

HOMOBONO H. GONZALES, PLAINTIFF AND APPELLANT, VS. FELIPE JIMENEZ, SR., ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-19073. January 30, 1965*

Ponente: BAUTISTA ANGELO, J.

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Homobono H. Gonzales filed on July 26, 1957 against Felipe Jimenez, Sr., et al. a complaint for the reconveyance of a parcel of land situated in Naga, Camarines Sur. The material allegations of the complaint are: the land was sold to plaintiff in 1930. On August 15, 1951, Felipe Jimenez, Sr. caused his son to file a free patent application with the Bureau of Lands covering the same land alleging certain fraudulent statements in his application and by-reason of which Free Patent No. V-2706 was issued to his son on February 4, 1953, as well as Original Certificate of Title No. 11. Plaintiff was totally unaware of the filing of the application for patent as well as the issuance of the patent and the certificate of title abovementioned which he came to know only in October, 1956 when, in the absence of his caretaker, defendant Jimenez, Sr. caused the fencing of the land and asserted proprietary rights over the same.

Defendants filed a motion to dismiss, which was denied, afterwhich they filed their answer. After plaintiff had closed his evidence, defendants submitted a second motion to dismiss on the ground that the action, based on fraud, should have been presented within four years from the issuance of the patent, and not from the discovery of the fraud. The court a quo upheld this contention dismissing the complaint. In substance the court said that from the issuance of the title on March 15, 1953 to the filing of the complaint on July 26, 1957, more than four years had already elapsed and so plaintiff's action has already prescribed. Plaintiff took the present appeal.

It appears that the land in question was purchased by plaintiff from defendant Felipe Jimenez, Sr. in 1930 who executed in his favor the corresponding deed of sale and delivered to him the possession of the land. However, thru fraudulent representation, defendant Felipe Jimenez, Sr. was able to obtain from the Director of Lands the issuance in favor of his son Felipe Jimenez, Jr. on February 4, 1953 Free Patent No. V-2706, and on March 16, 1953 Original Certificate of Title No. 11 covering the same land. In spite of the fact that it is alleged in the complaint that Plaintiff came to know of the fraud of which he was a victim only sometime in October, 1956, the court a quo dismissed the complaint on the ground that the action has already prescribed in that the prescriptive period of four years should be computed, not from the actual discovery of the fraud, but from the date of the registration of the title in the register of deeds. Said the court a quo:

"The registration of the title in the office of the Register of Deeds is a notice to all the world. Everybody including the plaintiff is presumed to know every fact which the public records show. This is a rule of law and is absolute (*Legarda & Prieto vs. Saleeby*, 31 Phil. 550, Rep., pages 600-601).

"From the issuance of the title on March 16, 1953 to the filing of the complaint on July 26, 1957, more than four (4) years have already elapsed. Consequently, the plaintiff's cause of action has already prescribed."

Appellant now contends that the court a quo erred in dismissing the complaint by computing the prescriptive

period from the registration of the title in the office of the register of deeds.

We believe, however, that this case is covered by Article 1456 of our new Civil Code which provides: "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." Since it appears that the land in question was obtained by defendants thru fraudulent representations by means of which a patent and a title were issued in their name, they are deemed to hold it in trust for the benefit of the person prejudiced by it. Here this person is the plaintiff. There being an implied trust in this transaction, the action to recover the property prescribes after the lapse of ten years. Here this period has not yet elapsed.

"The case at bar involves an implied or constructive trust upon the defendants-appellees. The Court of Appeals declared that Ildefonso held in trust the 1/2 legally belonging to the plaintiffs, of which condition, the defendants had full knowledge. The sale made by Ildefonso in favor of the defendants, was not void or inexistent contract, action on which is imprescriptible (Art. 1450, N.C.C) It is voidable, at most, and as such is valid until revoked within the time prescribed by law for its revocation, and that is undoubtedly the reason why the Court of Appeals pronounced that 'the appellees had the right to ask for a reconveyance of their share, unless the action is barred by prescription.' The prescriptibility of an action for reconveyance based on implied or constructive trust is now a settled question in this jurisdiction. It prescribes in ten (10) years (Banana vs. Soler, et al. G. R. No. L-15717, June 30, 1961; J. M. Tuason & Co., Inc. vs. Magdangal, G. R. No. L-15539, Jan. 30, 1962; special attention to footnote No. 1)." (Alzona, et al. Capunitan, et al., G.R. No. L-10228, February 28, 1962)

WHEREFORE, the order appealed from is set aside. This case is ordered remanded to the court a quo for further proceedings. No costs.

Bengzon, C. J., Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, Makalintal, Bengzon, J. P. and Zaldivar, JJ. concur.

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