ROGELIA DACLAG AND ADELINO DACLAG (DECEASED), SUBSTITUTED BY RODEL M. DACLAG, AND ADRIAN M. DACLAG, PETITIONERS, VS. ELINO MACAHILIG, ADELA MACAHILIG, CONRADO MACAHILIG, LORENZA...

G.R. No. 159578. February 18, 2009

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Before us is petitioners' Motion for Reconsideration of our Decision dated July 28, 2008 where we affirmed the Decision dated October 17, 2001 and the Resolution dated August 7, 2003 of the Court of Appeals (CA) in CA-G.R. CV No. 48498.

Records show that while the land was registered in the name of petitioner Rogelia in 1984, respondents' complaint for reconveyance was filed in 1991, which was within the 10-year prescriptive period.

We ruled that since petitioners bought the property when it was still an unregistered land, the defense of having purchased the property in good faith is unavailing. We affirmed the Regional Trial Court (RTC) in finding that petitioners should pay respondents their corresponding share in the produce of the subject land from the time they were deprived thereof until the possession is restored to them.

In their Motion for Reconsideration, petitioners contend that the 10-year period for reconveyance is applicable if the action is based on an implied or a constructive trust; that since respondents' action for reconveyance was based on fraud, the action must be filed within four years from the discovery of the fraud, citing Gerona v. De Guzman,[1] which was reiterated in Balbin v. Medalla.[2]

We do not agree.

In Caro v. Court of Appeals,[3] we have explicitly held that "the prescriptive period for the reconveyance of fraudulently registered real property is 10 years reckoned from the date of the issuance of the certificate of title x x x."[4]

However, notwithstanding petitioners' unmeritorious argument, the Court deems it necessary to make certain clarifications. We have earlier ruled that respondents' action for reconveyance had not prescribed, since it was filed within the 10-year prescriptive period.

However, a review of the factual antecedents of the case shows that respondents' action for reconveyance was not even subject to prescription.

The deed of sale executed by Maxima in favor of petitioners was null and void, since Maxima was not the owner of the land she sold to petitioners, and the one-half northern portion of such land was owned by respondents. Being an absolute nullity, the deed is subject to attack anytime, in accordance with Article 1410 of the Civil Code that an action to declare the inexistence of a void contract does not prescribe. Likewise, we have consistently ruled that when there is a showing of such illegality, the property registered is deemed to be simply held in trust for the real owner by the person in whose name it is registered, and the former then has the right to sue for the reconveyance of the property.[5] An action for reconveyance based on a void contract is imprescriptible.[6] As

long as the land wrongfully registered under the Torrens system is still in the name of the person who caused such registration, an action in personam will lie to compel him to reconvey the property to the real owner.[7] In this case, title to the property is in the name of petitioner Rogelia; thus, the trial court correctly ordered the reconveyance of the subject land to respondents.

Petitioners next contend that they are possessors in good faith, thus, the award of damages should not have been imposed. They further contend that under Article 544, a possessor in good faith is entitled to the fruits received before the possession is legally interrupted; thus, if indeed petitioners are jointly and severally liable to respondents for the produce of the subject land, the liability should be reckoned only for 1991 and not 1984.

We find partial merit in this argument.

Article 528 of the Civil Code provides that possession acquired in good faith does not lose this character, except in a case and from the moment facts exist which show that the possessor is not unaware that he possesses the thing improperly or wrongfully. Possession in good faith ceases from the moment defects in the title are made known to the possessors, by extraneous evidence or by suit for recovery of the

property by the true owner. Whatever may be the cause or the fact from which it can be deduced that the possessor has knowledge of the defects of his title or mode of acquisition, it must be considered sufficient to show bad faith.[8] Such interruption takes place upon service of summons.[9]

Article 544 of the same Code provides that a possessor in good faith is entitled to the fruits only so long as his possession is not legally interrupted. Records show that petitioners received a summons together with respondents' complaint on August 5, 1991;[10] thus, petitioners' good faith ceased on the day they received the summons. Consequently, petitioners should pay respondents 10 cavans of palay per annum beginning August 5, 1991 instead of 1984.

Finally, petitioner would like this Court to look into the finding of the RTC that "since Maxima died in October 1993, whatever charges and claims petitioners may recover from her expired with her"; and that the proper person to be held liable for damages to be awarded to respondents should be Maxima Divison or her estate, since she misrepresented herself to be the true owner of the subject land.

We are not persuaded.

Notably, petitioners never raised this issue in their appellants' brief or in their motion for reconsideration filed before the CA. In fact, they never raised this matter before us when they filed their petition for review. Thus, petitioners cannot raise the same in this motion for reconsideration without offending the basic rules of fair play, justice and due process, specially since Maxima was not substituted at all by her heirs after the promulgation of the RTC Decision.

WHEREFORE, petitioners' Motion for Reconsideration is PARTLY GRANTED. The Decision of the Court of Appeals dated July 28, 2008 is MODIFIED only with respect to prescription as discussed in the text of herein Resolution, and the dispositive portion of the Decision is MODIFIED to the effect that petitioners are ordered to pay respondents 10 cavans of palay per annum beginning August 5, 1991 instead of 1984.

SO ORDERED.

Quisumbing[*], Carpio[**], Chico-Nazario[***], and Nachura, JJ., concur.

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[*] In lieu of Justice Consuelo Ynares-Santiago, per Special Order No. 564 dated February 12, 2009.

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[**] Carpio, J. designated member in lieu of Reyes, J., (ret.) per Raffle dated February 11, 2009.

[***] In lieu of Justice Consuelo Ynares-Santiago, per Special Order No. 563 dated February 12, 2009.

[1] G.R. No. L-4258, January 18, 1951, 11 SCRA 153.

[2] 195 Phil. 475 (1981).

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

[4] Id. at 407.

[5] Salomon v. Intermediate Appellate Court, G.R. No. 70263, May 14, 1990, 185 SCRA 352, 363.

[6] Id., Lacsamana v. Court of Appeals, 351 Phil. 526, 534 (1998).

[7] Id., citing Baranda v. Baranda, 234 Phil. 64, 77 (1987).

[8] Wong v. Carpio, G.R. No. 50264, October 21, 1991, 203 SCRA 118, 125.

[9] Id., citing Manotok Realty, Inc. v. Tecson, G.R. No. L-47475, August 19, 1988, 164 SCRA 587, 592, citing Mindanao Academy, Inc. v. Yap, 121 Phil. 204, 210 (1965).

[10] Records, pp. 5-6.

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