

HEIRS OF DOMINGO HERNANDEZ, SR., NAMELY: SERGIA V. HERNANDEZ (SURVIVING SPOUSE), DOMINGO V. HERNANDEZ, JR., AND MARIA LEONORA WILMA HERNANDEZ, PETITIONERS, vs. PLARIDEL MINGOA, ...

G.R. No. 146548. December 18, 2009

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This is a petition for review on certiorari of the Decision[2] dated September 7, 2000 and Resolution[3] dated December 29, 2000, both of the Court of Appeals (CA), in CA-G.R. CV No. 54896. The CA Decision reversed and set aside the decision of the Regional Trial Court (RTC) of Quezon City (Branch 92), which ruled in favor of herein petitioners in the action for reconveyance filed by the latter in said court against the respondents. The CA Resolution denied the petitioners' motion for reconsideration.

The subject matter of the action is a parcel of land with an area of 520.50 square meters situated in Diliman, Quezon City, described as Lot 15, Block 89 of the subdivision plan Psd-68807, covered by Transfer Certificate of Title (TCT) No. 107534[4] issued on May 23, 1966 and registered in the name of Domingo B. Hernandez, Sr. married to Sergia V. Hernandez. Later on, said TCT No. 107534 was cancelled and in lieu thereof, TCT No. 290121[5] was issued in favor of Melanie Mingoa.

These are the factual antecedents of this case:

On February 11, 1994, a complaint[6] was filed with the RTC of Quezon City by herein petitioners, heirs of Domingo Hernandez, Sr., namely, spouse Sergia Hernandez and their surviving children Domingo, Jr. and Maria Leonora Wilma, against the respondents herein, Dolores Camisura, Melanie Mingoa, Atty. Plaridel Mingoa, Sr. and all persons claiming rights under the latter, and the Quezon City Register of Deeds. The case was docketed as Civil Case No. 094-19276.

In their complaint, the petitioners asked for (a) the annulment and/or declaration of nullity of TCT No. 290121 including all its derivative titles, the Irrevocable Special Power of Attorney (SPA) dated February 14, 1963 in favor of Dolores Camisura,[7] the SPA dated May 9, 1964 in favor of Plaridel Mingoa, Sr.,[8] and the Deed of Absolute Sale of Real Estate[9] dated July 9, 1978 executed by Plaridel Mingoa, Sr. in favor of Melanie Mingoa for being products of forgery and falsification; and (b) the reconveyance and/or issuance to them (petitioners) by the Quezon City Register of Deeds of the certificate of title covering the subject property.

Respondents filed a Motion to Dismiss[10] the complaint interposing the following grounds: the claim or demand has been paid, waived, abandoned or otherwise extinguished; lack of cause of action; lack of jurisdiction over the person of the defendants or over the subject or nature of the suit; and prescription. The following were attached to said motion: a Deed of Transfer of Rights[11] dated February 14, 1963 from Domingo Hernandez, Sr. to Camisura, the Irrevocable SPA[12] executed by the former in the latter's favor, and a Deed of Sale of Right in a Residential Land and Improvements Therein[13] dated May 9, 1964 executed by Camisura in favor of Plaridel Mingoa, Sr.

In its Order[14] dated September 1, 1994, the trial court denied respondents' motion to dismiss.

Respondents filed a petition for certiorari and prohibition with the CA assailing the aforementioned Order of denial by the RTC. Their initial petition was dismissed for being insufficient in form. Respondents then re-filed their petition, which was docketed as CA-G.R. SP No. 36868. In a decision[15] dated May 26, 1995, respondents' re-filed petition was denied due course by the CA. Having been filed beyond the reglementary period, respondents' subsequent motion for reconsideration was simply noted by the CA in its Resolution of July 7, 1995. On the basis of a technicality, this Court, in a Resolution dated September 27, 1995, dismissed respondents' appeal which was docketed as G.R. No. 121020. Per Entry of Judgment,[16] said Resolution became final and executory on January 2, 1996.

Meanwhile, respondents filed their Answer[17] in the main case therein denying the allegations of the complaint and averring as defenses the same grounds upon which they anchored their earlier motion to dismiss.

The parties having failed to amicably settle during the scheduled pre-trial conference, the case proceeded to trial.

The evidence respectively presented by the parties is summarized as follows:[18]

x x x [It] appears that in the early part of 1958, Domingo Hernandez, Sr. (who was then a Central Bank employee) and his spouse Sergia V. Hernandez were awarded a piece of real property by the Philippine Homesite and Housing Corporation (PHHC) by way of salary deduction. On October 18, 1963, the [petitioners] then having paid in full the entire amount of P6,888.96, a Deed of Absolute Sale of the property was executed by the PHHC in their favor. TCT No. 107534, covering the property was issued to the [petitioners] on May 23, 1966. It bears an annotation of the retention period of the property by the awardee (i.e., restriction of any unauthorized sale to third persons within a certain period). Tax payments due on the property were religiously paid (until 1955) by the [petitioners] as evidenced by receipts under the [petitioners'] name.

Hernandez, Sr. died intestate in April 1983 and it was only after his burial that his heirs found out that TCT No. 107534 was already cancelled a year before (in 1982), and in lieu thereof, TCT No. 290121 was issued to the [respondents]. Upon diligent inquiry, [petitioners] came to know that the cancellation of TCT (No. 107534) in favor of the [respondents'] xxx TCT (No. 290121) was based upon three sets of documents, namely, (1) Irrevocable Power of Attorney; (2) Irrevocable Special Power of Attorney; and (3) Deed of Absolute Sale.

[Petitioners] also allege that because of financial difficulties, they were only able to file a complaint on February 11, 1995 after consulting with several lawyers.

x x x x

[Respondents] xxx on the other hand do not deny that Hernandez, Sr. was indeed awarded a piece of real property by the PHHC. According to the [respondents] xxx, Hernandez, Sr. was awarded by the PHHC the Right to Purchase the property in question; however, the late Hernandez, Sr. failed to pay all the installments due on the said property. Thus, afraid that he would forfeit his right to purchase the property awarded to him, Hernandez, Sr. sold to Dolores Camisura his rights for the sum of P6,500.00 on February 14, 1963, through a deed of transfer of rights, seemingly a printed form from the PHHC. Simultaneous to this, Hernandez, Sr. and his spouse executed an irrevocable special power of attorney, appointing Dolores Camisura as their attorney-in-fact with express power to sign, execute and acknowledge any contract of disposition, alienation and conveyance of her right over the aforesaid parcel of land.

Apparently, this special power of attorney was executed for the purpose of securing her right to transfer the property to a third person considering that there was a prohibition to dispose of the property by the original purchaser within one (1) year from full payment. Else wise stated, the irrevocable power of attorney was necessary in order to enable the buyer, Dolores Camisura, to sell the lot to another, Plaridel Mingoa, without the need of requiring Hernandez, to sign a deed of conveyance.

On May 9, 1964, Dolores Camisura sold her right over the said property to Plaridel Mingoa for P7,000.00. Camisura then executed a similar irrevocable power of attorney and a deed of sale of right in a residential land and improvements therein in favor of Plaridel Mingoa. Upon such payment and on the strength of the said irrevocable power of attorney, Plaridel Mingoa took possession of the said property and began paying all the installments due on the property to PHHC. Plaridel Mingoa further secured TCT No. 107534 (issued in the name of Domingo Hernandez, Sr.) on May, 1966. On July 9, 1978, Plaridel Mingoa sold to his eldest child, Melanie Mingoa, the property in question for P18,000.00. TCT No. 107534 was thus cancelled and TCT No. 290121 was issued in the name of Melanie Mingoa. It is further claimed that since 1966 until 1982, Plaridel Mingoa religiously paid all the taxes due on the said property; and that from 1983 up to the present, Melanie Mingoa paid all the property taxes due thereon aside from having actual possession of the said property. (words in brackets ours)

On May 9, 1996, the RTC rendered a decision[19] in favor of the petitioners, with the following dispositive portion:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs as follows:

- 1) TCT No. 290121 and all its derivative titles are hereby declared null and void;
- 2) Ordering the Register of Deeds of Quezon City to cancel TCT No. 290121 issued in the name of defendant Melanie Mingoa and corresponding owner's duplicate certificate and all its derivative title[s];
- 3) Ordering defendant Melanie Mingoa and all derivative owners to surrender owner's duplicate copies of transfer certificate of title to the Register of Deeds of Quezon City for cancellation upon finality of this decision;
- 4) Ordering the defendants except the Register of Deeds of Quezon City to turn over to the plaintiffs the peaceful possession of the subject property; and
- 5) Ordering the defendants except the Register of Deeds of Quezon City to jointly and severally (sic) pay the plaintiffs the sum of P10,000.00 as attorney's [fees] and to pay the costs of suit.

SO ORDERED.

In ruling in favor of petitioners, the trial court reasoned as follows:[20]

The two (2) parties in the case at bar gave out conflicting versions as to who paid for the subject property. The plaintiffs claim that they were the ones who paid the entire amount out of the conjugal funds while it is the contention of the defendant Mingoa that the former were not able to pay. The defendant alleged that the right to purchase was sold to him and he was able to pay the whole amount. The Court is of the opinion that petitioners' version is more credible taken together with the presence of the irrevocable power of attorney which both parties admitted. In light of the version of the defendants, it is highly improbable that a Power of Attorney would be constituted by the plaintiffs authorizing the former to sell the subject property. This is because for all intents and purposes, the land is already the defendants' for if we are to follow their claim, they paid for the full amount of the same. It can be safely concluded then that the Power of Attorney was unnecessary because the defendants, as buyers, can compel the plaintiff-sellers to execute the transfer of the said property after the period of prohibition has lapsed. The defendants, as owners, will have the right to do whatever they want with the land even without an Irrevocable Power of Attorney. Since the presence of the Irrevocable Power of Attorney is established, it is now the task of this Court to determine the validity of the sale made by virtue of the said Power of Attorney. As what was said earlier, the Court subscribes to the points raised by the plaintiffs. It was proved during trial that the signature of the wife was falsified. Therefore, it is as if the wife never authorized the agent to sell her share of the subject land, it being conjugal property. It follows that the sale of half of the land is invalid. However, it must be pointed out that the signature of the deceased husband was never contested and is therefore deemed admitted. We now come to the half which belongs to the

deceased husband. The Law on Sales expressly prohibits the agent from purchasing the property of the principal without the latter's consent (Article 1491 of the Civil Code). It was established from the records that defendant Plaridel Mingoa sold the subject land to his daughter Melanie. It is now for the Court to decide whether this transaction is valid. x x x Considering that the sale took place in July 1978, it follows from simple mathematical computation that Melanie was then a minor (20 years of age) when she allegedly bought the property from her father. Since Melanie's father is the sub-agent of the deceased principal, he is prohibited by law from purchasing the land without the latter's consent. This being the case, the sale is invalid for it appears that Plaridel Mingoa sold the land to himself. It should be noted that the defendants could have easily presented Melanie's birth certificate, it being at their disposal, but they chose not to. Because of this, this Court is of the belief that the presumption that evidence willfully suppressed would be adverse if produced arises.

The trial court denied respondents' motion for reconsideration of the aforementioned decision in its Order[21] of August 22, 1996.

Aggrieved, the respondents appealed to the CA, where their case was docketed as CA-G.R. CV No. 54896. Holding that the petitioners were barred by prescription and laches to take any action against the respondents, the CA, in its herein assailed Decision[22] dated September 7, 2000, reversed and set aside the appealed decision, thereby dismissing the complaint filed by the petitioners before the trial court. In full, the disposition reads:

WHEREFORE, in view of the foregoing, the Decision of the RTC Branch 92, Quezon City, in Civil Case No. Q-94-19276, entitled, "Heirs of Domingo Hernandez, Sr. vs. Dolores Camisura, et. al.," is hereby REVERSED AND SET ASIDE. A new one is hereby entered, DISMISSING the complaint in Civil Case No. Q-94-19276 entitled, "Heirs of Domingo Hernandez, Sr. vs. Dolores Camisura, et. al.," filed by the plaintiffs-appellees before the RTC Branch 92, Quezon City for lack of merit.

SO ORDERED.

Petitioners' subsequent motion for reconsideration was denied by the CA in its impugned Resolution[23] dated December 29, 2000.

Hence, petitioners are now before this Court via the present recourse. The ten (10) assigned errors set forth in the petition all boil down to the essential issue of whether the title of the subject property in the name of respondent Melanie Mingoa may still be reconveyed to the petitioners. As we see it, the resolution thereof hinges on these two pivotal questions: (1) whether there was a valid alienation involving the subject property; and (2) whether the action impugning the validity of such alienation has prescribed and/or was barred by laches.

The Court shall deal first with the procedural issues raised by the respondents in their Comment.[24]

We held in *Vera-Cruz v. Calderon*[25] that:

As a general rule, only questions of law may be raised in a petition for review on certiorari to the Supreme Court. Although it has long been settled that findings of fact are conclusive upon this Court, there are exceptional circumstances which would require us to review findings of fact of the Court of Appeals, to wit:

(1) the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the findings of fact are conflicting; (6) the Court of Appeals went beyond the issues of the case and its findings are contrary to the admissions of both appellant and appellees; (7) the findings of fact of the Court of Appeals are contrary to those of the trial court; (8) said findings of fact are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the decision as well as in the petitioner's main and reply briefs are not disputed by the respondents; (10) the finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by evidence on record. (emphasis ours)

The petition before us raises factual issues which are not proper in a petition for review under Rule 45 of the Rules of Court. However, we find that one of the exceptional circumstances qualifying a factual review by the Court exists, that is, the factual findings of the CA are at variance with those of the trial court. We shall then give due course to the instant petition and review the factual findings of the CA.

Even if only petitioner Domingo Hernandez, Jr. executed the Verification/Certification[26] against forum-shopping, this will not deter us from proceeding with the judicial determination of the issues in this petition. As we ratiocinated in *Heirs of Olarte v. Office of the President*:[27]

The general rule is that the certificate of non-forum shopping must be signed by all the plaintiffs in a case and the signature of only one of them is insufficient. However, the Court has also stressed that the rules on forum shopping were designed to promote and facilitate the orderly administration of justice and thus should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objective. The rule of substantial compliance may be availed of with respect to the contents of the certification. This is because the requirement of strict compliance with the provisions regarding the certification of non-forum shopping merely underscores its mandatory nature in that the certification cannot be altogether dispensed with or its requirements completely disregarded. Thus, under justifiable circumstances, the Court has relaxed the rule requiring the submission of such certification considering that although it is obligatory, it is not jurisdictional.

In *HLC Construction and Development Corporation v. Emily Homes Subdivision Homeowners Association*, it was held that the signature of only one of the petitioners in the certification against forum shopping substantially complied with rules because all the petitioners share a common interest and invoke a common cause of action or defense.

The same leniency was applied by the Court in *Cavile v. Heirs of Cavile*, because the lone petitioner who executed the certification of non-forum shopping was a relative and co-owner of the other petitioners with whom he shares a common interest. x x x

x x x

In the instant case, petitioners share a common interest and defense inasmuch as they collectively claim a right not to be dispossessed of the subject lot by virtue of their and their deceased parents' construction of a family home and occupation thereof for more than 10 years. The commonality of their stance to defend their alleged right over the controverted lot thus gave petitioners xxx authority to inform the Court of Appeals in behalf of the other petitioners that they have not commenced any action or claim involving the same issues in another court or tribunal, and that there is no other pending action or claim in another court or tribunal involving the same issues. x x x

Here, all the petitioners are immediate relatives who share a common interest in the land sought to be reconveyed and a common cause of action raising the same arguments in support thereof. There was sufficient basis, therefore, for Domingo Hernandez, Jr. to speak for and in behalf of his co-petitioners when he certified that they had not filed any action or claim in another court or tribunal involving the same issues. Thus, the Verification/Certification that Hernandez, Jr. executed constitutes substantial compliance under the Rules.

Anent the contention that the petition erroneously impleaded the CA as respondent in contravention of Section 4(a)[28] of Rule 45 of the 1997 Rules of Civil Procedure, we shall apply our ruling in *Simon v. Canlas*,[29] wherein we held that:

x x x [The] Court agrees that the correct procedure, as mandated by Section 4, Rule 45 of the 1997 Rules of Civil Procedure, is not to implead the lower court which rendered the assailed decision. However, impleading the lower court as respondent in the petition for review on certiorari does not automatically mean the dismissal of the appeal but merely authorizes the dismissal of the petition. Besides, formal defects in petitions are not

uncommon. The Court has encountered previous petitions for review on certiorari that erroneously impleaded the CA. In those cases, the Court merely called the petitioners' attention to the defects and proceeded to resolve the case on their merits.

The Court finds no reason why it should not afford the same liberal treatment in this case. While unquestionably, the Court has the discretion to dismiss the appeal for being defective, sound policy dictates that it is far better to dispose of cases on the merits, rather than on technicality as the latter approach may result in injustice. This is in accordance with Section 6, Rule 1 of the 1997 Rules of Civil Procedure which encourages a reading of the procedural requirements in a manner that will help secure and not defeat justice.

We now come to the substantive issues.

As correctly found by the appellate court, the following facts are undisputed:[30]

- Domingo Hernandez, Sr. was awarded a piece of real property in 1958 by the PHHC as part of the government's housing program at the time. Title over the said property was issued in 1966 in the name of Hernandez, Sr., after full payment for the property was received by the PHHC.
- Neither [petitioners] nor Hernandez, Sr., took possession of the said property. On the other hand, the [respondents] took possession of the said property in 1966 and are in actual and physical possession thereof up to the present, and have made considerable improvements thereon, including a residential house where they presently reside.
- The Owner's Duplicate Copy of the title over the property given by the PHHC to Hernandez, Sr. was in the possession of Plaridel Mingo, the latter being able to facilitate the cancellation of the said title and [the issuance of] a new TCT xxx in the name of Melanie Mingo.
- The realty taxes have been paid by [respondents], albeit in the name of Hernandez, Sr., but all official receipts of tax payments are kept by the [respondents].
- From 1966 (the time when the [respondents] were able to possess the property) to 1983 (the time when the [petitioners] had knowledge that the TCT in the name of Hernandez, Sr. had already been cancelled by the Registry of Deeds of Quezon City) covers almost a span of 17 years; and from 1983 to 1995 (the time when the Heirs filed the original action) is a period of another 12 years.

The SPA[31] in favor of Dolores Camisura pertinently states that the latter is the lawful attorney-in-fact of Domingo B. Hernandez, Sr., married to Sergia Hernandez, to do and perform, among others, the following acts and deeds:

1. To sign, execute and acknowledge all such contracts, deeds or other instruments which may be required by the People's Homesite and Housing Corporation with respect to the purchase of that certain parcel of land known and designated as Lot No. 15 Block E-89 of the Malaya Avenue Subdivision, situated in Quezon City and containing an area of 520 square meters, more or less, which I have acquired thru the CENTRAL BANK STAFF HOUSING CORPORATION;
2. To sign, execute and acknowledge all such contracts or other instruments which may deem necessary or be required to sign, execute and acknowledge for the purpose of selling, transferring, conveying, disposing of or alienating whatever rights I may have over that parcel of land mentioned above;

x x x.

The Deed of Transfer of Rights,[32] also executed by Hernandez, Sr. in Camisura's favor, expressly states that the former, in consideration of the amount of P6,500.00, transfers his rights over the subject property to the latter. Notably, such deed was simultaneously executed with the SPA on February 14, 1963.

From the foregoing, the Court cannot but conclude that the SPA executed by Hernandez, Sr. in respondent Camisura's favor was, in reality, an alienation involving the subject property. We particularly note that Hernandez, Sr., aside from executing said SPA, likewise sold his rights and interests over the property awarded by the PHHC to Camisura. The CA committed no error when it ruled:[33]

x x x Appreciating the case in its entirety, the purported SPA appear to be merely a grant of authority to Camisura (and then to Plaridel Mingoa) to sell and dispose of the subject property as well as a grant of right to purchase the said property; but in essence, such SPA are disguised deeds of sale of the property executed in circumventing the retention period restriction over the said property. Verily, the parties knew that the land in question could not be alienated in favor of any third person within one (1) year without the approval of the PHHC.

Having ruled that the SPA in favor of Camisura was a contract of sale, the next question is whether or not such sale was valid.

To constitute a valid contract, the Civil Code requires the concurrence of the following elements: (1) cause, (2) object, and (3) consent.

The consent of Domingo Hernandez, Sr. to the contract is undisputed, thus, the sale of his ½ share in the conjugal property was valid. With regard to the consent of his wife, Sergia Hernandez, to the sale involving their conjugal property, the trial court found that it was lacking because said wife's signature on the SPA was falsified. Notably, even the CA observed that the forgery was so blatant as to be remarkably noticeable to the naked eye of an ordinary person. Having compared the questioned signature on the SPA[34] with those of the documents[35] bearing the sample standard signature of Sergia Hernandez, we affirm both lower courts' findings regarding the forgery.

However, Sergia's lack of consent to the sale did not render the transfer of her share invalid.

Petitioners contend that such lack of consent on the part of Sergia Hernandez rendered the SPAs and the deed of sale fictitious, hence null and void in accordance with Article 1409[36] of the Civil Code. Petitioners likewise contend that an action for the declaration of the non-existence of a contract under Article 1410[37] does not prescribe.

We find, after meticulous review of the facts, that Articles 1409 and 1410 are not applicable to the matter now before us.

It bears stressing that the subject matter herein involves conjugal property. Said property was awarded to Domingo Hernandez, Sr. in 1958. The assailed SPAs were executed in 1963 and 1964. Title in the name of Domingo Hernandez, Sr. covering the subject property was issued on May 23, 1966. The sale of the property to Melanie Mingoa and the issuance of a new title in her name happened in 1978. Since all these events occurred before the Family Code took effect in 1988, the provisions of the New Civil Code govern these transactions. We quote the applicable provisions, to wit:

Art. 165. The husband is the administrator of the conjugal partnership.

Art. 166. Unless the wife has been declared a non compos mentis or a spendthrift, or is under civil interdiction or is confined in a leprosarium, the husband cannot alienate or encumber any real property of the conjugal partnership without the wife's consent. If she refuses unreasonably to give her consent, the court may compel her to grant the same. x x x.

Art. 173. 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. (Emphasis ours.)

Notwithstanding the foregoing, petitioners argue that the disposition of conjugal property made by a husband without the wife's consent is null and void and the right to file an action thereon is imprescriptible, in accordance with *Garcia v. CA*[38] and *Bucoy v. Paulino*.[39].

Concededly, in the aforementioned cases of *Garcia* and *Bucoy*, the contracts involving the sale of conjugal property by the husband without the wife's consent were declared null and void by this Court. But even in *Bucoy*, we significantly ruled, in reference to Article 173, that:

The plain meaning attached to the plain language of the law is that the contract, in its entirety, executed by the husband without the wife's consent, may be annulled by the wife.[40] (emphasis ours)

In succeeding cases, we held that alienation and/or encumbrance of conjugal property by the husband without the wife's consent is not null and void but merely voidable.

In *Sps. Alfredo v. Sps. Borrás*,[41] we held that:

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.

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

We likewise made the same holding in *Pelayo v. Perez* :[42]

xxx [Under] Article 173, in relation to Article 166, both of the New Civil Code, which was still in effect on January 11, 1988 when the deed in question was executed, the lack of marital consent to the disposition of conjugal property does not make the contract void ab initio but merely voidable.

In *Vera-Cruz v. Calderon*,[43] the Court noted the state of jurisprudence and elucidated on the matter, thus:

In the recent case of *Heirs of Ignacia Aguilar-Reyes v. Spouses Mijares*, we reiterated the rule that the husband cannot alienate or encumber any conjugal real property without the consent, express or implied, of the wife, otherwise, the contract is voidable. To wit:

Indeed, in several cases the Court has ruled that such alienation or encumbrance by the husband is void. The better view, however, is to consider the transaction as merely voidable and not void. This is consistent with Article 173 of the Civil Code pursuant to which the wife could, during the marriage and within 10 years from the questioned transaction, seek its annulment.

x x x

Likewise, in the case of *Heirs of Christina Ayuste v. Court of Appeals*, we declared that:

There is no ambiguity in the wording of the law. A sale of real property of the conjugal partnership made by the husband without the consent of his wife is voidable. The action for annulment must be brought during the marriage and within ten years from the questioned transaction by the wife. Where the law speaks in clear and categorical language, there is no room for interpretation - there is room only for application.

x x x (Emphasis ours.)

Here, the husband's first act of disposition of the subject property occurred in 1963 when he executed the SPA and

the Deed of Transfer of Rights in favor of Dolores Camisura. Thus, the right of action of the petitioners accrued in 1963, as Article 173 of the Civil Code provides that the wife may file for annulment of a contract entered into by the husband without her consent within ten (10) years from the transaction questioned. Petitioners filed the action for reconveyance in 1995. Even if we were to consider that their right of action arose when they learned of the cancellation of TCT No. 107534 and the issuance of TCT No. 290121 in Melanie Mingoa's name in 1993, still, twelve (12) years have lapsed since such discovery, and they filed the petition beyond the period allowed by law. Moreover, when Sergia Hernandez, together with her children, filed the action for reconveyance, the conjugal partnership of property with Hernandez, Sr. had already been terminated by virtue of the latter's death on April 16, 1983. Clearly, therefore, petitioners' action has prescribed.

And this is as it should be, for in the same Vera-Cruz case, we further held that:[44]

xxx [Under] Article 173 of the New Civil Code, an action for the annulment of any contract entered into by the husband without the wife's consent must be filed (1) during the marriage; and (2) within ten years from the transaction questioned. Where any one of these two conditions is lacking, the action will be considered as having been filed out of time.

In the case at bar, while respondent filed her complaint for annulment of the deed of sale on July 8, 1994, i.e., within the ten-year period counted from the execution of the deed of sale of the property on June 3, 1986, the marriage between her and Avelino had already been dissolved by the death of the latter on November 20, 1993. In other words, her marriage to Avelino was no longer subsisting at the time she filed her complaint. Therefore, the civil case had already been barred by prescription. (Emphasis ours.)

Thus, the failure of Sergia Hernandez to file with the courts an action for annulment of the contract during the marriage and within ten (10) years from the transaction necessarily barred her from questioning the sale of the subject property to third persons.

As we held in *Vda. De Ramones v. Agbayani*:[45]

In *Villaranda v. Villaranda, et al.*, this Court, through Mr. Justice Artemio V. Panganiban, ruled that without the wife's consent, the husband's alienation or encumbrance of conjugal property prior to the effectivity of the Family Code is not void, but merely voidable. However, the wife's failure to file with the courts an action for annulment of the contract during the marriage and within ten (10) years from the transaction shall render the sale valid. x x x (emphasis ours)

More than having merely prescribed, petitioners' action has likewise become stale, as it is barred by laches.

In *Isabela Colleges v. Heirs of Nieves-Tolentino*:[46] this Court held:

Laches means the failure or neglect for an unreasonable and unexplained length of time to do that which, by observance of due diligence, could or should have been done earlier. It is negligence or omission to assert a right within a reasonable time, warranting the presumption that the party entitled to assert his right either has abandoned or declined to assert it. Laches thus operates as a bar in equity.

x x x

The time-honored rule anchored on public policy is that relief will be denied to a litigant whose claim or demand has become "stale," or who has acquiesced for an unreasonable length of time, or who has not been vigilant or who has slept on his rights either by negligence, folly or inattention. In other words, public policy requires, for peace of society, the discouragement of claims grown stale for non-assertion; thus laches is an impediment to the assertion or enforcement of a right which has become, under the circumstances, inequitable or unfair to permit.

Pertinently, in *De la Calzada-Cierras v. CA*,^[47] we ruled that a complaint to recover the title and possession of the lot filed 12 years after the registration of the sale is considered neglect for an unreasonably long time to assert a right to the property.

Here, petitioners' unreasonably long period of inaction in asserting their purported rights over the subject property weighs heavily against them. We quote with approval the findings of the CA that:^[48]

It was earlier shown that there existed a period of 17 years during which time Hernandez, Sr. xxx never even questioned the defendants-appellants possession of the property; also there was another interval of 12 years after discovering that the TCT of the property in the name of Hernandez, Sr. before the Heirs of Hernandez instituted an action for the reconveyance of the title of the property.

x x x

The fact that the Mingoa's were able to take actual possession of the subject property for such a long period without any form of cognizable protest from Hernandez, Sr. and the plaintiffs-appellees strongly calls for the application of the doctrine of laches. It is common practice in the real estate industry, an ocular inspection of the premises involved is a safeguard to the cautious and prudent purchaser usually takes, and should he find out that the land he intends to buy is occupied by anybody else other than the seller who is not in actual possession, it could then be incumbent upon the purchaser to verify the extent of the occupant's possessory rights. The plaintiffs-appellees asseverate that the award was made in favor of Hernandez, Sr. in 1958; full payment made in 1963; and title issued in 1966. It would thus be contrary to ordinary human conduct (and prudence dictates otherwise) for any awardee of real property not to visit and inspect even once, the property awarded to him and find out if there are any transgressors in his property.

Furthermore, Hernandez, Sr.'s inaction during his lifetime lends more credence to the defendants-appellants assertion that the said property was indeed sold by Hernandez, Sr. by way of the SPAs, albeit without the consent of his wife. xxx

In addition, the reasons of poverty and poor health submitted by the plaintiffs-appellees could not justify the 12 years of delay in filing a complaint against the defendants-appellants. The records are bereft of any evidence to support the idea that the plaintiffs-appellees diligently asserted their rights over the said property after having knowledge of the cancellation of the TCT issued in Hernandez name. Moreover the Court seriously doubts the plausibility of this contention since what the plaintiffs-appellees are trying to impress on this Court's mind is that they did not know anything at all except only shortly before the death of Hernandez. To accept that not even the wife knew of the transactions made by Hernandez, Sr. nor anything about the actual possession of the defendants-appellants for such a long period is to Us absurd if not fantastic.

In sum, the rights and interests of the spouses Hernandez over the subject property were validly transferred to respondent Dolores Camisura. Since the sale of the conjugal property by Hernandez, Sr. was without the consent of his wife, Sergia, the same is voidable; thus, binding unless annulled. Considering that Sergia failed to exercise her right to ask for the annulment of the sale within the prescribed period, she is now barred from questioning the validity thereof. And more so, she is precluded from assailing the validity of the subsequent transfers from Camisura to Plaridel Mingoa and from the latter to Melanie Mingoa. Therefore, title to the subject property cannot anymore be reconveyed to the petitioners by reason of prescription and laches. The issues of prescription and laches having been resolved, it is no longer necessary to discuss the other issues raised in this petition.

WHEREFORE, the instant petition is DENIED and the assailed Decision dated September 7, 2000 and Resolution dated December 29, 2000 of the Court of Appeals are hereby AFFIRMED.

Costs against the petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio Morales, Bersamin, and Villarama, Jr., JJ., concur.

[1] The present petition impleaded the Court of Appeals as respondent. Under Rule 45, Section 4 of the 1997 Rules of Civil Procedure, the petition may be filed without impleading the lower courts or judges thereof as petitioners or respondents. Hence, the CA was deleted as party herein.

[2] Penned by (ret.) Associate Justice Bernardo P. Abesamis and concurred in by Associate Justices Eugenio S. Labitoria and Alicia L. Santos (both ret.); rollo, pp. 58-78.

[3] Id. at 84.

[4] Records, pp. 10-11.

[5] Id. at 13.

[6] Id. at 1-9.

[7] Id. at 430.

[8] Id. at 432.

[9] Id. at 435.

[10] Id. at 22-28.

[11] Id. at 29.

[12] Supra note 7; also Records, p. 31.

[13] Id. at 30.

[14] Id. at 54-57.

[15] Id. at 378-383.

[16] Id. at 545.

[17] Id. at 58-61.

[18] Rollo, pp. 61-63.

[19] Id. at 96-103.

[20] Id. at 100-102.

[21] Records, p. 594.

[22] Supra note 2.

[23] Supra note 3.

[24] Rollo, pp. 216-222.

[25] G.R. No. 160748, July 14, 2004, 434 SCRA 534, 539.

[26] Rollo, p. 54.

[27] G.R. No. 165821, June 21, 2005, 460 SCRA 561, 566-567.

[28] SEC. 4. Contents of petition. - The petition shall xxx (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; xxx (emphasis ours.).

[29] G.R. No. 148273, April 19, 2006, 487 SCRA 433, 444-445.

[30] Rollo, pp. 65-66.

[31] Supra note 7.

[32] Supra note 11.

[33] Rollo, p. 69.

[34] Supra note 7.

[35] Records, pp. 406-407.

[36] ARTICLE 1409. The following contracts are inexistent and void from the beginning:

x x x

(2) Those which are absolutely simulated or fictitious;

x x x

These contracts cannot be ratified. Neither can the right to set up the defense of illegality be waived.

[37] ARTICLE 1410. The action or defense for the declaration of the inexistence of a contract does not prescribe.

[38] Nos. L-49644-45, July 16, 1984, 130 SCRA 433.

[39] No. L-25775, April 26, 1968, 23 SCRA 248.

[40] Id. at 262

[41] G.R. No. 144225, June 17, 2003, 404 SCRA 145, 159.

[42] G.R. No. 141323, June 8, 2005, 459 SCRA 475, 485-486.

[43] Supra note 25 at 540-541.

[44] Id. at 541-542.

[45] G.R. No. 137808, September 30, 2005, 471 SCRA 307, 309-311.

[46] G.R. No. 132677, October 20, 2000, 344 SCRA 95, 107-108.

[47] G.R. No. 95431, August 7, 1992, 212 SCRA 390, 396.

[48] Rollo, pp. 75-77.

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