

HEIRS OF ANTONIO CANCERAN, NAMELY: HONORIA, MARCOS, LUIS, EFREN AND SAMUEL, ALL SURNAMED CANCERAN, REP. BY: SAMUEL CANCERAN, PLAINTIFFS-APPELLEES, VS. SHYREEN GUINGAB MALLANAO A...

Ponente: SORONGON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7c1848bbc0d4/>

SORONGON, J.:

This is an ordinary appeal under Rule 41 of the Rules of Court from the Decision[1] dated September 18, 2009 and the Order[2] dated January 28, 2010 of the Regional Trial Court (RTC) of Cabagan, Isabela, Branch 22 in Civil Case No. 22-919 for Specific Performance, Reconveyance plus Damages.

The facts as found from the records:

Domingo Canceran (Domingo) was the original owner of a parcel of land located at Calibabagan, Cabagan, Isabela, with an area of fifteen (15) hectares. Upon his death, his heirs namely Vicente Canceran, Primo Canceran, Tomas Canceran, Domingo Guingab, Pedro Alingod and Antonio Canceran inherited the said parcel of land and subsequently executed a document denominated as "Extrajudicial Partition of Land"[3] dated December 29, 1963 wherein they agreed, among others, that the two and one-half (2½) hectare portion of the property with an area of 23,911 square meters on the west side shall belong to Antonio Canceran (Antonio).

Following the execution of the deed of partition, Antonio took possession over said portion of the land. He also declared it for taxation purposes under his name per Tax Declaration Nos. 14010[4] and C-4782[5].

Meanwhile, Ponciana, niece of Antonio, was able to secure Free Patent No. 520708[6] over the same property owned by Antonio to which she was subsequently issued OCT No. P-27070. Antonio filed a protest against such issuance of free patent before Regional Office No. II of the Department of Environment and Natural Resources (DENR) in Tuguegarao City docketed as R.L.O Claim No. 757.

During the pendency of the protest case, Ponciana executed a Deed of Reconveyance[7] dated November 24, 1988, undertaking to reconvey the subject property to Antonio, being the real owner and possessor thereof.

On May 4, 1990, the Regional Office No. II of DENR, Tuguegarao, Cagayan issued an Order[8] giving Antonio preferential right over the said property by virtue of the Deed of Reconveyance executed by Ponciana in his favor and likewise ordered the latter to give full force and effect to the said deed. But despite the said order, Ponciana did not implement nor give any effect to the Deed of Reconveyance, instead, she transferred the title of the subject property to her granddaughter, herein defendant-appellant, Shyreen Guingab Mallanao.

When Antonio passed away on February 26, 1996[9], his heirs (herein plaintiffs-appellees) took over the possession and cultivation of the subject property. However, on May 20, 1997, Shyreen caused the titling of the property to her name under TCT No. T-269734. Immediately, Samuel Canceran filed an Affidavit of Adverse Claim[10] which was annotated as Entry No. 8952[11] in OCT No. P-27070. Plaintiffs-appellees demanded to have the said property reconveyed to them but defendants-appellants refused to take heed. Thus, the filing of the

case.

On September 18, 2009, the court a quo ruled in favor of the plaintiffs-appellees, the fallo of which reads:

WHEREFORE, premises considered, the Court hereby renders judgment in favor of the plaintiffs and against the defendants as follows:

1)

Ordering the defendant Ponciana Canceran to specifically perform the terms and conditions of the Deed of Reconveyance dated November 24, 1988;

2)

Ordering the defendants Ponciana Canceran and Shyreen Guingab Mallanao to RECONVEY unto the Heirs of Antonio Canceran, namely Honoria, Marcos, Luis, Samuel and Efren, all surnamed Canceran, Lot No. 1352, Pls-(8)34-D which is described in paragraph 2 of the Complaint;

3)

To pay unto the said plaintiffs, jointly and severally, the sum of Three Thousand (P3,000.00) Pesos as temperate Damages; and

4)

To pay the cost of the suit.

SO DECIDED.[12]

Defendants-appellants' Motion for Reconsideration[13] was denied by the trial court in its Order[14] dated January 28, 2010. Thus, the instant appeal raising the following issues:

- WHETHER OR NOT THE CASE WAS FILED OUT OF TIME FOR BEING FILED AFTER 26 YEARS FROM THE ISSUANCE OF THE ORIGINAL CERTIFICATE OF TITLE NO. P-27020 IN THE NAME OF DEFENDANT-APPELLANT, PONCIANA CANCERAN AND/OR AFTER 12 YEARS FROM THE EXECUTION OF THE DEED OF RECONVEYANCE;

- WHETHER OR NOT LACHES HAS ALREADY SET IN; AND

- WHETHER OR NOT THE RTC HAS JURISDICTION OVER THE SUBJECT MATTER OF THE CASE.

On the first issue, defendants-appellants alleged that the complaint should be dismissed as it has already prescribed. Since plaintiffs-appellees' claim is based on a Deed of Reconveyance executed on November 24, 1988, then the complaint which was filed only on June 5, 2000 is time barred under Article 1144 of the Civil Code which provides that: 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.

Such a stance fails to persuade.

The subject property was given to Antonio by his co-heirs by way of a Deed of Extrajudicial Partition. Ponciana admitted that said land belongs to Antonio as shown in her Deed of Reconveyance[15] dated November 24, 1998 and by her own admission before Florante C. Francisco, Land Investigator of DENR.[16] Also, Juan Alingod, the owner of the lot adjacent to the subject property, testified of Antonio's possession of the land since 1963 until it was passed to plaintiffs-appellees who are now the present possessors thereof. Thus:

Q:

Now, in 1963, Mr. Witness, in your personal knowledge, may we know from you who was in possession of this land subject of this case which according to you is adjacent to your land?

A:

I know, sir.

Q:

Please tell the Honorable Court, Mr. Witness?

A:

Antonio Canceran, sir.

Q:

Mr. Witness, who are in actual possession and occupation of this land in suit now?

A:

His children, sir.

Q:

You are referring to the plaintiffs in this case, Mr. Witness?

A:

Yes, sir, his children.

Q:

Now, in your own personal knowledge, will you please state to the Honorable [Court] if there is an instance that you saw Ponciana Canceran and Shyreen Mallanao occupy the land which is adjacent to your land?

A:

None, sir.

xxx xxx xxx

Q:

And may we know from you, Mr. Witness, if there is an instance that the possession of the heirs of Antonio Cance(r)an including him if there was an instance that the said possession was interrupted?

A:

None, sir.

Since Ponciana knew fully well that the subject property is already owned and possessed by Antonio, her actuation in applying for a free patent and title constitutes bad faith. Under such circumstances, the period within which to bring an action for reconveyance does not prescribe because the claimant (Antonio) is the possessor of the land. Here, the action for reconveyance is in effect an action for quieting of title.[17] The 10-year prescriptive period to bring an action for reconveyance as provided under Article 1144 is not applicable here, because it only applies when the person enforcing it is not in possession of the property. In *Vda. De Gualberto vs. Go*,[18] citing *DBP vs. CA*,[19] the Supreme Court held that:

An action for reconveyance of real property based on implied or constructive trust is not barred by the aforementioned 10-year prescriptive period only if the plaintiff is in actual, continuous and peaceful possession of the property involved. In *DBP vs. CA*, the Court explained:

xxx. Generally, an action for reconveyance based on an implied or constructive trust, such as the instant case, prescribes in 10 years from the date of issuance of decree of registration. However, this rule does not apply when the plaintiff is in actual possession of the land. Thus, it has been held:

"... [A]n action for reconveyance of a parcel of land based on implied or constructive trust prescribes in ten years, the point of reference being the date of registration of the deed or the date of the issuance of the certificate of title over the property, but this rule applies only when the plaintiff or the person enforcing the trust is not in possession of the property, since if a person claiming to be the owner thereof is in actual possession of the property, as the defendants are in the instant case, the right to seek reconveyance, which in effect seeks to quiet title to the property, does not prescribe. The reason for this is that one who is in actual possession of a piece of land claiming to be the owner thereof may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right, the reason for the rule being, that his undisturbed possession gives him a continuing right to seek the aid of a court of equity to ascertain and determine the nature of the adverse claim of a third party and its effect on his own title, which right can be claimed only by one who is in possession."

Here, it was never established that petitioners remained in actual possession of the property after their father's sale thereof to Go S. Kiang in 1965 and up to the filing of their complaint in this case on August 10, 1995. On the contrary, the trial court's factual conclusion is that respondents had actual possession of the subject property ever since. The action for reconveyance in the instant case is, therefore, not in the nature of an action for quieting of title, and is not imprescriptible.

Equally unavailing is the defendants-appellants' claim of laches.

Laches is "the failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it." [20] Records reveal that after the execution of the Deed of Extra-Judicial Partition by the heirs of Domingo, Antonio immediately took possession of his share of the inheritance, cultivated and declared the same under his name for tax purposes as evidenced by Tax Declaration Nos. 14010 [21] and C-4782 [22]. When he learned that Ponciana was issued a free patent, he lost no time in filing a protest against its issuance and asked for the cancellation of OCT No. P-27070 with the Regional Office No. II of the DENR in Tuguegarao City. Upon his death, his children, herein plaintiffs-appellees relentlessly pursued the case asserting their title and ownership over the disputed land. On March 20, 2010 or at the time of the issuance of TCT No. T-269734 [23] in the name of Shyreen an adverse claim over the said property was caused to be annotated by Samuel Canceran in OCT No. P-27070 known as Entry No. 8952 [24]. Defendants-appellants' adamant and continued refusal to reconvey the subject property to plaintiffs-appellees compelled the latter to institute the present complaint. Very clear then that since the lifetime of Antonio and until the property was handed down to them through succession, plaintiffs-appellees have persistently contested the fraudulent conveyance of the subject land to defendants-appellants. The actuation of the plaintiffs-appellees manifestly proved that they have not slept or had been neglectful of their right over the subject property. Thus, plaintiffs-appellees are not guilty of laches.

Finally, on the issue of jurisdiction. According to defendants-appellants since the complaint is one for reconveyance involving title to property, then it is a real action incapable of pecuniary estimation. Hence, the assessed value of the subject property is therefore determinative as to which court has jurisdiction. Citing Section 3 of Republic Act (RA) 7691, which amended Section 33 of Batas Pambansa (BP) 129, it is the Second Municipal

Circuit Trial Court of Cabagan-Sto. Tomas, Cabagan, Isabela which has jurisdiction over the present complaint and not the RTC of Cabagan, Isabela because the assessed value of the disputed property is only Php18,980.00 per Tax Declaration[25] of Shyreen Guingab Mallanao attached to defendants-appellants' motion for reconsideration. The RTC will only have jurisdiction over the case if the property exceeds Php20,000.00.

We are not convinced.

While we agree with the contention of defendants-appellants that the an action for reconveyance involves title to real property and jurisdiction thereof lies with the Municipal Trial Court if the assessed value of the property did not exceed Php20,000.00, this rule however does not apply in this case, even if the assessed value of the disputed property is only Php18,980.00. Although it is a long settled rule that jurisdictional question may be raised at any time, this, however admits of exception where the issue of lack of jurisdiction was belatedly raised which consequently amounts to estoppel.[26] Defendants-appellants never questioned the jurisdiction of the court a quo in resolving the case. Instead, they filed an Answer with Affirmative and Special Defenses[27] to the complaint and actively participated in the trial of the case to the very end. The issue of jurisdiction was only raised by defendants-appellants in their motion for reconsideration after the court a quo issued a decision unfavorable to their interest. Clearly, defendants-appellants' participation in the proceedings before the trial court without questioning its jurisdiction, only demonstrates their willingness to abide by its decision. They are now therefore estopped from assailing its jurisdiction over the case after obtaining an adverse decision. As held in the case of *Duty Free Philippines Services, Inc. vs. Tria*[28]:

It is a matter of law that when a party adopts a particular theory and the case is tried and decided upon that theory in the court below, he will not be permitted to change his theory on appeal. The case will be reviewed and decided on that theory and not approached and resolved from a different point of view.

Moreover, in *Morla vs. Belmonte*,[29] citing *Manila Electric Company vs. Benamira*,[30] the High Court said:

[I]t is a fundamental rule of procedure that higher courts are precluded from entertaining matters neither alleged in the pleadings nor raised during the proceedings below, but ventilated for the first time only in a motion for reconsideration or on appeal. The individual respondents are bound by their submissions that AFSISI is their employer and they should not be permitted to change their theory. Such a change of theory cannot be tolerated on appeal, not due to the strict application of procedural rules but as a matter of fairness. A change of theory on appeal is objectionable because it is contrary to the rules of fair play, justice and due process.

Finally, justice and equity demands that Ponciana must suffer the consequences of her malevolent action in acquiring title to the subject property through fraudulent machinations and in utter bad faith. She knew fully well that the property does not belong to her but to her brother Antonio but still she had the property shrewdly titled to her name and upon being ordered to reconvey it to plaintiffs-appellees, Ponciana had the temerity to transfer it to her granddaughter Shyree. Ponciana's shrewdness and the illegality of her acts justify this Court to put technicality to the backseat in favor of justice and equity.

WHEREFORE, the appeal is DENIED. The challenged Decision dated September 18, 2009 and Order dated January 28, 2010 of the Regional Trial Court, Second Judicial Region, Cabagan, Isabela, Branch 22 in Civil Case No. 22-919 are hereby AFFIRMED.

SO ORDERED.

Carandang, (Chairman), and Gonzales-Sison, JJ., concur.

- [1] Records, pp. 161-167.
- [2] Records, p. 181.
- [3] Records, p. 111
- [4] Records, p. 112.
- [5] Records, p. 113.
- [6] OCT No. P-27070, p. 5.
- [7] Records, p. 118.
- [8] Records, pp. 119-120.
- [9] Death Certificate, records, p. 110.
- [10] Records, 116.
- [11] Records, p. 115.
- [12] Rollo, p. 167.
- [13] Records, pp. 170-176.
- [14] Records, p. 181.
- [15] Records, p. 118.
- [16] Minutes of Investigation, Records, p. 120-B.
- [17] *Tiongco vs. Tiongco*, G.R. No. 161360, October 19, 2011.
- [18] G.R. No. 139843. July 21, 2005.
- [19] G.R. No. 129471. April 28, 2000.
- [20] *Figueroa vs. People of the Philippines*, G.R. No. 147406, July 14, 2008, citing *Tijam v. Sibonghanoy*, No. L-21450, April 15, 1968, 131 Phil. 556.
- [21] Records, p. 112.
- [22] Records, p. 113.
- [23] Records, p. 121.
- [24] Records, p. 115.
- [25] Records, p. 177.
- [26] *Valdez vs. GSIS*, G.R. No. 146175, June 30, 2008.
- [27] Records, pp. 12-13.
- [28] G.R. No. 174809, June 27, 2012.
- [29] G.R. No. 171146, December 7, 2011.
- [30] G.R. No. 145271, July 14, 2005.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.