

**HEIRS OF ANDRES NAYA: TERESITA B. NAYA, NORMA N. ORBISO,
CARMENCITA N. FERNAN, AND NARCISO P. NAYA,
PLAINTIFFS-APPELLANTS, VS. ORLANDO P. NAYA AND SPS.
HONESIMO C. RUIZ AND GLOR...**

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HERNANDO, J:

Before Us is an appeal interposed by plaintiffs-appellants from the August 9, 2010 Order[2] of the Regional Trial Court (RTC), Branch 7 of Cebu City dismissing the Complaint and the October 7, 2010 Order denying their Motion for Reconsideration in Civil Case No. 35305 for Quieting of Title, Declaration of Absolute Nullity of Deed of Sale, Transfer Certificate of Title No. 107-2010001175, Tax Declaration and Damages.

Appellants seek the reinstatement of their Complaint and for the case to be referred back to the court a quo for a full blown trial.

The Antecedents

In a Complaint filed on March 10, 2008, plaintiffs sought, among others, the quieting of title of a parcel of land owned by their predecessor, Andres C. Naya, Sr., known as Lot No. 6100-C-1, consisting of 576 square meters, more or less, located in V. Rama Avenue, Cebu City, Philippines.[3] They asserted that such property, through an Extra-Judicial Adjudication and Settlement of Estate of the late Andres Naya, was adjudicated to Gregoria P. Naya, subject to the condition that she will assume all debts and will pay all of the obligations of the estate. Pending compliance and fulfillment of said condition, Gregoria P. Naya held in trust the property in favor of the other heirs.[4]

Gregoria Naya allegedly failed to comply with all the conditions and obligations imposed, particularly the payment of all the obligations of the estate, such that the heirs of Spouses Andres C. Naya, Sr. and Gregoria Palang Naya filed a petition for intestate proceedings or judicial settlement of the property in the 1970's. The case is pending before RTC, Branch 19 of Cebu City docketed as Special Proceedings Case No. 3586-R.[5]

Plaintiffs also alleged that Orlando Naya, by deceit and fraudulent scheme, successfully maneuvered the sale of the property under his parents name to Alfonso Uy married to Paz Tan in a document of sale dated September 28, 1965. Said sale was questionable since it was annotated with the Register of Deeds on February 5, 1971, three years after the death of Andres Naya, Sr. and six months before the death of Gregoria Palang, who was at that time seriously sick.[6]

By virtue of such sale, a new Transfer Certificate of Title (TCT) No. 49851 was issued to Alfonso Uy on February 5, 1971. After the lapse of three months, Orlando Naya, allegedly by means of deceit and fraud, had the property reconveyed to him through a Deed of Sale dated May 20, 1971.[7]

It was on September 1974 that plaintiffs learned of the alleged anomalous transactions of Orlando Naya. On September 5, 1974, plaintiffs caused the annotation of an adverse claim on the title as Entry No. 4843-V-15-D.B. On September 27, 1974, Orlando Naya sold the property to Honesimo Cruz but such transaction was annotated on

the title only on December 6, 2007. Thus, the adverse claim of plaintiffs was annotated ahead of the sale to Honesimo Cruz.[8]

After the death of Andres Naya, Sr. and Gregoria Palang Naya, the property was occupied continuously by Teresita Naya with the consent of all plaintiffs. They paid the real property taxes due thereon.[9]

Sometime on May 30, 1997, the land and building was sold at public auction by the City of Cebu for delinquent payment of real property taxes. Nine days after the auction sale, plaintiffs paid the delinquent taxes to the City Government of Cebu and a corresponding Certificate of Redemption was issued to them.[10]

The acts of Orlando Naya and Honesimo Ruiz in transferring the title of the property to the latter's name cast doubts on the ownership of the Heirs of Andres Naya, since he (Ruiz) is not a buyer in good faith. Plaintiffs also assert that Ruiz' inaction for thirty-three years before registering his rights over the property operates as an estoppel on his part and thus he cannot deny that plaintiffs and Orlando Naya are the real owner of the property.[11]

On June 29, 2009, Honesimo Ruiz and Gloria Ruiz (Spouses Ruiz) filed a Motion to Dismiss[12] alleging that the court had no jurisdiction over their persons since the summons for them was served on their son, Honesimo Ruiz, Jr., in his residence in Tandag, Surigao del Sur. They further manifested to the trial court that they had been residents of the United States for seven years, prior to the service of the summons, and since extra-territorial service (Section 15, Rule 14 of the Rules of Civil Procedure) was not made upon them, the court had no jurisdiction over their person.

On October 22, 2009, the RTC dismissed the case.[13]

Plaintiffs filed a timely Motion for Reconsideration[14] pointing out to the RTC that in the interest of justice, the court should allow plaintiff to file a motion for leave to publish the complaint so that the court will acquire jurisdiction over the person of the defendant.

On February 1, 2010, the RTC, despite the opposition[15] interposed by defendants, granted said motion for reconsideration. It also allowed plaintiffs to effect summons by publication[16] and directed defendants to file their Answer within sixty days after the last publication.

On May 4, 2010, defendants filed their Answer with Cross-Claim and Counter-Claims Ad Cautelam.[17] Therein, defendants Spouses Ruiz asserted that the property was already sold by Spouses Andres Naya, Sr. and Gregoria Palang Naya to Alfonso Uy wayback on September 28, 1965 and the latter was issued TCT No. T-49851 such that said property cannot be considered as part of the decedents' estate. They also questioned plaintiffs' act of casting deceit and fraud on Orlando Naya's act in selling sell the property to Alfonso Uy since: (1) plaintiffs failed to alleged specific acts that would constitute deceit and fraudulent scheme employed by Orlando Naya; (2) plaintiffs also failed to allege that the purported deceit and fraudulent scheme vitiated the consent of Andres Naya, Sr. and Gregoria Naya when they made the sale to Alfonso Uy. Spouses Ruiz assert that plaintiffs cannot validly assail the presumption of genuineness and due execution of the deed of sale to Alfonso Uy and its subsequent registration with the Register of Deeds. They also asserted that plaintiffs' assertion of deceit and fraud about the sale of the property from Alfonso Uy to Orlando constituted general allegations of deceit and fraudulent acts which are mere conclusions of law and thus cannot defeat the presumption of genuineness and due execution of the deed of sale by Alfonso Uy to Orlando Naya and the consequent issuance of the title in favor of the latter. In effect, the Complaint does not contain any allegation of fact that will cast a doubt on the genuineness and due execution of the deeds of sale. In their Answer, the following were also alleged as affirmative lilegations, to wit:

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22. Before they migrated to the United States of America sometime in 2000, herein defendants were residents of Tandag City, Surigao del Sur. Sometime in 1974, the defendants' daughter, Glenda Ruiz, started her medical studies at the Cebu Institute of Medicine. Herein defendants thus decided to buy a house in Cebu City where their daughter can stay during the entire time that she studied medicine.

23. A broker approached defendants and introduced them to Orlando Naya who offered to sell the subject properties. At that time, the subject properties were mortgaged by Orlando Naya with the then PhilAm Bank and were about to be foreclosed. In fact, a portion of the purchase price was paid to PhilAm Bank for the release of the mortgage. After verification with the Registry of Deeds of Cebu City that the certificate of title over Lot No. 6100-C-1 was indeed in the name of Orlando Naya, herein defendants bought the subject properties. Besides, the defendants were confident of the ownership of Orlando Naya because he was able to mortgage the subject properties with the then PhilAm Bank.

24. The defendants agreed with Orlando Naya that the latter will process the payment of the taxes due on the sale and cause the transfer of the certificate of title and tax declarations, considering that the defendants were then residents of Tandag City.

25. The defendants' daughter thought the location of the subject house and lot was too far from CIM so she decided to rent a place very near her school. Since the defendants had no relatives in Cebu City, they allowed Orlando Naya to continue staying in the subject properties to prevent the same properties from deteriorating and getting vandalized. As rent for his continued stay in the subject properties, Orlando Naya agreed to pay the yearly real property taxes due thereon.

26. The defendants are financially well off and own several properties. After graduation, their two (2) children worked in the USA as doctor and nurse while their son helped in their business in Tandag City, Surigao del Sur. Sometime in 2000 the defendants migrated to the USA and have resided there since. Thus, none among the defendants and their children was able to check on the status of the subject properties. As far as the defendants are concerned, they only allowed Orlando Naya to continue residing in the subject properties in consideration of his undertaking to pay the real property taxes due thereon. The defendants did not know, much less consent, to the use of the subject properties by the plaintiff.

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On June 16, 2010, defendants filed an Omnibus Motion to Defer Pre-trial and to Set for Preliminary Hearing Defendants' Affirmative Defenses.[18] The parties were required to submit Memoranda[19] in support of their respective position.[20]

The Ruling of the RTC

In the August 9, 2010 Order, the court a quo dismissed the Complaint based on failure to state a cause of action and laches that effectively barred the plaintiffs' claim. The RTC opined as follows:

Plaintiffs charge that all these transactions were made possible through the "deceit and fraudulent scheme" of Orlando Naya. Unfortunately, plaintiffs do not give details of the same. This violates Sec. 5, Rule 8, 1997 Rules of Civil Procedure, which states: "In all averments of fraud and mistake, the circumstances constituting fraud or mistake must be stated with particularity." Because of this, the Court considers the allegations inoperative.

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The Ruizes content that this action is barred by laches. Laches or unreasonable delay on the part of a plaintiff in seeking to enforce a right is not only persuasive of a want of merit but may, according to the circumstances, be destructive of the right itself. *Vigilantibus, non dormientibus, equites subvenit*. The laws help those who are vigilant, not those who are asleep.

In one case, the Supreme Court held: "Plaintiffs inaction for a period of more than 21 years in not taking steps to vindicate their alleged rights had converted their claim into a stale demand, thereby making the defense of laches lie in favor of the defendants.

Andres and Gregoria Naya sold the lot to Alfonso Uy on September 28, 1965. The Complaint in this case was filed only on March 10, 2009 – 45 years later, shy of six month. Time had turned their claim into a stale demand.

All told, the Court finds grounds to DISMISS as it hereby DISMISSES the case.

SO ORDERED.

Plaintiffs filed a Motion for Reconsideration[21] anent the dismissal of their Complaint on three grounds: (1) the RTC acted with grave abuse of discretion amount to lack of jurisdiction in dismissing the case; (2) the grounds of dismissal as claimed and cited by defendants in their affirmative answer is unprocedural and violative of the Omnibus Motion Rule; and (3) in general, an action for quieting of title does not prescribe. Among the defenses raised were that they (plaintiffs) are in possession of the property and they have a legal or equitable interest in the property since they acquired it by intestate succession. Moreover, an action for intestate succession was still pending before another branch in the RTC of Cebu City.

Defendants filed their Opposition (To Plaintiff's Motion for Reconsideration dated Sept. 10, 2010)[22] arguing that the court a quo did not err in dismissing the case.

On October 7, 2010, the RTC denied the motion for reconsideration,[23] paving the way for this appeal.[24]

The Assignment of Errors

Dissatisfied by the adverse judgment of the trial court, plaintiffs-appellants are before this Court on appeal based on the following assignment of errors, to wit:

1. The trial court gravely erred in allowing hearing on the affirmative defenses of defendants Spouses Ruiz anchored on the grounds of dismissal of the complaint even if it is violative of the omnibus motion rule; and
2. The trial court gravely erred in dismissing the case for allegedly lack of cause of action and laches.[25]

On the other hand, defendants-appellees argued that: (1) the RTC correctly dismissed the case because the omnibus election rule does not apply to them prior to the service of summons by publication; (2) the dismissal was proper since the plaintiffs failed to state a cause of action and they are guilty of laches; and (3) appellants are guilty of forum shopping.[26]

The Ruling of this Court

We resolve to deny the appeal.

Cause of Action Defined

Rule 2, Sec. 2 of the Rules of Court defines a cause of action as:

Sec. 2. Cause of action, defined. – A cause of action is the act or omission by which a party violates a right of another.

The essential elements of a cause of action are (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect or not to violate such right; and (3) an act or omission on the part of such defendant in violation of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff for which the latter may maintain an

action for recovery of damages or other appropriate relief.[27]

Consequently, a complaint states a cause of action if it avers the existence of the three essential elements of a cause of action, namely:

- (a) The legal right of the plaintiff;
- (b) The correlative obligation of the defendant; and
- (c) The act or omission of the defendant in violation of said legal right.[28]

Here, there exist sufficient grounds that compelled the RTC to rule that the Complaint lacked sufficient cause of action. As their "first cause of action", plaintiffs-appellants averred that because Gregoria Naya did not comply with her obligation of paying the taxes and debts pertaining to the estate of Andres Naya, Sr. However, a reading of the Extra-judicial Settlement does not show that the settlement will be invalidated in the event that Gregoria Naya will not pay the taxes and debts.

There is also no showing that the sale to the first buyer, Alfonso Uy, was made under duress or deceit, or that such sale was without cause or consideration. It was also not mentioned whether or not the putative vendors Andres Naya and Gregoria Palang, had no authority to sell the property. It is stressed that plaintiffs themselves admitted that it was Andres Naya and Gregoria Palang who sold the property to Alfonso Uy albeit casting deceit and fraud over Orlando Naya for such sale. However, the averments of fraud and deceit were mere general statements and without any explanation as to how the same had been supposedly perpetrated.

As to the allegations of fraud
on the part of Orlando Naya

Rule 8, Section 5, of the Rules of Court states:

Section 5. Fraud, mistake, condition of the mind. - In all averments of fraud or mistake, the circumstances constituting fraud or mistake must be stated with particularity. Malice, intent, knowledge or other condition of the mind of a person may be averred generally.

In plaintiffs-appellants' Complaint, they failed to allege with particularity the fraud allegedly committed by Orlando Naya such that decedents Andres C. Naya, Sr. and Gregoria Palang were deceived into executing the sale in favor of Alfonso Uy, thus:

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"6.0 Defendant Orlando Naya knowing all the conditions imposed upon heir Gregoria P. Naya by means of deceit and fraudulent scheme successfully maneuvered to have the property sold under the name of his parents in favor of Alfonso Uy married to Paz Tan. Said document was allegedly executed by the late Sps. Andres C. Naya, Sr. and Gregoria Palang Naya last September 28, 1965. From the time of the alleged execution of the questioned document, it was only annotated in the Office of the City Register of Deeds last February 5, 1971 which is almost three years after the death of Andres C. Naya, Sr. and six (6) months before the death of Gregoria Palang Naya. That time the mother Gregoria was seriously sick.

6.1 By reason of the aforesaid questionable transaction, a new Transfer Certificate of Title No. 49851 for Lot 6100-C-1 was issued to buyer Alfonso Uy sometime last February 5, 1971. Copy of said title is hereto attached as Annex "D".

6.2 After the lapse of three (3) months more or less from the annotation and issuance of new title to Alfonso Uy, again Orlando Naya by means of deceit and fraudulent acts have the same property reconveyed to him by virtue of Deed of Sale dated May 20, 1971. Copy of said Deed of Absolute Sale and Notarial Register are

thereto attached as Annex "E to E2".

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It should be noted that the heirs of Andres C. Naya, Sr. allegedly executed an Extra-judicial Settlement of his estate wherein Gregoria Naya was tasked with the payment of the debts and obligations of the estate.[29] If Gregoria Naya's non-payment of such debts and obligations is the "root" of plaintiffs-appellants' claim, what is the bearing or materiality of such presumed right when it was the Andres C. Naya, Sr. himself who sold the property?

It is also evident that plaintiffs-appellants failed to address the requirement that the circumstances constituting the fraud or mistake must be stated with particularity. The allegations in paragraph 6 of the Complaint to the effect that Orlando Naya committed fraud or deceit are sweeping statements which does not give a clear picture as to how the fraud was committed. It did not even state how such fraud was perpetuated or that the deeds conveying the subject property were forgeries or the signatures had been procured by means of fraud.

Based on the allegations of the Complaint, in particular those alleging fraud and deceit, the court a quo had sufficient grounds to dismiss it as it clearly lacked a cause of action. We thus find no cogent reason to reverse the assailed Orders.

WHEREFORE, this appeal is DENIED. The Orders dated August 9, 2010 and October 7, 2010 of the Regional Trial Court, Branch 7 of Cebu City dismissing Civil Case No. 35305 for lack of cause of action are AFFIRMED. Costs against plaintiffs-appellants.

SO ORDERED.

Quijano-Padilla, and Francisco,[1] JJ., concur.

[1] Acting Junior Member in lieu of Justice Marie Christine Azcarragga-Jacob per Office Order No. 15-14-GTI dated June 30, 2014.

[2] Issued by RTC Presiding Judge Simeon P. Dumdum, Jr.

[3] Complaint in Civil Case No. CEB-35305; RTC records, pp. 2-9.

[4] Ibid.

[5] Ibid.

[6] Ibid.

[7] Ibid.

[8] Ibid.

[9] Ibid.

[10] Ibid.

[11] Ibid.

[12] RTC records, pp. 48-55.

[13] Order dated October 22, 2009; RTC records, p. 57.

- [14] Rollo, pp. 59-60.
- [15] Opposition (To Plaintiffs' Motion for Reconsideration dated November 17, 2009); RTC records, pp. 62-73.
- [16] Order dated February 1, 2010; RTC records, p. 81.
- [17] RTC records, pp. 90-105.
- [18] RTC records, pp. 117-119.
- [19] Memorandum for the Plaintiffs; RTC records, pp. 133-135; Memorandum for defendants Spouses Ruiz; RTC records, pp. 136-147.
- [20] Order dated June 24, 2010; RTC records, p. 132.
- [21] RTC records, pp. 153-157.
- [22] RTC records, pp. 153-170.
- [23] Order dated October 7, 2010; RTC records, p. 171.
- [24] Notice of Appeal dated October 29, 2010; RTC records, pp. 173-174. Order dated November 3, 2010 granting the appeal; RTC records, p. 176.
- [25] Assignment of Errors; Brief for the Appellant; Rollo, pp. 22-38.
- [26] Brief for Defendants-Appellees Spouses Honesimo C. Ruiz and Gloria S. Ruiz; Rollo, pp. 92-114.
- [27] Sol-oil v. Philippine Coconut Authority, G.R. No. 174806, August 11, 2010.
- [28] Macaslang v. Zamora, G.R. No. 156375, May 30, 2011, 649 SCRA 92.
- [29] Paragraph 5.2 of the Complaint in Civil Case No. CEB-35305.

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