

**CATALINA PEREZ SUYOM, ERIBERTO SUYOM, ROSALIA SUYOM
PLAZUELA AND ANGELES SUYOM JUANILLO, PETITIONERS, VS.
HONORABLE JUDGE GREGORIO G. COLLANTES, ANTONIO SACAY,
PEDRO MINIANO AND...**

G.R. No. L-40337. February 27, 1976

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Petition for review on certiorari of the Orders of the Court of First Instance of Leyte, Branch I, presided by herein respondent Judge, dismissing petitioners' complaint for ANNULMENT OF SALES WITH DAMAGES and denying their Motion for Reconsideration, dated December 12, 1974, and February 24, 1975, respectively.

Here is the factual background of this case:

On July 23, 1974, petitioners filed a complaint with the trial court against the herein private respondents, alleging:

"3. That Plaintiff Catalina Perez Suyom and the late Juan Suyom had been the conjugal owners of a parcel of land, known as Lot No. 2036 of the Cadastral Survey of La Paz, Leyte, and particularly described as follows, to wit:

* * * * *

said parcel of land being registered with the Register of Deeds for the Province of Leyte as evidenced by Original Certificate of Title No. 19175 in the names of Juan Suyom and Catalina Perez, a photocopy of which is hereto attached, marked Annex "A" and made part of this Complaint;

"4. That the late Juan Suyom, who died in 1949, was the husband of plaintiff Catalina Perez Suyom and the father of plaintiffs Eriberto Suyom, Rosalia Suyom Plazuela, and Angeles Suyom Juanillo;

"5. That the late Juan Suyom appointed Pedro Miniano in 1944 as his tenant for the above-mentioned parcel of land and who continued to act as such tenant even after the death of Juan Suyom in 1949;

"6. That Plaintiff Catalina Perez Suyom retained the said Pedro Miniano as her tenant for the property designated as Lot No. 2036, and because of her belief in his honesty, she entrusted said property to him when she left for Bagacay, Daram, Samar in 1950, on the understanding that he (Miniano) would get all the coconut harvests during the entire period of her absence as his compensation for taking care of said property;

"7. That before plaintiff Catalina Perez Suyom left for the above-mentioned place, she entrusted Original Certificate of Title No. 19175 (Annex "A") to her husband's trusted nephew, Gerardo Suyom, who was taking care of the other parcel of land described in Annex "A", Lot No. 2825, only for safekeeping, as it might get lost during her travel and besides, her children could not be contacted at that time;

"8. That when plaintiff Catalina Perez Suyom returned to Leyte in 1965, she called for Pedro Miniano who appeared and met plaintiff Catalina Perez Suyom, the latter telling the former that they would share again in the coconut harvests, on a 50-50 basis, to which Pedro Miniano readily agreed;

"9. That three (3) months after this, plaintiff Catalina Perez Suyom demanded from defendant Pedro Miniano her share in the coconut harvest but he reasoned out that the harvest was poor and, therefore, he could not give her the share she was asking;

"10. That thereafter, plaintiff Catalina Perez Suyom regularly and repeatedly demanded from Pedro Miniano her shares in the coconut harvests to which Pedro Miniano alluded various reasons for being unable to give said shares;

"11. That sometime in 1970, after getting apprehensive for not having obtained her shares in the aforementioned coconut harvests, plaintiff Catalina Perez Suyom told her children to follow-up the matter, but said children were not able to act immediately due to the fact that they were living far apart from each other;

"12. That sometime in 1973, plaintiffs discovered that their property entrusted to Pedro Miniano was already in the possession of the defendant Antonio Sacay;

"13. That plaintiffs immediately confronted defendant Antonio Sacay, but the latter claimed that the property already belonged to him;

"14. That when plaintiffs verified this claim with the Office of the Register of Deeds, they discovered that a Transfer Certificate of Title had been issued in favor of defendant Antonio Sacay by virtue of a Deed of Sale executed by defendant Uldarico Orgong, who in turn had bought the property in question from defendant Pedro Miniano and the latter also allegedly purchased the land from the deceased Juan Suyom, the photocopy of said Deeds of Sale, being hereto attached, marked Annexes "B", "C" and "D", respectively, and made parts of this Complaint;

"15. That plaintiff verified the signature appearing on the Deed of Sale (Annex "D") in favor of Pedro Miniano, which signature is purportedly to be that of the deceased Juan Suyom, but they discovered that the same is fake and a forgery;

"16. That after further investigation, plaintiffs discovered that their tenant, Pedro Miniano, in collusion with the other defendants, with malicious intent to defraud plaintiffs, executed the Deed of Sale above-mentioned, and forged the signature of the deceased Juan Suyom;

"17. That on August 17, 1965, defendant Antonio Sacay, through fraudulent representation and in collusion with the other defendants, obtained the Original Certificate of Title entrusted to Gerardo Suyom by taking advantage of his ignorance and illiteracy and immediately thereafter made the latter sign a Deed of Confirmation of Sale confirming the sale allegedly made by the deceased Juan Suyom in favor of Pedro Miniano, a photocopy of said Deed of Confirmation of Sale being hereto attached, marked Annex "E", and made part of this Complaint;

"18. That defendants made Gerardo Suyom sign the above-stated Deed of Confirmation of Sale to make it possible for them to register with the Register of Deeds the three (3) Deeds of Sale which they had executed among themselves, inspite of their knowledge that Gerardo Suyom was not an heir of the late Juan Suyom;

"19. That right after obtaining the signature of Gerardo Suyom, defendants fraudulently caused the registration of the above-mentioned Deeds of Sale with the Office of the Register of Deeds, said registration being effected in only one day as a result of which Transfer Certificate of Title No. T-5501 was issued in favor of defendant Antonio Sacay, a photocopy of which is hereto attached, marked Annex "F", and made part of this Complaint;

"20. That granting arguendo, but not necessarily admitting, that the late Juan Suyom did really execute the Deed of Sale in favor of Pedro Miniano, the transaction is not binding upon plaintiff Catalina Perez Suyom since her consent and signature as co-owner of the land in question were not secured;

"21. That defendants Uldarico Orgong and Antonio Sacay knew fully well that when Pedro Miniano disposed of the property in question, the latter was a mere tenant, and therefore had no capacity to dispose of said property; hence, all transactions taking place from the time the first Deed of Sale was executed down to the last one were tainted with fraud and deceit and, therefore, void ab initio;

"22. That plaintiffs had been repeatedly demanding from the defendants the return and reconveyance of the property in question but the latter unreasonably refused to grant said demands;

"23. That as a result of the refusal of the defendants to return and reconvey to plaintiffs the property in question, the latter were constrained to institute the present action for which they have bound themselves to pay FIVE THOUSAND PESOS (P5,000.00), for attorney's fees and other litigation expenses;

"24. That plaintiffs, by reason of defendants' refusal as afore-stated, have suffered moral damages assessable in terms of money in such amount as will be proven by them during the trial of this action;

"25. Furthermore, by reason of the aforementioned refusal, plaintiffs failed to obtain and recover the shares of the coconut harvests due them which, if computed in terms of money, would amount to no less than FIFTY THOUSAND PESOS (P50,000.00)."

On September 20, 1974, private respondents as defendants in the above-mentioned complaint, filed a motion to dismiss invoking the following grounds: (1) that the complaint states no cause of action; (2) that the claim or demand set forth in the pleadings of the plaintiffs is barred by laches; and (3) that the cause of action is barred by the Statute of Limitations.

An opposition to the motion to dismiss was filed by the herein petitioners averring: (1) that their complaint states causes of action as it attacks not only the validity of the alleged sale of the land in dispute by the late Juan Suyom in favor of private respondent Pedro Miniano, but also the subsequent transfers of the same land to private respondents Uldarico Orgong and Antonio Sacay, all on the ground of fraud and deceit, and, therefore, the three (3) deeds of sale are null and void; (2) that their claims or demands are not barred by laches considering that they have not given up nor neglected their interest, legal possession and ownership of the land involved, as what was only given to respondent Pedro Miniano was the mere physical possession as the duly appointed tenant, and in no instance did they (petitioners) sleep on their rights; and (3) that their causes of action are not barred by the Statute of Limitations as they are predicated on fraud, deceit and collusion.

After oral arguments by the parties through counsel, the trial court on December 12, 1974, issued an Order dismissing the complaint, the dispositive portion of which reads as follows:

"From the foregoing premises, the Court holds that the Motion to Dismiss is well-taken and orders the case dismissed."

A motion for reconsideration of the aforesaid order of the trial court was filed by the herein petitioners but the same was denied in an Order dated February 24, 1975. Hence this petition for review on certiorari.

The issue posed for resolution under the above set of facts is whether or not from the averments of the complaint and all the pleadings of the parties the trial Judge was justified in sustaining the motion to dismiss interposed by the herein private respondents.

It is Our considered opinion that the court a quo acted hastily in granting the motion to dismiss, the grounds

alleged therein, under the pleadings of the parties, not appearing to be indubitable. (Sec. 3, Rule 16 of the Rules of Court).

In a motion to dismiss a complaint based on lack of cause of action, this Court has time and again ruled that the test of the sufficiency of the facts therein alleged is whether or not, accepting the veracity thereof, the trial court could render a valid judgment in accordance with the prayer of the complaint (*Galeon vs. Galeon, et al.*, L-30380, February 28, 1973, 49 SCRA 516; *Garcon vs. Redemptorist Fathers*, 17 SCRA 341; *PNB vs. Hipolito*, 13 SCRA 20; *Alquique vs. De Leon*, 7 SCRA 513). Well settled is the rule that in a motion to dismiss a complaint based on lack of cause of action, the question thus submitted for determination and resolution by the trial court is the sufficiency of the allegations of fact made in the complaint to constitute a cause of action, and not whether these allegations of fact are true and correct, for said motion must hypothetically admit the truth of facts alleged in the complaint. (*Galeon vs. Galeon, supra*; *Casimiro vs. Roque, et al.*, 98 Phil. 880; *Gonzales, et al. vs. Alegarbes, et al.*, 99 Phil. 213). Thus, admitting *arguendo* that respondent Pedro Miniano, from whom the other respondent Uldarico Orgong allegedly bought the land in controversy, is only a tenant of the petitioners on the land in question, said Pedro Miniano cannot under that hypothetical assertion dispose of the land in question. Further, admitting Juan Suyom, husband of petitioner Catalina Suyom and father of the other petitioners, on the alleged Deed of Sale in favor of respondent Pedro Miniano is fake and a forgery, by reason thereof there was no valid transfer between the parties concerned. As admitted by the respondent Judge himself, doubt had crept into the case when in his questioned Order of December 12, 1974, he said: "Being public documents they are entitled to enough credit until conclusive evidence establishes otherwise." (*Italics supplied*). Immediate resolution, therefore, of the motion to dismiss was unwarranted as the grounds alleged therein do not appear to be indubitable. If the allegations of the complaint are sufficient in form and substance but their veracity and correctness is assailed, it is incumbent upon the court to deny the motion to dismiss and require the defendant(s) to answer instead and go to trial to prove his defense. The veracity of the assertions of the parties litigants could very well and judiciously be ascertained at the trial of the case on the merits. (*Galeon vs. Galeon, supra*; *Republic Bank vs. Cuaderno*, 19 SCRA 671; *Garcon vs. Redemptorist Fathers, supra*; *Lim vs. De Los Santos*, 8 SCRA 798).

The motion to dismiss filed by the private respondents likewise averred that the claims or demands of the petitioners are already barred by laches and by the statute of limitations or prescription.

It has been held by this Court that a motion to dismiss on ground of prescription should not be granted if on the face of the complaint it does not appear that the action has already prescribed. A motion to dismiss on the ground that the cause of action has prescribed cannot be granted where, in the absence of other evidence, the complaint does not show when the alleged cause of action arose and there is no way of determining whether or not the prescriptive period has started to run. (*Francisco, et al. vs. Robles, et al.*, 94 Phil. 1035; *Sison vs. McQuaid*, 94 Phil. 201). Such is the situation in this case and the foregoing ruling applies squarely. Nowhere in the allegations of the complaint can one find any averment to the effect that petitioners have slept on their rights or a definite indication to that effect. Nor is there any definite date stated as to when prescription may start to run, not even in the motion to dismiss and in the arguments presented in support thereof.

What intrigues Us is the query posed by the private respondents in their motion to dismiss, which states - "Now, what is the cause of action upon which plaintiffs has (sic) filed the instant complaint? Is it because of the nullity of the document by reason of forgery of the signature of Juan Suyom, or is it for the recovery of the share of plaintiff, Catalina Perez Suyom, of the land in question, the latter not having given her consent to the sale?" To Us the aforestated query serves to strengthen the view that the complaint states a cause of action but only made in the alternative. And to this We say, that if the allegations of the complaint appear to the defendants to be ambiguous (as can be fairly deduced from their query), their remedy under the law is a motion for bill of particulars (Sec. 1,

Rule 12, Rules of Court) instead of a motion to dismiss.

As mentioned earlier in this decision, petitioners maintain that the purported signature of the deceased Juan Suyom in the deed of sale in favor of respondent Pedro Miniano is fake and a forgery. As such, it is the position of the petitioners that the said deed of sale is null and void; that there is no valid transfer of the land under litigation as between the deceased Juan Suyom and Pedro Miniano; that when Miniano allegedly ceded and transferred the land to respondent Uldarico Orgong, he ceded and transferred nothing at all; and that is also true when Orgong executed a deed of sale over the same parcel of land in favor of the other respondent, Antonio Sacay. With the foregoing consequences hypothetically admitted, together with the following allegations of fact: " * * * that their tenant, Pedro Miniano, in collusion with the other defendants (Uldarico Orgong and Antonio Sacay), with malicious intent to defraud plaintiffs, executed the Deed of Sale above-mentioned, and forged the signature of the deceased Juan Suyom; (T)hat on August 17, 1965, defendant Antonio Sacay, through fraudulent representation and in collusion with the other defendants (respondents Pedro Miniano and Uldarico Orgong), obtained the Original Certificate of Title entrusted to Gerardo Suyom by taking advantage of his ignorance and illiteracy and immediately thereafter made the latter sign a Deed of Confirmation of Sale confirming the sale allegedly made by the deceased Juan Suyom in favor of Pedro Miniano, * * * ; (T)hat defendants made Gerardo Suyom sign the above-stated Deed of Confirmation of Sale to make it possible for them to register with the Register of Deeds the three (3) Deeds of Sale which they had executed among themselves, in spite of their knowledge that Gerardo Suyom was not an heir of the late Juan Suyom", We see no valid reason to sustain the motion to dismiss. All the foregoing assertions constitute sufficient basis for relief and necessitate the presentation of evidence to substantiate or overthrow them.

This Court further takes note of the allegation in the complaint that there existed collusion among the private respondents in defrauding the petitioners. In *de Leon vs. de Leon, et al.*, 98 Phil. 589, this Court ruled that where the complaint, like in the case at bar, alleges collusion and conspiracy on the part of the defendants to defeat and render ineffective the rights of the plaintiff(s), the defendants in filing a motion to dismiss based on several grounds are deemed to have admitted the claim of conspiracy and collusion, a situation which negates any favorable action on the motion to dismiss.

Wherefore, the question Orders dated December 12, 1974, and February 24, 1975, of the Court of First Instance of Leyte, presided by herein respondent Judge, are hereby nullified and set aside. This case is ordered remanded to the court a quo for further proceedings.

Costs against private respondents. So ordered.

Makasiar, Muñoz Palma, and Martin, JJ., concur.

Teehankee (Chairman), J., concurs in the result.

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