

**PAULINO M. CASTRILLO AND FELICISIMA CASTRILLO,
PETITIONERS, VS. THE COURT OF APPEALS, DOROTEO DIMARANAN
AND DOLORES MASIPAG DIMARANAN, RESPONDENTS.**

G.R. No. L-18046. March 31, 1964

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This case is before us on appeal by certiorari from the decision of the Court of Appeals affirming that of the Court of First Instance of Laguna in Civil Case No. B-29.

The pertinent facts, as found by the appellate court, are as follows:

Lot No. 188 of the Binan (Laguna) Estate Subdivision, with an area of 590 square meters, was acquired by Crispina Miranda from the Government in 1917. Transfer certificate of title No. 2068 of the office of the Register of Deeds for Laguna was issued in her name. In 1924 she executed an affidavit (Exh. A) affirming that the lot was not hers alone but belonged in common to her and her two sisters, Telesfora and Isabel Miranda. Isabel had her house on the northern part of the property; Crispina had hers in the center; and Telesfora, who had no house, lived alternately with the other two.

In 1929 Crispina sold a portion of the lot, with an area of 85 square meters, to the spouses Aquilino Almoró and Marcela Alzona.

In 1932 Isabel solid her share, with the house erected on it, to Doroteo Dimaranan, respondent here (Exh. B).

In 1934 Crispina executed a document entitled "escritura de venta absoluta" (Exh. C), stating that she was the owner of lot No. 188 and selling two portions thereof; one, containing 252 square meters, to Isabel Miranda for P600.00; and another, containing 86 square meters, to the spouses Almoró and Alzona for P200.00. According to the trial court, that document was evidently intended to ratify and confirm Isabel's rights and interest as well as the previous sale to the said spouses.

In 1940 these spouses sold the portion they had purchased from Crispina in 1929 to Jose V. Garcia.

Crispina Miranda died in 1935, but the lot continued to be registered in her name under transfer certificate of title No. 2068. On the strength of the conveyance by her to the spouses Almoró and Alzona and of that by the latter to Jose V. Garcia, the said certificate of title was cancelled and another one No. 20733 was issued. This was likewise immediately was cancelled and replaced by certificate No. 20734, issued on December 6, 1940, in the names of Crispina Miranda, as owner of 505 square meters, and of Jose V. Garcia, as owner of 85 square meters. In 1947 the title was reconstituted administratively and its number changed to RT-169.

After the death of Jose V. Garcia, or in 1954, his widow and son, Guadalupe C. de Garcia and Antonio Garcia, executed a deed of partition, in virtue of which certificate No. RT-169 was cancelled and replaced with certificate No. 8418, with the same notation of registered owners as before.

On April 26, 1955 Doroteo Dimaranan (vendee of Isabel Miranda) filed a petition in the original registration record praying that Jose V. Garcia be ordered to surrender RT-169 to the Register of Deeds so that the same could be cancelled and another one issued, containing the names of the new owners (including petitioner with respect to the share acquired by him). The petition was denied by the Court on the grounds: (a) that the extrajudicial sworn statement of Crispina Miranda (Exh. A) was not admissible in evidence because "she was still living (sic) and should have been presented to testify; and (b) that with respect to the deed of conveyance executed by Isabel Miranda (Exh. B) in favor of petitioner, the same was a voluntary transaction and hence needed no court order for its registration.

In September 1955 the heirs of Crispina Miranda, Paulino and Felicisima Castrillo, now petitioners, signed a deed of partition of that portion of lot No. 188 (containing 505 square meters) still registered in the said decedent's name. As a result transfer certificate of title No. 8418 was cancelled and in lieu thereof certificate No. 9178 (Laguna) was issued, with the two petitioners appearing as owners of 252 1/2 square meters each and the Garcias—mother and son—of 85 square meters.

On March 14, 1956 Doroteo Dimaranan and his wife commenced the present action to have themselves declared as owners pro-indiviso of a 1/3 share of lot No. 188, or 196 2/3 square meters; to compel the defendants, the Castrillos and the Garcias, to execute the corresponding deed of conveyance in their favor; to obtain the cancellation of the existing certificate of title and the issuance of a new one with their names entered therein; and to recover damages.

One of the defenses raised by said defendants, and reiterated before us now as sole ground for review by petitioners Paulino and Felicisima Castrillo, is that the action was barred by the statute of limitations. The trial court decided in favor of the plaintiffs therein on November 2, 1956. The judgment was affirmed by the Court of Appeals and is reproduced textually in its decision.

Petitioners assign only one error, namely:

"The Court of Appeals erred in applying Article 1434 of the New Civil Code in the instant case as respondents' cause of action under either Exhibits "A", "B, or "C", all cited in the complaint for reconveyance, dated May 12, 1924, August 10, 1932, and March 9, 1934, respectively, has prescribed long1 before the effectivity of the New Civil Code."

Petitioners contend that respondents' cause of action arose from the documents identified as Exhibits A, B, and C, which were executed in 1924, 1932 and 1934, respectively; and that the period during which the action could have been filed was ten years thereafter, or until Et 1944 at the latest, pursuant to section 40 of the Code of Civil Procedure (Act 190), which was the law on prescription in force prior to the effectivity of the new Civil Code in 1950.

The contention assumes that the action is "for the recovery of title to or possession of real property." The allegations in the complaint, however, show that it is neither for recovery of title nor for recovery of possession, because respondents became the owners of a 1/3 share pro-indiviso, of lot No. 188 in 1982 when Isabel Miranda sold it to them and as such owners entered into actual possession of the northern portion of the lot and have continued in possession since then. The only object of their action, aside from the recovery of damages, is to obtain a deed of conveyance from the defendants below so that the fact of their ownership may be inscribed in the corresponding certificate of title. This kind of action, in fact, was expressly excepted from the operation of the statute of limitations in the Code of Civil Procedure, Section which states that "this chapter shall not apply an action by the vendee of real property in possession thereof to obtain the conveyance of it."

The Court of Appeals applied the principle of estoppel in this case, specifically Article 1434. of the Civil Code,

which reads:

"Art. 1434. When a person who is not the owner of a thing sells and alienates and delivers it, and later the seller or grantor acquires title thereto, such title passes by operation of law to the buyer or grantee."

In applying the foregoing provision the Court of Appeals proceeded on the hypothetical assumption that when Isabel Miranda sold her 1/3 share of lot No. 188 to Doroteo Dimaranan in 1932 she was not yet the owner thereof, and that she acquired ownership only when her sister Crispina executed a formal deed of sale in her favor in 1934, covering an area of 252 square meters.

Petitioners assail the application of Article 1434 for the reason that this is a provision embodied for the first time in the new Civil Code, and hence cannot be given effect retroactively, especially as it would impair certain vested rights of petitioners.

In the first place, the principle of estoppel expressed in statutory form for the first time in the new Civil Code is not really an innovation. It has its origin in equity and, being based on moral right and natural justice, finds applicability wherever and whenever the special circumstances of a case so demand. (*Mirasol v. Municipality of Tarlac*, 43 Phil. 601). In fact it has been applied by this Court in the case of *Llacer v. Mufioz, et al.* (12 Phil. 328), as long ago as 1908.

In the second place, if anybody at all may be heard to challenge the application of the doctrine of estoppel in favor of respondents, it is only the party against whom it may be invoked—in this case the vendor, Isabel Miranda, from whom they acquired the disputed property. Crispina Miranda having conveyed the same to Isabel, neither she nor her successors may raise the point to their own advantage. For them to do so would in effect be to deny the rights of Isabel Miranda herself, acquired by virtue of the two documents executed by Crispina in her favor, one in 1929 (Exh. A) and the other in 1934 (Exh. C). This, obviously, petitioners cannot be permitted to do.

This case presents still another aspect. When Crispina Miranda executed the affidavit marked Exhibit A in 1929, affirming the fact that lot No. 188 was owned not only by her but also by her two sisters, she recognized the existence of a co-ownership between them. It did not matter that the certificate of title was in Crispina's name alone. Co-ownership is a form of trust and every co-owner is a trustee for the others. Thus, as a general rule, no one of them may acquire exclusive ownership of the common property through prescription, for possession by one trustee alone is not deemed adverse to the rest.

When respondent Doroteo Dimaranan acquired Isabel Miranda's 1/3 share in 1932 (Exh. B) he substituted her in the co-ownership. As found by the trial court and affirmed by the Court of Appeals, Doroteo at first rented out the house left by Isabel, then demolished it and thereafter planted the land to bananas, gathering the produce up to 1953. In other words, he was a co-owner in possession of his share, no formal partition having yet been made.

After the death of Crispina Miranda in 1935, her heirs the Castrillos, petitioners here, succeeded her in the co-ownership. They acquired no right greater than what their predecessor had and certainly none in derogation of those of the other co-owners. The latter did, not have to resort to court action to make their rights effective: they were in possession of their respective shares and as far as the certificate of title in Crispina's name was concerned, it was impressed with a fiduciary character even in the hands of herein petitioners, they being her heirs and privies and not third persons within the meaning of the law.

Respondents' cause of action accrued only in 1955, when petitioners executed a deed of partition and on the strength thereof obtained the cancellation of the title in the name of Crispina and the issuance of a new one where in they appear as the new owners of 252 1/2 square meters each, thereby in effect denying or repudiating the ownership of respondent Dimaranan over his 1/3 share in the entire lot. It was only then that the statute of

limitations started to run for purposes of the action instituted by him and by his wife for a declaration of the existence of the co-ownership and of their rights thereunder.

The decision appealed from is affirmed, with costs against petitioners-appellants.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Reyes J. B. L., Barrera, Paredes, Dizon and Regala, JJ., concur.

Padilla, J., took no part.

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