

**PABLO STA. ANA, JR., PETITIONER, VS. COURT OF APPEALS,
ERNESTO P. CAYETANO, LEONOR C. CAYETANO, AND ALEJANDRO B.
MANAHAN, RESPONDENTS.**

G.R. No. 115284. November 13, 1997

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

The controversy stemmed from an action for reconveyance filed by herein petitioner Pablo Sta. Ana Jr. and his now-deceased mother Socorro Sta. Ana against private respondent Ernesto Cayetano, Leonor Cayetano (hereafter spouses Cayetanos) and Alejandro B. Manahan on August 27, 1973, involving a 900 square-meter parcel of land in Barrio San Antonio, Calabanga, Camarines Sur (hereafter subject land).

In the complaint,[1] it was alleged, in a nutshell, that the spouses Cayetanos, without the knowledge of petitioner and his mother, fraudulently included the subject land in the registration proceedings covering two (2) lots situated in the same locality (described in Plan PSU-183419) notwithstanding petitioner's and his deceased mother's continuous and actual possession of the subject land since 1951 when they inherited said property upon the death of petitioner's father, Pablo Sta. Ana, Sr. in the same year. Since the spouses Cayetanos obtained OCT No. 989 over the subject land on March 26, 1962 and thereafter sold the same to private respondent Manahan who was issued TCT No. 17218 on August 17, 1973, petitioner and his mother pray that TCT No. 17218 be cancelled, the subject land be segregated from the area covered on Plan PSU-183419 and thereafter be reconveyed to them with damages.

A complaint intervention[2] was filed by one Asteria Maulauen containing similar allegations and relief sought – i.e., that her land was fraudulently included by the spouses Cayetanos in the same registration proceedings which was also sold to respondent Manahan, and thus she prays for its reconveyance.

Private respondents, as defendants below, filed a motion to dismiss[3] on the ground of prescription. They argue that petitioner's filing of the complaint for reconveyance on August 27, 1973 – which spanned 11 years and 5 months from the registration of spouses Cayetanos' OCT No. 989 over the subject land on March 26, 1962 – was too late considering the well-settled jurisprudence that an action for reconveyance of real property based on implied or constructive trust prescribes in 10 years. To this motion to dismiss, petitioner filed an Objection.[4]

The trial court deferred the resolution of petitioner's motion to dismiss as “the ground alleged therein does not appear to be indubitable, and furthermore, to resolve said motion would require presentation of evidence which would be practically a trial on the merits of this case.”[5] Trial thus ensued with petitioner having presented two (2) witnesses. Subsequently, the trial court, on motion of petitioner, appointed a commissioner who will conduct a relocation survey to identify the lots claimed by petitioner and intervenor Maulauen.[6] Upon submission by the commissioner of his Report dated March 2, 1987,[7] private respondents objected to its approval[8] and reiterated their motion to dismiss grounded on prescription[9] to which petitioner filed an objection.[10]

A decision dated August 9, 1988[11] was rendered by the trial court dismissing petitioner's complaint and

Maulauen's complaint in intervention, declaring private respondent Manahan as the rightful owner of the land covered by TCT No. 17218 and ordering petitioner to deliver/surrender possession of the subject land to private respondent Manahan. On appeal, public respondent Court of Appeals, in a decision dated October 12, 1993,[12] affirmed the trial court judgment and denied, per Resolution dated April 29, 1994, petitioner's motion for reconsideration. Hence, this petition wherein petitioner claims that:

"I.

Respondent Court of Appeals erred in disregarding the uncontroverted fact that petitioner and his predecessors-in-interest have been in open and continuous possession in the concept of owner of the land in question long before the issuance in 1962 of Original Certificate of Title No. 989.

II.

Respondent Court of Appeals erred in not applying the well-established doctrine that IMPRESCRIPTABLE is 'an action for reconveyance which in effect seeks to quiet title to property against its registered owner', if filed by one in possession of the property.

III.

Respondent Court of Appeals erred in ignoring Commissioner's Report.

IV.

Respondent Court of Appeals erred in affirming the trial court's award of affirmative relief in favor of private respondent Manahan when such relief was not raised in the pleadings, and neither was it prayed for."

The petition has no merit.

Both lower courts correctly found that petitioner's action for reconveyance has prescribed when the complaint therefor was filed only in 1973 – or eleven (11) years from March, 1962 when the spouses Cayetanos' OCT No. 989 over the subject land was registered. An action for reconveyance based on an implied or constructive trust must perforce prescribe in ten (10) years and not otherwise.[13] A long line of decisions of this Court, such as those cited by the trial court[14] and respondent CA,[15] illustrates this rule. Petitioner cannot escape the onset of prescription by arguing now that his action for reconveyance is really one that seeks a quieting of title (which is admittedly imprescriptible) and not one based on implied or constructive trust. From the complaint, it is evident that petitioner's theory is based on implied or constructive trust, as it is alleged therein that "the property in question is within the property in trust for the plaintiffs...". It is well to emphasize at this juncture that a party cannot subsequently take a position contrary to, or inconsistent with, his pleadings.[16] Thus, a party is bound by the theory he adopts and by the cause of action he stands on and cannot be permitted after having lost thereon to repudiate his theory and cause of action and adopt another and seek to re-litigate the matter anew either in the same forum or on appeal.[17]

Likewise unpersuasive is the claim that, granting the verity of the ten-year prescriptive period, the complaint for reconveyance was nonetheless well-within said period since the ten (10) years began to lapse only from the time petitioner had actual knowledge of private respondents' adverse claim of ownership over the subject land, which petitioner alleges to be shortly after August 7, 1973 when TCT No. 17218 was issued in the name of private respondent Manahan. Equally settled is that an action for reconveyance based on an implied or constructive trust prescribes in ten (10) years from the issuance of the Torrens title over the property.[18] The reckoning date in this case, therefore, is March 26, 1962 - the date OCT No. 989 was issued in the name of spouses Cayetanos.

As the above resolution of the issue of prescription is, by itself, determinative of the instant petition's fate,

discussion of the other assigned errors is unnecessary.

WHEREFORE, premises considered, the petition is hereby DENIED. The decision of respondent Court of Appeals dated October 12, 1993, affirming the trial court judgment of August 9, 1988 is AFFIRMED.
SO ORDERED.

Romero, Melo, and Panganiban, JJ., concur.

Narvasa, C.J., (Chairman), on leave.

[1] Records, p. 5.

[2] Records, p. 29.

[3] Records, p. 43.

[4] Records, p. 50.

[5] Records, p. 60.

[6] Records, p. 192.

[7] Records, p. 209.

[8] Records, p. 211.

[9] Records, p. 214.

[10] Records, p. 219.

[11] Records, p. 232.

[12] Rollo, p. 22.

[13] Tale vs. CA, 208 SCRA 266.

[14] Sinaon vs. Sorongon, 136 SCRA 407; Vda. De Pama vs. Pama, 124 SCRA 379.

[15] Walstrom vs. Mapa, Jr., 181 SCRA 431; Tomas vs. CA, 185 SCRA 627; Pino vs. CA, 198 SCRA 434; Heirs of Maria Revilleza Vda. de Vega vs. CA, 199 SCRA 168; Gonzales vs. IAC, 204 SCRA 106; Casipit vs. CA, 204 SCA 684.

[16] Lianga Lumber Company vs. Lianga Timber Co., Inc., 76 SCRA 195.

[17] Arroyo vs. HRET, 246 SCRA 384.

[18] Tale vs. CA, Ibid.

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