DONATA A. ABADILLA, LUCIANA CA-G.R. CV NO. 93490 A. TABIJE, LIBERATA A. BUEN, AURORA A. MANGAOIL, ERLINDA A. ROSALES, THE HEIRS OF THE LATE EULALIA A. ABENOJAR, NAMELY: LILIAN A...

Ponente: VILLON, J.

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VILLON, J.:

This is an ordinary appeal under Rule 41, Section 2 (a) of the 1997 Rules of Civil Procedure, as amended, from the decision[1] dated April 23, 2009 of Branch 9 of the Regional Trial Court (RTC), Second Judicial Region, Aparri, Cagayan in Civil Case No. II-4182, for Partition.

The factual and procedural antecedents of the case are as follows:

The instant case involves two parcels of land located at Capissayan Norte, Gattaran, Cagayan, described as follows: (a) Lot No. 2319, containing an area of 72,830 square meters and covered by Transfer Certificate of Title (TCT) No. T-7113,2 issued by the Register of Deeds for the Province of Cagayan and Tax Declaration (TD) No. 04-13014-00013;[3] and (b) Lot No. 2439, containing an area of 238,450 square meters and covered by TCT No. T-7558,[4] issued by the said office and TD No. 04-13015-00106[5] (or “subject lots”),

Appellees allege that they (except the heirs of Eutalia Abenojar and heirs of Ireneo Ancheta) are brothers and sisters; that they have elder siblings, namely Ana Ancheta-Diego, Estefania Ancheta, Eulalia Abenojar and Ireneo Ancheta who are now deceased; that Ana and Estefania died without any issue; that sometime in 1962, the late Ana Ancheta-Diego acquired the subject lots from their respective owners – Marcela Cababag and Francisca Cababag with regard to Lot No. 2319 and Agapito Palino with regard to Lot No. 2439. However, the deeds of conveyance covering these parcels of land were executed only in 1965[6] and 1966.[7] Said deeds were executed in favor of appellant because he was a geodetic engineer and presumably, could work for the titling of the lots. Thus, TCT Nos. T-7113 and T-7558 covering the subject lots in lieu of the cancelled TCTs, were issued by the Register of Deeds in appellant's name.

Relative to their claim that appellant was merely a trustee with respect to the subject lots, appellees averred in their Amended Complaint dated July 18, 2006 that:

> “4.5. From the time Lot 2319 was bought by the late Ana A. Diego, the agricultural rents were delivered by the tenants, Marcela Cababag and Francisa Cababag, initially to the parents of the plaintiffs and defendant, the late spouses Severo Ancheta and Maria Ancheta, during their lifetime. Later, after the death of the said spouses, the rents were delivered by the said tenants to the designated overseer, Nicolasa Ignacio-Mangaoil, who in turn delivered the rents to the late Estefania Ancheta, during her lifetime. Said tenants likewise delivered rents to plaintiff Eulalia Abenojar. x x x
>
> 4.6. From the time Lot 2439 was bought by the late Ana A. Diego, the agricultural rents were delivered by the tenant, Ernesto Rapisura, initially to the parents of the plaintiffs and defendant, the late spouses Severo Ancheta and Maria Ancheta, during their lifetime. Later, after the death of the said spouses, the rents were

> delivered by the said tenant to Rey Salamero, son-in-law of plaintiff Liberata Buen, then to Gloria Verbo, upon the instruction of Ana A. Diego. Later when Ireneo Ancheta came from the United States of America, the rents were delivered to Natividad Canaynay, upon instruction of Ireneo Ancheta. x x x
>
> 4.7 The rents which were delivered to the spouses Severo and Maria Ancheta, during their lifetime, were sold by them and the proceeds were deposited in the bank account of Andy and Ana A. Diego. The rents which were delivered to the plaintiffs, through the designated overseers, were donated to the United Methodist Church and some of which was used to build the deaconess home and altar of the church. Some of the amount was also donated by the plaintiffs for the construction of a church in Capissayan, Gattaran, Cagayan in accordance with the will of their sister, Ana Ancheta-Diego and her husband, Andy Diego; x x x"[8]

However, from the year 2002, appellant began collecting the fruits of the subject lots for his own purposes, prompting appellees to institute the instant case before the RTC.[9]

For his part, appellant claims that he is the absolute owner of the subject lots, having acquired them in good faith and for value; that he never possessed the said properties in the concept of a trustee; and that the case against him is already barred by prescription and laches, he having acquired subject lots in 1965 and 1966.

On April 23, 2009, the RTC rendered the assailed decision, disposing as follows:

> "WHEREFORE, judgment is hereby rendered:

- Ordering the partition of Lot No. 2319 and Lot No. 2439 among Donata Abadilla; Luciana Tabije; Liberata Buen; Aurora Mangaoil; Erlinda Rosales; the Heirs of the late Eulalia Abenojar, namely – Lilian Dayrit, Leonida Mayers, Cynthia Ferreras, Clifford Abenojar, and Servillano Abenojar, Jr.; the Heirs of the late Ireneo Ancheta, namely – Ireneo Ancheta Jr., Evelyn Capones, Josephine Ancheta, Tessie Mcgehee, Antonio Ancheta, Jimmy Ancheta, Eleanor Ancheta, Danilo Ancheta and Cesar Ancheta; and Wilfredo Ancheta share and share alike;

- Ordering the defendant to pay the plaintiffs the amount of ONE HUNDRED THOUSAND PESOS (PhP100,000.00) as attorney's fees, appearance fees, and litigation expenses.

- To pay the costs of the suit.

> SO ORDERED."[10]

Hence the present recourse, appellant ascribing to the court a quo the following errors, to wit:

I.

> THE TRIAL COURT ERRED IN RENDERING JUDGMENT ORDERING THE PARTITION OF THE TWO (2) PARCELS OF LAND SUBJECT OF THIS SUIT AMONG THE APPELLEES AND THE APPELLANT.

II.

> THE TRIAL COURT ERRED IN NOT DISMISSING THE COMPLAINT FOR FAILURE OF THE APPELLEES TO IMPLEAD INDISPENSABLE PARTIES AS PARTIES DEFENDANTS.

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III.

THE TRIAL COURT ERRED IN AWARDING THE AMOUNT OF P100,000.00 AS ATTORNEY'S FEES, APPEARANCE FEES AND LITIGATION EXPENSES TO THE APPELLEES.[11]

Appellant contends, in the main, that no express trust was created in favor of the late Ana Ancheta-Diego with him as trustee; that the trial court erred in ruling that “such documents does (sic) not express the true intent of the parties” in connection with the 1965 document denominated as Extrajudicial Settlement and Sale[12] as well as the Deed of Absolute Sale of a Registered Land[13] which was executed sometime in 1966 in his favor; that it was him, and not the late Ana Ancheta-Diego, who acquired the subject lots through acquisitive prescription; and that appellees' cause of action, if any, is already barred by prescription and/or laches.

The appeal is bereft of merit.

A trust is the legal relationship between one having an equitable ownership in property and another person owning the legal title to such property, the equitable ownership of the former entitling him to the performance of certain duties and the exercise of certain powers by the latter.[14] The characteristics of a trust are: (1) it is a relationship; (2) it is a relationship of fiduciary character; (3) it is a relationship with respect to property, not one involving merely personal duties; (4) it involves the existence of equitable duties imposed upon the holder of the title to the property to deal with it for the benefit of another; and (5) it arises as a result of a manifestation of intention to create the relationship.[15]

Trusts are either express or implied. Express or direct trusts are created by the direct and positive acts of the parties, by some writing or deed, or will, or by oral declaration in words evincing an intention to create a trust. Implied trusts – also called "trusts by operation of law," "indirect trusts" and "involuntary trusts" – arise by legal implication based on the presumed intention of the parties or on equitable principles independent of the particular intention of the parties. They are those which, without being expressed, are deducible from the nature of the transaction as matters of intent or, independently of the particular intention of the parties, as being inferred from the transaction by operation of law basically by reason of equity.[16]

In turn, implied trusts are either resulting or constructive trusts. Resulting trusts are based on the equitable doctrine that valuable consideration and not legal title determines the equitable title or interest and are presumed always to have been contemplated by the parties. They arise from the nature of circumstances of the consideration involved in a transaction whereby one person thereby becomes invested with legal title but is obligated in equity to hold his legal title for the benefit of another. 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.[17]

The burden of proving the existence of a trust is generally on the party asserting its existence. Such proof must be clear and must satisfactorily show the existence of the trust and its elements.[18] What is crucial is the intention to create a trust. While oftentimes the intention is manifested by the trustor in express or explicit language, such intention may be manifested by inference from what the trustor has said or done, from the nature of the transaction, or from the circumstances surrounding the creation of the purported trust. However, an inference of the intention to create a trust, made from language, conduct or circumstances, must be made with reasonable certainty. It cannot rest on vague, uncertain or indefinite declarations. An inference of intention to create a trust, predicated only on circumstances, can be made only where they admit of no other interpretation.[19]

Here, the weight of the pieces of evidence on record overwhelmingly tilt the scales of justice towards the

conclusion that there was indeed an express trust relationship between the late Ana Ancheta-Diego as trustor and appellant as trustee. The evidence against appellant's claim of absolute ownership over the subject lots were summarized by the trial court, which We quote with approval, as follows:

> "To judiciously resolve the main issue of partition, it is indispensable to resolve who is the real vendee of the lands in suit. Is it Ana A. Diego as claimed by the plaintiffs, or defendant Wilfredo Ancheta, as insisted by him? Undisputedly, the sale of the lands in suit were embodied in two [2] public instruments xxx. But the validity of these documents have been directly assailed and put to issue by the plaintiffs, claiming that such documents does (sic) not express the true intent of the parties, as it was Ana Diego who purchased them, not the defendant. In the interpretation of such documents, the intention of the parties is to be pursued because their will has the force of law between them. In order to judge the intention of the parties, their contemporaneous and subsequent acts shall be principally considered. Although the said documents showed that the vendee was the defendant, the testimonies of Francisca Cababag Gonzales that they sold the land to Ana Diego by installments through her brother Willy Ancheta; that upon the instruction of Ana, they executed a document transferring their ownership of the subject lot in the name of the defendant because at that time, Ana was in the United States; that she delivered the rents to Ana's father and mother for 10 years, having continued to till the land as tenants of Ana; and that while Ana was in the United States, she told them to get the payment of the land from the defendant – could not just simply be ignored considering that she is one of the signatories xxx, being one of the vendors, hence, had a first hand information as to the circumstances under which it was made, including the situation of the subject thereof, the intention of the contracting parties, and their contemporaneous and subsequent acts. Complementing such testimonies were the declarations of Liberata Buen, one of the plaintiffs, and a sister of Ana and the defendant, claiming that the lands in suit were bought by Ana in 1996 (sic) when she came home for vacation. She came to know of such fact by reason of her closed intimacy with her sister – Ana Diego. Natividad Cananay, who was designated for one (1) cropping to gather the rents, also asserted that the land is owned by Ana; she knew of such fact since elementary grade and her parents also told her about it. Flordeliza Corales, who was also assigned to collect the harvest of the lands from 1995 to 1996, also claimed that Ana is the owner. Lastly, Ernesto Rapisura, in his Affidavit dated June 27, 2006 also attested that Lot No. 2439 was bought by Ana Diego from Agapito Palino. Ernesto was a long time tenant of Agapito Palino, the former registered owner of the said lot, and was retained by Ana in such capacity when she bought the same. Although Ernesto earlier executed an Affidavit dated November 12, 2005 which in effect contradicted the contents (of his June 27, 2006 Affidavit), and testified in Court in favor of the defendant on September 16, 2008, this Court is inclined to believe that his declarations (in his June 27, 2006 Affidavit) bears the truth, as they were collaborated and confirmed by the plaintiffs' witnesses in its material points. Ernesto also executed another Affidavit confirming the contents of (the June 27, 2006 Affidavit), and declaring further that he was compelled and forced to sign (the November 12, 2005 Affidavit) for fear of reprisal from the defendant who is now the one gathering the agricultural rents of the lot in dispute. The testimony in Court of Atty. Catherine Allas, on rebuttal, that the averments contained in the Affidavits were voluntarily given to her by Ernesto and before he signed them, the contents thereof were explained to him in the ilocano (sic) dialect, a language spoken by him, have strengthened the inkling of this Court on the truthfulness of the contents of (the June 27, 2006 Affidavit). The Court does not believe that Atty. Allas, a well known and respected lawyer in Cagayan, with an unblemished reputation would dare to falsely testify in Court, knowing beforehand that to do so would expose herself to any and all resultant liabilities that could endanger not only her career and profession, but also her personal liberty.
>
> The evidences on hand also preponderantly established that after Ana Diego purchased the lands in suit sometime in the year 1962, she has been in possession thereof in the concept of an owner, by herself and through her predecessors, overseers and tenants. When she bought Lot No. 2319 from Marcela Cababag and Francisca Cababag, the landowners share were delivered by the tenants initially to her parents – Severo Ancheta and Maria Ancheta for ten [10] years and after their death, they were delivered to Nicolasa Ignacio Mangaoil, who in turn delivered the same to Estefania Ancheta. Part of the proceeds were donated to the

> United Methodist Church; for the construction of a church in Capissayan, Gattaran, Cagayan; and for the fencing of Northern Philippines Academy. Such donation to the United Methodist Church was shown by the Certificate of Appreciation issued by the said congregation. When Nicolasa Mangaoil became sickly in 1955, Flordeliza Corales took over in gathering rents from 1995 to 1996. With respect to Lot No. 2439, after Ana Ancheta bought the same from Agapito Palino, the rents were delivered by the tenant – Ernesto Rapisura to Ana's father – Severo Ancheta from 1963 to 1973, and after his death, to his surviving spouse – Maria Ancheta, from 1974 to 1979. After the death of the said spouse, they were delivered to Rey Salamero and from 1983 to 1993, they were delivered to Gloria Verbo, as per instruction of Ana. When Ireneo Ancheta, the brother of Ana, came to the country from the United States, he gathered the rents from 1994 to 1998 and in 1999, Ernesto delivered it to Natividad Canaynay, as per instruction of Ireneo. From these evidences, it can be gleaned that after Ana purchased the subject lands, she has been in actual/constructive possession of the subject lands from 1962 or from a period of more than 28 years, until such time that the defendant usurped them in the year 2000, upon his return to the country. During such long span of time, the defendant lifted no finger to question the occupation and possession of Ana on the subject lands. The open and continuous possession of the property by Ana in the concept of an owner raises a strong presumption of ownership. By such act, Ana already acquired ownership over the subject lands through extraordinary prescription by her uninterrupted possession thereof for more than 30 years. After Ana bought the property in 1962, she commenced her possession thereto, as earlier discussed. There was, therefore, a delivery of the thing sold. Title passes from the moment the thing is placed in the possession and control of the buyer. Delivery produces its natural effect in law, the principal and most important of which being the conveyance of ownership.
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> Strengthening such conclusion of the Court was the act of Ana in declaring Lot 2319 in her name for taxation purposes under Tax Declaration Nos. 8140 for the year 1980; 3630 and 6971 for the year 1985; and in paying the corresponding taxes on the lands under Official Receipts Nos. 0170909; 0170908 and 0168733, because they are good indicia of possession in the concept of an owner, for no one in her right mind would be paying taxes for a property that is not in her actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property. When coupled with proof of actual possession, like in this case, they are strong evidence of ownership."[20] (emphasis ours, citations omitted)

All told, We find no reason to deviate from the above findings of the court a quo. It is settled that in a civil case, final and conclusive are the factual findings of the trial court, if supported by clear and convincing evidence on record,[21] as in the present case. It is a hornbook doctrine that the findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed except for strong and valid reasons, because the trial court is in a better position to examine the demeanor of the witnesses while testifying.[22]

The conclusion that the trust relationship between appellant and the late Ana Ancheta-Diego was an express one finds support in the pronouncement of the Supreme Court in Prospero Ringor v. Concordia Ringor,[23] thus:

> "xxx In the present case, credible witnesses testified that (1) the lands subject of Expedientes 241 and 4449 were made and transferred in the name of Jose merely for convenience since Juan predeceased Jacobo; (2) despite the Compraventas, transferring all the lands in Jose's name, Jacobo continued to perform all the acts of ownership including possession, use and administration of the lands; (3) Jacobo did not want to partition the lands because he was still using them; (4) when Jacobo died, Jose took over the administration of the lands and conscientiously and unfailingly gave his siblings their share in the produce of the lands, in recognition of their share as co-owners; and (5) Jose did not repudiate the claim of his siblings and only explained upon their expression of the desire for partitioning, that it was not going to be an easy task.
>
> From all these premises and the fact that Jose did not repudiate the claim of his co-heirs, it can be concluded that as far as the lands covered by Expediente Nos. 241 and 4449 are concerned, when Jacobo transferred these lands to Jose, in what the lower court said were simulated or falsified sales, Jacobo's intention impressed upon the titles of Jose a trust in favor of the true party-beneficiaries, including herein respondents.

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> Under the doctrine of partial performance recognized in this jurisdiction, the objection to the oral character of a trust may be overcome or removed where there has been partial performance of the terms of the trust as to raise an equity in the promisee. A trustee may perform the provisions of the trust, and if he does, the beneficiary is protected in benefits that he has received from such performance. Thus, when a verbal contract has been completed, executed or partially consummated, its enforceability will not be barred by the Statute of Frauds, which applies only to an executory agreement. Noteworthy, despite the compraventas transferring the lands in his name, Jose unfailingly gave his siblings their share of the produce of the lands. Furthermore, not only did he fail to repudiate the trust, he also assured his co-heirs that it was the inconvenience of partitioning that kept him from transferring the shares of his siblings to them. Accordingly, with respect to the lands covered by Expediente Nos. 241 and 4449, an express trust exists with Jose Ringor as trustee in favor of all the heirs of Jacobo Ringor. As far as prescription or laches are concerned, they pose no hindrance or limitation to the enforcement of an express trust." (emphasis ours)

Then, too, We find in the instant case that appellees had not been barred by laches and prescription. Laches is a creation of equity and its application is controlled by equitable considerations. Laches cannot be used to defeat justice or perpetuate fraud and injustice.[24] Moreover, as the trustee of an express trust, appellant could only acquire the subject lots by prescription if the following requisites concur: (a) the trustee has performed unequivocal acts of repudiation amounting to an ouster of the cestui qui trust; (b) such positive acts of repudiation have been made known to the cestui qui trust and (c) the evidence thereon is clear and conclusive.[25] In Heirs of Maximo Labanon v. Heirs of Constancio Labanon,[26] the Supreme Court affirmed the rule that the prescriptive period for the enforcement of an express trust of ten (10) years starts upon the repudiation of the trust by the trustee. Here, following the death of Ana Ancheta-Diego, the trust created with appellant as trustee could no longer be renounced. Thus, appellees' right to enforce the trust agreement can no longer be defeated by acquisitive prescription in favor of appellant.

A trustee who obtains a Torrens title over property held in trust by him for another cannot repudiate the trust by relying on the registration. The rule requires a clear repudiation of the trust duly communicated to the beneficiary.[27] The Torrens system was not intended to foment betrayal in the performance of a trust. It does not permit one to enrich himself at the expense of another. Where one does not have a rightful claim to the property, the Torrens system of registration can confirm or record nothing. The beneficiaries are entitled to enforce the trust, notwithstanding the irrevocability of the Torrens title. The intended trust must be sustained.[28]

Finally, attorney's fees may be awarded when its claimant is compelled to litigate with third persons or to incur expenses to protect his interest by reason of an unjustified act or omission of the party from whom it is sought.[29] Too, the Supreme Court pronounced in Filomena R. Benedicto v. Antonio Villaflores[30] that "in the absence of stipulation, a winning party may be awarded attorney's fees only in case plaintiff's action or defendant's stand is so untenable as to amount to gross and evident bad faith," which is obtaining in the instant case, as found by the court a quo. In the absence of stipulation, attorney's fees may be recovered as actual or compensatory damages under any of the circumstances provided for in Article 2208 of the Civil Code.[31] Thus, the award of attorney's fees, appearance fees and litigation expenses by the court a quo in the amount of P100,000.00 in favor of appellees, is proper.

WHEREFORE, in light of all the foregoing, the decision dated April 23, 2009 rendered by Branch 9 of the Regional Trial Court of Aparri, Cagayan in Civil Case No. II-4182 is hereby AFFIRMED.

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SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Macalino, F.S. and Corales, P.B., JJ., concur.

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[1] Rollo, pp. 44-55; penned by Judge Andres Q. Cipriano.

[2] Rollo, pp. 8-9.

[3] Rollo, p. 11.

[4] Rollo, p. 10.

[5] Rollo, p. 12.

[6] Rollo, pp. 13-14.

[7] Rollo, p. 15.

[8] Records, pp. 74-75.

[9] Records, pp. 1-6.

[10] Rollo, p. 55.

[11] Rollo, pp. 25-26.

[12] Rollo, pp. 13-14.

[13] Rollo, p. 15.

[14] Estate of Edward Miller Grimm v. Estate of Charles Parsons, G.R. No. 159810, October 9, 2006.

[15] Rodolfo Morales v. Court of Appeals, G.R. No. 117228, June 19, 1997.

[16] Estate of Margarita D. Cabacungan v. Marilou Laigo, G.R. No. 175073, August 15, 2011.

[17] Aznar Brothers Realty Company v. Laurencio Aying, G.R. No. 144773, May 16, 2005 citing Catalina Buan vda. de Esconde v. Court of Appeals, G.R. No. 103635, February 1, 1996.

[18] Jesus Duran v. Court of Appeals, G.R. No. 125256, May 2, 2006.

[19] Soledad Cañezo v. Concepcion Rojas, G.R. No. 148788, November 23, 2007.

[20] Rollo, pp. 47-50.

[21] Apolonia Ll. Ocampo v. Fidela Ll. Ocampo, G.R. No. 150707, April 14, 2004.

[22] Francisco Tayco v. Heirs of Concepcion Tayco-Flores, G.R. No. 168692, December 13, 2010.

[23] G.R. No. 147863, August 13, 2004.

[24] Spouses Tomas Occeña and Silvina Occeña v. Lydia Morales Obsiana Esponilla, G.R. No. 156973, June 4,

2004.

[25] Erlinda Pilapil v. Heirs of Maximino R. Briones, G.R. No. 150175, February 5, 2007.

[26] G.R. No. 160711, August 14, 2004.

[27] Heirs of Tranquilino Labiste v. Heirs of Jose Labiste, G.R. No. 162033, May 8, 2009.

[28] Prospero Ringor v. Concordia Ringor, supra.

[29] Solid Homes, Inc. v. Court of Appeals, G.R. No. 97255, August 12, 1994.

[30] G.R. No. 185020, October 6, 2010.

[31] Sps. Federico Valenzuela And Luz Buena-Valenzuela v. Sps. Jose Mano, Jr. and Rosanna Reyes-Mano, G.R. No. 172611, July 9, 2010.

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