TEOFILO BAUTISTA, REPRESENTED BY FRANCISCO MUÑOZ, ATTORNEY-IN-FACT, PETITIONER, VS. ALEGRIA BAUTISTA, ANGELICA BAUTISTA, PRISCILLA BAUTISTA, GILBERT BAUTISTA, JIM BAUTISTA, GLEN...

G.R. No. 160556. August 03, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

During her lifetime, Teodora Rosario was the owner of a 211.80-square meter parcel of land (the property) in Poblacion, San Carlos City, Pangasinan, covered by Transfer Certificate of Title (TCT) No. 12951. She died intestate on January 19, 1970, leaving behind her spouse Isidro Bautista (Isidro) and five children, namely: Teofilo Bautista (Teofilo), Alegria Bautista (Alegria), Angelica Bautista (Angelica), Pacita Bautista (Pacita) and Gil Bautista (Gil).

On April 21, 1981, Isidro and four of his five children - Pacita, Gil, Alegria, and Angelica - executed a Deed of Extra-Judicial Partition[1] of the property in which Isidro waived his share in favor of his said four children. Teofilo was excluded from the partition.

Alegria and Angelica, who, under the Deed of Extra-Judicial Partition, acquired ½ of the property, sold the same, by Deed of Absolute Sale dated May 14, 1981, to their sibling Pacita and her common-law husband Pedro Tandoc (Pedro).[2]

Pacita and Pedro soon obtained tax declarations[3] and TCT No. 18777[4] in their names over 209.85 square meters of the property including the shares they purchased from Angelica and Alegria.

Pacita, with Pedro's conformity, later conveyed via Deed of Absolute Sale[5] dated April 13, 1993 ½ of the property in favor of Cesar Tamondong, Pedro's nephew.

On January 24, 1994, herein petitioner Teofilo, represented by his attorney-in-fact Francisco Muñoz, filed a Complaint[6] against his siblings Alegria and Angelica, along with Pedro (the common-law husband of his already deceased sister Pacita), Priscilla Bautista (wife of his already deceased brother Gil), Pricilla's children Gilbert, Jim, Glenda, Guen, and Gelacio and Cesar Tamondong before the Regional Trial Court (RTC) of San Carlos City, for annulment of documents, partition, recovery of ownership, possession and damages.

In his complaint, petitioner claimed that his co-heirs defrauded him of his rightful share of the property and that the deed of sale executed by Pacita in favor of Cesar Tamondong was fictitious as it was impossible for her to have executed the same in Manila, she being already seriously ill at the time.[7]

In their Answer,[8] the defendants-herein respondents sisters Alegria and Angelica, who were joined therein by their co-defendants-respondents Priscilla, Gilbert, Jim, Glenda, Guen, Gelacio, and Gracia, claimed that it was Pacita who caused the execution of the Deed of Extra-Judicial Partition and because they trusted Pacita, they

signed the document without scrutinizing it; and that they learned about the contents of the partition only upon Teofilo's filing of the Complaint.

By way of cross-claim[9] against Pedro and Cesar Tamondong, the answering defendants-respondents claimed that a few weeks after the partition, Pacita approached Angelica and Alegria to borrow their share in the property on her representation that it would be used as security for a business loan; and that agreeing to accommodate Pacita, Angelica and Alegria signed a document which Pacita prepared which turned out to be the deed of absolute sale in Pacita's favor.

In their Answer with Counterclaim,[10] Pedro and Cesar Tamondong claimed that they were buyers in good faith.[11] In any event, they contended that prescription had set in, and that the complaint was a mere rehash of a previous complaint for falsification of public document which had been dismissed by the prosecutor's office.[12]

By Decision[13] of June 24, 1999, Branch 57 of the RTC of San Carlos City rendered judgment in favor of Teofilo, disposing as follows:

> WHEREFORE, in view of the foregoing, judgment is hereby rendered:
>
> - Declaring as null and void and of no force and effect the following documents:
>
> - Deed of Extra-Judicial Partition dated April 21, 1981;
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> - Deed of Absolute Sale [d]ated May 14, 1981;
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> - Transfer Certificate of Title No. 18777;
>
> - Tax Declaration Nos. 59941, 45999, and 46006;
>
> - Deed of Absolute Sale dated April 13, 1993;
>
> - Ordering the partition of the land in question among the compulsory heirs of the late Spouses Isidro Bautista and Teodora Rosario
>
> - Ordering defendants Cesar Tamondong and Pedro Tandoc to vacate the premises.
>
> No pronouncement[s] as to cost.[14] (Underscoring supplied)

On appeal by Pedro and Cesar Tamondong, the Court of Appeals, by Decision[15] of February 21, 2003, reversed and set aside the trial court's decision and dismissed Teofilo's complaint on the ground of prescription.[16] His Motion for Reconsideration[17] having been denied,[18] Teofilo filed the present Petition for Review on Certiorari.[19]

The petition is impressed with merit.

The Court of Appeals, in holding that prescription had set in, reasoned:

> Unquestionably, the Deed of Extra-judicial Partition is invalid insofar as it affects the legitimate share pertaining to the defendant-appellee in the property in question. There can be no question that the Deed of Extra-judicial Partition was fraudulently obtained. Hence, an action to set it aside on the ground of fraud could be instituted. Such action for the annulment of the said partition, however, must be brought within four years from the discovery of the fraud. Significantly, it cannot be denied, either, that by its registration in the manner provided by law, a transaction may be known actually or constructively.
>
> In the present case, defendant-appellee is deemed to have been constructively notified of the extra-judicial settlement by reason of its registration and annotation in the certificate of title over the subject lot on December 21, 1981. From the time of its registration, defendant-appellee had four (4) years or until 21 December 1985,

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> within which to file his objections or to demand the appropriate settlement of the estate. Unfortunately, defendant-appellee failed to institute the present civil action within said period, having filed the same only on 17 January 1994 or more than twelve (12) years from the registration of the deed of extra-judicial partition. Hence, defendant-appellee's right to question the deed of extra-judicial partition has prescribed.
>
> Even on the extreme assumption that defendant-appellee's complaint in Civil Case No. SC-1797 is an action for reconveyance of a portion of the property which rightfully belongs to him based upon an implied trust resulting from fraud, said remedy is already barred by prescription. An action of reconveyance of land based upon an implied or constructive trust prescribes after ten years from the registration of the deed or from the issuance of the title.
>
> x x x x
>
> The complaint of defendant-appellee was filed only on 17 January 1994, while the deed of extra-judicial partition was registered and inscribed on Transfer Certificate of Title 12951, on 21 December 1981. Clearly, the complaint was filed twelve (12) years and twenty-seven (27) days after the inscription of the deed of extra-judicial partition on TCT 12951. Hence, even if We consider defendant-appellee's complaint as an action for reconveyance against plaintiff-appellants on the basis of implied trust, we find and so hold that his remedy for reconveyance has also prescribed.[20] (Underscoring supplied)

As gathered from the above-quoted portion of its decision, the Court of Appeals applied the prescriptive periods for annulment on the ground of fraud and for reconveyance of property under a constructive trust.

The extra-judicial partition executed by Teofilo's co-heirs was invalid, however. So Segura v. Segura[21] instructs:

> x x x The partition in the present case was invalid because it excluded six of the nine heirs who were entitled to equal shares in the partitioned property. Under the rule, "no extra-judicial settlement shall be binding upon any person who has not participated therein or had no notice thereof." As the partition was a total nullity and did not affect the excluded heirs, it was not correct for the trial court to hold that their right to challenge the partition had prescribed after two years x x x[22] (Underscoring supplied)

The deed of extra-judicial partition in the case at bar being invalid, the action to have it annulled does not prescribe.[23]

Since the deed of extra-judicial partition is invalid, it transmitted no rights to Teofilo's co-heirs.[24] Consequently, the subsequent transfer by Angelica and Alegria of ½ of the property to Pacita and her husband Pedro, as well as the transfer of ½ of the property to Cesar Tamondong is invalid, hence, conferring no rights upon the transferees under the principle of nemo dat quod non habet.[25]

WHEREFORE, the petition is GRANTED. The decision of the court a quo is SET ASIDE and the Decision of the Regional Trial Court of San Carlos City, Pangasinan, Branch 57 is REINSTATED.

SO ORDERED.

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

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[1] RTC records, p. 10.

[2] Id. at 11.

[3]Id. at 13-15.

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[4] Id. at 12.

[5] Id. at 16-17.

[6]Id. at 1-6.

[7] Id. at 2-4.

[8] Id. at 60-62.

[9] Id. at 61.

[10] Id. at 99-103.

[11] Id. at 101-102.

[12]Id. at 101.

[13] Id. at 445-452.

[14]Id. at 451-452.

[15] CA rollo, pp. 73-81; penned by Court of Appeals Associate Justice Teodoro P. Regino, with the concurrences of Associate Justices Buenaventura J. Guerrero and Danilo B. Pine.

[16] Id. at 77-81.

[17] Id. at 82-84.

[18] Id. at 112.

[19]Rollo, pp. 10-27.

[20] CA rollo, pp. 77-79.

[21] G.R. No. L-29320, September 19, 1988, 165 SCRA 368.

[22] Id. at 373.

[23] Vide CIVIL CODE, Article 1410; Salomon v. IAC, G.R. No. 70263, May 14, 1990, 185 SCRA 352, 363.

[24] Vide Heirs of Celso Amarante v. Court of Appeals, G.R. No. 76386, May 21, 1990, 185 SCRA 585, 601.

[25] Vide Segura v. Segura, supra note 21, at 375.

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