

**HEIRS OF ANTONIO SANTOS AND LUISA ESGUERRA SANTOS,
PETITIONERS, VS. HEIRS OF CRISPULO BERAMO, AND/OR PACIFICO
BERAMO, SR., NAMELY, PACIFICO BERAMO, JR., AND ROMEO
BERAMO; HEIRS ...***G.R. No. 151454. August 08, 2010*

Ponente: PERALTA, J.

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This is a petition for review on certiorari^[1] of the Court of Appeals' Decision, dated May 15, 2001 in CA-G.R. SP No. 57944, and its Resolution dated January 10, 2002, denying petitioners' motion for reconsideration. The Court of Appeals affirmed the Decision dated October 27, 1999 of the Regional Trial Court (RTC) of Roxas City, Branch 18, denying petitioners' motion to dismiss respondents' Amended Complaint.

The facts, as found by the Court of Appeals,^[2] are as follows:

On March 5, 1998, respondents heirs of Crispulo Beramo, Pacifico Beramo, Sr., Petra Beramo, Ramon Beramo and Agapito Beramo filed an Amended Complaint for reivindicacion and/or reconveyance of property against the heirs of Cornelio Borreros and Soledad Delfin (Spouses Borreros), Northern Capiz Agro-Industrial Development Corporation (NORCAIC), Central Azucarera de la Carlota and Riverside Commodities Trading, Inc. with the RTC of Roxas City, Branch 18 (trial court), presided over by Judge Charlito F. Fantilanan.

The Amended Complaint alleged that the subject property, Lots 660, 661 and 887 of the Pilar Cadastre, consisting of around 140 hectares, located at Roxas City, Capiz, and initially covered by Original Certificate of Title No. 22668, belonged to respondents' predecessor, the late Don Juan Beramo, by virtue of open, continuous, exclusive and notorious possession and occupation thereof in the concept of owner starting in 1892. Respondents succeeded to the rights, title and interest in the subject property of Don Juan Beramo and his successors-in-interest. Sometime in 1938, the Spouses Borreros convinced Don Juan Beramo to convert the subject property into a fishpond, with Cornelio Borreros as socio-industrial partner-manager-administrator. Later, the Spouses Borreros clandestinely, illegally and unjustly registered the subject property in their name. In 1955, the Spouses Borreros and the spouses Olympio Ramirez and Asuncion Esguerra (Spouses Ramirez) simulated the exchange of the subject property with a public land situated at Sibuyan Island, Romblon. In 1961, one-half of the subject property, then covered by Transfer Certificate of Title (TCT) No. T-3656 in the name of the Spouses Ramirez, was sold by the Spouses Ramirez to the spouses Antonio Santos and Luisa Esguerra (Spouses Santos), resulting in the cancellation of the said TCT and issuance of TCT No. T-6310 in the names of the Spouses Ramirez and the Spouses Santos. On May 13, 1975, the Spouses Santos and the Spouses Ramirez sold the subject property to NORCAIC. The aforementioned sales/transfers of the subject property were simulated, with the transferees having prior knowledge of the flaw of the transactions. Respondents prayed, among others, that they be declared the rightful owners of the subject parcels of land, and that the possession of Lots 661 and 887, and the northern portion of Lot 660 be ordered to be reconveyed to them.

On May 13, 1999, petitioners heirs of Antonio Santos and Luisa Esguerra Santos filed a Motion to Dismiss[3] on the ground that the Amended Complaint stated no cause of action against them. They pointed out that respondents were unable to substantiate their claim of ownership over the subject property, since they failed to present any documentary proof which established prima facie that the subject parcels of land were owned by their predecessor-in-interest. Moreover, respondents did not annex documents to the Amended Complaint evincing their right over the subject property. Petitioners also asserted that respondents failed to substantiate their claim of fraud on the part of defendants spouses Antonio and Luisa Santos; hence, respondents were unable to establish a right that was allegedly violated by the defendants Spouses Santos.

On October 27, 1999, the trial court issued an Order[4] denying the Motion to Dismiss as the grounds relied upon did not appear to be indubitable. The Order states:

X X X X

As the grounds relied upon in the defendant heirs of Antonio Santos and Luisa Esguerra Santos as well as in the defendant Northern Capiz Agro-Industrial Development Corporation's Motions to Dismiss do not appear indubitable, since the defendants did not even bother to appear during the hearing to submit their arguments on the questions of law and their evidence on the questions of fact involved pursuant to Sec. 2, Rule 16 of the 1997 Rules of Civil Procedure, said Motions to Dismiss are DENIED for lack of merit.

Petitioners filed a motion for reconsideration,[5] and noted that they were taken to task for allegedly failing to appear before the trial court during the hearing on their motion to dismiss. They averred that during the said hearing, they were represented by Atty. Jul Freeman Emane, collaborating counsel of the law firm handling their case.[6]

In an Order[7] dated January 18, 2000, the trial court denied petitioners' motion for reconsideration, thus:

Since the issues raised by the motion for reconsideration are mere reiterations of the issues raised by the motion to dismiss, and it appearing that the oversight in the appearance of Atty. Jul Freeman [Emane] during the hearing as collaborating counsel for the movant, brought about by the plurality of counsels, does not make the grounds relied upon by the motion to dismiss indubitable, there is no compelling reason to reconsider the Order dated October 27, 1999.

ACCORDINGLY, the motion for reconsideration by the defendants heirs of Antonio Santos and Luisa Esguerra Santos is DENIED for lack of merit.

Petitioners filed a petition for certiorari[8] with the Court of Appeals, alleging that RTC Judge Charlito F. Fantilanan committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Orders dated October 27, 1999 and January 18, 2000.

Petitioners contended that the Amended Complaint showed that private respondents had no valid cause of action against them, since private respondents failed to substantiate their claim of ownership over the subject property. Assuming arguendo that a valid cause of action existed, petitioners argued that the same was, nonetheless, barred by res judicata and the Statute of Limitations. In addition, petitioners alleged that the title to the subject property was issued in favor of the Spouses Borreros as early as 1939; hence, private respondents' cause of action, if any, was barred by laches.

In a Decision[9] dated May 15, 2001, the Court of Appeals dismissed the petition for lack of merit.

The Court of Appeals held that the general rule is that after denial of a motion to dismiss, the defendant should file an answer, go to trial, and if the decision is adverse, reiterate the issue on appeal. The exception is when the court denying the motion to dismiss acted without or in excess of jurisdiction or with grave abuse of discretion, in

which case certiorari under Rule 65 of the Rules of Court may be availed of.[10] The appellate court stated that the exception does not apply to this case, since RTC Judge Fantilanan did not commit grave abuse of discretion in issuing the Orders in question.

The appellate court held that the trial court did not gravely abuse its discretion in denying the motion to dismiss, because the allegations in the Amended Complaint made out a case for reconveyance. Moreover, the complaint did not have to establish or allege facts proving the existence of a cause of action at the outset.[11] It also held that the defenses of res judicata, statute of limitations and laches may not be raised for the first time in the petition for certiorari.

Petitioners' motion for reconsideration was denied by the Court of Appeals in a Resolution[12] dated January 10, 2002.

Petitioners filed this petition raising the following issues:

I

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE DENIAL OF PETITIONERS' MOTION TO DISMISS.

II

THE HONORABLE COURT OF APPEALS COMMITTED ERROR WHEN IT REFUSED TO CONSIDER AND RESOLVE THE ISSUES OF RES JUDICATA AND PRESCRIPTION RAISED IN THE PETITION FOR CERTIORARI FILED BEFORE IT BY HEREIN PETITIONERS.[13]

The main issue is whether or not the Amended Complaint states a cause of action for reivindicacion and/or reconveyance of the subject property.

Petitioners contend that the Court of Appeals erred in affirming the denial of their motion to dismiss despite the failure of the Amended Complaint to state a valid cause of action.

Petitioners allege that respondents failed to present any documentary proof which established, at least prima facie, that the subject parcels of land were owned by respondents' predecessor-in-interest. Petitioners reiterate that no documents evincing their right over the subject property were appended to the Amended Complaint. Further, petitioners argue that respondents' allegation of fraud was never substantiated; hence, there was no violation of respondents' right by petitioners.

The contention lacks merit.

When the ground for dismissal is that the complaint states no cause of action under Section 1 (g), Rule 16 of the Rules of Court, such fact must be determined from the allegations of the complaint.[14] In a motion to dismiss, a defendant hypothetically admits the truth of the material allegations of the plaintiff's complaint[15] for the purpose of resolving the motion.[16] The general rule is that the allegations in a complaint are sufficient to constitute a cause of action against the defendant, if, admitting the facts alleged, the court can render a valid judgment upon the same in accordance with the prayer therein.[17] To sustain a motion to dismiss for lack of cause of action, the complaint must show that the claim for relief does not exist.[18]

The Court agrees with the Court of Appeals that the Amended Complaint states a cause of action for reivindicacion and/or reconveyance. The Court of Appeals correctly found, thus:

From the amended complaint, it appears that since 1892, private respondents' predecessor, Don Juan Beramo, was in open, continuous, exclusive and notorious possession and occupation of the subject property, an

agricultural land of the public domain; that the subject property was merely entrusted by private respondents' predecessor, Don Juan Beramo, to Cornelio Borreros, from whom petitioners derived their title; and that the titling of the subject property and transfers thereof were simulated and fraudulent. These averments indicate that private respondents are the rightful owners of the subject property but the same was wrongfully registered by petitioners' predecessors, the Borreros spouses. Such averments make out a case for reconveyance (*De la Cruz vs. Court of Appeals*, 286 SCRA 230).[19]

Contrary to the contention of petitioners, respondents did not have to present or append proof of their allegations in the complaint to establish a sufficient cause of action for reivindicacion and/or reconveyance in their Amended Complaint. The Court has held that in determining whether the allegations of a complaint are sufficient to support a cause of action, it must be borne in mind that the complaint does not have to establish or allege facts proving the existence of a cause of action at the outset; this will have to be done at the trial on the merits of the case.[20]

Further, petitioners contend that the Court of Appeals erred when it failed to consider and resolve the issues of res judicata and prescription raised in the petition for certiorari.

The contention is unmeritorious.

The Court of Appeals correctly held that the defenses of res judicata, statute of limitations and laches may not be raised for the first time in the special civil action for certiorari, citing *Buñag v. Court of Appeals*, [21] which held:

It is settled that an issue which was not raised in the trial court cannot be raised for the first time on appeal.

This principle applies to special civil actions for certiorari under Rule 65. x x x

WHEREFORE, the petition is DENIED for lack of merit. The Decision of the Court of Appeals, dated May 15, 2001 in CA-G.R. SP No. 57944, and its Resolution dated January 10, 2002, are hereby AFFIRMED.

Costs against petitioner.

SO ORDERED.

Carpio, (Chairperson), Nachura, Abad, and Mendoza, JJ. concur.

[1] Under Rule 45 of the Rules of Court.

[2] *Rollo*, pp. 41-46.

[3] *Id.* at 75-80.

[4] *Id.* at 89.

[5] *Id.* at 90-96

[6] *Id.* at 96.

[7] *Id.* at 102.

[8] Under Rule 65 of the Rules of Court.

[9] *Rollo*, pp. 41-46.

[10] *Drilon v. Court of Appeals*, 336 Phil. 949, 962 (1997).

[11] *Paranaque Kings Enterprises, Inc. v. Court of Appeals*, 375 Phil. 1184, 1199 (1997).

[12] Rollo, p. 48.

[13] Id. at 27.

[14] Drilon v. Court of Appeals, supra note 10, at 961; Sumulong v. Court of Appeals, G.R. No. 108817, May 10, 1994, 232 SCRA 372, 378; Regalado, Remedial Law Compendium, Vol. 1, Seventh Revised Edition, 1999, p. 251, citing Mindanao Realty Corp. v. Kintanar, 6 SCRA 814, 818 (1962).

[15] Jimenez, Jr. v. Jordana, 486 Phil. 452, 465 (2004).

[16] Parañaque Kings Enterprises, Inc. v. Court of Appeals, supra note 11, at 1201.

[17] Dulay v. Court of Appeals, 313 Phil. 8, 23-24 (1995).

[18] Parañaque Kings Enterprises, Inc. v. Court of Appeals, supra note 11, at 1195.

[19] Rollo, pp. 44-45.

[20] Parañaque Kings Enterprises, Inc. v. Court of Appeals, supra note 11, at 1195; Alberto v. Court of Appeals, 390 Phil. 253 (2000); Jimenez, Jr. v. Jordana, supra note 15.

[21] 363 Phil. 216, 221 (1999).

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