

THE HEIRS OF THE DECEASED JUAN SINDIONG, NAMELY: FERMINA SINDIONG, MARGARITA SINDIONG, TEOFILA SINDIONG AND FLORA SINDIONG, PLAINTIFFS AND APPELLANTS, VS. THE COMMITTEE ON BURNT...

G.R. No. L-15975. April 30, 1964

Ponente: DIZON, J.

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DIZON, J.:

Appeal taken by Fermina, Margarita, Teofila and Flora, all sumamed Sindiong, as heirs of the deceased Juan Sindiong, from the resolution of the Court of First Instance of Cebu in Civil Case No. K-5742 dismissing their complaint against The Committee on Burnt Areas and Improvements of Cebu and Bernardo Benedicto, on the ground that their cause of action, if any, has already prescribed.

The Committee on Burnt Areas and Improvements of Cebu, hereinafter referred to as the Committee, is a government entity created by Public Act No. 1393 approved on September 9, 1905, as amended by Public Acts Nos. 1614, 1873, 1913 and 1990. It was empowered to acquire lots within specified zones in the municipality (now City) of Cebu by means of donations, purchase, expropriation, etc., and to transfer said lots or any portion thereof to any person entitled thereto.

On January 5, 1922, Lot 2154 was registered in the name of the Committee, subject, however, to the following provision in favor of the heirs of the late Juan Sindiong:

"En cuanto a la cuarta proindivisa que corresponde a los herederos del finado Juan Sindiong y en cuanto a las mejoras levantadas en el lote 2154 por el referido difunto Juan Sindiong, el Juzgado ordena al referido Comite de Mejoras que otorque un documento de traspaso a favor de la persona o personal que son declaradas por este Juzgado herederas del difunto Juan Sindiong en el referido asunto de la Administracion de los bienes del finado Juan Sindiong, numero 555 por sentencia firme y en las proporciones que seran indicadas por la referida declaracion de herencia.

"Witness: the Honorable Adolph Wislinzenus, Judge of said Court, the 5th day of January, A.D. nineteen hundred and twenty-two."

It is not disputed that, in due time, the corresponding certificate of title was issued. While the record does not affirmatively disclose it, it may be presumed that said certificate of title was issued in accordance with the adjudication made by the court, particularly in relation to the rights decreed in favor of the aforesaid heirs of Sindiong. The record likewise fails to disclose whether or not the Committee had executed a deed of conveyance of an undivided one-fourth of Lot 2154 in favor of said heirs. In this connection, it appears that the original as well as the subsequent transfer certificates of title issued covering said lot were completely destroyed during the last war and that in 1948, pursuant to the provisions of Republic Act No. 26, they were reconstituted administratively, as a result of which reconstituted transfer certificates of title were issued first in the name of Juan E. Vicente Lao and subsequently in the name of his transferee, herein appellee Bernardo Benedicto. Transfer

Certificate of Title No. 4885 was issued on May 18, 1950 in the name of the latter.

It was only in the month of April 1956 that appellants filed Civil Case No. R-4300 in the Court of First Instance of Cebu against the City of Cebu to compel the latter to execute a deed of conveyance, pursuant to the adjudication made in their favor in relation to an undivided one-fourth of Lot 2154, to eject Bernardo Benedicto from said property, and to recover damages and attorney's fees. On the 28th of the same month, however, their complaint was dismissed on the ground that it was the Cebu Burnt Areas Committee and not the City of Cebu the real party in interest, the latter having a separate and distinct personality under Republic Act No. 1393, as amended, with authority to sue and be sued. Appellants filed a motion for leave to amend their complaint but the same was denied. As a result, they filed an action for certiorari with the Court of Appeals, but the same was dismissed.

Finally on September 12, 1953, appellants filed the present action in the Court of First Instance of Cebu against the Committee and Bernardo Benedicto to obtain the same relief prayed for in the previous case (Civil Case No. R-4300). The Committee filed a motion to dismiss the complaint upon two grounds, namely: that the dismissal of Civil Case No. R-4300 was a bar to the pending action, and that the cause of action of appellants had already prescribed. After proper proceedings, this motion to dismiss was denied and, as a result, the defendants in the case filed their answer denying the material averments of the complaint and interposing the affirmative defenses of res judicata and prescription of action, and the further defense—in favor of the appellee Benedicto—that the latter was an innocent purchaser for value.

Upon the issues thus joined, the case was tried and thereafter the lower court issued the appealed resolution holding that, while the dismissal of Civil Case No. R-4300 was not a bar to the present action because it was based on the ground that the City of Cebu was not the proper party defendant, yet appellants' action should be dismissed because of laches and prescription. Appellants now contend that the lower court erred in these two respects.

We find no merit in this appeal.

As stated heretofore, the adjudication of an undivided one-fourth of Lot 2154 in favor of appellants as heirs of the deceased Juan Sindiong was made on January 5, 1922. This notwithstanding, it was only in April 1956—that is, after the lapse of more than 34 years—that they brought Civil Case No. R-4300 to enforce their right. This, in our opinion, constitutes laches on their part, which should not be allowed to impair the rights of third parties who have acquired rights in the property subject of litigation in due course and without bad faith (*Mejia etc. vs. Gamponia* 100 Phil., 277; *Go Chi Gun et al, vs. Co Clio et al*, 96 Phil, 622).

Appellants' cause of action must likewise be deemed to have prescribed.

Assuming that the Committee had not complied with its obligation to execute a deed of conveyance in their favor in accordance with the decision of the Land Registration Court in relation to Lot 2154—of which there is no clear evidence—it is obvious that their cause of action to enforce said decision—being one based on a written instrument prescribed upon the expiration of ten years from the date when said decision became final. As the present action was filed only in 1958, that is, more than 35 years after the accrual of the cause of action, it can not be doubted that the latter had already prescribed at that time.

Even if we were to hold that the proper remedy of appellants was to file a proceeding for the revival of the judgment in their favor, it would likewise be clear that the period within which such proceedings may be commenced has also expired.

WHEREFORE, the resolution appealed from is hereby affirmed, with costs.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, Barrera, Paredes, Regala, and Makalintal, JJ., concur.

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