

96 Phil. 655

[G.R. No. L-7651. February 28, 1955]

**BALTAZAR RAYMUNDO AND AGAPITA SAN JUAN, PLAINTIFFS AND APPELLANTS,
VS. FELISA A. AFABLE AND THE ESTATE OF BRAULIO SANTOS, DEFENDANTS
AND APPELLEES.**

D E C I S I O N

BENGZON, J.:

The case. This is an appeal from an order of the Court of First Instance of Rizal dismissing the plaintiffs' complaint on the ground of prescription.

The order having been issued upon a motion to dismiss, the relevant facts are those alleged in the complaint, to wit:

The facts. 1. The plaintiffs were, in August 1931, the registered owners of a parcel of land, (with building) in Pasig, Rizal (Certificate of Title No. 3199) which was mortgaged to Macondray & Company in the sum of P3,000;

2. In said month they agreed with defendant Felisa A. Afable that the latter would repay the loan to Macondray & Company and would be subrogated to that company's rights as mortgagee;

3. However, abusing their confidence, Felisa A. Afable made them sign a document of absolute sale of the property —instead of a mere transfer of mortgage;

4. And on the strength of said deed of sale, Felisa A. Afable obtained the cancellation by the Register of Deeds of Rizal of said certificate No. 3199 and the issuance of a Transfer Certificate of Title No. 20666 in her name in November, 1931;

5. In June 1945 plaintiffs learned for the first time that the document they had signed in August 1931 was a document of sale, instead of a mortgage subrogation;

6. In October 1945, Felisa A. Afable sold the realty to Braulio Santos, who in due course obtained Transfer Certificate of Title No. 48261.

Lower court's view. Observing that the complaint in this case was dated August 29, 1953, His Honor declared the action had already prescribed, because actions for relief on the ground of fraud may only be brought within four years from the *discovery* of the fraud, (Section 43 Act No. 190) which plaintiffs say took place *in June 1945*.

Meeting plaintiffs' argument that the action could be filed *within ten years* from June 1945 because it purported to recover title to realty, the appealed order applied our decision in *Rone et al. vs. Claro and Baquing*, (91 Phil., 251) wherein, in a similar case, we stated the following:

“Appellants however now insist that their action was not to annul the deed of sale on the basis of fraud, but to recover title and possession of land.” **

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“Then among the prayers for relief, is one asking that the deed of sale be declared fraudulent. Another prayer is that defendants be ordered to execute a deed of conveyance of the lot in favor of plaintiffs, meaning that at present, defendants are owners of the lot, tho by virtue of a supposed fraudulent deed. From all this, it is obvious, as already stated, that the action was for the annulment of a contract or deed on the ground of fraud, which action should be filed within four years after the discovery of the fraud.” ***

“It may be that the recovery of title and possession of the lot was the ultimate objective of plaintiffs, but to attain that goal, *they must need first travel over the road of relief on the ground of fraud*; otherwise even if the present action were to be regarded as a direct action to recover title and possession, it would, nevertheless, be futile and could not prosper for the reason that the defendants could always defeat it by merely presenting the deed

of sale, which is good and valid to legalize and justify the transfer of the land to the defendants, until annulled by the courts.”

Our opinion. Upon careful consideration we see no reason to reverse the appealed order on the ground of misapplication of the aforesaid ruling. In fact, in view of the issuance of certificates of title, another line of approach conclusive against plaintiffs’ side suggests itself: There being no allegation of bad faith against Santos, his purchase of the duly registered title of Afable may not be revoked even if Afable, as alleged in the complaint, obtained it thru fraud.^[1] Consequently plaintiffs’ action for annulment of the deed of sale will necessarily fail. Plaintiffs’ remedy if any is an action for damages against Afable by reason of fraud, and that remedy may only be demanded judicially within four years after discovery of the deception. (Sec. 43 Art. No. 190)

But, the plaintiffs contend, such period was interrupted by the pendency of the case instituted by Braulio Santos in October 1946 to eject plaintiffs from the real property in question. Indeed there was such litigation that, passing thru the court of first instance and the court of appeals was finally decided by this Supreme Court in June 1953. The plaintiffs cite Article 1973 of the Civil Code providing that “the prescription of actions is interrupted by the commencement of a suit for their enforcement * * *”. Their contention is plainly unmeritorious, because the case mentioned was not a suit for the enforcement of the rights of herein plaintiffs. These were defendants there. And there is no proof nor allegation that in said case the defendants had demanded the relief they now seek. Anyway, it should be observed that said litigation at most suspended the action against *Santos only*—not Afable; yet, as heretofore explained, action against Santos may not prosper, not only by reason of prescription, but by reason of his having purchased in good faith from one having a duly registered certificate of title No. 20666.

Judgment. The appealed order of dismissal should be, and is hereby affirmed with costs. So ordered.

Paras, C.J., Pablo, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador Concepcion and Reyes J.B.L., JJ., concur.

Order affirmed.

^[1] Section 55 Land Registration Act;
De la Cruz vs. Fabie, 35 Phil., 144; Blondeau vs. Nano, 61
Phil., 625; Jacinto vs. Arellano, 46 Phil., 570.

Date created: October 09, 2014