

FLORENTINO PINEDA, PETITIONER, VS. HEIRS OF ELISEO GUEVARA, REPRESENTED BY ERNESTO E. GUEVARA AND ISAGANI S. GUEVARA, NAMELY: ELISEO GUEVARA, JR., ZENaida G. SAPALICIO, DANTE G....

G.R. NO. 143188. February 14, 2007

Ponente: TINGA, J.

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TINGA, J.:

On appeal by way of certiorari under Rule 45 of the 1997 Rules of Civil Procedure are the Decision[1] and Resolution of the Court of Appeals in CA-G.R. CV No. 54074. The Decision reversed the order of dismissal of the Regional Trial Court (RTC), Branch 273, Marikina, and directed the court a quo to conduct trial on the merits, while the Resolution denied petitioner Pineda's motion for reconsideration.

As borne out by the records, the following are the factual antecedents.

On 7 September 1995, respondents Eliseo Guevara, Jr., Zenaida G. Sapalicio, Dante G. Guevara and Isagani S. Guevara, collectively referred hereinafter as the Guevara heirs, filed an action for the nullification of the certificates of title of a parcel of land measuring approximately 2,304 hectares situated in Marikina.

Named defendants were the estate of the late Pedro Gonzales, Virginia Perez, Crisanta Perez, Jose Perez, Roy Guadalupe, Lino Bucad and Florentino Pineda. The complaint, docketed as Civil Case No. 95-171-MK, was raffled to Branch 273 of the RTC of Marikina.

The Guevara heirs alleged in the complaint that they were the co-owners of a property originally covered by Original Certificate of Title (OCT) No. 386 issued on 7 December 1910 in favor of the spouses Emiliano Guevara and Matilde Crimen. The couple's son, and the Guevara heirs' predecessor-in-interest, Eliseo Guevara, allegedly purchased the property on 1 January 1932 and had exercised ownership over the property since then by selling and donating portions thereof to third persons. The Guevara heirs averred that the sale of the property to Eliseo Guevara was annotated at the back of OCT No. 386.

According to the Guevara heirs, the defendants illegally claimed ownership and possession over a certain portion of the property, particularly that area covered by Transfer Certificate of Title (TCT) No. 223361 issued to the estate of Pedro C. Gonzales. TCT No. 223361 was derived from OCT No. 629, which the Guevara heirs described as fake, having been issued only on 26 January 1912 or subsequent to the issuance of OCT No. 386. Hence, the Guevara heirs prayed that OCT No. 629 and its derivative titles, to wit, TCT Nos. 223361, 244447, 244448, 244449 be cancelled, that the Guevara heirs be declared owners of the property and that a new certificate of title be issued in their names.

Defendant Pineda filed an answer with counterclaim, raising the defenses of lack of cause of action, prescription, laches and estoppel. He averred that he was a buyer in good faith and had been in actual possession of the land since 1970 initially as a lessor and subsequently as an owner. He registered the property in his name and was issued TCT No. 257272.

Defendants Virginia, Crisanta, and Jose, all surnamed Perez, filed an answer with compulsory counterclaim and averred that their father, Marcos Perez, purchased the property from the late Pedro Gonzales and had it declared in Perez's name for taxation purposes. According to them, they had been in actual possession of a lot measuring 375 square meters before 1958 and had been regularly paying the property taxes thereon.

The rest of the defendants, including the estate of Pedro Gonzales, also filed an answer with counterclaim, raising the same defenses of laches and prescription and res judicata. They claimed that OCT No. 629 was issued to the Municipality of Marikina in 1912 and that the late Pedro Gonzales and his family started occupying the property as early as 1950 as lessees thereon. The late Pedro Gonzales allegedly bought the property from the Municipality of Marikina in a public bidding on 25 April 1966 and had allowed defendants to occupy the property. They asserted that the Guevara heirs never actually occupied the property.

On 4 December 1995, the RTC set the case for hearing as if a motion to dismiss had been filed. During the hearing, the parties presented oral arguments and were directed to file their memoranda.

After submission of memoranda, the RTC issued an Order dated 7 May 1996, dismissing the action on the ground of laches. The Guevara heirs appealed the order of dismissal, claiming the denial of their right to due process.

On 23 August 1999, the Court of Appeals promulgated the assailed Decision, which set aside the RTC's order of dismissal and directed the reinstatement of Civil Case No. 95-171-MK. The appellate court ruled that a complaint cannot be dismissed under Rule

16, Section 1[2] of the Rules of Court based on laches since laches is not one of the grounds enumerated under said provision. Although the RTC order of dismissal did not rule on the other affirmative defenses raised by petitioners in the answer, such as lack of cause of action, prescription and res judicata, the Court of Appeals discussed them and ruled that none of these affirmative defenses raised were present to warrant the dismissal of the action.

Only Pineda sought reconsideration. In its 3 May 2000 Resolution, the Court of Appeals denied Pineda's motion. Hence, the instant petition, attributing the following errors to the Court of Appeals:

THE COURT OF APPEALS ERRED IN TAKING COGNIZANCE OF THE APPEAL OF RESPONDENTS WHICH RAISED ONLY PURELY QUESTIONS OF LAW; AND, THEREFORE, IT ACTED WITHOUT JURISDICTION IN HEARING AND DECIDING THE SAID APPEALED CASE.

THE COURT OF APPEALS ERRED IN NOT CONSIDERING THE AFFIRMATIVE DEFENSE OF LACHES AS ANALOGOUS TO PRESCRIPTION.

THE COURT OF APPEALS ERRED IN HOLDING THAT THE TRIAL COURT'S DISMISSAL OF THE RESPONDENTS' COMPLAINT IS ERRONEOUS FOR THE REASON THAT THE AFFIRMATIVE DEFENSE OF LACHES IS NOT AMONG THE GROUNDS FOR A MOTION TO DISMISS UNDER THE RULES, WHICH MAY BE ALLEGED AS AFFIRMATIVE DEFENSE TO BE PROVED DURING THE TRIAL.

AS A COROLLARY TO THE THIRD ASSIGNED ERROR ABOVE, THE COURT OF APPEALS ERRED IN NOT TREATING THE ASSAILED ORDER OF DISMISSAL OF RESPONDENTS' COMPLAINT BY THE TRIAL COURT AS A SUMMARY JUDGMENT, TO AVOID PROTRACTED LITIGATION.

THE COURT OF APPEALS ERRED IN NOT HOLDING THAT WHILE PRESCRIPTION IN DEROGATION OF THE TITLE TO REGISTERED OWNERS WILL NOT LIE, LACHES WILL.[3]

Counsel for the estate of Pedro Gonzales filed a Comment/Manifestation,[4] stating that her clients have adopted and joined Pineda's petition praying for the reinstatement of the trial court's order of dismissal.

At bottom, the petition raises two main issues, to wit: (1) whether or not the appeal of the heirs of Guevara was improperly elevated to the Court of Appeals since, according to them, it raised a pure question of law; and (2) whether or not the trial court correctly dismissed the action on the ground of laches without conducting trial on the merits.

Petitioner Pineda had ample opportunity to raise before the Court of Appeals the objection on the improper mode of appeal taken by the heirs of Guevara. This, he failed to do. The issue of improper appeal was raised only in Pineda's motion for reconsideration of the Court of Appeals' Decision. Hence, this Court cannot now, for the first time on appeal, pass upon this issue. For an issue cannot be raised for the first time on appeal.[5] In any case, the appeal by the heirs of Guevara also raised the issue regarding the existence of laches on the part of petitioners as defendants, which is factual in nature as discussed below.

Now, did the trial court correctly order the dismissal of the complaint based on laches without conducting trial on the merits? The Court of Appeals disagreed, holding that under Rule 16, Section 1[6] of the Rules of Court, laches is not enumerated under said provision, hence, it must be proved during trial. On the other hand, petitioner Pineda asserts that laches is analogous to prescription and, therefore, can be a ground of dismissing a complaint as though a motion to dismiss is filed.

Well-settled is the rule that the elements of laches must be proved positively. Laches is evidentiary in nature which could not be established by mere allegations in the pleadings and can not be resolved in a motion to dismiss. At this stage therefore, the dismissal of the complaint on the ground of laches is premature.[7] Those issues must be resolved at the trial of the case on the merits wherein both parties will be given ample opportunity to prove their respective claims and defenses.[8]

The elements of laches are: (1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which the complaint seeks a remedy; (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice of the defendant's conduct as having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right in which he bases his suit; and (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held barred.[9]

Whether or not the elements of laches are present is a question involving a factual determination by the trial court. There is no absolute rule as to what constitutes laches or staleness of demand; each case is to be determined according to its particular circumstances.[10] Laches is not concerned with the mere lapse of time, rather, the party must have been afforded an opportunity to pursue his claim in order that the delay may sufficiently constitute laches.[11] Without prejudging the instant case, an apparent delay in the enforcement of one's claim does not automatically constitute laches. The party charged with negligence or omission in invoking his right must be afforded the opportunity to raise his defenses, which can be accommodated only in a contentious proceeding.

In reversing the RTC's order of dismissal, the Court of Appeals held that "laches could not be a ground to dismiss the complaint as it is not enumerated under Rule 16, Section 1." [12] This is not entirely correct. Under paragraph (h) thereof, where a claim or demand set forth in the plaintiff's pleading has been paid, waived, abandoned, or otherwise extinguished, the same may be raised in a motion to dismiss. The language of the rule, particularly on the relation of the words "abandoned" and "otherwise extinguished" to the phrase "claim or demand deemed set forth in the plaintiff's pleading" is broad enough to include within its ambit the defense of bar by laches. However, when a party moves for the dismissal of the complaint based on laches, the trial court must set a hearing on the motion where the parties shall submit not only their arguments on the questions of law

but also their evidence on the questions of fact involved.[13] Thus, being factual in nature, the elements of laches must be proved or disproved through the presentation of evidence by the parties. As discussed above, an apparent delay in the filing of a complaint as shown in a pleading does not automatically warrant the dismissal of the complaint on the ground of laches.

In the case at bar, while the trial court correctly set the case for hearing as though a motion to dismiss had been filed, the records do not reveal that it extended to the parties the opportunity to present evidence. For instance, counsel for the heirs of Guevara filed and served written interrogatories[14] on one of the defendants but the trial court held in abeyance the resolution of the motion to order the defendant to submit answers to the written interrogatories.[15] The trial court likewise denied the Ex Parte Motion To Set Trial filed by the heirs of Guevara.[16] These were the instances which would have enabled the trial court to receive evidence on which to anchor its factual findings. Although the trial court heard oral arguments and required the parties to submit their respective memoranda, the presentation of evidence on the defenses which are grounds for a motion to dismiss was not held at all. Otherwise, the oral arguments and memoranda submitted by the parties would have enabled this Court to review the trial court's factual finding of laches instead of remanding the case for trial on the merits. A perusal of the records precludes this Court from making a categorical declaration on whether the heirs of Guevara were guilty of laches.

Neither does the affirmative defense of prescription alleged in an answer automatically warrant the dismissal of the complaint under Rule 16. An allegation of prescription can effectively be used in a motion to dismiss only when the complaint on its face shows that indeed the action has already prescribed.[17] Otherwise, the issue of prescription is one involving evidentiary matters requiring a full-blown trial on the merits and cannot be determined in a mere motion to dismiss.[18] Pineda's theory that the defense of laches should be treated as an affirmative defense of prescription warranting the dismissal of the complaint is erroneous.

There is also no basis in procedural law to treat the RTC's order of dismissal as a summary judgment. The trial court cannot *motu proprio* decide that summary judgment on an action is in order. Under the applicable provisions of Rule 35, the defending party or the claimant, as the case may be, must invoke the rule on summary judgment by filing a motion.[19] The adverse party must be notified of the motion for summary judgment[20] and furnished with supporting affidavits, depositions or admissions before hearing is conducted.[21] More importantly, a summary judgment is permitted only if there is no genuine issue as to any material fact and a moving party is entitled to a judgment as a matter of law.[22]

Based on the parties' allegations in the complaint and answer, the issues in the case at bar are far from settled. For instance, both petitioner and respondents claim their ownership rights over the same property based on two different original certificates of title. Respondents charge petitioner of illegal occupation while the latter invokes good faith in the acquisition of the property. Clearly, these are factual matters which can be best ventilated in a full-blown proceeding before the trial court, especially when what are involved appear to be sizeable parcels of land covered by two certificates of title.

Except for Pineda, the other defendants did not elevate the Court of Appeals' Decision to this Court. With respect to them, the appellate court's Decision has already become final and conclusive, notwithstanding their adoption[23] of Pineda's petition.

WHEREFORE, the instant petition for review on certiorari is DENIED and the Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 54074 are AFFIRMED. Let the records of the case be remanded for further proceedings to the Regional Trial Court of Marikina City, which is hereby ORDERED to try and decide the case with deliberate speed.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio Morales and Velasco, Jr., JJ., concur.

[1] Penned by Justice Buenaventura J. Guerrero, Chairman, Eleventh Division, and concurred in by JJ. Portia Aliño-Hormachuelos and Remedios A. Salazar-Fernando.

[2] RULES OF COURT, Rule 16, Sec. 1. Grounds. – Within the time for but before the filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

- (a) That the court has no jurisdiction over person of the defending party;
- (b) That the court has no jurisdiction over the subject matter of the claim;
- (c) That venue is improperly laid;
- (d) That the plaintiff has no legal capacity to sue;
- (e) That there is another action pending between the same parties for the same cause;
- (f) That the cause of action is barred by a prior judgment or by the statute of limitations;
- (g) That the pleading asserting the claim states no cause of action;
- (h) That the claim or demand set forth in the plaintiff's pleading has been paid, waived, abandoned, or otherwise extinguished;
- (i) That the claim on which the action is founded is unenforceable under the provisions of the statute of frauds; and
- (j) That a condition precedent for filing the claim has not been complied with.

[3] Rollo, pp. 17-18.

[4]Id. at 46-48.

[5]Lim v. Queensland Tokyo Commodities, Inc., G.R. No. 136031, 4 January 2002, 373 SCRA 31, 41.

[6] Supra note 2.

[7] Felix Gochan and Sons Realty Corporation v. Heirs of Raymundo Baba, G.R. No. 138945, 19 August 2003, 409 SCRA 306, 315.

[8] National Irrigation Administration v. Court of Appeals, 376 Phil. 362, 376 (1999).

[9] Santos v. Santos, 418 Phil. 681, 692 (2001).

[10] Agra v. Philippine National Bank, 368 Phil. 829, 842 (1999).

[11]Juco v. Heirs of Tomas Siy Chung Fu, G.R. No. 150233, 16 February 2005, 451 SCRA 464, 472.

[12] Rollo, p. 39.

[13] RULES OF COURT, Rule 16, Sec. 2.

[14] Records, p. 122.

[15] Id. at 147.

[16] Id. at 161.

[17] National Irrigation Administration v. Court of Appeals, supra note 8 at 376.

[18] Balo v. Court of Appeals, G.R. No. 129704, 30 September 2005, 471 SCRA 227, 240.

[19] Rules of Court, Rule 35, Sec. 2. Summary judgment for defending party. – A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory relief is sought may, at any time, move with supporting affidavits, depositions or admissions for a summary judgment in his favor as to all or any part thereof.

[20] RULES OF COURT, Rule 35, Sec. 3.

[21] RULES OF COURT, Rule 35, Sec. 2.

[22] RULES OF COURT, Rule 35, Sec. 3.

[23]Rollo, p. 46.

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