

**CARMENCITA NAYA-FERNAN, MARINO FERNAN, NORMA NAYA ORBISO, ROBERTO ORBISO AND HEIRS OF ANDRES P. NAYA, JR.,
HEREIN REPRESENTED BY TERESITA B. NAYA,
PLAINTIFFS-APPELLANTS, VS. BRO...**

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

The Case

Before Us is an Appeal[1] from the Orders[2] dated February 19, 2004 and May 24, 2011, respectively of the Regional Trial Court, Seventh (7[th]) Judicial Region, Branch 27, Lapu-Lapu City in Civil Case No. 4642-L for Declaration of Nullity/Annulment of Deeds, Recovery of Ownership and Possession of Real Property and Damages.

The Antecedents[3]

Stripped of the non-essentials, the case arose from the allegations of plaintiffs-appellants that their brother defendant-appellee Orlando Naya through fraud and machinations sold[4] the disputed property designated as Lot No. 4999, Opon Cadastre, situated in Mactan, Lapu-Lapu City to Maximo Patalinjug. For the said conveyance to materialize, defendant-appellee Orlando Naya produced an Affidavit[5] stating that he bought all the shares of his mother and siblings. He also procured three (3) Absolute Sale of Portion of Unregistered land[6] allegedly signed by Carmencita Naya-Fernan, Norma Naya Orbiso and Andres P. Naya, Jr., all of which were dated December 29, 1976. Furthermore, defendant-appellee Orlando Naya alleged that the plaintiffs-appellants received their share through a duly executed Extrajudicial Partition. However, plaintiffs-appellants countered that they never signed such documents and their signatures appearing thereon were falsified.

On September 2, 1985, Transfer Certificate of Title No. 15741[7] covering Lot 4999 was then issued in the name of the former mayor Maximo Patalinjug, married to Norma Patalinjug by the Registry of Deeds of Lapu-Lapu City.

The spouses Maximo and Norma Patalinjug then sold a portion of Lot 4999 to the defendants-appellees spouses Andres and Asuncion Gatmaitan in May 1986. In view thereof, TCT No. 15741 was cancelled and TCT No. 16664 (Lot No. 4999-A)[8] under the names of spouses Maximo and Norma Patalinjug and TCT No. 16665 (Lot No. 4999-B)[9] under the names of spouses Andres and Asuncion Gatmaitan were then issued.

On May 31, 1989, TCT No. 16665 (Lot No. 4999-B) was sold back by the spouses Andres and Asuncion Gatmaitan to the spouses Maximo and Norma Patalinjug. On the same date, both Lot Nos. 4999-A and 4999-B were sold[10] by spouses Maximo and Norma Patalinjug to defendant-appellee Brown Swallow Development Corporation.

By reason of the sale, TCT No. 16664 (Lot No. 4999-A) and TCT No. 16665 (Lot No. 4999-B) were cancelled and in its stead TCT Nos. 20106[11] and 20217[12] were issued on July 14, 1989 and August 11, 1989,

respectively, both already in the name of the new owner, defendant-appellee Brown Swallow Development Corporation.

On December 20, 1996, plaintiffs-appellants filed a Complaint[13] before the Regional Trial Court of Lapu-Lapu City, Cebu. The case was then assigned to Branch 27.

On October 28, 1997, defendants-appellees spouses Andres and Asuncion Gatmaitan filed a Motion to Dismiss[14] on the ground that the cause of action is already barred by the statute of limitations.

On July 28, 2000, an Opposition to Motion to Dismiss[15] was filed by the plaintiffs-appellants.

The Ruling of the Regional Trial Court

In an Order[16] dated February 19, 2004, the Regional Trial Court, Seventh (7[th]) Judicial Region, Branch 27 of Lapu-Lapu City in Civil Case No. 4642-L dismissed the case by reason of prescription. Pertinent portions of the ruling are as follows:

The Court observed that from the execution of the subject documents (Affidavit of Adjudication; Deed of Absolute Sale of Carmencita Naya-Fernan; and Deed of Absolute Sale of Norma Naya Orbiso) in December 1976, up to the filing of the instant case is about twenty (20) years. And from the date of issuance of the Certificate of Title was on September 2, 1985 up to the filing of the case, is about eleven (11) years.

The Court agrees with defendants (defendant-movants) that Article 1456 of the New Civil Code will apply when the property is acquired through fraud or mistake and the person who acquired becomes a trustee impliedly. Then pursuant to the decision of the Supreme Court in the case of Tenio-Obsequio vs. Court of Appeals, 230 SCRA 550, a person who seeks for the reconveyance of the property wrongfully or erroneously registered in another's name has a period of ten (10) years to file an action from the issuance of the certificate of title.

In another case, the Supreme Court ruled that "an action to annul a deed of extrajudicial settlement upon the ground of fraud may be filed within four (4) years from the discovery of the fraud. Such discovery is deemed to have taken place when the said instrument was filed with the Register of Deeds and new certificates of title were issued in the name of the respondents respectively. x x x the registration of the deed of extrajudicial settlement constitutes constructive notice to the whole world." (Gerona vs. De Guzman, 11 SCRA 154)

Viewed from the foregoing, the Court is convinced that the action taken by the plaintiff, has already prescribed as discussed.

The decretal portion of the Order reads:

"WHEREFORE, premises considered, the Court hereby orders this case dismissed and all the counterclaims are likewise dismissed.

SO ORDERED."

Unsatisfied, plaintiffs-appellants filed a Motion for Reconsideration[17] which was also denied by the trial court in an Order[18] dated May 24, 2011.

Aggrieved and undaunted by the ruling, the plaintiffs-appellants come before Us, raising the following issues, to wit:

I

THE TRIAL COURT GRAVELY ERRED IN ITS ORDER BY DISMISSING THE COMPLAINT ON THE GROUND OF PRESCRIPTION WITHOUT THE BENEFIT OF FULL BLOWN HEARING AND TRIAL.

II

THE TRIAL COURT GRAVELY ERRED IN ITS FINDINGS THAT THE CAUSE OF ACTION/CASE OF PLAINTIFF IS BARRED BY PRESCRIPTION.

The Ruling of this Court

We deny the appeal.

The crux of the present controversy is the determination of whether or not the action of the plaintiffs-appellants is already barred by prescription.

In retrospect, plaintiffs-appellants asseverate that their action is imprescriptible as it is predicated upon the execution of falsified contracts which are void ab initio.

We do not agree.

It is explicit from plaintiffs-appellants postulations that this is an action for reconveyance in relation to the provision of Article 1456[19] of the Civil Code which illustrates a constructive trust. Quite noticeably, a number of jurisprudence has consistently held that an action for reconveyance anchored upon a constructive trust prescribes in ten years from the date of issuance of the Torrens title over the disputed property. Expounding on this principle is the ruling in *Iglesia Filipina Independiente v. Heirs of Taea*,[20] to wit:

x x x On the other hand, constructive trusts are created by the construction of equity in order to satisfy the demands of justice and prevent unjust enrichment. They arise contrary to intention against one who, by fraud, duress or abuse of confidence, obtains or holds the legal right to property which he ought not, in equity and good conscience, to hold. x x x

In *Aznar*,[21] the Court explained the basis for the prescriptive period, to wit:

x x x under the present Civil Code, we find that just as an implied or constructive trust is an offspring of the law (Art. 1456, Civil Code), so is the corresponding obligation to reconvey the property and the title thereto in favor of the true owner. In this context, and vis-à-vis prescription, Article 1144 of the Civil Code is applicable.

Article 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.

x x x x x x x x

An action for reconveyance based on an implied or constructive trust must perforce prescribe in ten years and not otherwise. A long line of decisions of this Court, and of very recent vintage at that, illustrates this rule. Undoubtedly, it is now well-settled that an action for reconveyance based on an implied or constructive trust prescribes in ten years from the issuance of the Torrens title over the property.

It has also been ruled that the ten-year prescriptive period begins to run from the date of registration of the deed or the date of the issuance of the certificate of title over the property, x x x.[22] (emphasis supplied)

The same doctrine was applied in *Ney v. Quijano*,[23] where it was also elucidated that the ten (10) year prescriptive period finds relevance only when there is an actual need to return the property to its real owner. However, if the true owner is in possession of the disputed property, prescription will not lie against him. Pertinent portion of the ruling germane to this discussion is as follows:

An action for reconveyance based on an implied trust prescribes in 10 years. The reference point of the 10-year prescriptive period is the date of registration of the deed or the issuance of the title. The prescriptive period applies only if there is an actual need to reconvey the property as when the plaintiff is not in possession of the property. However, if the plaintiff, as the real owner of the property also remains in possession of the property, the prescriptive period to recover title and possession of the property does not run against him. In such a case, an action for reconveyance, if nonetheless filed, would be in the nature of a suit for quieting of title, an action that is imprescriptible.[24]

In the case at bench, records would indubitably show that it was on September 2, 1985 when Transfer Certificate of Title No. 15741 covering the disputed property (Lot 4999) was issued in the name of Maximo Patalinjug, married to Norma Patalinjug. On the other hand, it was only on December 26, 1996 or after a lapse of eleven (11) years that plaintiffs-appellants instituted their action against herein defendants-appellees. Moreover, the dogma in the second cited case of *Ney v. Quijano*,[25] finds no application in the present case, as it is also evident that possession of the disputed property did not remain with the plaintiffs-appellants. Accordingly, without a doubt, the prescriptive period of ten (10) years has already set in.

It is also important to stress that the imprescriptibility of an action for reconveyance based on fraud will only hold water if the subject property has not yet passed into the hands of an innocent purchaser for value. In *Tiongco Yared v. Tiongco*,[26] it has been held, viz:

In *Heirs of Pomposa Saludaes*,[27] this Court explained that the Court in a series of cases,[28] has permitted the filing of an action for reconveyance despite the lapse of more than ten (10) years from the issuance of title to the land and declared that said action, when based on fraud, is imprescriptible as long as the land has not passed to an innocent buyer for value. But in all those cases, the common factual backdrop was that the registered owners were never in possession of the disputed property. The exception was based on the theory that registration proceedings could not be used as a shield for fraud or for enriching a person at the expense of another. (emphasis supplied)

Verily, in the instant case, the subject property has passed through the hands of various innocent buyers for value, who merely relied upon the certificate of title. Likewise, records are also bereft of any proof that would otherwise show that these transferees were not buyers in good faith and for value.

Futhermore, We agree with the trial court's postulation that the annulment of a Deed of Extrajudicial Settlement based upon the ground of fraud may be instituted within four (4) years from its discovery, which can be equated to the date when the new certificate of title was issued. Instructive and applicable is the tenets laid down in *Feliciano v. Canoa*,[29] as follows:

In *Gerona v. De Guzman*,[30] respondents therein executed a deed of extrajudicial settlement declaring themselves to be the sole heirs of the late Marcelo de Guzman. They secured new transfer certificates of title in their own names, thereby excluding the petitioners therein from the estate of the deceased. The petitioners brought an action for the annulment of the said deed upon the ground that the same is tainted with fraud. The Court held,

Inasmuch as petitioners seek to annul the aforementioned deed of "extra-judicial settlement" upon the ground of fraud in the execution thereof, the action therefor may be filed within four (4) years from the discovery of the fraud (*Mauricio v. Villanueva*, L-11072, September 24, 1959). Such discovery is deemed to have taken place, in the case at bar, on June 25, 1948, when said instrument was filed with the Register of Deeds and new certificates of title were issued in the name of respondents exclusively, for the registration of the deed of extra-judicial settlement constitute constructive notice to the whole world.[31] (Emphasis and underscoring supplied.)[32]

Finally, We cannot also ascribe merit to plaintiffs-appellants assertion that the trial court erred in dismissing the complaint as the instant case necessitates a full blown trial. On this score, We find guidance from the previously cited jurisprudence of *Feliciano v. Canaza*,^[33] thus:

Moreover, Rule 9, Section 1 of the 1997 Rules of Civil Procedure, as amended, provides that when it appears from the pleadings or the evidence on record that the action is already barred by the statute of limitations, the court shall dismiss the claim. Thus, in *Gicano v. Gegato*,^[34] we held:

We have ruled that trial courts have authority and discretion to dismiss an action on the ground of prescription when the parties' pleadings or other facts on record show it to be indeed time-barred x x x; and it may do so on the basis of a motion to dismiss, or an answer which sets up such ground as an affirmative defense; or even if the ground is alleged after judgment on the merits, as in a motion for reconsideration; or even if the defense has not been asserted at all, as where no statement thereof is found in the pleadings, or where a defendant has been declared in default. What is essential only, to repeat, is that the facts demonstrating the lapse of the prescriptive period, be otherwise sufficiently and satisfactorily apparent on the record: either in the averments of the plaintiffs complaint, or otherwise established by the evidence. (Underscoring supplied.)^[35]

Thus, all told, We do not find any justifiable reason to depart from the ruling of the lower court as the facts and the evidence presented were properly appreciated in conjunction with the applicable law and current jurisprudence.

WHEREFORE, in view of the foregoing, the Appeal is DENIED. The Orders dated February 19, 2004 and May 24, 2011, respectively of the Regional Trial Court, Seventh (7th) Judicial Region, Branch 27, Lapu-Lapu City in Civil Case No. 4642-L are hereby AFFIRMED.

SO ORDERED.

Ingles,^[***] and Azcarraga-Jacob, JJ., concur.

[*] Refer to the Complaint, rollo, p. 40; records, p. 1.

[**] Refer to the Complaint, rollo, p. 40; records, p. 1.

[***] Acting Chairperson per Office Order No. 14-14-GTI dated June 26, 2014.

[1] Rollo, pp. 20-52.

[2] Rollo, pp. 38-39, 35-37; records, pp. 109-110, 203-205.

[3] Refer to the Brief for the Appellants, rollo, pp. 20-26; Appellee's Brief for Defendant-Appellee Brown Swallow Development Corporation, rollo, pp. 53-60; Appellee's Brief (for Defendants-Appellees Spouses Andres and Asuncion Gatmaitan), rollo, pp. 97-100.

[4] Rollo, p. 51; records, p. 10.

[5] Rollo, p. 52; records, p. 11.

[6] Rollo, p. 49, 50; records, p. 12, 13. (The Absolute Sale of Portion of Unregistered land allegedly signed by Andres Naya, Jr. is not attached in the Complaint or records)

[7] Records, p. 87.

[8] Records, p. 88.

- [9] Records, pp. 89-90.
- [10] Records, pp. 91-95, 96-98.
- [11] Records, pp. 99-103.
- [12] Records, pp. 104-108.
- [13] Records, pp. 1-13.
- [14] Records, pp. 35-43.
- [15] Records, pp. 48-52.
- [16] Rollo, pp. 38-39; records, pp. 109-110.
- [17] Records, pp. 112-113.
- [18] Rollo, pp. 35-37; records, pp. 203-205.
- [19] Art. 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.
- [20] G.R. No. 179597, February 3, 2014.
- [21] *Iglesia Filipina Independiente v. Heirs of Taeza*, G.R. No. 179597, February 3, 2014, citing 497 Phil. 788, 799-800 (2005).
- [22] *Iglesia Filipina Independiente v. Heirs of Taeza*, G.R. No. 179597, February 3, 2014, citing 497 Phil. 801 (2005).
- [23] G.R. No. 178609, August 4, 2010.
- [24] *Ney v. Quijano*, G.R. No. 178609, August 4, 2010, citing *Lasquite v. Victory Hills, Inc.*, G.R. No. 175375, June 23, 2009, 590 SCRA 616, 631-632.
- [25] G.R. No. 178609, August 4, 2010.
- [26] G.R. No. 161360, October 19, 2011.
- [27] *Tiongco Yared v. Tiongco*, G.R. No. 161360, October 19, 2011, citing G.R. No. 128254, January 16, 2004, 420 SCRA 58.
- [28] *Tiongco Yared v. Tiongco*, G.R. No. 161360, October 19, 2011, citing *Rodriguez v. Director of Lands*, 31 Phil. 272 (1915); *Zarate v. Director of Lands*, 34 Phil. 416 (1916); *Amerol v. Bagumbaran*, No. L-33261, September 30, 1987, 154 SCRA 396, 406-407; *Caro v. Court of Appeals*, G.R. No. 76148, December 20, 1989, 180 SCRA 401.
- [29] G.R. No. 161746, September 1, 2010.
- [30] *Feliciano v. Canaza*, G.R. No. 161746, September 1, 2010, citing No. L-19060, May 29, 1964, 11 SCRA 153.
- [31] *Feliciano v. Canaza*, G.R. No. 161746, September 1, 2010, citing No. L-19060, May 29, 1964, 11 SCRA 157 citing *Diaz v. Gorricho*, No. L-11229, March 29, 1958; *Avecilla v. Yatco*, L-11578, May 14, 1958; *J.M. Tuason & Co., Inc. v. Magdangal*, L-15539, January 30, 1962; *Lopez v. Gonzaga*, L-18788, January 31, 1964.

[32] Emphasis and underscoring supplied – as copied from the jurisprudence.

[33] G.R. No. 161746, September 1, 2010.

[34] Feliciano v. Canaza, G.R. No. 161746, September 1, 2010, citing No. L-63575, January 20, 1988, 157 SCRA 140, 145-146.

[35] Underscoring supplied – as copied from the jurisprudence.

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