 that her husband, Flavio was named administrator; that it was also then that they started paying taxes; and that it was also then that they started occupying the subject property. This observation of the trial court was contrary to her assertion that they had been paying taxes and had been in possession of the land even before the said period. On this note, the thirty-year period would only be completed in the year 2024. Also, the records would reveal that as early as November 2001, her possession was effectively interrupted when Spouses Ocial filed a complaint before the barangay captain of Tangnan, Panglao, Bohol, where conciliation proceedings were held although no settlement was reached.³⁶

Finally, Baldomera also assails the jurisdiction of the RTC over the case. According to her, since the action involves ownership and possession of real property, jurisdiction is determined by the assessed value of the property in contention. Considering that the assessed value of Lot 56-A was only ₱1,930.00 as indicated in Tax Declaration No. 93-009-00247, it should have been the first level court, and not the RTC, which should have

³⁴ *Heirs of the late Felix M. Bucton v. Go*, G.R. No. 188395, November 20, 2013, 710 SCRA 457, 472.

³⁵ *Rollo*, pp. 128-130.

³⁶ *CA rollo*, p. 0215.

exercised jurisdiction to hear actions involving title to, or possession of real property or any interest in it, as provided in Sections 19 and 33 of *Batas Pambansa (B.P.)* 129, as amended.³⁷

This argument cannot be sustained.

Even if the Court would treat the complaint filed by Spouses Ocial as falling under the jurisdiction of the first level court under Sec. 33 of B.P. 129, as the assessed value was way below the ₱20,000.00 threshold, still Baldomera's postulation that it is the first level court, and not the RTC, which has jurisdiction, would not hold water. As observed, Baldomera had voluntarily participated in the proceedings before the RTC and aggressively defended her position. Although she questioned the jurisdiction of the trial court as early as in the trial level, she actively participated in the proceeding when she filed an ANSWER IN INTERVENTION WITH THIRD-PARTY COMPLAINT³⁸ where she interposed counterclaims, and asked for affirmative reliefs. Simply put, considering the extent of her participation in the case, she is *estopped* from invoking lack of jurisdiction as a ground for the dismissal of the action.³⁹

WHEREFORE, the petition is **DENIED**. The assailed November 5, 2009 and October 26, 2010 Resolutions of the Court of Appeals in CA-G.R. CV No. 01733 are **AFFIRMED**.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

³⁷ *Rollo*, pp. 75-76.

³⁸ *CA rollo*, pp. 0219- 0230.

³⁹ *Surviving Heirs of Bautista v. Lindo, et al.*, G.R. No. 208232, March 10, 2014, 718 SCRA 321.

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



FRANCIS H. JARDELEZA
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.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second 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