

**NEMESIA T. VERA CRUZ, TOGETHER WITH CESAR VERA CRUZ,
PETITIONERS, VS. BASILIO V. DUMAT-OL, MARIA LUZ D. TORRES,
ILDELFONSO DUMAT-OL, TOGETHER WITH CARMEN TILDE.
PACIFICO DUMAT-...**

G.R. No. 126830. May 18, 1999

Ponente: PARDO, J.

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PARDO, J.:

The case is an appeal via certiorari from a decision[1] of the Court of Appeals[2] affirming that of the Regional Trial Court, Branch 41, Dumaguete City,[3] dismissing plaintiffs' complaint, and ordering plaintiffs to pay defendants P3,000.00, as attorneys fees, and P2,000.00, as actual and legal expenses.[4]

We affirm the appealed decision.

The facts may be related as follows:

On June 11, 1981, petitioners who were plaintiffs below, filed with the Court of First Instance of Negros Oriental, Branch 03, Dumaguete City, a complaint for reconveyance with damages, claiming that they were the lawful owners and actual possessors of a parcel of land, situated at Barrio Tubod, Bacong, Negros Oriental, more particularly designated as Lot 1672 of the cadastral survey of Bacong, and described as follows:

"A parcel of land (Lot No. 1672, Cad-212), including the improvements thereon, situated at Tubod, Bacong, Negros Oriental, Bounded on the SW., along lines 1-2 by Lot 1687, Cad. 212; along lines 2-4 by Lot 1686, Cad-212; along lines 4-7 by Lot 1685, Cad-212; along lines 7-8 by Lot 5969, Cad-212; along lines 8-11 by Lot 1673, Cad-212; alone lines 11-16 by Lot 1667, Cad-212; along lines 16-17, Lot 1670, Cad-212; and along lines 17-1 by Lot 1671, Cad 212. Containing an area of 25,301 square meters, more or less."

that sometime in the year 1977, plaintiffs discovered that lot 1672, through fraud and illegal scheme, had been titled in the name of defendants Basilio V. Dumat-ol and Severa S. Dumat-ol, under Original Certificate of Title No. FV-540, issued on February 23, 1957, and that after discovery of the fraud, plaintiffs demanded from defendants to re-convey the lands to them, but defendants refused to do so.[5]

On August 14, 1981, respondents, as defendants therein, filed with the trial court an answer to the complaint. They stated that lot 1672 is one of nine (9) parcels of land which were donated by Silvestra Villegas vda. de Tindoc, an aunt of defendant Basilio Villegas Dumat-ol to the latter; that the donation was subjected to revocation proceedings, in 1930, in Civil Case No. 695, and in 1955, in Civil Case No. 3188, and twice, the court upheld the validity of the donation; that it could not be said that the title of the land in question was procured by fraud, and that the defendants were the lawful and absolute owners of the nine (9) parcels of land including lot 1672, by virtue of that valid donation; that in 1976, defendants agreed that they would sell the land to plaintiff for the price of P1,000.00, payable in installments, but plaintiff was unable to pay even a single centavo, and that on January 20, 1981, plaintiff Cesar Veracruz and defendant Basilio Dumat-ol executed an agreement by virtue of which

plaintiff admitted defendants' ownership of the land in question and agreed to relinquish possession by April 20, 1981. As affirmative defense, defendants alleged that the action of the plaintiff had prescribed long ago under the torrens system, that the action was barred and defendants had acquired the land in good faith by a valid donation executed by Silvestra Villegas vda. de Tindoc on July 18, 1928, and that plaintiffs were guilty of bad faith, estoppel, prescription and laches for their inaction for more than fifty three (53) years.[6]

Plaintiffs amended the complaint twice, first, on February 10, 1982, and second, on May 10, 1985, due to changes in the names and status of defendants.

After due trial, on September 25, 1992, the trial court rendered decision in favor of the defendants, the decretal portion of which reads as follows:

"WHEREFORE, premises considered, this court finds the preponderance of evidence in favor of the defendants and so holds that the complaint of plaintiffs states no cause of action, in consequence, hereby renders judgment:

"1. Dismissing plaintiffs' complaint;

"2. Ordering the plaintiffs to pay the defendants the following:

"a) P3,000.00 as attorney's fees; and

"b) P2,000.00 as actual and legal expenses.

"SO ORDERED.

"Given this 25[th] day of September, 1992 in the City of Dumaguete, Philippines.

"(Sgd.) PURO M. VELEZ

"Judge"[7]

On October 2, 1992, plaintiffs appealed to the Court of Appeals.[8]

On August 21, 1995, the Court of Appeals rendered decision finding that on January 20, 1981, plaintiff Cesar Veracruz and defendant Basilio Dumat-ol executed a document stating that defendant Basilio Dumat-ol "is the real, true and legal owner of Lot No. 1672 of Bacong Cadastral Survey as evidenced by the Original Certificate of Title No. FV-540 under Free Patent No. 65814," and defendant agreed that plaintiff "shall continue to possess the above-mentioned parcel of land situated at Tubod Bacong, Negros Oriental and shall make use of the same until April 20, 1981", and ruling that plaintiff was bound by such agreement. Consequently, the Court of Appeals affirmed the appealed decision.[9]

On October 5, 1995, plaintiffs filed a motion for reconsideration, contending that the Court of Appeals erred in concluding that the agreement entered into by plaintiff Cesar Veracruz and defendant Basilio Dumat-ol is a conclusive proof of ownership of the defendant despite the fact that same has not been offered and admitted by the trial court.[10]

On September 23, 1996, the Court of Appeals resolved to deny the motion for reconsideration for lack of merit. The Court of Appeals ruled that since plaintiffs failed to contest the genuineness and due execution of the agreement, the same is deemed admitted.[11]

Hence, this appeal.

In this appeal, petitioners raised the following basic questions:

- 1) Can the Court take cognizance of the agreement dated January 20, 1986, attached to the answer of respondents though not offered as exhibit; and
- 2) If so, can it be taken against petitioner Nemesia Veracruz who is not a signatory thereto?[12]

The issues raised are a rehash of those submitted to the Court of Appeals. As correctly ruled by the Court of Appeals, the agreement was pleaded in defendants' answer, copy attached thereto, and its authenticity and due execution had not been denied under oath. Hence, the court may consider such document in evidence without necessity of formal offer.[13]

Nevertheless, *ex meru motu*, we rule that plaintiffs' action has prescribed or is otherwise barred by laches. Defendants raised the issue of prescription of action and bar by laches in their answer to the complaint.[14] Defendants obtained Torrens title on the land in question on February 23, 1957, under Original Certificate of Title No. FV 540. Such title became indefeasible one (1) year after its issuance.[15] Even assuming that the title was procured by fraud, plaintiffs' action for re-conveyance had prescribed because the case was filed twenty-four (24) years after the discovery of the fraud. An action for re-conveyance of real property resulting from fraud may be barred by the statute of limitations, which requires that the action must be commenced within four (4) years from the discovery of the fraud,[16] and in case of registered land, such discovery is deemed to have taken place from the date of the registration of the title.[17] The registration constitutes notice to all the world.[18] Clearly, the action has prescribed, or is otherwise barred by laches.[19]

WHEREFORE, we AFFIRM the appealed decision and resolution of the Court of Appeals in CA-G. R. CV No. 40292, as well as the decision of the Regional Trial Court, Seventh Judicial Region, Branch 41, Dumaguete City, in Civil Case No. 7753.

No costs.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Melo, and Kapunan, JJ., concur.
Ynares-Santiago, J., No part. Ponente in CA.

[1] Promulgated on August 21, 1996, Ynares-Santiago, J., ponente (now Associate Justice of the Supreme Court), Martinez, A. M., and Reyes, R. T., JJ., concurring.

[2] In CA-G. R. CV No. 40292.

[3] Judge Puro M. Velez, presiding.

[4] In Civil Case No. 7753, decision, dated September 25, 1992.

[5] CFI-RTC Original Record, pp. 2-9.

[6] Answer, CFI-RTC Original Record, pp. 13-35.

[7] Decision, CFI-RTC Original Record, pp. 254-264.

[8] Docketed as CA-G.R. CV No. 40292.

[9] Petition, Annex "A", Rollo, pp. 14-19.

[10] Petition, Annex "B", Rollo, pp. 20-22.

[11] Petition, Annex "C", Rollo, pp. 23-24.

[12] See Petitioner's Memorandum, Rollo, pp. 67-70, on p. 68.12

[13] Asia Banking Corporation vs. Walter E. Olsen & Co., 48 Phil. 529.

[14] See Answer, CFI-RTC Original Record, pp. 13-35.

[15] Tiburcio vs. PHHC, 106 Phil. 477.

[16] Guerrero vs. Court of Appeals, 211 Phil. 295; Balbin vs. Medalla, 108 SCRA 666; Alarcon vs. Bidin, 120 SCRA 390.

[17] Sec. 51, Act No. 496; Sec. 52, P. D. No. 1529.

[18] Guinoo vs. Court of Appeals, 97 Phil. 235; Balbin vs. Medalla, supra; Ramos vs. Court of Appeals, 112 SCRA 542; Guerrero vs. Court of Appeals, supra; Bernardino Ramos vs. Court of Appeals; G. R. No. 111027, February 3, 1999.

[19] de los Reyes vs. Court of Appeals, 285 SCRA 81; Tiburcio vs. PHHC, supra; Alarcon vs. Bidin, supra.

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