

Title: ****Khe Hong Cheng, et al. vs. Court of Appeals, et al.****

Facts:

The controversy began with a shipment of 3,400 bags of copra aboard M/V PRINCE ERIC, owned by petitioner Khe Hong Cheng, which was lost at sea, leading to a claim by the shipper's insurer, American Home Insurance Company (respondent Philam's assured), who then sought recovery from Khe Hong Cheng for breach of contract of carriage. During the pendency of this recovery lawsuit, Khe Hong Cheng transferred properties to his children via deeds of donation. Following the trial court's favorable decision for Philam and unsuccessful attempts to execute the judgment due to these transfers, Philam initiated an action for rescission of the donations (accion pauliana) alleging fraud against creditors.

The procedural journey to the Supreme Court involved a dismissal of Philam's action by the trial court on prescription grounds, an appeal by Philam to the Court of Appeals (CA) which reversed the trial court's decision, and a subsequent denial of reconsideration by the CA. This set the stage for the Supreme Court review under a Petition for Review on Certiorari.

Issues:

1. Has the action to rescind the donations prescribed?
2. When does the prescriptive period for filing an accion pauliana commence?
3. Is the defense of improper venue by the petitioners valid?

Court's Decision:

The Supreme Court denied the petition and held the following:

- The action for rescission had not prescribed. The Court clarified that the prescriptive period for an accion pauliana commences when the creditor discovers that all other legal remedies for satisfaction of the claim have been exhausted. In this case, that point was when Philam discovered, via a sheriff's search, that Khe Hong Cheng had no remaining properties to satisfy the judgment, not at the earlier registration of the donations.
- The prescriptive period as outlined in Article 1389 of the Civil Code must be calculated from the moment the creditor has "no other legal means to obtain reparation," thus aligning with the Court's interpretation of an accion pauliana as a remedy of last resort.
- On the issue of improper venue raised by the petitioners, the Court found that they had

waived this defense by not raising it at the appropriate procedural juncture, either in a motion to dismiss or as an affirmative defense in their answer.

Doctrine:

The decision reinforces the doctrine that an accion pauliana is a subsidiary action that can be pursued only after all other legal remedies for satisfying the creditor's claims have been exhausted and proven futile. It specifies the commencement of the prescriptive period for such actions as the point when the creditor is aware that there are no other properties of the debtor to satisfy the claim. This articulates a nuanced interpretation of the Civil Code's provisions on rescission and the obligations of parties within.

Class Notes:

- **Accion Pauliana:** A remedy of last resort used to rescind fraudulent transactions made by a debtor to evade fulfilling obligations to a creditor. It requires: a prior credit existing before the alienation by the debtor; the debtor's subsequent transfer of assets constituting a fraud against creditors; no other legal remedies available for the creditor; fraudulent intent in the conveyance; and an accomplice in the fraud if the recipient received the property by onerous title.
- **Prescriptive Period for Accion Pauliana:** Commences not upon the registration of the conveyance purportedly made in fraud but upon the creditor's realization, after exhausting all legal remedies, that the debtor has no other assets to satisfy the judgment.
- **Improper Venue:** An objection to the improper venue must be made either through a motion to dismiss before answering the complaint or as an affirmative defense in the answer. Failure to do so results in a waiver of this defense.

Historical Background:

The case underscores the interplay between procedural law and substantive rights, illustrating the judiciary's role in interpreting statutes like the Civil Code in the context of evolving legal disputes. It reflects the Philippine legal system's checks and balances designed to prevent fraudulent asset transfers at the expense of creditors, reinforcing the principle of good faith in transactions.