

**FAUSTINO JARAMIL AND FILOMENA CABINAR, PETITIONERS, VS.
COURT OF APPEALS, AND SOTERA MEDRANA, REGINA DE LA CRUZ,
VALERIANA C. PRUDENCIO, ET AL., RESPONDENTS.**

G.R. No. L-31858. August 31, 1977

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is an appeal from the majority decision of the Court of Appeals in CA-G. R. No. 32973-R entitled "Sotera Medrana, et al., Plaintiffs-Appellees, vs. Faustino Jaramil, et al., Defendants-Appellants", affirming the judgment of the Court of First Instance of Pangasinan, the dispositive part of which reads:

"WHEREFORE, judgment is hereby rendered for the plaintiffs declaring them to be the true owners of Lot 1422 covered by Original Certificate of Title No. 49228; ordering the defendants to vacate the premises and surrender the possession thereof to the plaintiffs, and to pay the sum of P260.00 representing the monthly rentals from November, 1958 up to the present and P5.00 monthly thereafter, and to pay the costs." [1]

The record shows that Sotera Medrana, widow of the late Isidro dela Cruz, and their children and grandchildren instituted in the Court of First Instance of Pangasinan an action to recover possession of a parcel of land, Lot 1422, embraced in Original Certificate of Title No. 49228 and for damages against the spouses Faustino Jaramil and Filomena Cabinar.

The complaint alleged that Isidro dela Cruz was in life the owner of Lot 1422 located in Umingan, Pangasinan, containing an area of 3,226 square meters, more or less, embraced in Original Certificate of Title No. 49228; that sometime in 1935, the spouses Faustino Jaramil and Filomena Cabinar were permitted by the registered owners to establish residence on the land with the understanding that said spouses would vacate the premises upon demand; and that despite a demand to vacate made on or about August 23, 1958, the defendants refused to leave the land in question. [2]

The defendants averred in their answer that they are the true owners of the disputed lot and that if Isidro dela Cruz and Sotera Medrana were able to register the property in their names, the registration must have been done through fraud and bad faith. The defendants interposed a counterclaim wherein they asked for damages and for the reconveyance to them of the land in question. [3]

From the decision of the Court of First Instance of Pangasinan rendered in favor of the plaintiffs, the defendants appealed to the Court of Appeals where the case was docketed as CA-G. R. No. 32973-R.

The case was decided by a special division of five composed of Justices Hermogenes Concepcion Jr., Jesus Y. Perez, Ramon O. Nolasco, Edilberto Soriano and Andres Reyes. Justice Andres Reyes, concurred in by Justices Jesus Y. Perez and Ramon O. Nolasco, found the appealed judgment to be in accordance with the evidence, and the law and affirmed the same, with costs against the appellants. [4] Justice Edilberto Soriano concurred in by Justice Hermogenes Concepcion Jr. dissented and voted that "the appealed decision should be reversed;

plaintiffs-appellees should be ordered to reconvey Lot No. 1422 of the Cadastral Survey of Umingan to defendants-appellants, and the Register of Deeds of Pangasinan should likewise be ordered to cancel Original Certificate of Title No. 49228 in the names of the spouses Isidro de la Cruz and Sotera Medrana, and in lieu thereof should issue another one in the names of defendants-appellants Faustino Jaramil and Filomena Cabinar, with costs against appellees."[5]

The petitioners-appellants Faustino Jaramil and Filomena Cabinar assign the following errors:

"I

THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THAT RESPONDENTS-APPELLEES ARE THE TRUE OWNERS OF LOT 1422 COVERED BY ORIGINAL CERTIFICATE OF TITLE NO. 49228, NOT THE HEREIN PETITIONERS-APPELLANTS.

II

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT PETITIONERS-APPELLANTS' ACTION FOR THE RECONVEYANCE OF TITLE IS BARRED BY THE STATUTE OF LIMITATIONS."[6]

The facts narrated in the majority opinion are:

"The evidence for the plaintiffs discloses that as early as 1911 Isidro dela Cruz and Sotera Medrana were already living on the land in question, having built a house thereon. No other persons except the said spouses appeared and claimed the property during the cadastral proceedings involving lands located in Umingan, Pangasinan. Consequently, the cadastral court adjudicated the land in their favor on April 17, 1926 (Exh. I). Subsequently, or on March 15, 1932, Original Certificate of Title No. 49228 of the Office of the Register of Deeds of Pangasinan was issued in their names (Exh. A). Sometime in 1935, Faustino Jaramil and Filomena Cabinar asked permission from Isidro dela Cruz to stay on the land. Permission was granted, but when plaintiffs asked them to vacate in 1958 they refused to leave, compelling plaintiffs to go to court."[7]

According to the petitioners-appellants, the true facts are that although they have a certificate of title, Exhibit "A", covering the land in question, the respondents-appellees and their predecessor-in-interest Isidro dela Cruz, had never been in possession of said land; that the petitioners-appellants and their predecessor-in-interest Agustin Cabinar, have always been in possession of the land; that Agustin Cabinar was the original owner and possessor of the land and subsequently had given to the petitioners-appellants as a donation by reason of marriage in 1924; that after acquiring the property in question, the petitioners-appellants constructed thereon their own house of strong materials which was burned during the Japanese occupation; that after liberation, they again constructed thereon their house of mixed materials which was later demolished and re-placed by the house now presently standing on the land;[8] and that the facts as correctly found in the dissenting opinion show that the registration of the land in question in the names of Isidro dela Cruz and Sotera Medrana was fraudulently made.[9]

The evidence in support of the claim of the petitioners-appellants that Isidro dela Cruz registered the land in question fraudulently and in breach of trust consists of the testimonies of Faustino Jaramil and Cornelio Barba.

Faustino Jaramil declared that when the cadastral survey of Umingan was being undertaken, Isidro dela Cruz went to him and said that inasmuch as their lots adjoin each other, Isidro dela Cruz would take care of the survey and represent Faustino Jaramil in the cadastral proceedings, promising to deliver Faustino's title as soon as Isidro's title was obtained; that upon the request of Isidro dela Cruz, Faustino Jaramil gave the former P50.00 to defray the expenses; that in 1958 when the heirs of Isidro dela Cruz caused a relocation survey of the land to be made and claimed it as their own, Faustino Jaramil discovered for the first time that the property had been registered in the

names of Isidro dela Cruz and Sotera Medrana.[10]

Cornelio Barba testified that he was one of the surveyors who took part in the cadastral survey of Umingan and that during the cadastral survey, Isidro dela Cruz was his cardman whose duty was to issue notification cards about the survey.[11]

The majority opinion found the testimony of Faustino Jaramil on the alleged fraud to be incredible because:

"Appellants rely on the bare faced claim of Faustino Jaramil that Isidro dela Cruz 'must have deceived us' because, having been presumably entrusted with the sum of P50.00 at the inception of the cadastral survey of Umingan, upon the promise of Isidro dela Cruz that he would take care of the survey, represent Faustino in court, and secure the title, the deceased re-gistered the land instead in his own name. It appears, however, that neither during the lifetime of Isidro dela Cruz nor after his death did Faustino Jaramil as much as inquire from the deceased or his heirs about the P50.00 and whether the land had been registered. Fifty pesos before the war was substantial amount. Had Fortunato Jaramil really entrusted such a sum to Isidro dela Cruz, it is certain that he would make inquiries at least as to whether it was applied to the intended purpose. The fact that he remained silent for more than three decades bespeaks the weakness and falsity of his claim. Moreover, the tenor of Faustino's testimony is that the sum was entrusted when the cadastral survey of Umingan had just began (pp.47-48, TSN, Axibal). On cross-examination he declared that it was during the cadastral survey in 1922 when Isidro dela Cruz told him that he would be responsible for the survey (p. 58, Ibid.). This declaration renders the whole story about the alleged breach of trust unworthy of rational belief. For from the very evidence of the defense, the appellants' alleged acquisition of the property took place only in 1924, when it was donated to them on the occasion of their marriage. It results that Isidro dela Cruz had no reason to broach to them in 1922 the idea of registering the land in their behalf. On the basis of Faustino's incredible testimony, we will not impute fraud or breach of trust on Isidro dela Cruz, whose lips have long been sealed by death." [12]

It is indeed odd that Faustino Jaramil had not taken steps to verify whether or not the title to the land in question had been registered in his name. The evidence shows that the cadastral court had adjudicated the land in question to Isidro dela Cruz and Sotera Medrana on April 17, 1926 and on March 15, 1932, Original Certificate of Title No. 49228 of the Registry of Deeds of Pangasinan was issued in their names.

Despite the issuance of Original Certificate of Title No. 49228 to Isidro dela Cruz and Sotera Medrana on March 15, 1932, the petitioners-appellants did not take any steps to cause the transfer of the title to the land to them. It was only when the private respondents instituted in 1958 Civil Case No. T-535 in the Court of First Instance of Pangasinan to recover the possession of the land in question that the petitioners-appellants interposed a counterclaim in their answer for the reconveyance of said land to them.

Fraud is a question of fact which must be alleged and proved. Fraud is a serious charge and to be sustained, it must be supported by clear and convincing proof.[13]

There is no clear showing that Isidro dela Cruz had perpetrated fraud on Faustino Jaramil. The contention that Faustino Jaramil was deceived by Isidro dela Cruz because after having been entrusted the sum of P50.00 at the inception of the cadastral survey of Umingan, upon the latter's promise that he would take care of the survey and secure the title for Faustino Jaramil, the said Isidro dela Cruz caused the land in question to be registered in his name and that of his wife, has no merit. It is a fact that neither during the lifetime of Isidro dela Cruz nor after his death no inquiry had been made by Faustino Jaramil about the P50.00 and whether the land had been registered in his name.

The preponderance of the evidence is that Isidro dela Cruz and Sotera Medrana did not perpetrate fraud in having the title to the land in question registered in their names. Granting, arguendo, that fraud was committed and an

implied trust was created, the counterclaim of the petitioners-appellants for the reconveyance of the title to the land in question to them has prescribed. It is now settled that an action for the reconveyance of land based on implied or constructive trust prescribes within ten (10) years.

The Supreme Court has held that:

"It is idle to bother as to whether the action here is one founded exclusively on fraud which prescribes in four (4) years or one based on constructive trust which is barred after ten years, there being no question that the appellees secured their title more than twenty years before the filing of the complaint, and it is from the date of the issuance of such title that the effective assertion of adverse title for purposes of the statute of limitations is counted. (Gerona vs. De Guzman, 11 SCRA 153)."[14]

The cause of action of the petitioners-appellants for the reconveyance to them of the title to the land in question arose on March 15, 1932 when Original Certificate of Title No. 49228 was issued by the Office of the Register of Deeds of Pangasinan.[15] The issuance of said original certificate of title constituted constructive notice to the public including the petitioners-appellants.

In view of the foregoing, the decision of the Court of Appeals correctly affirmed the judgment of the Court of First Instance of Pangasinan in Civil Case No. T-535.

WHEREFORE, the decision of the Court of Appeals is hereby affirmed, without pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, Martin, and Guerrero, JJ., concur.

[1] Decision, Rollo, p. 11.

[2] Record on Appeal, pp. 2-8, Rollo, p. 80.

[3] Idem, pp. 8-15, Idem.

[4] Rollo, p. 18.

[5] Rollo, pp. 31-32.

[6] Brief for the petitioners-appellants, pp. Rollo, p. 91.

[7] Rollo, pp. 12-13.

[8] Brief of petitioners-appellants, pp. 6-7, Rollo, p. 91.

[9] Brief of petitioners-appellants, p. 8, Rollo, p. 91.

[10] Decision, Rollo, p. 13.

[11] Decision, Rollo, pp. 13-14.

[12] Rollo, pp. 15-16.

[13] Republic vs. Ker & Company, Ltd. 18 SCRA 297, 215.

[14] De la Cerna vs. De la Cerna, 72 SCRA 514, 518.

[15] Gerona vs. De Guzman, 11 SCRA 152, 157.

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