

IGNACIO GERONA, MARIA CONCEPCION GERONA, FRANCISCO GERONA AND DELFIN GERONA, PETITIONERS, VS. CARMEN DE GUZMAN, JOSE DE GUZMAN, CLEMENTE DE GUZMAN, FRANCISCO DE GUZMAN, RUSTICA ...

G.R. No. L-19060. May 29, 1964

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal by certiorari from a decision of the Court of Appeals, affirming that of the Court of First Instance of Bulacan.

In the complaint, filed with the latter court on September 4, 1958, petitioners herein, namely, Ignacio, Maria Concepcion, Francisco and Delfin, all surnamed Gerona, allege that they are the legitimate children of Domingo Gerona and Placida de Guzman; that the latter, who died on August 9, 1941 was a legitimate daughter of Marcelo de Guzman and his first wife, Teodora de la Cruz; that after the death of his first wife, Marcelo de Guzman married Camila Ramos, who begot him several children, namely, respondents Carmen, Jose, Clemente, Francisco, Rustica, Pacita and Victoria, all surnamed De Guzman; that Marcelo de Guzman died on September 11, 1945; that subsequently, or on May 6, 1948, respondents executed a deed of "extrajudicial settlement of the estate of the deceased Marcelo de Guzman", fraudulently misrepresenting therein that they were the only surviving heirs of the deceased Marcelo de Guzman, although they well knew that petitioners were, also, his forced heirs; that respondents had thereby succeeded fraudulently in causing the transfer certificates of title to seven (7) parcels of land, issued in the name of said deceased, to be cancelled and new transfer certificates of title to be issued in their own name, in the proportion of 1/7th individual interest for each; that such fraud was discovered by the petitioners only the year before the institution of this case; that petitioners forthwith demanded from respondents their (petitioners') share in said properties, to the extent of 1/8th interest thereon; and that the respondents refused to heed said demand, thereby causing damages to the petitioners. Accordingly, the latter prayed that judgment be rendered nullifying said deed of extra-judicial settlement, insofar as it deprives them of their participation of 1/8th of the properties in litigation; ordering the respondents to reconvey to petitioners their aforementioned share in said properties; ordering the register of deeds to cancel the transfer certificates of title secured by respondents as above stated and to issue new certificates of title in the name of both the petitioners and the respondents in the proportion of 1/8th for the former and 7/8th for the latter; ordering the respondents to render accounts of the income of said properties and to deliver to petitioners their lawful share therein; and sentencing respondents to pay damages and attorney's fees.

In their answer, respondents maintained that petitioners' mother, the deceased Placida de Guzman, was not entitled to share in the estate of Marcelo de Guzman, she being merely a spurious child of the latter, and that petitioners' action is barred by the statute of limitations.

After appropriate proceedings, the trial court rendered a decision finding that petitioners' mother was a legitimate

child, by first marriage, of Marcelo de Guzman; that the properties described in the complaint belonged to the conjugal partnership of Marcelo de Guzman and his second wife, Camila Ramos; and that petitioners' action has already prescribed, and, accordingly, dismissing the complaint without costs. On appeal taken by the petitioners, this decision was affirmed by the Court of 'Appeals, with costs against them.

Petitioners maintain that since they and respondents are co-heirs of the deceased Marcelo de Guzman, the present action for partition of the latter's estate is not subject to the statute of limitations of action; that, if affected by said statute, the period of four (4) years therein prescribed did not begin to run until actual discovery of the fraud perpetrated by respondents, which, it is claimed, took place in 1956 or 1957; and that, accordingly, said period had not expired when the present action was commenced on November 4, 1958.

Petitioners' contention is untenable. Although, as a general rule, an action for partition among co-heirs does not prescribe, this is true only as long as the defendants do not hold the property in question under an adverse title (*Cordova vs. Cordova*, L-9936, January 14, 1948). The statute of limitations operates, as in other cases, from the moment such adverse title is asserted by the possessor of the property (*Ramos vs. Ramos*, 45 Phil., 362; *Bargayo vs. Camumot*, 40 Phil., 857; *Castro vs. Echarri*, 20 Phil., 23).

When respondents executed the aforementioned deed of extra-judicial settlement stating therein that they are the sole heirs of the late Marcelo de Guzman, and secured new transfer certificates of title in their own name, they thereby excluded the petitioners from the estate of the deceased, and, consequently, set up a title adverse to them. And this is why petitioners have brought this action for the annulment of said deed upon the ground that the same is tainted with fraud.

Although, there are some decisions to the contrary (*Jacinto vs. Mendoza*, L-12540, February 28, 1959; *Cuison vs. Fernandez*, L-11764, January 31, 1959; *Marabiles vs. Quito*, L-10408, October 18, 1956; and *Seville vs. De los Angeles*, L-7745, November 18, 1955), it is already settled in this jurisdiction that an action for reconveyance of real property based upon a constructive or implied trust, resulting from fraud, may be barred by the statute of limitations (*Candelaria vs. Romero*, L-12149, September 30, 1960; *Alzona vs. Capunita*, L-10220, February 28, 1962).

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 vs. 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 constitutes constructive notice to the whole world (*Diaz vs. Gorricho*, L-11229, March 29, 1958; *Avecilla vs. Yatco*, L-11578, May 14, 1958; *J.M. Tuason & Co., Inc. vs. Magdangal*, L-15539, January 30, 1962; *Lopez vs. Gonzaga*, L-18788, January 31, 1964).

As correctly stated in the decision of the trial court:

"In the light of the foregoing it must, therefore, be held that plaintiffs learned, at least constructively, of the alleged fraud committed against them by defendants on 25 June 1948 when the deed of extra-judicial settlement of the estate of the deceased Marcelo de Guzman was registered in the registry of deeds of Bulacan. Plaintiffs' complaint in this case was not filed until 4 November 1958, or more than 10 years thereafter. Plaintiff Ignacio Gerona became of age on 3 March 1948. He is deemed to have discovered defendants' fraud on 25 June 1948 and had, therefore, only 4 years from the said date within which to file this action. Plaintiff Maria Concepcion Gerona became of age on 8 December 1949, or after the registration of the deed of extra-judicial settlement. She also had only the remainder of the period of 4 years from 8 December 1949 within which to commence her action. Plaintiff Francisco Gerona became of age only on 9 January 1952 so that he was still a minor when he

gained knowledge (even if only constructive) of the deed of extra-judicial settlement on 25 June 1948. Likewise, plaintiff Delfin Gerona became of legal age on 5 August 1954, so that he was also still a minor at the time he gained knowledge (although constructive) of the deed of extra-judicial settlement on 25 June 1948. Francisco Gerona and Delfin Gerona had, therefore, two years after the removal of their disability within which to commence their action (Section 45, paragraph 3, in relation to Section 43, Act 190), that is, January 29, 1952, with respect to Francisco, and 5 August 1954, with respect to Delfin."

WHEREFORE, the decision of the Court of Appeals is hereby affirmed, with costs against petitioners herein.

IT IS SO ORDERED.

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

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