

UNDERSTANDING PRESCRIPTION

Prescription is a method of acquiring ownership and other real rights over immovable property owned by another by the lapse of time through an uninterrupted and regular use without the permission of the real owner for a period of years required by the law of the state.

In the Philippines, there are two types of acquisitive prescription: ordinary or extraordinary. Ordinary acquisitive prescription requires an uninterrupted possession in good faith and with just title for ten years. This means that a possessor in good faith and with a just title may no longer be dispossessed by the real owner after ten years (*especially if the real owner fails to exercise any act of ownership during the ten-year period – this is called extinctive prescription*).

On the other hand, an uninterrupted adverse possession prescribes in thirty years without need of title or good faith.

The following case is illustrative.

Dorothea Salvacion died without a last will and left behind a piece of real property.

Her only heirs were her 5 children who divided the property equally among themselves. One of the children, Mario, occupied more than what he was entitled to under the partition agreement. He encroached upon the share of two of his siblings, Salvador and Arthur.

After 55 years, the heirs of Salvador questioned the encroachment arguing that a “constructive trust” was created when Mario occupied the questioned portions.

The Supreme Court ruled that acquisitive prescription had set in.

Mario’s uninterrupted adverse possession of the contested property since 1945 was clearly established. It was only in the year 2000, upon receipt of the summons to answer petitioners’ complaint, that Mario’s peaceful possession of the contested portion was interrupted. 55 years had elapsed. Therefore, Mario had more than satisfied the requirement of 30 years.

On the claim of the heirs of Salvador that a constructive trust was created, even if this was the case, an implied or constructive trust prescribes in ten years from the time the right of action accrues. This is the other kind of prescription under the Civil Code, called extinctive prescription, where rights and actions are lost by the lapse of time. The action of the heirs of Salvador for recovery of possession is also barred by extinctive prescription. While Mario’s fraudulent act of depriving his siblings of their rightful shares is deplorable, the fact is that the siblings wasted their opportunity to question his acts in a timely manner.

(Base on G.R. No. 184109, February 1, 2012)