

**ESPIRIDION RONE, CLAUDIA AGOZAR, DIONISIA GORDOLAN,
GUILLERMO AND AMABLE, BOTH SURNAMED VENTURA,
PLAINTIFFS AND APPELLANTS, VS. VICTOR CLARO AND SIMEON
BAQUIRING, DEFENDANTS AND...**

G.R. No. L-4472. May 08, 1952

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

The plaintiffs herein are appealing from an order of the Court of First Instance of Pangasinan, dated April 1, 1950, dismissing the case. Said order reads as follows:

"It appearing from the allegations of the complaint that defendant Victor Claro has obtained a deed of sale from the plaintiff Espiridion Rone over the land in question in 1929 which the plaintiffs learned in March, 1941 but failed to bring the action thereon on account of poverty, it is quite evident that they should have instituted an action within four years after the discovery of said fraud in accordance with Section 44 of Act 190. And since the present action has been instituted on February 2, 1950, the conclusion is unavoidable that same has already prescribed.

"WHEREFORE, the Court hereby sustains the motion to dismiss and decrees the dismissal of this case without pronouncement as to costs."

There was no trial. Instead of answering the complaint defendants filed a motion for dismissal of the complaint on the ground that it stated no cause of action and that it was barred by the statute of limitations. The facts, consequently, have to be gathered from the complaint. It is not easy to understand the allegations of said pleading which counsel for the defendants not without reason, calls vague and unintelligible; but for the purpose of establishing the issue involved in the case as decided by the trial court, roughly, we can state the following as gleaned from the complaint.

On and before the year 1929 the plaintiffs were or claimed to be the owners of lot 4651 of the Cadastral Survey of Asingan, Pangasinan, described in Original Certificate of Title No. 6288. In that year, the defendants or one of them, it is said, through fraud, deceit and breach of faith, succeeded in getting the Owner's Duplicate Original Certificate of Title from one of the plaintiffs. About the year 1932, (although in a portion of the complaint, it is alleged, probably through error, to be 1926), the defendants, it is alleged, again with the use of fraud, deceit, breach of faith, and other machinations, succeeded in having the plaintiffs execute a deed of sale of the lot in question in defendants' favor, but that it was only in the year 1941 that this fraud, including the possession and enjoyment of the lot by defendants, was discovered by the plaintiffs. Because of poverty, plaintiffs were unable to take the necessary steps to recover the land. The complaint was filed in the lower court only on February 20, 1950.

The action herein is to annul the deed of sale by the plaintiffs in favor of the defendants on the ground of fraud and the trial court was correct in applying Section 44 paragraph 3 of Act 190 and in ruling that the action had

prescribed, since more than four years had elapsed since the discovery of the fraud. Section 44 of Act 190, known as the Code of Civil Procedure, in part, reads as follows:

"Other Civil Actions: How Limited—Civil actions other than for the recovery of real property can only be brought within the following periods after the right of action accrues:

* * * * *

"* * * 3. Within four years: * * * an action for relief on the ground of fraud, but the right of action in such case shall not be deemed to have accrued until the discovery of the fraud."

Appellants however now insist that their action was not to annul the deed of sale on the basis of fraud, but to recover title and possession of land. This change of front is, obviously, calculated to avoid the fatal effects of Section 44 above quoted by now invoking Section 40 of the same Act which prescribes ten years as the period within which an action to recover title to land may be instituted. Section 40 of Act 190 reads thus:

"An action for the recovery of title to, or possession of, real property, or an interest therein, can only be brought within ten (10) years after the cause of such action accrues."

The purpose of an action or suit and the law to govern it, including the period of prescription, is to be determined not by the claim of the party filing the action, made in his argument or brief, but rather by the complaint itself, its allegations and the prayer for relief. Here, the complaint clearly and expressly alleges the supposed fraud and deceit in procuring the execution of the deed of sale of the land in question in favor of the defendants, and the discovery of said fraud on a day years after the date of the supposed fraudulent deed. From this it may be gathered that this allegation and claim was made in order to excuse the apparent neglect or delay in the filing of the action, a delay involving a period of almost twenty years, from the date of the deed of sale to the filling of the suit. Then, among the prayers for relief, is one asking that the deed of sale be declared fraudulent. Another prayer is that defendants be ordered to execute a deed of conveyance of the lot in favor of plaintiffs, meaning that at present, defendants are owners of the lot, though by virtue of a supposed fraudulent deed. From all this, it is obvious, as already stated, that the action was for the annulment of a contract or deed on the ground of fraud, which action should be filed within four years after the discovery of the fraud.

It may be that the recovery of title and possession of the lot was the ultimate objective of plaintiffs, but to attain that goal, they must needs first travel over the road of relief on the ground of fraud; otherwise even if the present action were to be regarded as a direct action to recover title and possession, it would, nevertheless, be futile and could not prosper for the reason that the defendants could always defeat it by merely presenting the deed of sale, which is good and valid to legalize and justify the transfer of the land to the defendants, until annulled by the courts. And of course, it cannot be annulled unless the action to annul had been filed within four years after the discovery of the fraud in 1941. So, from whatever angle we view the case, the claim of plaintiffs-appellants must fail.

Lastly, appellants contend that the trial court erred in not applying the provisions of the new Civil Code. Considering that all the transactions involved in the present case from the execution of the alleged fraudulent deed and transfer of the possession and title to the land in favor of the defendants until the filing of the present action, including the order of dismissal of the case by the trial court, had all taken place before the new Civil Code took effect, it is clear that the provisions of the said new Civil Code are not applicable.

Finding no reversible error in the order appealed from the same is hereby affirmed with costs.

Paras, C.J., Feria, Pablo Bengzon, Tuason, Bautista Angelo, and Labrador, JJ., concur.

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