

VICTORIA JULIO, PLAINTIFF-APPELLANT, VS. EMILIANO DALANDAN AND MARIA DALANDAN, DEFENDANTS-APPELLEES.

G.R. No. L-19012. October 30, 1967

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Disputing the correctness of the lower court's order of April 29, 1961 dismissing the complaint, plaintiff elevated the case[1] to this Court on appeal.

Plaintiff's complaint - which defendants, by a motion to dismiss successfully overturned in the court below - is planted upon a document. Annex "A" of the complaint, labeled in the national language "SALAYSAY" (Statement). It was in the form of an affidavit subscribed and sworn to by one Clemente Dalandan on September 8, 1950. By the terms of this writing, Clemente Dalandan, deceased father of defendants Emiliano and Maria Dalandan, acknowledged that a four-hectare piece of riceland in Las Piñas, Rizal belonging to Victoriana Dalandan, whose only child as heir is plaintiff Victoria Julio, was posted as security for an obligation which he, Clemente Dalandan, assumed but, however, failed to fulfill. The result was that Victoriana's said land was foreclosed. The key provisions of said document are:[2]

"3. Na ang lupang palayang ito na pagaari ni VICTORIANA DALANDAN at sa kasalukuyan ay walang ibang tagapagmana kung di si VICTORIA JULIO, ay napafianza sa akin nuong bago pa dumating ang huling digmaan at dahil sa hindi ako nakatupad sa aking pananagutang na sasagutan ng bukid niyang ito ay naembargo ang nasabi niyang lupa;

[That this riceland owned by VICTORIANA DALANDAN whose sole heir is VICTORIA JULIO was posted as security for an obligation assumed by me even before the outbreak of the last war and because I failed to fulfill the obligation secured by her said farm the same was foreclosed;]

"4. Na dahil dito ay ako samakatuwid ay nanagot sa kanya (VICTORIA JULIO), sa pagkakaembargo ng lupa niyang iyong kung kaya't nagkasundo kami na ako ay nanagot sa kanya sa pagkaembargong iyon at ipinangako ko sa kanya na ang lupa niyang iyon na naembargo ng dahil sa aking pananagutan ay aking papalitan ng bukid din na may mahigit na APAT (4) na hectarea (o humigit kumulang sa APAT NA KABANG BINHI);

[That because of this, and as agreed upon between us, I accordingly held myself liable to Victoria Julio for the foreclosure of her said land, and I promised her that I would replace her aforesaid land which was foreclosed because of my obligation with another farm of more than four (4) hectares, that is, one planted to four cavaness of seedlings, more or less;]

"5. Na hindi maaring pilitin ang aking mga anak (EMILIANO AT MARIA DALANDAN), na hingin ang ani ng bukid na nabangit sa itaas ng salaysay na ito;

[That my children (EMILIANO AND MARIA DALANDAN) may not be forced to give up the harvest of the farm herein?above mentioned;]

"6. Na hindi rin maaring hingin kaaggad sa lalong madaling panahon ang kapalit ng bukid na may apat na

kabang binhi;

[That neither may the land - which was exchanged for the farm with four cavanese of seedlings - be demanded immediately;]"

Victoria Julio, in turn, joined Clemente Dalandan in the execution of, and also swore to, the said document, in this wise:

"Na, ako VICTORIA JULIO, na binabanggit sa itaas nito sa salaysay ni CLEMENTE DALANDAN, ay nagpapa-tunay na tutoong lahat ang kanyang salaysay na iyon at tinatanggap ko ang kanyang mga sinasabi."

[That I, VICTORIA JULIO, mentioned in the above statement of CLEMENTE DALANDAN, attest to the truth of, and accept, all that he stated therein.]

Back to the complaint herein. Plaintiff went on to aver that the land of Clemente Dalandan set forth in the document, Annex "A" of the complaint, referred to six small parcels described in paragraph 4 thereof with a total area of barely two hectares - "the only land owned by Clemente, Dalandan at the time of the execution of the document" - except fifty plots or "banigan" (saltbeds), which were previously conveyed to plaintiff's mother by means of pacto de retro sale and title to which had already been vested in the latter; that after the death of Clemente Dalandan, plaintiff requested from defendants, Clemente's legitimate and surviving heirs who succeeded in the possession of the land thus conveyed, to deliver the same to her; that defendants "insisted that according to the agreement" neither delivery of the land nor the fruit thereof could immediately be demanded, and that "plaintiff acceded to this contention of defendants and allowed them to continue to remain in possession" thereof; that demand have "been made upon defendants to fix the period within which they would deliver to the herein plaintiff the above-described parcels of land, but defendants have refused and until now still refuse to fix a specific time within which they would deliver to plaintiff the aforementioned parcels of land." Predicated upon the foregoing allegations, plaintiff prayed for judgment against defendants:

- "(a) Adjudging the herein plaintiff as owner of the land described in paragraph 4 hereof;
- (b) Fixing a time within which defendants should deliver the said parcels of land to the herein plaintiff as well as the fruits thereof;
- (c) Adjudging that upon the expiration of the said time defendants convey and deliver to the herein plaintiff the said parcels of land as well as the fruits thereof;
- (d) Ordering the defendants to pay the plaintiff the sum of P2,000.00 as attorneys' fees;
- (e) Ordering the defendants to pay the costs of the suit; and granting such other relief and remedy as may be just and equitable in the premises."

Defendants met the complaint with a motion to dismiss grounded on: (1) prescription of plaintiff's action; (2) pendency of another suit between the same parties for the same cause; and (3) release and/or abandonment of the claim set forth in plaintiff's complaint.

By its order of April 29, 1961, the lower court ruled that plaintiff's suit, viewed either as an action for specific performance or for the fixing of a term, had prescribed. Reason: the 10-year period from the date of the document had elapsed. The lower court found it unnecessary to pass upon the other grounds for the motion to dismiss. Hence, this appeal.

1. The threshold problem, basic to an understanding of the issue herein involved, is the meaning to be attached to the document now under review. Undoubtedly, had more felicitous terms been employed the intention of the parties could easily be read. Unfortunately, ineptness of expression exacts of us an examination of the

document. Familiar rules of interpretation of documents tell us that in ascertaining the intention of the parties, the contents thereof should not be interpreted piecemeal; all parts, provisions or terms are to be considered; each paragraph, clause or phrase must be read not in isolation, but in the light of the entire writing; doubtful ones should be given that sense which may result from all of them, considered as a whole. Such construct will be adopted as will result from an overall view of the document itself.

It is in this perspective that we now look into the writing. Adding to paragraph 4 of the deed, defendants take the position that the deceased Clemente Dalandan simply "promised" to Victoria Julio a farm of about four hectares to replace the land of Victoriana Dalandan (mother of Victoria Julio) which was foreclosed. But this view loses sight of the later provisions thereof. By paragraph 5, Clemente's children may not be forced to give up the harvest of the farm mentioned in the deed. This was followed by paragraph 6 which states that Victoria Julio may not immediately demand the substitute (kapalit) for the forfeited land. These last two statements in the deed express the dominant purpose of the instrument. They convey the idea that the naked ownership of the land in substitution was, indeed, transferred to Victoria Julio. Else, there would have been no sense in the proviso that the fruits as well as the physical possession of the land could not immediately be demanded by Victoria Julio from Clemente's children, the herein defendants. For, the right to demand fruits and physical possession of property has been known to be attributes of ownership.

The disputed complaint in paragraphs 6 and 7 thereof, in essence, avers plaintiff's request for the delivery of the real property; defendant answer that "according to the agreement" neither land nor fruits therein could immediately be taken away from them, and plaintiff's conformity thereto; and plaintiff's demands that the period for delivery be fixed and defendants' refusal.

The allegations of the complaint just noted carry us to another aspect of the document: defendants' rights over the land vis-a-vis plaintiff's. What rights were transmitted to defendants by their father, Clemente Dalandan? Paragraphs 6 and 7 of the document supply the answer. They are usufructuaries for an undetermined length of time. For so long as that period has not been fixed and has not elapsed, they hold the property. Theirs is to enjoy the fruits of the land and to hold the same as trustees of Victoria Julio. And this because, by the deed, Clemente Dalandan divested himself of the ownership - qualified solely by withholding enjoyment of the fruits and physical possession. In consequence, Clemente Dalandan cannot transmit to his heirs, the present defendants, such ownership.[3] *Nemo dat quod non habet*. And then, the document is a declaration by Clemente Dalandan, now deceased, against his own proprietary interests. Such document is binding upon his heirs.[4]

2. But, defendants aver that recognition of the trust may not be proved by evidence aliunde. They argue that by the express terms of Article 1443 of the Civil Code, "[n]o express trusts concerning an immovable or any interest therein may be proved by parol evidence." This argument overlooks the fact that no oral evidence is necessary. The express trust imposed upon defendants by their predecessor appears in the document itself. For, while it is true that said deed did not in definitive words institute defendants as trustees, a duty is therein imposed upon them - when the proper time comes - to turn over both the fruits and the possession of the property to Victoria Julio. Not that this view is without statutory support. Article 1444 of the Civil Code states that: "No particular words are required for the creation of an express trust, it being sufficient that a trust is clearly intended." In reality, the development of the trust as a method of disposition of property, so jurisprudence teaches, "seems in large part due to its freedom from formal requirements." [5] This principle perhaps accounts for the provisions in Article 1444 just quoted. For, "technical or particular forms of words or phrases are not essential to the manifestation of intention to create a trust or to the establishment thereof." [6] Nor would the use of some such words as "trust" or "trustee" be essential to the constitution of a trust, as we have held in *Lorenzo vs. Posadas*, 64 Phil. 353, 368. Conversely, the mere fact that the word "trust" or "trustee" was employed would not necessarily prove an intention to create a trust. What is important is whether the trustor manifested an intention to create the kind of relationship which in law is known as a trust. It is

unimportant that the trustor should know that the relationship "which he intends to create is called a trust, and whether or not he knows the precise characteristics of the relationship which is called a trust." [7] Here, that trust is effective as against defendants and in favor of the beneficiary thereof, plaintiff Victoria Julio, who accepted it in the document itself. [8]

3. Plaintiff is not to be handicapped by a lack of a clear statement as to the actual description of the land referred to in the trust deed, basis of plaintiff's cause of action. Obviously, the document was not prepared by a learned scrivener. It imperfectly speaks of a "farm of more than four (4) hectares." But averment in the complaint is not lacking to clear the uncertainty as to the identity of the land mentioned in that document. Plaintiff points out in paragraph 4 of her complaint that while said deed does not specifically define its boundaries, "the parties to the said document actually refer" to the land which was "the only land owned by Clemente Dalandan at the time of the execution" thereof, and which is set forth in small parcels under said paragraph. This allegation in the complaint does not add any new term or stipulation to the writing. Rather, it explains an obscurity occasioned by lack of precision in a clumsily prepared document. Thus it is, that authorities are not wanting in support of the view that "in so far as the identity of land involved" in a trust is concerned, "it has also been held that the writings, in being considered for the purpose of satisfying the statute of frauds, are to be considered in their setting, and that parol evidence is admissible to make clear the terms of a trust the existence of which is established by a writing, x x x." [9]

4. This case having been brought before us on a motion to dismiss, we need but stress that we are to be guided solely by the averments of the complaint. So guided, we must say that there is sufficient showing in the complaint that there is an acknowledgment on the part of defendants that they hold the property not as their own, but in trust. There is no statement in the complaint intimating disavowal of suit trust; the complaint alleges refusal to deliver possession. In the sense in which we understand the complaint to be, it cannot be said that plaintiff's action to recover the property thus held in trust has prescribed. Given the fiduciary relation which according to the complaint is recognized by defendants, the latter may not invoke the statute of limitations as a bar to plaintiff's action. [10]

5. Even on the assumption that defendants have not been constituted as trustees under the document in question, still we arrive at the same conclusion. For, plaintiff's action is aimed by an alleged owner of real property at recovery of possession thereof, conditioned upon the fixing of the period therefor. Since plaintiff claims ownership, possession, in the words of this Court, "is a mere consequence of ownership." [11] It may not be said that plaintiff's suit is barred by the statute of limitations. She is protected by Article 1141 of the Civil Code, which reads: "Real actions over immovables prescribe after thirty years." We take this view for the obvious reason that defendants' motion to dismiss on this score is directed at the prescription of plaintiff's action - not on acquisitive prescription.

6. Defendants in their brief draw attention, by way of counter assignment of error, to their claim that this case should also be dismissed upon the ground that there exists another action pending between the same parties for the same cause, and on the further ground of release and/or abandonment.

The facts bearing on this issue are: In Land Registration Case N-706, G.L.R.O. Record No. N-7014, Court of First Instance of Rizal, defendants are applicants. That case - so defendants aver - covers the very same land set forth in plaintiff's complaint. In their opposition to that application, herein plaintiff prayed that the same land - the subject of this suit - (covered by Plan PSU-129514) be registered "in the names of the herein applicants and oppositor with the specific mention therein that the herein oppositor owns fifty salt beds therein and having an absolute right to the use of the depositories." Defendants argue that if plaintiff was the real owner of the entire area, opposition should have been presented on the whole, not merely as to fifty salt beds.

Parenthetically, the question of ownership over the portion of fifty salt beds had already been resolved by this Court in a decision promulgated on February 29, 1964 in L-19101 (Emiliano Dalandan and Maria Dalandan

plaintiffs, vs. Victoria Julio, et al., defendants). There, this Court affirmed the order dismissing the complaint filed by defendants herein, plaintiffs therein, for the repurchase of fifty salt beds which were the subject of a sale with pacto de retro executed on September 24, 1932 by Clemente Dalandan in favor of Victorian Dalandan, predecessor of plaintiff.

There is no point in the argument that an action is pending between plaintiff and defendants. Because, with the exception of the fifty salt beds - which according to the complaint is not included in the deed -plaintiff filed no opposition to defendants' application for land registration. Failure to so object in reference to the registration of a bigger portion of the land, simply means that there is no case between the parties in reference thereto in the land registration proceeding.

Not that plaintiff released or abandoned the claim to that bigger portion. For, there is an averment in the complaint that an agreement exists between plaintiff and defendants to defer delivery thereof; and that defendants thereafter refused to fix the period for such delivery. So that, on the assumption that defendants should succeed in obtaining title to the property in the land registration case, such would not bar Victoria Julio from requiring them to execute a conveyance of the property in her favor, in the event she (plaintiff herein) prevails in the present case. And this, because defendants could here be declared as mere trustees of plaintiff, if the averments of the complaint are found to be true.[12]

FOR THE REASONS GIVEN, the order of the Court of First Instance of Rizal dated April 29, 1961 dismissing the complaint is hereby reversed and set aside, with instructions to remand the case to the court below for further proceedings.

Costs against defendants appellees.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, Zaldivar, Castro, Angeles, and Fernando, JJ., concur.

[1] Civil Case No. 324-R of the Court of First Instance of Rizal, entitled' "Victoria Julio, plaintiff, vs. Emiliano Dalandan and Maria Dalandan defendants."

[2] All English translations of the provisions of this document are ours.

[3] Articles 774, 775, 776, 781, Civil Code.

[4] Section 32, Rule 130, Rules of Court.

[5] 54 Am. Jur. , p. 50.

[6] Id.

[7] See Scott on Trusts, Vol. I, pp. 146-147, cited in IV Tolentino, Civil Code of the Philippines, 1962 ed., p. 612.

[8] Article 1446, Civil Code.

[9] 89 C.J.S., p. 766; emphasis supplied. See also V Moran, Comments on the Rules of Court, 1963 ed., pp. 110-114.

[10] "The juridical concept of a trust, which in a broad sense involves, arises from, or is the result of, a fiduciary relation between the trustee and the cestui que trust as regards certain property - real, personal, funds or money, or

chooses in action - must not be confused with an action for specific performance. When the claim to the lots in the cadastral case was withdrawn by the respondents relying upon the assurance and promise made in open court by Dr. Mariano Yulo in behalf of Jose Yulo y Regalado, the predecessor-in-interest of the petitioners, a trust or a fiduciary relation between them arose, or resulted therefrom, or was created, thereby. The trustee cannot invoke the statute of limitations to bar the action and defeat the right of the cestui que trustent." *Pacheco vs. Arro*, 85 Phil. 505, 514-515.

"The action brought by the plaintiffs is clearly an action for the specific conveyance of the property registered in the name of defendants' predecessor in interest. The deceased vendor was issued the certificate of title for and in behalf, and in trust for the benefit, of the plaintiffs. The action is one to compel a trustee to convey the property registered in his name in trust for the benefit of the cestui que trust, and the same does not prescribe," *Manalang vs. Canlas*, 94 Phil. 776, 777-778, citing cases.

"Prescription cannot be set up as a defense in an action that seeks to recover property held in trust for the benefit of another. Neither could laches be set up as a defense in the case at bar, it being similar to prescription." *Cuison vs. Fernandez*, 56 O.G. No. 33, pp. 5162, 5164.

"And while implied or constructive trust prescribes in 10 years, the rule does not apply where a fiduciary relation exists and the trustee recognizes the trust. Continuous recognition of a resulting trust precludes any defense of laches in a suit to declare and enforce the trust." *De Buencamino vs. De Matias*, L-19397, April 30, 1966.

[11] *Atun vs. Nuñez*, 97 Phil. 762, 764.

[12] *Manalang vs. Canlas*, supra.

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