EDUARDO ELTANAL, ROMEO ELTANAL, JOVITO ELTANAL, FELIPE ELTANAL, HEIRS OF VICENTE ELTANAL, HEIRS OF ARTURO ELTANAL, HEIRS OF LORETO ELTANAL, ALL BEING REPRESENTED BY RESTITUTO EL...

Ponente: DIY, J.

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DIY, J.:

Before Us is an appeal under Rule 41 of the 1997 Rules of Civil Procedure, assailing the Decision[1] dated June 28, 2007 of Branch 38, Regional Trial Court of Dumaguete City (hereafter, “court a quo”), which dismissed the complaint for Reconveyance, Partial Annulment of Title, and Damages in Civil Case No. 13354.

The antecedents are as follows:

The instant case originated from a Complaint[2] for Reconveyance of Property, Partial Annulment of Title, and Damages filed by Eduardo Eltanal, Romeo Eltanal, Jovito Eltanal, Felipe Eltanal, Heirs of Vicente Eltanal, Heirs of Arturo Eltanal, Heirs of Loreto Eltanal, and Restituto Eltanal, Jr. (hereafter, “plaintiffs-appellants”), against Dionisio Eltanal, Jr. and Sofia Eltanal (hereinafter, “defendants-appellants”) before the court a quo.

Plaintiffs-appellants in their complaint claimed that they are the surviving heirs of the late Restituto Eltanal, Sr. (hereafter, “Restituto Sr.”). Restituto Sr. co-owned two (2) parcels of unregistered land located in Zamboanguita, Negros Oriental. Restituto Sr. and his co-owners exchanged these two (2) parcels of land with a piece of land consisting of three (3) hectares situated in Mentering, Lanao del Norte, owned by Dionisio Eltanal, Sr. (hereafter, “Dionisio Sr.”) The exchange was formalized with the parties' execution of the Deed of Exchange of Real Estate. Restituto Sr. was also an owner of a parcel of land with an area of 3,306 square meters located in Zamboanguita, Negros Oriental (hereafter, “subject lot”). This subject lot is adjacent to one of the exchanged lots (hereafter, “exchanged lot”). During the lifetime of Restituto Sr., he allowed Dionisio Sr. to use the subject lot as venue for the latter's political activities. After the death of Restituto Sr., plaintiffs-appellants, as heirs of the former, made numerous requests to Dionisio Sr. for the return of the subject lot to no avail, until Dionisio Sr. himself died. The exchanged lot was initially declared for taxation purposes in the name of Juana Parallon, which was then canceled and declared in the name of the widow of Dionisio Sr., Sofia Eltanal. Unknown to Restituto Sr. and plaintiffs-appellants, Dionisio Sr. declared under his name for taxation purposes the exchanged lot and the subject lot, making it appear that the two (2) lots are one (1) whole lot with an area of 5,460 square meters. Dionisio Sr. also had this area registered in his name for which he was issued Original Certificate of Title No. FV-13231 in 1973. It was only in 1995 that plaintiffs-appellants had known of the fraudulent act of Dionisio Sr. There were efforts to amicably settle before the Barangay Lupon. But such efforts failed. Hence, the filing of the reconveyance case.

Defendants-appellees in their Answer[3] claimed that the action should be dismissed because it is barred by prescription and laches. Moreover, the complaint was not verified by all the plaintiffs and the process of barangay conciliation was not complied with. Defendants-appellees asserted that they are in possession of the subject lot in

the concept of an owner, and that such possession is open, public and adverse. It is likewise alleged that they had been paying realty taxes thereon since time immemorial. Defendants-appellees asserted that the issuance of the free patent in their name is a recognition of their right of ownership over the same.

On June 28, 2007, the court a quo rendered a Decision[4] in favor of defendants-appellees, dismissing the complaint for their failure to establish their cause of action.

On August 2, 2007, plaintiffs-appellants filed a Notice of Appeal,[5] which was given due course on August 8, 2007.[6]

Hence, this Appeal[7] with the following assignment of errors:

THE TRIAL COURT ERRED :

> - IN FAILING TO APPRECIATE THE PREPONDERANCE OF EVIDENCE IN FAVOR OF THE PLAINTIFFS-APPELLANTS' CLAIM THAT THE PROPERTY OF PLAINTIFF'S PREDECESSOR-IN-INTERESTS WAS SURREPTITIOUSLY INCLUDED IN THE APPLICATION OF TORRENS CERTIFICATE OF TITLE OF THE PROPERTY OF DEFENDANT-APPELLEE, WHICH WAS ADJACENT TO PLAINTIFFS [SIC] PROPERTY;
>
> - IN HOLDING THAT PLAINTIFFS' ACTION HAD ALREADY PRESCRIBED.

The pivotal issue is whether or not the complaint of plaintiffs-appellants is dismissible.

Plaintiffs-appellants claim in their Brief that the property covered under Tax Declaration No. 05751 clearly described the subject lot which is even separated from the exchanged lot owned by Dionisio Sr. by a feeder road. Plaintiffs-appellants assert that the subject lot owned by Restituto Sr. was not merely mistakenly claimed by Dionisio Sr. but was surreptitiously, fraudulently and intentionally included in the latter's application for title. Plaintiffs-appellants contend that simple possession of a certificate of title is not conclusive of the holder's true ownership of the property described in the title. Moreover, plaintiffs-appellants assert that the property of Dionisio Sr. should be limited only to the metes and bounds as described in the previous tax declaration of Juana Parallon, the previous owner of the exchanged lot. It is further posited that Dionisio Sr. never owned any other properties in Zamboanguita, Negros Oriental except for the lots subject of the exchange that was made. Plaintiffs-appellants claim that Dionisio Sr. surreptitiously included the subject lot and excluded the feeder road which caused the discrepancy in the total land area described in the tax declaration in the name of Restituto Sr. and that described in the sketch map. Plaintiffs-appellants further contend that their cause of action has not prescribed since they filed the case only after they had confirmed that the subject property was included in the titling made by Dionisio Sr.

On the other hand, defendants-appellees assert that the issuance of Original Certificate of Title No. FV 13231 in the name of Dionisio Sr. was regularly made. Such title enjoys the presumption of regularity of its issuance. Defendants-appellees question the evidence presented by plaintiffs-appellants (Tax Declaration No. 05-751 and sketch plan) to prove the extent of the property of Restituto Sr. allegedly included in OCT No. FV 13231. Besides, defendants-appellees contend that plaintiffs-appellants failed to identify the property they are claiming. Lastly, it is posited that the action of plaintiffs-appellants had prescribed.

The Ruling of the Court
The appeal is bereft of merit.

The complaint is dismissible on the ground of prescription.

An action for reconveyance is one that seeks to transfer property, wrongfully registered by another, to its rightful

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and legal owner. All that must be alleged in the complaint are two (2) facts which, admitting them to be true, would entitle the plaintiff to recover title to the disputed land, namely, (1) that the plaintiff was the owner of the land and, (2) that the defendant had illegally dispossessed him of the same. The body of the pleading or complaint determines the nature of an action, not its title or heading.[8] In the instant case, plaintiffs-appellants claim that they and their predecessor-in-interest owned the subject lot which was fraudulently included by Dionisio Sr. in his application for titling of lands. Clearly, these allegations constitute an action for reconveyance based on fraud.

Under the principle of constructive trust, registration of property by one person in his name, whether by mistake or fraud, the real owner being another person, impresses upon the title so acquired the character of a constructive trust for the real owner, which would justify an action for reconveyance.[9]

Under Article1144,[10] in relation to Article 1456[11] and PD 1529,[12] an action for reconveyance of land based on implied or constructive trust prescribes in ten (10) years. The reckoning point is the date of registration and/or issuance of the certificate of title over the property.[13] The case of Estate of Margarita D. Cabacungan v. Laigo,[14] citing Crisostomo v. Garcia,[15] elucidated as follows:

> When property is registered in another's name, an implied or constructive trust is created by law in favor of the true owner. The action for reconveyance of the title to the rightful owner prescribes in 10 years from the issuance of the title. An action for reconveyance based on implied or constructive trust prescribes in ten years from the alleged fraudulent registration or date of issuance of the certificate of title over the property.
>
> It is now well settled that the prescriptive period to recover property obtained by fraud or mistake, giving rise to an implied trust under Art. 1456 of the Civil Code, is 10 years pursuant to Art. 1144. This ten-year prescriptive period begins to run from the date the adverse party repudiates the implied trust, which repudiation takes place when the adverse party registers the land.

Here, the title to the subject lot was registered in the name of Dionisio Sr. on March 26, 1973, while the complaint was filed on March 21, 2003. It took plaintiffs-appellants a period of thirty (30) years to file the instant case. Hence, even when there was fraud which would impose upon defendants-appellees the implied trust provided in Article 1456 of the Civil Code, it is crystal clear that plaintiffs-appellants' right to recover the subject lot has already prescribed.

It is trite to mention that an action for annulment of title or reconveyance based on fraud is imprescriptible only where the suitor is in possession of the property subject of the acts, the action partaking as it does of a suit for quieting of title which is imprescriptible.[16] For one to be considered in possession, one need not have actual or physical occupation of every square inch of the property at all times. Possession can be acquired not only by material occupation, but also by the fact that a thing is subject to the action of one’s will or by the proper acts and legal formalities established for acquiring such right. Possession can be acquired by juridical acts. These are acts to which the law gives the force of acts of possession. Examples of these are donations, succession, execution and registration of public instruments, and the inscription of possessory information titles.[17]

In the instant case, it is not plaintiffs-appellants but defendants-appellees who possessed the subject lot in the concept of owners. Apparently, defendants-appellees peacefully occupied it. They were never ousted from it, and were never prevented from enjoying its fruits. It also appears that they were able to transfer the tax declaration in the name of Dionisio Sr.

Assuming in arguendo that the action has not yet prescribed, still, the appeal should be dismissed.

Article 434 of the Civil Code[18] provides that to successfully maintain an action to recover the ownership of real property, the person who claims a better right to it must prove two things: first, the identity of the land claimed by describing the location, area, and boundaries thereof; and second, his title thereto.[19]

In regard to the first requisite, in an accion reinvindicatoria, the person who claims that he has a better right to the property must first fix the identity of the land he is claiming by describing the location, area and boundaries thereof. Anent the second requisite, i.e., the claimant's title over the disputed area, the rule is that a party can claim a right of ownership only over the parcel of land that was the object of the deed.[20]

In the instant case, it appears that plaintiffs-appellants are asserting that the whole subject lot consisting of 3,306 square meters owned by their predecessor-in-interest Restituto Sr. was surreptitiously included by Dionisio Sr. in the latter's application for free patent and its subsequent registration in his name. However, plaintiffs-appellants failed to identify the subject lot, so that the same may be compared to the property of defendants-appellees (which is allegedly the exchanged lot consisting of 2,184 square meters). A perusal of the records reveals that plaintiffs-appellants are banking on the sketch plan and tax declarations issued in the name of Restituto Sr. to prove ownership. Notably, the sketch plan is self-serving considering that it was prepared on the account of plaintiffs-appellants, and the person who prepared the sketch plan was not even presented in court. Had a resurvey been conducted with both parties present, it would have shown whether defendants-appellees encroached on plaintiffs-appellants' property. Moreover, said relocation survey on the latter's property together with that of defendants-appellees' could have conclusively shown the metes and bounds of plaintiffs-appellants' property in relation to the metes and bounds of that of defendants-appellees.

Further, plaintiffs-appellants' reliance on the tax declaration in the name of Restituto Sr. is unavailing. While it is true that tax declarations and tax receipts are good indicia of possession in the concept of an owner, the same must be accompanied by possession for a period sufficient for acquisitive prescription to set in. By themselves, tax declarations and tax receipts do not conclusively prove ownership.[21] As discussed above, possession of the subject lot has been with defendants-appellees and not with plaintiffs-appellants.

WHEREFORE, the instant appeal is DENIED. The Decision dated June 28, 2007 of Branch 38, Regional Trial Court of Dumaguete City is AFFIRMED.

SO ORDERED.

Delos Santos, E.L, (Acting Executive Justice) and Maxino, P.A.A. JJ., concur.

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[1] Rollo, p. 30.

[2] Records, p. 2.

[3] Ibid., p. 31.

[4] Supra, Note 1.

[5] Ibid., p. 278.

[6] Ibid., p. 284.

[7] Rollo, p. 17.

[8] Heirs of Maximo Sanjorjo v. Heirs of Samuel Quijano, G.R. No. 140457, January 19, 2005, citing Alfredo v. Borras, G.R. No. 144225, June 17, 2003; Heirs of Ambrocio Kionisala v. Heirs of Honorio Dacut, G.R. No. 147379, February 27, 2002.

[9] Heirs of Wenceslao Tabia v. Court of Appeals, G.R. Nos. 129377 & 129399, February 22, 2007, citing Vda. De Delgado v. Court of Appeals, G.R. No. 125728, August 28,2001.

[10] ART. 1144. The following actions must be brought within ten years from the time the right of action accrues:

(1) Upon a written contract;

(2) Upon an obligation created by law;

(3) Upon a judgment.

[11] Article 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.

[12] Section 53, par (3)- In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder of the decree of registration on the original petition or application, x x x.

[13] Pilapil v. Heirs of Maximino Briones, G.R. No. 150175, February 5, 2007, citing Marquez v. Court of Appeals, 360 Phil. 843, 849-850 (1998).

[14] G.R. No. 175073, August 15, 2011.

[15] G.R. No. 164787, January 31, 2006.

[16] Orduña v. Fuentebella, G.R. No. 176841, June 29, 2010, citing Llemos v. Llemos, G.R. No. 150162, January 26, 2007.

[17] Bunyi v. Factor, G.R. No. 172547, June 30, 2009, citing Habagat Grill v. DMC-Urban Property Developer, Inc., G.R. No. 155110, March 31, 2005; Quizon v. Juan, G.R. No. 171442, June 17, 2008.

[18] Art. 434. In an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim.

[19] Decaleng v. Bishop of the Missionary District of the Philippine Islands of Protestant Episcopal Church in the United States of America, G.R. No. 171209, June 27, 2012, citing Evadel Realty and Development Corporation v. Spouses Soriano, 409 Phil. 450, 461 [2001]; Spouses Hutchison v. Buscas, 498 Phil. 276, 262 [2005].

[20] Del Fierro v. Siguiran, G.R. No. 152141, August 08, 2011, citing Hutchinson v. Buscas, supra.

[21] Encinares v. Achero, G.R. No. 161419, August 25, 2009, citing Espino v. Vicente, G.R. No. 168396, June 22, 2006.

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