Republic of the Philippines
SUPREME COURT
Manila

THIRD DIVISION

VILMA QUINTOS, represented by her Attorney-in-Fact FIDEL I. QUINTOS, JR.; FLORENCIA I. DANCEL, represented by her Attorney-in-Fact FLOVY I. DANCEL; and CATALINO L. IBARRA, Petitioners,	**G.R. No. 210252**
	Present:
	VELASCO, JR., *J.*, Chairperson, PERALTA, VILLARAMA, JR.,* MENDOZA, and LEONEN, *JJ.*
- versus -	
PELAGIA I. NICOLAS, NOLI L. IBARRA, SANTIAGO L. IBARRA, PEDRO L. IBARRA, DAVID L. IBARRA, GILBERTO L. IBARRA, HEIRS OF AUGUSTO L. IBARRA, namely CONCHITA R., IBARRA, APOLONIO IBARRA, and NARCISO IBARRA, and the spouses RECTO CANDELARIO and ROSEMARIE CANDELARIO, Respondents.	Promulgated:
x----------	June 16, 2014 ----------x

D E C I S I O N

VELASCO, JR., *J.*:

The Case

Before the Court is a Petition for Review on Certiorari filed under Rule 45 challenging the Decision[1] and Resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 98919 dated July 8, 2013 and November 22, 2013, respectively. The challenged rulings affirmed the May 7, 2012 Decision[3] of the Regional Trial Court (RTC), Branch 68 in Camiling, Tarlac that petitioners and respondents are co-owners of the subject property, which

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* Acting member per Special Order No. 1691 dated May 22, 2014.

[1] *Rollo*, pp. 191-199. Penned by Associate Justice Jose C. Reyes, Jr. and concurred in by Associate Justices Mario V. Lopez and Socorro B. Inting.

[2] Id. at 207.

[3] Id. at 119-128.

should be partitioned as per the subdivision plan submitted by respondent spouses Recto and Rosemarie Candelario.

The Facts

As culled from the records, the facts of the case are as follows:

Petitioners Vilma Quintos, Florencia Dancel, and Catalino Ibarra, and respondents Pelagia Nicolas, Noli Ibarra, Santiago Ibarra, Pedro Ibarra, David Ibarra, Gilberto Ibarra, and the late Augusto Ibarra are siblings. Their parents, Bienvenido and Escolastica Ibarra, were the owners of the subject property, a 281 sqm. parcel of land situated along Quezon Ave., Poblacion C, Camiling, Tarlac, covered by Transfer Certificate Title (TCT) No. 318717.

By 1999, both Bienvenido and Escolastica had already passed away, leaving to their ten (10) children ownership over the subject property. Subsequently, sometime in 2002, respondent siblings brought an action for partition against petitioners. The case was docketed as Civil Case No. 02-52 and was raffled to the RTC, Branch 68, Camiling, Tarlac. However, in an Order[4] dated March 22, 2004, the trial court dismissed the case disposing as follows:

> For failure of the parties, as well as their counsels, to appear despite due notice, this case is hereby DISMISSED.
>
> SO ORDERED.

As neither set of parties appealed, the ruling of the trial court became final, as evidenced by a Certificate of Finality[5] it eventually issued on August 22, 2008.

Having failed to secure a favorable decision for partition, respondent siblings instead resorted to executing a Deed of Adjudication[6] on September 21, 2004 to transfer the property in favor of the ten (10) siblings. As a result, TCT No. 318717 was canceled and in lieu thereof, TCT No. 390484 was issued in its place by the Registry of Deeds of Tarlac in the names of the ten (10) heirs of the Ibarra spouses.

Subsequently, respondent siblings sold their 7/10 undivided share over the property in favor of their co-respondents, the spouses Recto and Rosemarie Candelario. By virtue of a Deed of Absolute Sale[7] dated April 17, 2007 executed in favor of the spouses Candelario and an Agreement of Subdivision[8] purportedly executed by them and petitioners, TCT No. 390484

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[4] Id. at 116.
[5] Id. at 117.
[6] Id. at 55.
[7] Id. at 60.
[8] Id. at 62.

was partially canceled and TCT No. 434304 was issued in the name of the Candelarios, covering the 7/10 portion.

On June 1, 2009, petitioners filed a complaint for Quieting of Title and Damages against respondents wherein they alleged that during their parents' lifetime, the couple distributed their real and personal properties in favor of their ten (10) children. Upon distribution, petitioners alleged that they received the subject property and the house constructed thereon as their share. They likewise averred that they have been in adverse, open, continuous, and uninterrupted possession of the property for over four (4) decades and are, thus, entitled to equitable title thereto. They also deny any participation in the execution of the aforementioned Deed of Adjudication dated September 21, 2004 and the Agreement of Subdivision.

Respondents countered that petitioners' cause of action was already barred by estoppel when sometime in 2006, one of petitioners offered to buy the 7/10 undivided share of the respondent siblings. They point out that this is an admission on the part of petitioners that the property is not entirely theirs. In addition, they claimed that Bienvenido and Escolastica Ibarra mortgaged the property but because of financial constraints, respondent spouses Candelario had to redeem the property in their behalf. Not having been repaid by Bienvenido and Escolastica, the Candelarios accepted from their co-respondents their share in the subject property as payment. Lastly, respondents sought, by way of counterclaim, the partition of the property.

Docketed as Civil Case No. 09-15 of the RTC of Camiling, Tarlac, the quieting of title case was eventually raffled to Branch 68 of the court, the same trial court that dismissed Civil Case No. 02-52. During pre-trial, respondents, or defendants *a quo*, admitted having filed an action for partition, that petitioners did not participate in the Deed of Adjudication that served as the basis for the issuance of TCT No. 390484, and that the Agreement of Subdivision that led to the issuance of TCT No. 434304 in favor of respondent spouses Candelario was falsified.[9]

Despite the admissions of respondents, however, the RTC, through its May 27, 2012 Decision, dismissed petitioners' complaint. The court did not find merit in petitioners' asseverations that they have acquired title over the property through acquisitive prescription and noted that there was no document evidencing that their parents bequeathed to them the subject property. Finding that respondent siblings were entitled to their respective shares in the property as descendants of Bienvenido and Escolastica Ibarra and as co-heirs of petitioners, the subsequent transfer of their interest in favor of respondent spouses Candelario was then upheld by the trial court. The dispositive portion of the Decision reads:

> WHEREFORE, premises considered, the above-entitled case is hereby Dismissed.

[9] Id. at 99-100.

> Also, defendants-spouses Rosemarie Candelario and Recto Candelario are hereby declared as the absolute owners of the 7/10 portion of the subject lot.
>
> Likewise, the court hereby orders the partition of the subject lots between the herein plaintiffs and the defendants-spouses Candelarios.
>
> SO ORDERED.

Aggrieved, petitioners appealed the trial court's Decision to the CA, pleading the same allegations they averred in their underlying complaint for quieting of title. However, they added that the partition should no longer be allowed since it is already barred by *res judicata*, respondent siblings having already filed a case for partition that was dismissed with finality, as admitted by respondents themselves during pre-trial.

On July 8, 2013, the CA issued the assailed Decision denying the appeal. The *fallo* reads:

> **WHEREFORE,** premises considered, the Decision dated May 7, 2012 of the Regional Trial Court of Camiling, Tarlac, Branch 68, in Civil Case No. 09-15, is hereby **AFFIRMED.**
>
> **SO ORDERED.**

Similar to the trial court, the court *a quo* found no evidence on record to support petitioners' claim that the subject property was specifically bequeathed by Bienvenido and Escolastica Ibarra in their favor as their share in their parents' estate. It also did not consider petitioners' possession of the property as one that is in the concept of an owner. Ultimately, the appellate court upheld the finding that petitioners and respondent spouses Candelario co-own the property, 30-70 in favor of the respondent spouses.

As regards the issue of partition, the CA added:

> x x x Since it was conceded that the subject lot is now co-owned by the plaintiffs-appellants, (with 3/10 undivided interest) and defendants-appellees Spouses Candelarios (with 7/10 undivided interest) and considering that plaintiffs-appellants had already constructed a 3-storey building at the back portion of the property, then partition, in accordance with the subdivision plan (records, p. 378) undertaken by defendants-appellants [sic] spouses, is in order.[10]

On November 22, 2013, petitioners' Motion for Reconsideration was denied. Hence, the instant petition.

Issues

In the present petition, the following errors were raised:

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[10] Id. at 198.

I. THE COURT OF APPEALS MANIFESTLY OVERLOOKED RELEVANT AND UNDISPUTED FACTS WHICH, IF PROPERLY CONSIDERED, WOULD JUSTIFY PETITIONERS' CLAIM OF EQUITABLE TITLE.

II. THE COURT OF APPEALS ERRED WHEN IT AFFIRMED THE ORDER OF PARTITION DESPITE THE FACT THAT THE COUNTERCLAIM FOR PARTITION, BASED ON THE DEED OF ABSOLUTE SALE EXECUTED IN 2007, IS BARRED BY LACHES.

III. THE COURT OF APPEALS RENDERED A SUBSTANTIALLY FLAWED JUDGMENT WHEN IT NEGLECTED TO RULE ON PETITIONERS' CONTENTION THAT THE COUNTERCLAIM FOR PARTITION IS ALSO BARRED BY PRIOR JUDGMENT, DESPITE ITS HAVING BEEN SPECIFICALLY ASSIGNED AS ERROR AND PROPERLY ARGUED IN THEIR BRIEF, AND WHICH, IF PROPERLY CONSIDERED, WOULD JUSTIFY THE DISMISSAL OF THE COUNTERCLAIM.

IV. THE COURT OF APPEALS ERRED WHEN IT ORDERED PARTITION IN ACCORDANCE WITH THE SUBDIVISION PLAN MENTIONED IN ITS DECISION, IN CONTRAVENTION OF THE PROCEDURE ESTABLISHED IN RULE 69 OF THE RULES OF CIVIL PROCEDURE.[11]

To simplify, the pertinent issues in this case are as follows:

1. Whether or not the petitioners were able to prove ownership over the property;
2. Whether or not the respondents' counterclaim for partition is already barred by laches or *res judicata*; and
3. Whether or not the CA was correct in approving the subdivision agreement as basis for the partition of the property.

The Court's Ruling

The petition is meritorious in part.

Petitioners were not able to prove equitable title or ownership over the property

Quieting of title is a common law remedy for the removal of any cloud, doubt, or uncertainty affecting title to real property.[12] For an action to quiet title to prosper, two indispensable requisites must concur, namely: (1) the plaintiff or complainant has a legal or equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting cloud on the title must be shown to be in fact invalid or inoperative despite its prima facie appearance of validity or efficacy.[13] In the case at bar, the CA correctly observed that petitioners'

[11] Id. at 13-14.
[12] *Oño v. Lim*, G.R. No. 154270, March 9, 2010, 614 SCRA 514, 521.
[13] *Mananquil v. Moico*, G.R. No. 180076, November 21, 2012, 686 SCRA 123, 130-131.

cause of action must necessarily fail mainly in view of the absence of the first requisite.

At the outset, it must be emphasized that the determination of whether or not petitioners sufficiently proved their claim of ownership or equitable title is substantially a factual issue that is generally improper for Us to delve into. Section 1, Rule 45 of the Rules of Court explicitly states that the petition for review on certiorari "shall raise only questions of law, which must be distinctly set forth." In appeals by certiorari, therefore, only questions of law may be raised, because this Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial.[14] Although there are exceptions[15] to this general rule as eloquently enunciated in jurisprudence, none of the circumstances calling for their application obtains in the case at bar. Thus, We are constrained to respect and uphold the findings of fact arrived at by both the RTC and the CA.

In any event, a perusal of the records would readily show that petitioners, as aptly observed by the courts below, indeed, failed to substantiate their claim. Their alleged open, continuous, exclusive, and uninterrupted possession of the subject property is belied by the fact that respondent siblings, in 2005, entered into a Contract of Lease with the Avico Lending Investor Co. over the subject lot without any objection from the petitioners.[16] Petitioners' inability to offer evidence tending to prove that Bienvenido and Escolastica Ibarra transferred the ownership over the property in favor of petitioners is likewise fatal to the latter's claim. On the contrary, on May 28, 1998, Escolastica Ibarra executed a Deed of Sale covering half of the subject property in favor of all her 10 children, not in favor of petitioners alone.[17]

The cardinal rule is that bare allegation of title does not suffice. The burden of proof is on the plaintiff to establish his or her case by preponderance of evidence.[18] Regrettably, petitioners, as such plaintiff, in this case failed to discharge the said burden imposed upon them in proving legal or equitable title over the parcel of land in issue. As such, there is no reason to disturb the finding of the RTC that all 10 siblings inherited the subject property from Bienvenido and Escolastica Ibarra, and after the respondent siblings sold their aliquot share to the spouses Candelario, petitioners and respondent spouses became co-owners of the same.

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[14] *Angeles v. Pascual*, G.R. No. 157150, September 21, 2011, 658 SCRA 23, 28-29.
[15] Id. at 29-30.
[16] *Rollo*, p. 126.
[17] Id. at 125.
[18] *Beltran v. Villarosa*, G.R. No. 165376, April 16, 2009, 585 SCRA 283, 293.

The counterclaim for partition is not barred by prior judgment

This brings us to the issue of partition as raised by respondents in their counterclaim. In their answer to the counterclaim, petitioners countered that the action for partition has already been barred by *res judicata*.

The doctrine of *res judicata* provides that the judgment in a first case is final as to the claim or demand in controversy, between the parties and those privy with them, not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which must have been offered for that purpose and all matters that could have been adjudged in that case.[19] It precludes parties from relitigating issues actually litigated and determined by a prior and final judgment.[20] As held in *Yusingco v. Ong Hing Lian*:[21]

> It is a rule pervading every well-regulated system of jurisprudence, and is put upon two grounds embodied in various maxims of the common law; the one, public policy and necessity, which makes it to the interest of the state that there should be an end to litigation — *republicae ut sit finis litium*; the other, the hardship on the individual that he should be vexed twice for the same cause — *nemo debet bis vexari et eadem causa*. A contrary doctrine would subject the public peace and quiet to the will and neglect of individuals and prefer the gratitude identification of a litigious disposition on the part of suitors to the preservation of the public tranquility and happiness.[22]

The rationale for this principle is that a party should not be vexed twice concerning the same cause. Indeed, *res judicata* is a fundamental concept in the organization of every jural society, for not only does it ward off endless litigation, it ensures the stability of judgment and guards against inconsistent decisions on the same set of facts.[23]

There is *res judicata* when the following requisites are present: (1) the formal judgment or order must be final; (2) it must be a judgment or order on the merits, that is, it was rendered after a consideration of the evidence or stipulations submitted by the parties at the trial of the case; (3) it must have been rendered by a court having jurisdiction over the subject matter and the parties; and (4) there must be, between the first and second actions, identity of parties, of subject matter and of cause of action.[24]

In the case at bar, respondent siblings admit that they filed an action for partition docketed as Civil Case No. 02-52, which the RTC dismissed through an Order dated March 22, 2004 for the failure of the parties to attend the scheduled hearings. Respondents likewise admitted that since they no longer appealed the dismissal, the ruling attained finality. Moreover, it

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[19] *Baricuatro v. Caballero*, G.R. No. 158643, June 19, 2007, 525 SCRA 70, 75-76.
[20] *Yusingco v. Ong Hing Lian*, No. L-26523 December 24, 1971, 42 SCRA 591, 601.
[21] Id.
[22] Id. at 601-602.
[23] *Baricuatro v. Caballero*, supra note 19, at 76.
[24] *Medija v. Patcho*, No. L-30310, October 23, 1984, 132 SCRA 540.

cannot be disputed that the subject property in Civil Case No. 02-52 and in the present controversy are one and the same, and that in both cases, respondents raise the same action for partition. And lastly, although respondent spouses Candelario were not party-litigants in the earlier case for partition, there is identity of parties not only when the parties in the case are the same, but also between those in privity with them, such as between their successors-in-interest.[25]

With all the other elements present, what is left to be determined now is whether or not the dismissal of Civil case No. 02-52 operated as a dismissal on the merits that would complete the requirements of *res judicata*.

In advancing their claim, petitioners cite Rule 17, Sec. 3 of the Rules of Court, to wit:

> **Section 3.** *Dismissal due to fault of plaintiff.* — If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. **This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.**

The afore-quoted provision enumerates the instances when a complaint may be dismissed due to the plaintiff's fault: (1) if he fails to appear on the date for the presentation of his evidence in chief on the complaint; (2) if he fails to prosecute his action for an unreasonable length of time; or (3) if he fails to comply with the Rules or any order of the court. The dismissal of a case for failure to prosecute has the effect of adjudication on the merits, and is necessarily understood to be with prejudice to the filing of another action, unless otherwise provided in the order of dismissal. Stated differently, the general rule is that dismissal of a case for failure to prosecute is to be regarded as an adjudication on the merits and with prejudice to the filing of another action, and the only exception is when the order of dismissal expressly contains a qualification that the dismissal is without prejudice.[26] In the case at bar, petitioners claim that the Order does not in any language say that the dismissal is without prejudice and, thus, the requirement that the dismissal be on the merits is present.

Truly, We have had the occasion to rule that dismissal with prejudice under the above-cited rule amply satisfies one of the elements of *res judicata*.[27] It is, thus, understandable why petitioners would allege *res judicata* to bolster their claim. However, dismissal with prejudice under Rule 17, Sec. 3 of the Rules of Court cannot defeat the right of a co-owner to ask

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[25] *Heirs of Sotto v. Palicte*, G.R. No. 159691, June 13, 2013, 698 SCRA 294.
[26] *Gomez v. Alcantara*, G.R. No. 179556, February 13, 2009, 579 SCRA 782, 483.
[27] Id.

for partition at any time, provided that there is no actual adjudication of ownership of shares yet**.**

Pertinent hereto is Article 494 of the Civil Code, which reads:

> **Article 494. No co-owner shall be obliged to remain in the co-ownership. Each co-owner may demand at any time the partition of the thing owned in common, insofar as his share is concerned**.
>
> Nevertheless, an agreement to keep the thing undivided for a certain period of time, not exceeding ten years, shall be valid. This term may be extended by a new agreement.
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> A donor or testator may prohibit partition for a period which shall not exceed twenty years.
>
> Neither shall there be any partition when it is prohibited by law.
>
> No prescription shall run in favor of a co-owner or co-heir against his co-owners or co-heirs so long as he expressly or impliedly recognizes the co-ownership. (emphasis supplied)

From the above-quoted provision, it can be gleaned that the law generally does not favor the retention of co-ownership as a property relation, and is interested instead in ascertaining the co-owners' specific shares so as to prevent the allocation of portions to remain perpetually in limbo. Thus, the law provides that each co-owner may demand **at any time** the partition of the thing owned in common.

Between dismissal with prejudice under Rule 17, Sec. 3 and the right granted to co-owners under Art. 494 of the Civil Code, the latter must prevail. To construe otherwise would diminish the substantive right of a co-owner through the promulgation of procedural rules. Such a construction is not sanctioned by the principle, which is too well settled to require citation, that a substantive law cannot be amended by a procedural rule.[28] This further finds support in Art. 496 of the New Civil Code, viz:

> **Article 496.** Partition may be made by agreement between the parties or by judicial proceedings. Partition shall be governed by the Rules of Court **insofar as they are consistent with this Code.**

Thus, for the Rules to be consistent with statutory provisions, We hold that Art. 494, as cited, is an exception to Rule 17, Sec. 3 of the Rules of Court to the effect that even if the order of dismissal for failure to prosecute is silent on whether or not it is with prejudice, it shall be deemed to be without prejudice.

This is not to say, however, that the action for partition will never be barred by *res judicata*. There can still be *res judicata* in partition cases concerning the same parties and the same subject matter once the respective

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[28] *Philippine National Bank v. Asuncion*, 170 Phil. 356 (1977).

shares of the co-owners have been determined with finality by a competent court with jurisdiction or if the court determines that partition is improper for co-ownership does not or no longer exists.

So it was that in *Rizal v. Naredo*,[29] We ruled in the following wise:

> Article 484 of the New Civil Code provides that there is co-ownership whenever the ownership of an undivided thing or right belongs to different persons. Thus, on the one hand, a co-owner of an undivided parcel of land is an owner of the whole, and over the whole he exercises the right of dominion, but he is at the same time the owner of a portion which is truly abstract. **On the other hand, there is no co-ownership when the different portions owned by different people are already concretely determined and separately identifiable, even if not yet technically described.**
>
> Pursuant to Article 494 of the Civil Code, no co-owner is obliged to remain in the co-ownership, and his proper remedy is an action for partition under Rule 69 of the Rules of Court, which he may bring at anytime in so far as his share is concerned. Article 1079 of the Civil Code defines partition as the separation, division and assignment of a thing held in common among those to whom it may belong. It has been held that the fact that the agreement of partition lacks the technical description of the parties' respective portions or that the subject property was then still embraced by the same certificate of title could not legally prevent a partition, where the different portions allotted to each were determined and became separately identifiable.
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> The partition of Lot No. 252 was the result of the approved Compromise Agreement in Civil Case No. 36-C, which was immediately final and executory. Absent any showing that said Compromise Agreement was vitiated by fraud, mistake or duress, the court cannot set aside a judgment based on compromise. It is axiomatic that a compromise agreement once approved by the court settles the rights of the parties and has the force of *res judicata*. It cannot be disturbed except on the ground of vice of consent or forgery.
>
> Of equal significance is the fact that the compromise judgment in Civil Case No. 36-C settled as well the question of which specific portions of Lot No. 252 accrued to the parties separately as their proportionate shares therein. Through their subdivision survey plan, marked as Annex "A" of the Compromise Agreement and made an integral part thereof, the parties segregated and separately assigned to themselves distinct portions of Lot No. 252. The partition was immediately executory, having been accomplished and completed on December 1, 1971 when judgment was rendered approving the same. **The CA was correct when it stated that no co-ownership exist when the different portions owned by different people are already concretely determined and separately identifiable, even if not yet technically described**. (emphasis supplied)

In the quoted case, We have held that *res judicata* applied because after the parties executed a compromise agreement that was duly approved by the court, the different portions of the owners have already been

[29] G.R. No. 151898, March 14, 2012, 668 SCRA 114, 128-130.

ascertained. Thus, there was no longer a co-ownership and there was nothing left to partition. This is in contrast with the case at bar wherein the co-ownership, as determined by the trial court, is still subsisting 30-70 in favor of respondent spouses Candelario. Consequently, there is no legal bar preventing herein respondents from praying for the partition of the property through counterclaim.

The counterclaim for partition is not barred by laches

We now proceed to petitioners' second line of attack. According to petitioners, the claim for partition is already barred by laches since by 1999, both Bienvenido and Escolastica Ibarra had already died and yet the respondent siblings only belatedly filed the action for partition, Civil Case No. 02-52, in 2002. And since laches has allegedly already set in against respondent siblings, so too should respondent spouses Candelario be barred from claiming the same for they could not have acquired a better right than their predecessors-in-interest.

The argument fails to persuade.

Laches is the failure or neglect, for an unreasonable and unexplained length of time, to do that which—by the exercise of due diligence—could or should have been done earlier. It is the negligence or omission to assert a right within a reasonable period, warranting the presumption that the party entitled to assert it has either abandoned or declined to assert it.[30] The principle is a creation of equity which, as such, is applied not really to penalize neglect or sleeping upon one's right, but rather to avoid recognizing a right when to do so would result in a clearly inequitable situation. As an equitable defense, laches does not concern itself with the character of the petitioners' title, but only with whether or not by reason of the respondents' long inaction or inexcusable neglect, they should be barred from asserting this claim at all, because to allow them to do so would be inequitable and unjust to petitioners.[31]

As correctly appreciated by the lower courts, respondents cannot be said to have neglected to assert their right over the subject property. They cannot be considered to have abandoned their right given that they filed an action for partition sometime in 2002, even though it was later dismissed. Furthermore, the fact that respondent siblings entered into a Contract of Lease with Avico Lending Investor Co. over the subject property is evidence that they are exercising rights of ownership over the same.

The CA erred in approving the Agreement for Subdivision

There is merit, however, in petitioners' contention that the CA erred in approving the proposal for partition submitted by respondent spouses. Art.

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[30] *Catholic Bishop of Balanga v. Court of Appeals*, G.R. No. 112519, November 14, 1996, 264 SCRA 181, 192-193.

[31] Id.

496, as earlier cited, provides that partition shall either be by agreement of the parties or in accordance with the Rules of Court. In this case, the Agreement of Subdivision allegedly executed by respondent spouses Candelario and petitioners cannot serve as basis for partition, for, as stated in the pre-trial order, herein respondents admitted that the agreement was a falsity and that petitioners never took part in preparing the same. The "agreement" was crafted without any consultation whatsoever or any attempt to arrive at mutually acceptable terms with petitioners. It, therefore, lacked the essential requisite of consent. Thus, to approve the agreement in spite of this fact would be tantamount to allowing respondent spouses to divide unilaterally the property among the co-owners based on their own whims and caprices. Such a result could not be countenanced.

To rectify this with dispatch, the case must be remanded to the court of origin, which shall proceed to partition the property in accordance with the procedure outlined in Rule 69 of the Rules of Court.

WHEREFORE, premises considered, the petition is hereby **PARTLY GRANTED**. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 98919 dated July 8, 2013 and November 22, 2013, respectively, are hereby **AFFIRMED** with **MODIFICATION**. The case is hereby **REMANDED** to the RTC, Branch 68 in Camiling, Tarlac for purposes of partitioning the subject property in accordance with Rule 69 of the Rules of Court.

SO ORDERED.

PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
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

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