

**PATERNA ESTRERA VDA. DE BORJA, PLAINTIFF-APPELLANT, VS.
THE HEIRS OF PRIMITIVA BORJA MAGTANGOB, SAMSON
MAGTANGOB, JUAN B. MAGTANGOB, GINA B. MAGTANGOB, JOSE B.
MAGTANGOB, HILDA ...**

CV NO. 85045, October 22, 2010

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Court of Appeals

This is an appeal from the Order rendered by Branch 58, Regional Trial Court of San Jose, Camarines Sur, dated December 29, 2004 in Civil case No. T-968 which dismissed the Complaint for Annulment of Sale of Real Property, Cancellation of Transfer Certificates of Title Nos. 9242, 9243, 9244, 9245 and 9246 with Damages.

The facts are as follows:

On October 1, 2003, plaintiff-appellant Paterna Estrera Vda. De Borja filed a Complaint for Annulment of Sale of Real Property, Cancellation of Transfer Certificates of Title Nos. 9242, 9243, 9244, 9245 and 9246 with Damages.

The complaint alleged that plaintiff-appellant is the registered owner of a parcel of land situated at Caraycayon, Tigaon, Camarines Sur which she inherited from her deceased husband, the late Pedro P. Borja who died on August 10, 1984 pursuant to extrajudicial settlement of estate executed on September 5, 1984. (Records p. 2) The subject property is particularly described as follows:

"A parcel of land (Lot 1-B-2 of the subdivision plan (LRC) Psd-137038, being a portion of Lot 1-B, Psd-5138, L.R.C. Record No. 1990), situated in the Barrio of Caraycayon, Municipality of Tigaon, Province of Camarines Sur, Island of Luzon, containing an area of FIFTY ONE THOUSAND FIVE HUNDRED NINETY (51,590) SQUARE METERS, more or less, covered by Transfer Certificate of Title (TCT) No. 14054 issued by the Register of Deeds of Camarines Sur."

Sometime in June 2001, plaintiff-appellant received an information that the subject property was transferred in the name of defendant-appellee Primitiva Borja Magtangob (Primitiva) by virtue of a Deed of Absolute Sale allegedly executed on April 25, 1988. (Records p. 6)

Plaintiff-appellant claimed that she never executed any deed of conveyance with regard to the said property in favor of Primitiva and her children. (Records p. 3) At the time of the alleged date of the sale, she was then in Quezon City. The signature of witness Salvacion Borja on the alleged document was falsified. That the said deed of sale was not the document referred to in the Notarial Book of Notary Public Clara Cea Maganduga submitted by the latter to the Clerk of Court of the Regional Trial Court. (Records pp. 4-5)

On account of the fictitious deed of sale and through the Department of Agrarian Reform (DAR) Voluntary Land Transfer, Primitiva was able to subdivide and transfer the title of the subject property to her children namely: a) Juan Magtangob; b) Gina Magtangob; c) Jose Magtangob; d) Jocelyn Magtangob; and e) Hilda Magtangob. (Records pp. 3-4)

Paterna Estrera Vda. De Borja further claimed that the transfer and subsequent issuance of certificates of title in favor of the children of Primitiva are null and void. Hence, this Complaint for Annulment of Sale of Real Property, Cancellation of Transfer Certificates of Title Nos. 9242, 9243, 9244, 9245 and 9246 with Damages.

On the other hand, defendants-appellees alleged that the complaint must be dismissed even before trial on the merits because the plaintiff-appellant's cause of action has prescribed. (Record p. 79) According to defendants-appellees, the action to annul the deed of sale in favor of Primitiva, and the titles issued to her and her children is based on fraud, hence, they are considered as a trustee of an implied trust as provided by Article 1456 of the Civil Code. (Records p. 77) Article 1456 states:

"Art. 1456. If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes."

Defendants-appellees further claimed that the period within which the plaintiff-appellant could file an action to annul the deed of sale based on fraud is ten (10) years. The instant action having been filed 15 years and 6 months after the registration of the alleged fictitious deed of sale with the Register of Deeds of Camarines Sur, the same is barred by prescription and/or laches. (Records p. 26)

On December 29, 2004, the RTC issued the appealed Order. The dispositive portion of which states:

"In view of the foregoing, this case is therefore ordered DISMISSED not only on the ground of prescription of cause of action but more importantly for lack of jurisdiction of this court.

The counter-claim is dismissed.

SO ORDERED." (Records p. 90)

Plaintiff-appellant filed a motion for reconsideration but was eventually denied by the RTC.

Hence, this appeal with the lone assignment of error:

THE HONORABLE COURT A QUO ERRED IN DISMISSING THE COMPLAINT DESPITE SHOWING THAT CAUSE OF ACTION AGAINST THE PRIVATE APPELLEES.

Plaintiff-appellant claimed that the RTC erred when it dismissed the case on the ground of prescription because the deed of sale in favor of Primitiva is fictitious or non-existent, thus, her cause of action is imprescriptible.

The appeal is meritorious.

In the case at bench, the trial court dismissed the complaint based on prescription without taking into consideration the main issue raised by plaintiff-appellant regarding the validity of the 1988 Deed of Sale. The action filed by plaintiff-appellant in the trial court is for the declaration of inexistence of contract, reconveyance, cancellation of title and damages. Plaintiff-appellant seeks the annulment of the Deed of Sale dated April 25, 1988 on the ground that the signature of plaintiff-appellant could not have been affixed on the Deed as she was in Quezon City at that time and she never went back to Camarines Sur after the death of her husband in 1984. The signature of the witness is also falsified. If this is the case, then the complaint filed has not yet prescribed since under Article 1410 of the Civil Code, an action or defense for the declaration of the inexistence of a contract does not prescribe.

Without prejudging the issue as it is the trial court which would ultimately determine the same, if it is established that plaintiff-appellant's consent was not given to the 1988 Deed of Sale which became the basis for the issuance of the new title over the entire lot in defendant-appellee Primitiva's name in 1988, the absence of such consent makes the Deed null and void ab initio and subject to attack anytime. (Heirs of Rosa Dumaliang v. Damiano

Serban, 516 SCRA 343 [2007]) The action for declaration of nullity of sale on the ground that the certificate of title was obtained by means of a fictitious deed of sale does not prescribe. (Philippine National Bank v. Heirs of Estanislao Militar and Deogracias Militar, 467 SCRA 377, 388 [2005])

It follows then that the plaintiff-appellant's present action should not be barred by laches. Laches is a doctrine in equity, which may be used only in the absence of, and never against, statutory law. Obviously, it cannot be set up to resist the enforcement of an imprescriptible legal right. (Philippine National Bank v. Heirs of Estanislao Militar and Deogracias Militar, 467 SCRA 377, 388 [2005])

The RTC has jurisdiction over the instant case. The RTC erred when it declared that the Department of Agrarian Reform has jurisdiction over the case. This is not an agrarian dispute. The power of the RTC under Section 19 of Batas Pambansa 129 (The Judiciary Reorganization Act of 1980) is to hear all civil actions in which the subject of the litigation is incapable of pecuniary estimation. The present action is about the declaration of the nullity of the document and not the cancellation of the certificates of title issued by Department of Agrarian Reform covering the subject lot. The prayer for the cancellation of the certificates of title is merely incidental to the main action of annulment of the deed of sale. This would merely follow after the trial court shall have first resolved the issue of whether or not the Deed of Sale in favor of the defendant-appellee Primitiva is non-existent or fictitious. Furthermore, the Department of Agrarian Reform (DAR) has no jurisdiction to declare the deed of sale non-existent or fictitious.

Indeed, it is but fair and just that, without prejudging the issues, the parties should be allowed to substantiate their respective claims and defenses in a full-blown trial, and secure a ruling in all the issues presented in their respective pleadings. (Heirs of Romana Ingjug-Tiro v. Casals, 363 SCRA 435 [2001]) WHEREFORE, the instant appeal is GRANTED. The Order dated December 29, 2004 of Regional Trial Court of San Jose, Camarines Sur, Branch 58 is REVERSED and SET ASIDE, and the case is REMANDED for trial and judgment on the merits.

SO ORDERED.

Villamor and Diamante, [*]JJ., concur.

[*] Acting Junior Member per Office Order No. 283-10-ABR dated October 4, 2010.

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