

ARCADIO DOMAOAL, PLAINTIFF-APPELLANT, VS. TEODORA BEA, JOAQUIN REYES AND HIS WIFE MARIA ARENAS, SALVADOR ARENAS AND HIS WIFE ANGELINA PECHAY, AND HERMOGENES G. BAUTISTA AND HIS ...

G.R. No. L-30167. August 31, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

This is an appeal by petitioner Arcadio Domaoal from the order, dated May 9, 1968, of the then Court of First Instance of Cotabato, Branch II, in Civil Case No. 586, dismissing the complaint, as well as from the order, dated July 24, 1968, denying the motion for reconsideration.

Records show that on May 19, 1965, herein petitioner filed an action for reconveyance and/or damages against herein private respondents based upon fraud allegedly committed by the latter in obtaining Miscellaneous Sales Patent No. V-92 on February 10, 1960 and for which Original Certificate of Title No. V-681 was issued by the Register of Deeds of Cotabato on May 27, 1960 in favor of respondent Teodora Bea and in subsequently transferring it to respondent Joaquin Reyes who, in turn, conveyed it to Salvador Arenas and Hermogenes Bautista. Transfer Certificate of Title No. T-12825 was issued by the Register of Deeds to Salvador Arenas and Hermogenes Bautista who, thereafter, mortgaged the same property to Joaquin Reyes. Petitioner averred that all these sales or transfers were made without valuable considerations and in favor of immediate relatives. Further, petitioner alleged that it was only in October 1964 when he discovered the fraud perpetrated by herein private respondents.

In their answer, private respondents interposed the following affirmative defenses which are also grounds for motion to dismiss, namely:

1. That the complaint states no cause of action;
2. That the cause of action, if there be any, had already prescribed;
3. That the plaintiff has no personality to file suit; and,
4. That the Court has no jurisdiction over the subject matter or suit. (p. 54, Record on Appeal)

No preliminary hearing on the affirmative defenses was conducted; instead, the parties submitted their memoranda in support of their respective stands. Thereafter, the lower court ruled that "five (5) years have elapsed since the issuance of Patent on May 27, 1960, to the filing of the present action on May 19, 1965; if the plaintiff were the owner of the land, he has no longer any remedy under ordinary circumstance to recover the property itself. His only remedy is to file a personal action for recovery of damages from the party who registered his property through fraud as held by the Supreme Court in *Manotoc vs. Choco*, 30 Phil. 628." (pp. 54-55, Record on Appeal). As a consequence, the complaint was dismissed with costs against petitioner.

In his brief, petitioner claims that the lower court erred (1) in dismissing the complaint and denying the motion for reconsideration without considering the fact that both combatant litigants have not yet presented any evidence to support their contentions; (2) in holding and declaring that the action of plaintiff is primarily an action to nullify the title issued in favor of defendants; (3) in holding and declaring that plaintiff is a third person in contemplation of the government as grantor and defendants as grantees; and, (4) in holding and declaring that defendants are the owners of subject lot.

There is merit in this appeal.

1. The trial court based its order of dismissal principally on private respondents' averments that petitioner's complaint failed to state a cause of action, oblivious of the well-settled rule that "in order to sustain a dismissal on the ground that the complaint states no cause of action, the insufficiency of the cause of action must appear on the face of the complaint, and the test of the sufficiency of the facts alleged in the complaint, to constitute a cause of action, is whether or not, admitting the facts alleged, the court could render a valid judgment upon the same in accordance with the prayer of the complaint. For this purpose, the motion to dismiss must hypothetically admit the truth of the facts alleged in the complaint." (Azur vs. Provincial Board, 27 SCRA 50)

In his complaint, petitioner alleged that he was the lawful awardee of Lot No. 4374, TS-217, located at Pioneer's Avenue, Dadiangas, General Santos, Cotabato, by virtue of Resolution No. 571 of the Board of Directors of the National Land Settlement Administration dated April 17, 1950, but thru a series of fraud committed by private respondents, respondent Teodora Bea was able to obtain OCT No. V-681, covering the lot in question. Petitioner prayed for the reconveyance of said lot to him. The allegations, assuming to be true, constitute a valid cause of action in which the court could render a valid judgment upon the same in accordance with the prayer of the complaint.

2. Considering that petitioner is suing private respondents, based upon a constructive trust or implied trust resulting from the fraud, the complaint must be brought within four (4) years from the discovery of fraud. The averments in the complaint show that petitioner discovered the fraud committed by private respondents only in October 1964. Thus, the filing of the case on May 19, 1965 is well within the prescriptive period.

3. The allegation that inasmuch as the subject lot was previously a public land, the proper party to bring the suit is the Director of Lands, thru the Solicitor General, and not petitioner, should be taken with caution. The trial court should have conducted a preliminary hearing thereon because the action brought by petitioner is one for reconveyance of real property based on constructive or implied trust resulting from fraud and it has no way of determining against whom fraud was committed unless a hearing is held. The assertion of private respondents would be true if the fraud or misrepresentation was committed against the State or in violation of the law but if it was committed against petitioner in breach of their understanding, then the latter is the right party to bring the suit.

4. Records reveal that the action is for reconveyance and was brought within the prescriptive period; hence, the trial court has jurisdiction over the subject matter.

WHEREFORE, the order of the lower court, dated May 9, 1968, dismissing the complaint; and the order, dated July 24, 1968, denying the motion for reconsideration are hereby SET ASIDE, and the case is REMANDED to the trial court for further proceedings.

SO ORDERED.

Teehankee, Acting C.J., Melencio-Herrera, Plana, Gutierrez, Jr., and De La Fuente, JJ., concur.

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