

**SPOUSES GODOFREDO ALFREDO AND CARMEN LIMON ALFREDO,
SPOUSES ARNULFO SAVELLANO AND EDITHA B. SAVELLANO,
DANTON D. MATAWARAN, SPOUSES DELFIN F. ESPIRITU, JR. AND
ESTELA S. ESPIRIT...**

G.R. No. 144225. June 17, 2003

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before us is a petition for review assailing the Decision[1] of the Court of Appeals dated 26 November 1999 affirming the decision[2] of the Regional Trial Court of Bataan, Branch 4, in Civil Case No. DH-256-94. Petitioners also question the Resolution of the Court of Appeals dated 26 July 2000 denying petitioners' motion for reconsideration.

The Antecedent Facts

A parcel of land measuring 81,524 square meters ("Subject Land") in Barrio Culis, Mabiga, Hermosa, Bataan is the subject of controversy in this case. The registered owners of the Subject Land were petitioner spouses, Godofredo Alfredo ("Godofredo") and Carmen Limon Alfredo ("Carmen"). The Subject Land is covered by Original Certificate of Title No. 284 ("OCT No. 284") issued to Godofredo and Carmen under Homestead Patent No. V-69196.

On 7 March 1994, the private respondents, spouses Armando Borrás ("Armando") and Adelia Lobaton Borrás ("Adelia"), filed a complaint for specific performance against Godofredo and Carmen before the Regional Trial Court of Bataan, Branch 4. The case was docketed as Civil Case No. DH-256-94.

Armando and Adelia alleged in their complaint that Godofredo and Carmen mortgaged the Subject Land for P7,000.00 with the Development Bank of the Philippines ("DBP"). To pay the debt, Carmen and Godofredo sold the Subject Land to Armando and Adelia for P15,000.00, the buyers to pay the DBP loan and its accumulated interest, and the balance to be paid in cash to the sellers.

Armando and Adelia gave Godofredo and Carmen the money to pay the loan to DBP which signed the release of mortgage and returned the owner's duplicate copy of OCT No. 284 to Godofredo and Carmen. Armando and Adelia subsequently paid the balance of the purchase price of the Subject Land for which Carmen issued a receipt dated 11 March 1970. Godofredo and Carmen then delivered to Adelia the owner's duplicate copy of OCT No. 284, with the document of cancellation of mortgage, official receipts of realty tax payments, and tax declaration in the name of Godofredo. Godofredo and Carmen introduced Armando and Adelia, as the new owners of the Subject Land, to the Natanawans, the old tenants of the Subject Land. Armando and Adelia then took possession of the Subject Land.

In January 1994, Armando and Adelia learned that hired persons had entered the Subject Land and were cutting

trees under instructions of allegedly new owners of the Subject Land. Subsequently, Armando and Adelia discovered that Godofredo and Carmen had re-sold portions of the Subject Land to several persons.

On 8 February 1994, Armando and Adelia filed an adverse claim with the Register of Deeds of Bataan. Armando and Adelia discovered that Godofredo and Carmen had secured an owner's duplicate copy of OCT No. 284 after filing a petition in court for the issuance of a new copy. Godofredo and Carmen claimed in their petition that they lost their owner's duplicate copy. Armando and Adelia wrote Godofredo and Carmen complaining about their acts, but the latter did not reply. Thus, Armando and Adelia filed a complaint for specific performance.

On 28 March 1994, Armando and Adelia amended their complaint to include the following persons as additional defendants: the spouses Arnulfo Savellano and Editha B. Savellano, Danton D. Matawaran, the spouses Delfin F. Espiritu, Jr. and Estela S. Espiritu, and Elizabeth Tuazon ("Subsequent Buyers"). The Subsequent Buyers, who are also petitioners in this case, purchased from Godofredo and Carmen the subdivided portions of the Subject Land. The Register of Deeds of Bataan issued to the Subsequent Buyers transfer certificates of title to the lots they purchased.

In their answer, Godofredo and Carmen and the Subsequent Buyers (collectively "petitioners") argued that the action is unenforceable under the Statute of Frauds. Petitioners pointed out that there is no written instrument evidencing the alleged contract of sale over the Subject Land in favor of Armando and Adelia. Petitioners objected to whatever parole evidence Armando and Adelia introduced or offered on the alleged sale unless the same was in writing and subscribed by Godofredo. Petitioners asserted that the Subsequent Buyers were buyers in good faith and for value. As counterclaim, petitioners sought payment of attorney's fees and incidental expenses.

Trial then followed. Armando and Adelia presented the following witnesses: Adelia, Jesus Lobaton, Roberto Lopez, Apolinario Natanawan, Rolando Natanawan, Tomas Natanawan, and Mildred Lobaton. Petitioners presented two witnesses, Godofredo and Constanica Calonso.

On 7 June 1996, the trial court rendered its decision in favor of Armando and Adelia. The dispositive portion of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiffs, the spouses Adelia Lobaton Borrás and Armando F. Borrás, and against the defendant-spouses Godofredo Alfredo and Carmen Limon Alfredo, spouses Arnulfo Sabellano and Editha B. Sabellano, spouses Delfin F. Espiritu, Jr. and Estela S. Espiritu, Danton D. Matawaran and Elizabeth Tuazon, as follows:

1. Declaring the Deeds of Absolute Sale of the disputed parcel of land (covered by OCT No. 284) executed by the spouses Godofredo Alfredo and Camen Limon Alfredo in favor of spouses Arnulfo Sabellano and Editha B. Sabellano, spouses Delfin F. Espiritu, Danton D. Matawaran and Elizabeth Tuazon, as null and void;

2. Declaring the Transfer Certificates of Title Nos. T-163266 and T-163267 in the names of spouses Arnulfo Sabellano and Editha B. Sabellano; Transfer Certificates of Title Nos. T-163268 and 163272 in the names of spouses Delfin F. Espiritu, Jr. and Estela S. Espiritu; Transfer Certificates of Title Nos. T-163269 and T-163271 in the name of Danton D. Matawaran; and Transfer Certificate of Title No. T-163270 in the name of Elizabeth Tuazon, as null and void and that the Register of Deeds of Bataan is hereby ordered to cancel said titles;

3. Ordering the defendant-spouses Godofredo Alfredo and Carmen Limon Alfredo to execute and deliver a good and valid Deed of Absolute Sale of the disputed parcel of land (covered by OCT No. 284) in favor of the spouses Adelia Lobaton Borrás and Armando F. Borrás within a period of ten (10) days from the finality of this decision;

4. Ordering defendant-spouses Godofredo Alfredo and Carmen Limon Alfredo to surrender their owner's

duplicate copy of OCT No. 284 issued to them by virtue of the Order dated May 20, 1992 of the Regional Trial Court of Bataan, Dinalupihan Branch, to the Registry of Deeds of Bataan within ten (10) days from the finality of this decision, who, in turn, is directed to cancel the same as there exists in the possession of herein plaintiffs of the owner's duplicate copy of said OCT No. 284 and, to restore and/or reinstate OCT No. 284 of the Register of Deeds of Bataan to its full force and effect;

5. Ordering the defendant-spouses Godofredo Alfredo and Carmen Limon Alfredo to restitute and/or return the amount of the respective purchase prices and/or consideration of sale of the disputed parcels of land they sold to their co-defendants within ten (10) days from the finality of this decision with legal interest thereon from date of the sale;

6. Ordering the defendants, jointly and severally, to pay plaintiff-spouses the sum of P20,000.00 as and for attorney's fees and litigation expenses; and

7. Ordering defendants to pay the costs of suit.

Defendants' counterclaims are hereby dismissed for lack of merit.

SO ORDERED.[3]

Petitioners appealed to the Court of Appeals.

On 26 November 1999, the Court of Appeals issued its Decision affirming the decision of the trial court, thus:

WHEREFORE, premises considered, the appealed decision in Civil Case No. DH-256-94 is hereby AFFIRMED in its entirety. Treble costs against the defendants-appellants.

SO ORDERED.[4]

On 26 July 2000, the Court of Appeals denied petitioners' motion for reconsideration.

The Ruling of the Trial Court

The trial court ruled that there was a perfected contract of sale between the spouses Godofredo and Carmen and the spouses Armando and Adelia. The trial court found that all the elements of a contract of sale were present in this case. The object of the sale was specifically identified as the 81,524-square meter lot in Barrio Culis, Mabigas, Hermosa, Bataan, covered by OCT No. 284 issued by the Registry of Deeds of Bataan. The purchase price was fixed at P15,000.00, with the buyers assuming to pay the sellers' P7,000.00 DBP mortgage loan including its accumulated interest. The balance of the purchase price was to be paid in cash to the sellers. The last payment of P2,524.00 constituted the full settlement of the purchase price and this was paid on 11 March 1970 as evidenced by the receipt issued by Carmen.

The trial court found the following facts as proof of a perfected contract of sale: (1) Godofredo and Carmen delivered to Armando and Adelia the Subject Land; (2) Armando and Adelia treated as their own tenants the tenants of Godofredo and Carmen; (3) Godofredo and Carmen turned over to Armando and Adelia documents such as the owner's duplicate copy of the title of the Subject Land, tax declaration, and the receipts of realty tax payments in the name of Godofredo; and (4) the DBP cancelled the mortgage on the Subject Property upon payment of the loan of Godofredo and Carmen. Moreover, the receipt of payment issued by Carmen served as an acknowledgment, if not a ratification, of the verbal sale between the sellers and the buyers. The trial court ruled that the Statute of Frauds is not applicable because in this case the sale was perfected.

The trial court concluded that the Subsequent Buyers were not innocent purchasers. Not one of the Subsequent Buyers testified in court on how they purchased their respective lots. The Subsequent Buyers totally depended on the testimony of Constancia Calonso ("Calonso") to explain the subsequent sale. Calonso, a broker, negotiated

with Godofredo and Carmen the sale of the Subject Land which Godofredo and Carmen subdivided so they could sell anew portions to the Subsequent Buyers.

Calonso admitted that the Subject Land was adjacent to her own lot. The trial court pointed out that Calonso did not inquire on the nature of the tenancy of the Natanawans and on who owned the Subject Land. Instead, she bought out the tenants for P150,000.00. The buy out was embodied in a Kasunduan. Apolinario Natanawan ("Apolinario") testified that he and his wife accepted the money and signed the Kasunduan because Calonso and the Subsequent Buyers threatened them with forcible ejectment. Calonso brought Apolinario to the Agrarian Reform Office where he was asked to produce the documents showing that Adelia is the owner of the Subject Land. Since Apolinario could not produce the documents, the agrarian officer told him that he would lose the case. Thus, Apolinario was constrained to sign the Kasunduan and accept the P150,000.00.

Another indication of Calonso's bad faith was her own admission that she saw an adverse claim on the title of the Subject Land when she registered the deeds of sale in the names of the Subsequent Buyers. Calonso ignored the adverse claim and proceeded with the registration of the deeds of sale.

The trial court awarded P20,000.00 as attorney's fees to Armando and Adelia. In justifying the award of attorney's fees, the trial court invoked Article 2208 (2) of the Civil Code which allows a court to award attorney's fees, including litigation expenses, when it is just and equitable to award the same. The trial court ruled that Armando and Adelia are entitled to attorney's fees since they were compelled to file this case due to petitioners' refusal to heed their just and valid demand.

The Ruling of the Court of Appeals

The Court of Appeals found the factual findings of the trial court well supported by the evidence. Based on these findings, the Court of Appeals also concluded that there was a perfected contract of sale and the Subsequent Buyers were not innocent purchasers.

The Court of Appeals ruled that the handwritten receipt dated 11 March 1970 is sufficient proof that Godofredo and Carmen sold the Subject Land to Armando and Adelia upon payment of the balance of the purchase price. The Court of Appeals found the recitals in the receipt as "sufficient to serve as the memorandum or note as a writing under the Statute of Frauds."^[5] The Court of Appeals then reiterated the ruling of the trial court that the Statute of Frauds does not apply in this case.

The Court of Appeals gave credence to the testimony of a witness of Armando and Adelia, Mildred Lobaton, who explained why the title to the Subject Land was not in the name of Armando and Adelia. Lobaton testified that Godofredo was then busy preparing to leave for Davao. Godofredo promised that he would sign all the papers once they were ready. Since Armando and Adelia were close to the family of Carmen, they trusted Godofredo and Carmen to honor their commitment. Armando and Adelia had no reason to believe that their contract of sale was not perfected or validly executed considering that they had received the duplicate copy of OCT No. 284 and other relevant documents. Moreover, they had taken physical possession of the Subject Land.

The Court of Appeals held that the contract of sale is not void even if only Carmen signed the receipt dated 11 March 1970. Citing *Felipe v. Heirs of Maximo Aldon*,^[6] the appellate court ruled that a contract of sale made by the wife without the husband's consent is not void but merely voidable. The Court of Appeals further declared that the sale in this case binds the conjugal partnership even if only the wife signed the receipt because the proceeds of the sale were used for the benefit of the conjugal partnership. The appellate court based this conclusion on Article 161^[7] of the Civil Code.

The Subsequent Buyers of the Subject Land cannot claim that they are buyers in good faith because they had

constructive notice of the adverse claim of Armando and Adelia. Calonso, who brokered the subsequent sale, testified that when she registered the subsequent deeds of sale, the adverse claim of Armando and Adelia was already annotated on the title of the Subject Land. The Court of Appeals believed that the act of Calonso and the Subsequent Buyers in forcibly ejecting the Natanawans from the Subject Land buttresses the conclusion that the second sale was tainted with bad faith from the very beginning.

Finally, the Court of Appeals noted that the issue of prescription was not raised in the Answer. Nonetheless, the appellate court explained that since this action is actually based on fraud, the prescriptive period is four years, with the period starting to run only from the date of the discovery of the fraud. Armando and Adelia discovered the fraudulent sale of the Subject Land only in January 1994. Armando and Adelia lost no time in writing a letter to Godofredo and Carmen on 2 February 1994 and filed this case on 7 March 1994. Plainly, Armando and Adelia did not sleep on their rights or lose their rights by prescription.

The Court of Appeals sustained the award of attorney's fees and imposed treble costs on petitioners.

The Issues

Petitioners raise the following issues:

I

Whether the alleged sale of the Subject Land in favor of Armando and Adelia is valid and enforceable, where (1) it was orally entered into and not in writing; (2) Carmen did not obtain the consent and authority of her husband, Godofredo, who was the sole owner of the Subject Land in whose name the title thereto (OCT No. 284) was issued; and (3) it was entered into during the 25-year prohibitive period for alienating the Subject Land without the approval of the Secretary of Agriculture and Natural Resources.

II

Whether the action to enforce the alleged oral contract of sale brought after 24 years from its alleged perfection had been barred by prescription and by laches.

III

Whether the deeds of absolute sale and the transfer certificates of title over the portions of the Subject Land issued to the Subsequent Buyers, innocent purchasers in good faith and for value whose individual titles to their respective lots are absolute and indefeasible, are valid.

IV

Whether petitioners are liable to pay Armando and Adelia P20,0000.00 as attorney's fees and litigation expenses and the treble costs, where the claim of Armando and Adelia is clearly unfounded and baseless.

V

Whether petitioners are entitled to the counterclaim for attorney's fees and litigation expenses, where they have sustained such expenses by reason of institution of a clearly malicious and unfounded action by Armando and Adelia.[8]

The Court's Ruling

The petition is without merit.

In a petition for review on certiorari under Rule 45, this Court reviews only errors of law and not errors of facts.[9] The factual findings of the appellate court are generally binding on this Court.[10] This applies with greater force when both the trial court and the Court of Appeals are in complete agreement on their factual findings.[11] In this case, there is no reason to deviate from the findings of the lower courts. The facts relied upon by the trial and appellate courts are borne out by the record. We agree with the conclusions drawn by the lower courts from these facts.

Validity and Enforceability of the Sale

The contract of sale between the spouses Godofredo and Carmen and the spouses Armando and Adelia was a perfected contract. A contract is perfected once there is consent of the contracting parties on the object certain and on the cause of the obligation.[12] In the instant case, the object of the sale is the Subject Land, and the price certain is P15,000.00. The trial and appellate courts found that there was a meeting of the minds on the sale of the Subject Land and on the purchase price of P15,000.00. This is a finding of fact that is binding on this Court. We find no reason to disturb this finding since it is supported by substantial evidence.

The contract of sale of the Subject Land has also been consummated because the sellers and buyers have performed their respective obligations under the contract. In a contract of sale, the seller obligates himself to transfer the ownership of the determinate thing sold, and to deliver the same, to the buyer who obligates himself to pay a price certain to the seller.[13] In the instant case, Godofredo and Carmen delivered the Subject Land to Armando and Adelia, placing the latter in actual physical possession of the Subject Land. This physical delivery of the Subject Land also constituted a transfer of ownership of the Subject Land to Armando and Adelia.[14] Ownership of the thing sold is transferred to the vendee upon its actual or constructive delivery.[15] Godofredo and Carmen also turned over to Armando and Adelia the documents of ownership to the Subject Land, namely the owner's duplicate copy of OCT No. 284, the tax declaration and the receipts of realty tax payments.

On the other hand, Armando and Adelia paid the full purchase price as evidenced by the receipt dated 11 March 1970 issued by Carmen. Armando and Adelia fulfilled their obligation to provide the P7,000.00 to pay the DBP loan. Godofredo and Carmen do not deny the existence of the DBP loan of Godofredo and Carmen, and to pay the latter the balance of P8,000.00 in cash. The P2,524.00 paid under the receipt dated 11 March 1970 was the last installment to settle fully the purchase price. Indeed, upon payment to DBP of the P7,000.00 and the accumulated interests, the DBP cancelled the mortgage on the Subject Land and returned the owner's duplicate copy of OCT No. 284 to Godofredo and Carmen.

The trial and appellate courts correctly refused to apply the Statute of Frauds to this case. The Statute of Frauds[16] provides that a contract for the sale of real property shall be unenforceable unless the contract or some note or memorandum of the sale is in writing and subscribed by the party charged or his agent. The existence of the receipt dated 11 March 1970, which is a memorandum of the sale, removes the transaction from the provisions of the Statute of Frauds.

The Statute of Frauds applies only to executory contracts and not to contracts either partially or totally performed.[17] Thus, where one party has performed one's obligation, oral evidence will be admitted to prove the agreement.[18] In the instant case, the parties have consummated the sale of the Subject Land, with both sellers and buyers performing their respective obligations under the contract of sale. In addition, a contract that violates the Statute of Frauds is ratified by the acceptance of benefits under the contract.[19] Godofredo and Carmen benefited from the contract because they paid their DBP loan and secured the cancellation of their mortgage using the money given by Armando and Adelia. Godofredo and Carmen also accepted payment of the balance of the purchase price.

Godofredo and Carmen cannot invoke the Statute of Frauds to deny the existence of the verbal contract of sale because they have performed their obligations, and have accepted benefits, under the verbal contract. [20] Armando and Adelia have also performed their obligations under the verbal contract. Clearly, both the sellers and the buyers have consummated the verbal contract of sale of the Subject Land. The Statute of Frauds was enacted to prevent fraud.[21] This law cannot be used to advance the very evil the law seeks to prevent.

Godofredo and Carmen also claim that the sale of the Subject Land to Armando and Adelia is void on two

grounds. First, Carmen sold the Subject Land without the marital consent of Godofredo. Second, the sale was made during the 25-year period that the law prohibits the alienation of land grants without the approval of the Secretary of Agriculture and Natural Resources.

These arguments are without basis.

The Family Code, which took effect on 3 August 1988, provides that any alienation or encumbrance made by the husband of the conjugal partnership property without the consent of the wife is void. However, when the sale is made before the effectivity of the Family Code, the applicable law is the Civil Code.[22]

Article 173 of the Civil Code provides that the disposition of conjugal property without the wife's consent is not void but merely voidable. Article 173 reads:

The wife may, during the marriage, and within ten years from the transaction questioned, ask the courts for the annulment of any contract of the husband entered into without her consent, when such consent is required, or any act or contract of the husband which tends to defraud her or impair her interest in the conjugal partnership property. Should the wife fail to exercise this right, she or her heirs, after the dissolution of the marriage, may demand the value of property fraudulently alienated by the husband.

In *Felipe v. Aldon*,^[23] we applied Article 173 in a case where the wife sold some parcels of land belonging to the conjugal partnership without the consent of the husband. We ruled that the contract of sale was voidable subject to annulment by the husband. Following petitioners' argument that Carmen sold the land to Armando and Adelia without the consent of Carmen's husband, the sale would only be voidable and not void.

However, Godofredo can no longer question the sale. Voidable contracts are susceptible of ratification.^[24] Godofredo ratified the sale when he introduced Armando and Adelia to his tenants as the new owners of the Subject Land. The trial court noted that Godofredo failed to deny categorically on the witness stand the claim of the complainants' witnesses that Godofredo introduced Armando and Adelia as the new landlords of the tenants.^[25] That Godofredo and Carmen allowed Armando and Adelia to enjoy possession of the Subject Land for 24 years is formidable proof of Godofredo's acquiescence to the sale. If the sale was truly unauthorized, then Godofredo should have filed an action to annul the sale. He did not. The prescriptive period to annul the sale has long lapsed. Godofredo's conduct belies his claim that his wife sold the Subject Land without his consent.

Moreover, Godofredo and Carmen used most of the proceeds of the sale to pay their debt with the DBP. We agree with the Court of Appeals that the sale redounded to the benefit of the conjugal partnership. Article 161 of the Civil Code provides that the conjugal partnership shall be liable for debts and obligations contracted by the wife for the benefit of the conjugal partnership. Hence, even if Carmen sold the land without the consent of her husband, the sale still binds the conjugal partnership.

Petitioners contend that Godofredo and Carmen did not deliver the title of the Subject Land to Armando and Adelia as shown by this portion of Adelia's testimony on cross-examination:

Q — No title was delivered to you by Godofredo Alfredo?

A — I got the title from Julie Limon because my sister told me.^[26]

Petitioners raise this factual issue for the first time. The Court of Appeals could have passed upon this issue had petitioners raised this earlier. At any rate, the cited testimony of Adelia does not convincingly prove that Godofredo and Carmen did not deliver the Subject Land to Armando and Adelia. Adelia's cited testimony must be examined in context not only with her entire testimony but also with the other circumstances.

Adelia stated during cross-examination that she obtained the title of the Subject Land from Julie Limon ("Julie"), her classmate in college and the sister of Carmen. Earlier, Adelia's own sister had secured the title from the father of Carmen. However, Adelia's sister, who was about to leave for the United States, gave the title to Julie because of the absence of the other documents. Adelia's sister told Adelia to secure the title from Julie, and this was how Adelia obtained the title from Julie.

It is not necessary that the seller himself deliver the title of the property to the buyer because the thing sold is understood as delivered when it is placed in the control and possession of the vendee.[27] To repeat, Godofredo and Carmen themselves introduced the Natanawans, their tenants, to Armando and Adelia as the new owners of the Subject Land. From then on, Armando and Adelia acted as the landlords of the Natanawans. Obviously, Godofredo and Carmen themselves placed control and possession of the Subject Land in the hands of Armando and Adelia.

Petitioners invoke the absence of approval of the sale by the Secretary of Agriculture and Natural Resources to nullify the sale. Petitioners never raised this issue before the trial court or the Court of Appeals. Litigants cannot raise an issue for the first time on appeal, as this would contravene the basic rules of fair play, justice and due process.[28] However, we will address this new issue to finally put an end to this case.

The sale of the Subject Land cannot be annulled on the ground that the Secretary did not approve the sale, which was made within 25 years from the issuance of the homestead title. Section 118 of the Public Land Act (Commonwealth Act No. 141) reads as follows:

SEC. 118. Except in favor of the Government or any of its branches, units, or institutions or legally constituted banking corporation, lands acquired under free patent or homestead provisions shall not be subject to encumbrance or alienation from the date of the approval of the application and for a term of five years from and after the date of the issuance of the patent or grant.

xxx

No alienation, transfer, or conveyance of any homestead after 5 years and before twenty-five years after the issuance of title shall be valid without the approval of the Secretary of Agriculture and Commerce, which approval shall not be denied except on constitutional and legal grounds.

A grantee or homesteader is prohibited from alienating to a private individual a land grant within five years from the time that the patent or grant is issued.[29] A violation of this prohibition renders a sale void.[30] This prohibition, however, expires on the fifth year. From then on until the next 20 years[31] the land grant may be alienated provided the Secretary of Agriculture and Natural Resources approves the alienation. The Secretary is required to approve the alienation unless there are "constitutional and legal grounds" to deny the approval. In this case, there are no apparent constitutional or legal grounds for the Secretary to disapprove the sale of the Subject Land.

The failure to secure the approval of the Secretary does not ipso facto make a sale void.[32] The absence of approval by the Secretary does not nullify a sale made after the expiration of the 5-year period, for in such event the requirement of Section 118 of the Public Land Act becomes merely directory[33] or a formality.[34] The approval may be secured later, producing the effect of ratifying and adopting the transaction as if the sale had been previously authorized.[35] As held in *Evangelista v. Montano*: [36]

Section 118 of Commonwealth Act No. 141, as amended, specifically enjoins that the approval by the Department Secretary "shall not be denied except on constitutional and legal grounds." There being no allegation that there were constitutional or legal impediments to the sales, and no pretense that if the sales had been submitted to the Secretary concerned they would have been disapproved, approval was a ministerial duty,

to be had as a matter of course and demandable if refused. For this reason, and if necessary, approval may now be applied for and its effect will be to ratify and adopt the transactions as if they had been previously authorized. (Emphasis supplied)

Action Not Barred by Prescription and Laches

Petitioners insist that prescription and laches have set in. We disagree.

The Amended Complaint filed by Armando and Adelia with the trial court is captioned as one for Specific Performance. In reality, the ultimate relief sought by Armando and Adelia is the reconveyance to them of the Subject Land. An action for reconveyance is one that seeks to transfer property, wrongfully registered by another, to its rightful and legal owner.[37] The body of the pleading or complaint determines the nature of an action, not its title or heading.[38] Thus, the present action should be treated as one for reconveyance.[39]

Article 1456 of the Civil Code provides that a person acquiring property through fraud becomes by operation of law a trustee of an implied trust for the benefit of the real owner of the property. The presence of fraud in this case created an implied trust in favor of Armando and Adelia. This gives Armando and Adelia the right to seek reconveyance of the property from the Subsequent Buyers.[40]

To determine when the prescriptive period commenced in an action for reconveyance, plaintiff's possession of the disputed property is material. An action for reconveyance based on an implied trust prescribes in ten years.[41] The ten-year prescriptive period applies only if there is an actual need to reconvey the property as when the plaintiff is not in possession of the property.[42] However, if the plaintiff, as the real owner of the property also remains in possession of the property, the prescriptive period to recover title and possession of the property does not run against him.[43] In such a case, an action for reconveyance, if nonetheless filed, would be in the nature of a suit for quieting of title, an action that is imprescriptible.[44]

In this case, the appellate court resolved the issue of prescription by ruling that the action should prescribe four years from discovery of the fraud. We must correct this erroneous application of the four-year prescriptive period. In *Caro v. Court of Appeals*,^[45] we explained why an action for reconveyance based on an implied trust should prescribe in ten years. In that case, the appellate court also erroneously applied the four-year prescriptive period. We declared in *Caro*:

We disagree. The case of *Liwalug Amerol, et al. v. Molok Bagumbaran*, G.R. No. L-33261, September 30, 1987, 154 SCRA 396 illuminated what used to be a gray area on the prescriptive period for an action to reconvey the title to real property and, corollarily, its point of reference:

xxx It must be remembered that before August 30, 1950, the date of the effectivity of the new Civil Code, the old Code of Civil Procedure (Act No. 190) governed prescription. It provided:

SEC. 43. Other civil actions; how limited.- Civil actions other than for the recovery of real property can only be brought within the following periods after the right of action accrues:

xxx xxx xxx

3. Within four years: xxx An action for relief on the ground of fraud, but the right of action in such case shall not be deemed to have accrued until the discovery of the fraud;

xxx xxx xxx

In contrast, under the present Civil Code, we find that just as an implied or constructive trust is an offspring of the law (Art. 1456, Civil Code), so is the corresponding obligation to reconvey the property and the title thereto in favor of the true owner. In this context, and vis-a-vis prescription, Article 1144 of the Civil Code is applicable.

Article 1144. The following actions must be brought within ten years from the time the right of action accrues:

- (1) Upon a written contract;
- (2) Upon an obligation created by law;
- (3) Upon a judgment.

x x x x x x x x

(Emphasis supplied).

An action for reconveyance based on an implied or constructive trust must perforce prescribe in ten years and not otherwise. A long line of decisions of this Court, and of very recent vintage at that, illustrates this rule. Undoubtedly, it is now well-settled that an action for reconveyance based on an implied or constructive trust prescribes in ten years from the issuance of the Torrens title over the property. The only discordant note, it seems, is *Balbin vs. Medalla* which states that the prescriptive period for a reconveyance action is four years. However, this variance can be explained by the erroneous reliance on *Gerona vs. de Guzman*. But in *Gerona*, the fraud was discovered on June 25, 1948, hence Section 43(3) of Act No. 190, was applied, the new Civil Code not coming into effect until August 30, 1950 as mentioned earlier. It must be stressed, at this juncture, that article 1144 and article 1456, are new provisions. They have no counterparts in the old Civil Code or in the old Code of Civil Procedure, the latter being then resorted to as legal basis of the four-year prescriptive period for an action for reconveyance of title of real property acquired under false pretenses.

An action for reconveyance has its basis in Section 53, paragraph 3 of Presidential Decree No. 1529, which provides:

In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder of the decree of registration on the original petition or application, xxx

This provision should be read in conjunction with Article 1456 of the Civil Code, which provides:

Article 1456. If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes.

The law thereby creates the obligation of the trustee to reconvey the property and the title thereto in favor of the true owner. Correlating Section 53, paragraph 3 of Presidential Decree No. 1529 and Article 1456 of the Civil Code with Article 1144(2) of the Civil Code, *supra*, the prescriptive period for the reconveyance of fraudulently registered real property is ten (10) years reckoned from the date of the issuance of the certificate of title xxx (Emphasis supplied)[46]

Following *Caro*, we have consistently held that an action for reconveyance based on an implied trust prescribes in ten years.[47] We went further by specifying the reference point of the ten-year prescriptive period as the date of the registration of the deed or the issuance of the title.[48]

Had Armando and Adelia remained in possession of the Subject Land, their action for reconveyance, in effect an action to quiet title to property, would not be subject to prescription. Prescription does not run against the plaintiff in actual possession of the disputed land because such plaintiff has a right to wait until his possession is disturbed or his title is questioned before initiating an action to vindicate his right.[49] His undisturbed possession gives him the continuing right to seek the aid of a court of equity to determine the nature of the adverse claim of a third party and its effect on his title.[50]

Armando and Adelia lost possession of the Subject Land when the Subsequent Buyers forcibly drove away from the Subject Land the Natanawans, the tenants of Armando and Adelia.[51] This created an actual need for

Armando and Adelia to seek reconveyance of the Subject Land. The statute of limitation becomes relevant in this case. The ten-year prescriptive period started to run from the date the Subsequent Buyers registered their deeds of sale with the Register of Deeds.

The Subsequent Buyers bought the subdivided portions of the Subject Land on 22 February 1994, the date of execution of their deeds of sale. The Register of Deeds issued the transfer certificates of title to the Subsequent Buyers on 24 February 1994. Armando and Adelia filed the Complaint on 7 March 1994. Clearly, prescription could not have set in since the case was filed at the early stage of the ten-year prescriptive period.

Neither is the action barred by laches. We have defined laches as the failure or neglect, for an unreasonable time, to do that which, by the exercise of due diligence, could or should have been done earlier.[52] It is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.[53] Armando and Adelia discovered in January 1994 the subsequent sale of the Subject Land and they filed this case on 7 March 1994. Plainly, Armando and Adelia did not sleep on their rights.

Validity of Subsequent Sale of Portions of the Subject Land

Petitioners maintain that the subsequent sale must be upheld because the Subsequent Buyers, the co-petitioners of Godofredo and Carmen, purchased and registered the Subject Land in good faith. Petitioners argue that the testimony of Calonso, the person who brokered the second sale, should not prejudice the Subsequent Buyers. There is no evidence that Calonso was the agent of the Subsequent Buyers and that she communicated to them what she knew about the adverse claim and the prior sale. Petitioners assert that the adverse claim registered by Armando and Adelia has no legal basis to render defective the transfer of title to the Subsequent Buyers.

We are not persuaded. Godofredo and Carmen had already sold the Subject Land to Armando and Adelia. The settled rule is when ownership or title passes to the buyer, the seller ceases to have any title to transfer to any third person.[54] If the seller sells the same land to another, the second buyer who has actual or constructive knowledge of the prior sale cannot be a registrant in good faith.[55] Such second buyer cannot defeat the first buyer's title.[56] In case a title is issued to the second buyer, the first buyer may seek reconveyance of the property subject of the sale.[57]

Thus, to merit protection under the second paragraph of Article 1544[58] of the Civil Code, the second buyer must act in good faith in registering the deed.[59] In this case, the Subsequent Buyers' good faith hinges on whether they had knowledge of the previous sale. Petitioners do not dispute that Armando and Adelia registered their adverse claim with the Registry of Deeds of Bataan on 8 February 1994. The Subsequent Buyers purchased their respective lots only on 22 February 1994 as shown by the date of their deeds of sale. Consequently, the adverse claim registered prior to the second sale charged the Subsequent Buyers with constructive notice of the defect in the title of the sellers,[60] Godofredo and Carmen.

It is immaterial whether Calonso, the broker of the second sale, communicated to the Subsequent Buyers the existence of the adverse claim. The registration of the adverse claim on 8 February 1994 constituted, by operation of law, notice to the whole world.[61] From that date onwards, the Subsequent Buyers were deemed to have constructive notice of the adverse claim of Armando and Adelia. When the Subsequent Buyers purchased portions of the Subject Land on 22 February 1994, they already had constructive notice of the adverse claim registered earlier.[62] Thus, the Subsequent Buyers were not buyers in good faith when they purchased their lots on 22 February 1994. They were also not registrants in good faith when they registered their deeds of sale with the Registry of Deeds on 24 February 1994.

The Subsequent Buyers' individual titles to their respective lots are not absolutely infeasible. The defense of

indefeasibility of the Torrens Title does not extend to a transferee who takes the certificate of title with notice of a flaw in his title.[63] The principle of indefeasibility of title does not apply where fraud attended the issuance of the titles as in this case.[64]

Attorney's Fees and Costs

We sustain the award of attorney's fees. The decision of the court must state the grounds for the award of attorney's fees. The trial court complied with this requirement.[65] We agree with the trial court that if it were not for petitioners' unjustified refusal to heed the just and valid demands of Armando and Adelia, the latter would not have been compelled to file this action.

The Court of Appeals echoed the trial court's condemnation of petitioners' fraudulent maneuverings in securing the second sale of the Subject Land to the Subsequent Buyers. We will also not turn a blind eye on petitioners' brazen tactics. Thus, we uphold the treble costs imposed by the Court of Appeals on petitioners.

WHEREFORE, the petition is DENIED and the appealed decision is AFFIRMED. Treble costs against petitioners.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Ynares-Santiago, and Azcuna, JJ., concur.

[1] Penned by Associate Justice Martin S. Villarama, Jr. with Associate Justices Angelina Sandoval-Gutierrez and Romeo A. Brawner, concurring, Sixth Division.

[2] Penned by Judge Pedro B. Villafuerte.

[3] Rollo, pp. 48-49.

[4] Ibid. p. 50.

[5] Rollo, p. 55.

[6] 205 Phil. 537 (1982).

[7] Article 161 of the Civil Code provides as follows: "The conjugal partnership shall be liable for:

(1) All debts and obligations contracted by the husband for the benefit of the conjugal partnership, and those contracted by the wife, also for the same purpose, in the cases where she may legally bind the partnership.

x x x."

[8] Rollo, pp. 106-107.

[9] W-Red Construction and Development Corporation v. Court of Appeals, G.R. No. 122648, 17 August 2000, 338 SCRA 341.

[10] Ibid.

[11] Ibid.

[12] Article 1318, Civil Code.

[13] Article 1458, Civil Code.

[14] *Pexajalosa v. Santos*, G.R. No. 133749, 23 August 2001, 363 SCRA 545.

[15] Article 1477, Civil Code.

[16] Article 1403, Civil Code.

[17] Article 1497 of the Civil Code. See also *The Associated Anglo-American Tobacco Corporation v. Court of Appeals*, G.R. No. 125602, 29 April 1999, 325 SCRA 694.

[18] *Ibid.*

[19] Article 1405, Civil Code.

[20] *Mactan Cebu International Airport Authority v. Court of Appeals*, 331 Phil. 1046 (1996).

[21] *Ibid.*

[22] *Spouses Guiang v. Court of Appeals*, 353 Phil. 578 (1998).

[23] *Supra*, see note 6.

[24] Article 1390 of the Civil Code.

[25] *Rollo*, p. 47.

[26] *Ibid.*, p. 18.

[27] Article 1497 of the Civil Code. See also *The Associated Anglo-American Tobacco Corporation v. Court of Appeals*, G.R. No. 125602, 29 April 1999, 325 SCRA 694.

[28] *Sumbad v. Court of Appeals*, 368 Phil. 52 (1999).

[29] *Jacinto v. Jacinto*, 105 Phil. 1218 (1959).

[30] *Ibid.*

[31] *Ibid.*

[32] *Ibid.*

[33] *Ibid.*; *Evangelista v. Montano*, 93 Phil. 275 (1953); *Flores v. Plasina*, 94 Phil. 327 (1954).

[34] *De los Santos v. Roman Catholic Church of Midsayap*, 94 Phil. 405 (1954).

[35] *Ibid.*

[36] 93 Phil. 275 (1953).

[37] *Ibid.*

[38] *David v. Malay*, G.R. No. 132644, 19 November 1999, 318 SCRA 711.

[39] *Ibid.*

[40] *Ibid.* See also *Heirs of Olviga v. Court of Appeals*, G.R. No. 104813, 21 October 1993, 227 SCRA 330.

[41] *Vda. de Cabrera v. Court of Appeals*, 335 Phil. 19 (1997).

[42] *Ibid.*

[43] *Supra*, see note 38.

[44] Ibid.

[45] G.R. No. 76148, 20 December 1989, 180 SCRA 401.

[46] Ibid.

[47] Development Bank of the Philippines, G.R. No. 129471, 28 April 2000, 331 SCRA 267; David v. Malay, supra, see note 38; Vda. de Cabrera v. Court of Appeals, supra, see note 41.

[48] Supra, see note 38.

[49] Supra, see note 38.

[50] Supra, see note 38.

[51] Rollo, p. 59; TSN, 8 March 1995, pp. 336-337 (Rolando Natanawan); TSN, 23 November 1994, p. 262 (Adelia Lobaton).

[52] Coronel v. Court of Appeals, 331 Phil. 294 (1996).

[53] Ibid.

[54] Ibid.

[55] Ibid.

[56] Ibid.

[57] Ibid.

[58] Article 1544 of the Civil Code provides as follows: "If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property.

Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith."

[59] Bayoca v. Nogales, G.R. No. 138201, 12 September 2000, 340 SCRA 154.

[60] See Balatbat v. Court of Appeals, 329 Phil. 858 (1996); Ocampo v. Court of Appeals, G.R. No. 97442, 30 June 1994, 233 SCRA 551.

[61] Section 52 of the Property Registration Decree (PD No. 1529) provides as follows: "Constructive notice upon registration. — Every x x x lien, x x x instrument or entry affecting registered land shall, if registered, filed or entered in the office of the Register of Deeds for the province or city where the land to which it relates lies, be constructive notice to all persons from the time of such registering, filing or entering." See also Caviles v. Bautista, G.R. No. 102648, 24 November 1999, 319 SCRA 24; DBP v. Acting Register of Deeds of Nueva Ecija, UDK No. 7671, 23 June 1988, 162 SCRA 450.

[62] Gardner v. Court of Appeals, G.R. No. L-59952, 31 August 1984, 131 SCRA 584; PNB v. Court of Appeals, G.R. No. L-30831 & L-31176, 21 November 1979, 94 SCRA 357.

[63] Supra, see note 41.

[64] Supra, see note 41.

[65] Cipriano v. Court of Appeals, 331 Phil. 1019 (1996).

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