

RICARDO F. MARQUEZ, AUREA M. CABEZAS, EXEQUIEL F. MARQUEZ, SALVADOR F. MARQUEZ, ANTONIO F. MARQUEZ, AND RAFAEL F. MARQUEZ, JR., PETITIONERS, VS. COURT OF APPEALS, ALFREDO F. MAR...

G.R. No. 125715. December 29, 1998

Ponente: ROMERO, J.

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ROMERO, J.:

In our society, tradition and law enshrine the family as a basic social institution. In prose, poetry and song, it is lyrically extolled. What a person becomes in adulthood, for good or ill, is attributed to the influence of the home and family during his formative years. In the family one imbibes desirable values and personality traits. No matter how far one roams, he invariably turns to his family for security, approbation and love. Against the whole world, members of the family stand solid as Gibraltar. It is thus heartrending to find members of the same family at odds with each other, each playing one against the other.

The facts of the instant case illustrates the inglorious and unedifying spectacle of a "family feud," all because of a property dispute.

During their lifetime, the spouses Rafael Marquez, Sr. and Felicidad Marquez begot twelve children, namely: (1) Natividad; (2) Aurea; (3) Herminigildo; (4) Filomena; (5) Exequiel; (6) Salvador; (7) Guadencio; (8) Rafael, Jr.; (9) Belen; (10) Alfredo; (11) Ricardo; and (12) Antonio. Sometime in 1945, the spouses acquired a parcel of land with a lot area of 161 square meters in San Juan Del Monte, Rizal, more particularly described in TCT No. 47572,[1] wherein they constructed their conjugal home.

In 1952, Felicidad Marquez died intestate. Thirty years later or in 1982, Rafael Marquez, Sr. executed an "Affidavit of Adjudication" vesting unto himself sole ownership to the property described in TCT No. 47572. Consequently, TCT No. 47572 was cancelled and TCT No. 33350[2] was issued in his name on June 16, 1982.

Thereafter, on December 29, 1983 Rafael Marquez, Jr. executed a "Deed of Donation Inter Vivos"[3] covering the land described in TCT No. 33350 as well as the house constructed thereon to three of his children, namely: (1) petitioner Rafael Jr.; (2) Alfredo; and (3) Belen, both private respondents herein, to the exclusion of his other children, petitioners herein. As a result of the donation, TCT No. 33350 was cancelled and TCT No. 47572 was issued in private respondents name.

From 1983 to 1991, private respondents were in actual possession of the land. However, when petitioners learned about the existence of TCT No. 47572 they immediately demanded that since they are also the children of Rafael Marquez, Sr., they are entitled to their respective share over the land in question. Unfortunately, efforts to settle the dispute proved unavailing since private respondents ignored petitioners' demands.

In view of the private respondents' indifference, petitioners, now joined by Rafael Jr., filed a complaint on May 31, 1991 for "Reconveyance and Partition with Damages" before the trial court[4] alleging that both the

"Affidavit of Adjudication" and "Deed of Donation Inter Vivos" were fraudulent since the private respondents took advantage of the advanced age of their father in making him execute the said documents.

In their Answer, private respondents argued that petitioner's action was already barred by the statute of limitations, since the same should have been filed within four years from the date of discovery of the alleged fraud.[5]

After due proceedings, the trial court on April 29, 1993, rendered its decision[6] in favor of the petitioners, in this wise:

"Prescription cannot set in because an action to set aside a document which is void ab initio does not prescribe. Both the 'Affidavit of Adjudication' and the 'Donation Inter Vivos' did not produce any legal effect and did not confer any right whatsoever. Equally, Transfer Certificate of Title No. 33350 and 46461 issued pursuant thereto, are likewise null and void ab initio. Therefore, the inexistence of these documents and certificates of title is permanent and cannot be the subject of prescription."

Private respondents, dissatisfied with the trial court's ruling, sought recourse before the Court of Appeals. On April 29, 1996, the said court reversed the trial court's finding, thus:[7]

"In line with the decision of the Supreme Court in *Gerona v. de Guzman*, 11 SCRA 143, 157, the action therefor may be filed within four (4) years from the discovery of the fraud. Such discovery is deemed to have taken place in the case at bar on June 16, 1982, when the affidavit of self-adjudication was filed with the Register of Deeds and new certificate of title (No. 33350) was issued in the name of Rafael Marquez, Sr. (Exhibits E and 5, page 16, record). Considering that the period from June 16, 1982, when TCT No. 33350 was issued in the name of Rafael Marquez, Sr., to May 31, 1991, when appellees' complaint was filed in court, is eight (8) years, eleven (11) months and fifteen (15) days, appellants' action to annul the deed of self-adjudication is definitely barred by the statute of limitation."

Petitioner's motion for reconsideration proved unavailing.[8] Hence, they are now before this Court to raise the issue of whether their action for reconveyance had prescribed.

Petitioners, in contending that the action had not yet prescribed, assert that by virtue of the fraudulent "Affidavit of Adjudication" and "Deed of Donation," wherein they were allegedly deprived of their just share over the parcel of land, a constructive trust was created.[9] Forthwith, they maintain that an action for reconveyance based on implied or constructive trust prescribes in ten (10) years.

It must be noted that Felicidad Marquez died in 1952; thus, succession to her estate is governed by the present Civil Code. Under Article 887 thereof, her compulsory heirs are her legitimate children, petitioners and private respondent herein, and her spouse, Rafael Marquez, Sr. Now, in 1982, Rafael Marquez, Sr. decided to adjudicate the entire property by executing an "Affidavit of Adjudication" claiming that he is the only sole and surviving heir of his deceased wife Felicidad F. Marquez.[10]

As such, when Rafael Marquez, Sr., for one reason or another, misrepresented in his unilateral affidavit that he was the only heir of his wife when in fact their children were still alive, and managed to secure a transfer of certificate of title under his name, a constructive trust under Article 1456 was established.[11] Constructive trusts are created in equity in order to prevent unjust enrichment. They arise contrary to intention against one who, by fraud, duress or abuse of confidence, obtains or holds the legal right to property which he ought not, in equity and good conscience, to hold.[12] Prescinding from the foregoing discussion, did the action for reconveyance filed by the petitioners prescribed, as held by the Court of Appeals?

In this regard, it is settled that an action for reconveyance based on an implied or constructive trust prescribed in ten years from the issuance of the Torrens title over the property.[13] For the purpose of this case, the prescriptive

period shall start to run when TCT No. 33350 was issued which was on June 16, 1982. Thus, considering that the action for reconveyance was filed on May 31, 1991, or approximately nine years later, it is evident that prescription had not yet barred the action.

To bolster the foregoing position, the Court of Appeal's reliance on *Gerona v. de Guzman*,^[14] is misplaced. In *Amerol v. Bagumbaran*,^[15] we ruled that the doctrine laid down in the earlier *Gerona* case was based on the old Code of Civil Procedure^[16] which provided that an action based on fraud prescribes within four years from the date of discovery. However, with the effectivity of the present Civil Code on August 30, 1950, the provisions on prescriptive period are now governed by Articles 1139 to 1155. Since implied or constructive trust are obligations created by law, then the prescriptive period to enforce the same prescribes in ten years.^[17]

Cognizant of the fact that the disputed land was conjugal property of the spouses Rafael Sr. and Felicidad, ownership of the same is to be equally divided between both of them.

Prescinding therefrom, can Rafael Marquez Sr., as trustee of his wife's share, validly donate this portion to the respondents? Obviously, he cannot, as expressly provided in Art. 736 of the Civil Code, thus:

"Art. 736. Guardian and trustees cannot donate the property entrusted to them."

Moreover, nobody can dispose of that which does not belong to him.^[18]

Be that as it may, the next question is whether he can validly donate the other half of the property which he owns? Again, the query need not detain us at length for the Civil Code itself recognizes that one of the inherent rights of an owner is the right to dispose of his property.^[19]

Whether this donation was inofficious or not is another matter, which is not within the province of this Court to determine inasmuch as it necessitates the production of evidence not before it.

Finally, while we rule in favor of petitioners, we cannot grant their plea for moral damages and attorney's fees^[20] since they have not satisfactorily shown that they have suffered "mental anguish" as provided in Article 2219 and Article 2290 of the Civil Code.

Similarly, the plea for attorney's fees must likewise be denied because no premium should be placed on the right to litigate.^[21]

WHEREFORE, in view of the foregoing, the decision of the Court of Appeals in CA-G.R. CV No. 41214 is REVERSED and SET ASIDE. Except as to the award of attorney's fees which is hereby DELETED, the judgment of the trial court in Civil Case No. 60887 is REINSTATED. No costs.

SO ORDERED.

Kapunan, Purisima, and Pardo, JJ., concur.

[1] Rollo, p. 37.

[2] *Ibid.*, p. 44.

[3] *Id.*, pp. 45-47.

[4] *Id.*, pp. 29-35.

[5] *Id.*, pp. 61-70.

[6] Per Judge Alfredo C. Flores, Rollo, pp. 91-102.

[7] Rollo, pp. 104-115.

[8] Ibid., p. 117.

[9] Rollo, Petition , pp. 17-18

[10] Annex "B," Rollo, pp. 38-39.

[11] Tolentino, Civil Code of the Philippines, Vol. IV, p. 680, citing Baysa, et al. v. Baysa, 53 Iff. Gaz., 7828, October 1957.

[12] Morales v. Court of Appeals, 274 SCRA 282 (1997).

[13] Sta. Ana v. Court of Appeals, 281 SCRA 624 (1997); Vda. de Cabrera v. Court of Appeals, 267 SCRA 339 (1997).

[14] 11 SCRA 153.

[15] 154 SCRA 396 (1987).

[16] Act No. 190.

[17] Article 1149, Civil Code.

[18] Esquezo v. Fortaleza, 13 SCRA 187 (1965).

[19] Art. 428, Civil Code.

[20] Petition, Rollo, p. 25.

[21] Philippine Airlines v. Miano, 242 SCRA 235 (1995)

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