HEIRS OF MAXIMO LABANON, REPRESENTED BY ALICIA LABANON CAÑEDO AND THE PROVINCIAL PETITIONERS, VS. HEIRS OF CONSTANCIO PROMULGATED: LABA REPRESENTED BY ALBERTO MAKILANG, RESPONDE...

G.R. NO. 160711. August 14, 2007

Ponente: VELASCO, JR., J.

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VELASCO, JR., J.:

The Case

This Petition for Review on Certiorari under Rule 45 seeks the recall and nullification of the May 8, 2003 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 65617 entitled Heirs of Constancio Labanon represented by Alberto Makilang v. Heirs of Maximo Labanon represented by Alicia Labanon Cañedo and the Provincial Assessor of Cotabato, which reversed the August 18, 1999 Decision[2] of the Kidapawan City, Cotabato Regional Trial Court (RTC), Branch 17, in Civil Case No. 865. Likewise assailed is the October 13, 2003 Resolution[3] which disregarded petitioners' Motion for Reconsideration.

The Facts

The CA culled the facts this way:

> During the lifetime of Constancio Labanon, prior to the outbreak of WWII, he settled upon a piece of alienable and disposable public agricultural land situated at Brgy. Lanao, Kidapawan, Cotabato x x x. Constancio cultivated the said lot and introduced permanent improvements that still exist up to the present. Being of very limited educational attainment, he found it difficult to file his public land application over said lot. Constancio then asked his brother, Maximo Labanon who was better educated to file the corresponding public land application under the express agreement that they will divide the said lot as soon as it would be feasible for them to do so. The offer was accepted by Maximo. During the time of the application it was Constancio who continued to cultivate the said lot in order to comply with the cultivation requirement set forth under Commonwealth Act 141, as amended, on Homestead applications. After which, on June 6, 1941, due to industry of Constancio, Homestead Application No. 244742 (E-128802) of his brother Maximo was approved with Homestead Patent No. 67512. Eventually, Original Certificate of Title No. P-14320 was issued by the Register of Deeds of Cotabato over said lot in favor of Maximo Labanon.
>
> On February 11, 1955, Maximo Labanon executed a document denominated as "Assignment of Rights and Ownership" and docketed as Doc. No. 20; Page No. 49; Book No. V; Series of 1955 of the Notarial Register of Atty. Florentino Kintanar. The document was executed to safeguard the ownership and interest of his brother Constancio Labanon. Pertinent portion of which is reproduced as follows:
>
> "That I, MAXIMO LABANON, of legal age, married to Anastacia Sagarino, and a resident of Kidapawan, Cotabato, for and in consideration of the expenses incurred by my elder brother CONSTANCIO LABANON also of legal age, Filipino, widower and a resident of Kidapawan, Cotabato, for the clearing, cultivation and improvements on the eastern portion xxx Lot No. 1, Blk. 22, Pls-59 xxx which expenses have been incurred by

my said brother xxx before the outbreak of the last world war xxx I do hereby assign transfer and convey my rights to, interests in and ownership on the said eastern portion of said Lot No. 1, Block 22, Pls-59 ONE HUNDRED (100 M) ALONG THE NATIONAL HIGHWAY, (DAVAO-COTABATO ROAD) by TWO HUNDRED FIFTY METERS (250 M) going inside the land to cover an area of TWO AND ONE HALF HECTARES (25,000 SQ. M.), more or less, adjoining the school site of barrio Lanao, Kidapawan, Cotabato, to the said CONSTANCIO LABANON, his heirs and assigns, can freely occupy for his own use and benefit xxx.

IN WITNESS WHEREFOF, I have hereunto set my hand this 11th day of February 1995 at Kidapawan, Cotabato.

(SGD) MAXIMO LABANON

With my marital consent.

(SGD) ANASTACIA SAGARINO

(Wife)" (p.16, rollo)

On April 25, 1962, Maximo Labanon executed a sworn statement reiterating his desire that his elder brother Constancio, his heirs and assigns shall own the eastern portion of the Lot, pertinent portion of which reads:

"That I am the same and identical person who is a homestead applicant (HA-224742, E-128802) of a tract of land which is covered by Homestead Patent No. 67512 dated June 6, 1941, known as Lot No. 1, Block 22, Pls-59, situated in [B]arrio Lanao, Municipality of Kidapawan, Province of Cotabato, Philippines, and containing an area of 5.0000 hectares, more or less;

That I am the same and identical person who executed a deed of ASSIGNMENT OF RIGHTS AND OWNERSHIP in favor of my brother Constancio Labanon, now deceased, now for his heirs, for the eastern half portion of the land above described, and which deed was duly notarized by notary public Florentino P. Kintanar on February 11, 1955 at Kidapawan, Cotabato and entered in his Notarial Register as Doc. No. 20, Page No. 49, Book No. V, Series of 1955; and

That in order that I and the Heirs of Constancio Labanon will exercise our respective rights and ownership over the aforementioned lot, and to give force and effect to said deed of assignment, I hereby, by these presents, request the Honorable Director of Lands and the Land Title Commission to issue a separate title in my favor covering the western half portion of the aforementioned lot and to the Heirs of Constancio Labanon a title for the eastern half portion thereof.

IN WITNESS THEREOF, I have hereunto set my hand this 25th day of April, 1962, at Pikit, Cotabato, Philippines." (p. 9, records)

After the death of Constancio Labanon, his heirs executed an [e]xtra-judicial settlement of estate with simultaneous sale over the aforesaid eastern portion of the lot in favor of Alberto Makilang, the husband of Visitacion Labanon, one of the children of Constancio. Subsequently, the parcel of land was declared for taxation purposes in the name of Alberto under TD No. 11593. However, in March 1991, the defendants heirs of Maximo Labanon namely, Alicia L. Caniedo, Leopoldo Labanon, Roberto Nieto and Pancho Labanon, caused to be cancelled from the records of the defendant Provincial Assessor of Cotabato the aforesaid TD No. 11593 and the latter, without first verifying the legality of the basis for said cancellation, did cancel the same. x x x Further, after discovering that the defendant-heirs of Maximo Labanon were taking steps to deprive the heirs of Constancio Labanon of their ownership over the eastern portion of said lot, the latter, thru Alberto Makilang, demanded the owner's copy of the certificate of title covering the aforesaid Lot to be surrendered to the Register of Deeds of Cotabato so that the ownership of the heirs of Constancio may be fully effected but the defendants refused and still continue to refuse to honor the trust agreement entered into by the deceased brothers. x x x[4]

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Thus, on November 12, 1991, petitioners filed a complaint[5] for Specific Performance, Recovery of Ownership, Attorney's Fees and Damages with Writ of Preliminary Injunction and Prayer for Temporary Restraining Order against respondents docketed as Civil Case No. 865 before the Kidapawan City RTC. After hearing, the trial court rendered its August 18, 1999 Decision, the decretal portion of which reads:

> Wherefore, prescinding from the foregoing facts and considerations the Court finds and so holds that the [defendant-heirs] of Maximo Labanon represented by Alicia Labanon Caniedo have proved by preponderance of evidence that they are entitled to the reliefs set forth in their answer and consequently judgment is hereby rendered as follows:
>
> - Ordering the dismissal of the complaint against the Heirs of Maximo Labanon represented by Alicia Labanon Caniedo for lack of merit;
>
> - Ordering the dismissal of the case against the Provincial Assessor. The claim of the plaintiff is untenable, because the duties of the Provincial Assessor are ministerial. Moreover, the presumption of regularity in the performance of his duty is in his favor;
>
> - Ordering the plaintiff to pay the defendants the amount of P20,000.00 as exemplary damages, P10,000.00 for Attorney's Fees, P500.00 per appearance in Court; and
>
> - To pay the costs of this suit.
>
> **IT IS SO ORDERED.[6]**

Aggrieved, respondents elevated the adverse judgment to the CA which issued the assailed May 8, 2003 Decision in CA-G.R. CV No. 65617, the fallo of which states:

> WHEREFORE, the appeal is hereby GRANTED for being meritorious. The assailed decision of the Regional Trial Court is hereby REVERSED and SET ASIDE and a new one is hereby entered as follows:
>
> - Recognizing the lawful possession of the plaintiffs-appellants over the eastern portion of the property in dispute;
>
> - Declaring the plaintiffs-appellants as owners of the eastern portion of the property by reason of lawful possession;
>
> - Ordering the Provincial Assessor to reinstate TD No. 11593 and declaring TD No. 243-A null and void;
>
> - Ordering the defendants-appellees to pay the plaintiffs-appellants the amount of P20,000 as moral damages, P10,000 for attorney's fees, P500.00 per appearance in Court and
>
> - To pay the costs of the suit.
>
> SO ORDERED.

The Issues

Surprised by the turn of events, petitioners brought this petition before us raising the following issues, to wit:

> - Whether or not Original Certificate of Title No. 41320 issued on April 10, 1975 in the name of MAXIMO LABANON be now considered indefeasible and conclusive; and
>
> - Whether or not the Trust Agreement allegedly made by Constancio Labanon and Maximo Labanon prescribed.[7]

The Court's Ruling

The petition must fail.

First Issue
Respondents are not precluded from challenging the validity of
Original Certificate of Title No. P-41320

Petitioners argue that respondents can no longer question Maximo Labanon's ownership of the land after its registration under the principle of indefeasibility of a Transfer Certificate of Title (TCT).

Such argument is inaccurate.

The principle of indefeasibility of a TCT is embodied in Section 32 of Presidential Decree No. (PD) 1529, amending the Land Registration Act, which provides:

> Section 32. Review of decree of registration; Innocent purchaser for value. The decree of registration shall not be reopened or revised by reason of absence, minority, or other disability of any person adversely affected thereby, nor by any proceeding in any court for reversing judgments, subject, however, to the right of any person, including the government and the branches thereof, deprived of land or of any estate or interest therein by such adjudication or confirmation of title obtained by actual fraud, to file in the proper Court of First Instance a petition for reopening and review of the decree of registration not later than one year from and after the date of the entry of such decree of registration, but in no case shall such petition be entertained by the court where an innocent purchaser for value has acquired the land or an interest therein, whose rights may be prejudiced. Whenever the phrase "innocent purchaser for value" or an equivalent phrase occurs in this Decree, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value.
>
> Upon the expiration of said period of one year, the decree of registration and the certificate of title issued shall become incontrovertible. Any person aggrieved by such decree of registration in any case may pursue his remedy by action for damages against the applicant or any other persons responsible for the fraud.

Contrary to petitioners' interpretation, the aforequoted legal provision does not totally deprive a party of any remedy to recover the property fraudulently registered in the name of another. Section 32 of PD 1529 merely precludes the reopening of the registration proceedings for titles covered by the Torrens System, but does not foreclose other remedies for the reconveyance of the property to its rightful owner. As elaborated in Heirs of Clemente Ermac v. Heirs of Vicente Ermac:

> While it is true that Section 32 of PD 1529 provides that the decree of registration becomes incontrovertible after a year, it does not altogether deprive an aggrieved party of a remedy in law. The acceptability of the Torrens System would be impaired, if it is utilized to perpetuate fraud against the real owners.[8]

A more succinct explanation is found in Vda. De Recinto v. Inciong, thus:

> The mere possession of a certificate of title under the Torrens system does not necessarily make the possessor a true owner of all the property described therein for he does not by virtue of said certificate alone become the owner of the land illegally included. It is evident from the records that the petitioner owns the portion in question and therefore the area should be conveyed to her. The remedy of the land owner whose property has been wrongfully or erroneously registered in another's name is, after one year from the date of the decree, not to set aside the decree, but, respecting the decree as incontrovertible and no longer open to review, to bring an ordinary action in the ordinary court of justice for reconveyance or, if the property has passed into the hands of an innocent purchaser for value, for damages.[9] (Emphasis supplied.)

Undeniably, respondents are not precluded from recovering the eastern portion of Original Certificate of Title (OCT) No. P-14320, with an area subject of the "Assignment of Rights and Ownership" previously owned by their father, Constancio Labanon. The action for Recovery of Ownership before the RTC is indeed the appropriate remedy.

Second Issue
The trust agreement between Maximo Labanon and Constancio Labanon may still be enforced

Former Vice-President and Senator Arturo Tolentino, a noted civilist, explained the nature and import of a trust:

> Trust is the legal relationship between one person having an equitable ownership in property and another person owning the legal title to such property, the equitable ownership of the former entitling him to the performance of certain duties and the exercise of certain powers by the latter.[10]

This legal relationship can be distinguished from other relationships of a fiduciary character, such as deposit, guardianship, and agency, in that the trustee has legal title to the property.[11] In the case at bench, this is exactly the relationship established between the parties.

Trusts are classified under the Civil Code as either express or implied. Such classification determines the prescriptive period for enforcing such trust.

Article 1444 of the New Civil Code on express trust provides that "[n]o particular words are required for the creation of an express trust, it being sufficient that a trust is clearly intended."

Civil law expert Tolentino further elucidated on the express trust, thus:

> No particular form of words or conduct is necessary for the manifestation of intention to create a trust. It is possible to create a trust without using the word "trust" or "trustee". Conversely, the mere fact that these words are used does not necessarily indicate an intention to create a trust. The question in each case is whether the trustor manifested an intention to create the kind of relationship which to lawyers is known as trust. It is immaterial whether or not he knows that the relationship which he intends to create is called a trust, and whether or not he knows the precise characteristics of the relationship which is called a trust.[12]

Correlatively, we ruled in Estate of Edward Miller Grimm v. Estate of Charles Parsons and Patrick C. Parsons, that:

> An express trust is created by the direct and positive acts of the parties, by some writing or deed or by words evidencing an intention to create a trust; the use of the word trust is not required or essential to its constitution, it being sufficient that a trust is clearly intended.[13]

In the instant case, such intention to institute an express trust between Maximo Labanon as trustee and Constancio Labanon as trustor was contained in not just one but two written documents, the Assignment of Rights and Ownership as well as Maximo Labanon's April 25, 1962 Sworn Statement. In both documents, Maximo Labanon recognized Constancio Labanon's ownership and possession over the eastern portion of the property covered by OCT No. P-14320, even as he recognized himself as the applicant for the Homestead Patent over the land. Thus, Maximo Labanon maintained the title over the property while acknowledging the true ownership of Constancio Labanon over the eastern portion of the land. The existence of an express trust cannot be doubted nor disputed.

On the issue of prescription, we had the opportunity to rule in Bueno v. Reyes that unrepudiated written express trusts are imprescriptible:

> While there are some decisions which hold that an action upon a trust is imprescriptible, without distinguishing between express and implied trusts, the better rule, as laid down by this Court in other decisions, is that prescription does supervene where the trust is merely an implied one. The reason has been expressed by Justice J.B.L. Reyes in J.M. Tuason and Co., Inc. vs. Magdangal, 4 SCRA 84, 88, as follows:
>
> Under Section 40 of the old Code of Civil Procedure, all actions for recovery of real property prescribed in 10

> years, excepting only actions based on continuing or subsisting trusts that were considered by section 38 as imprescriptible. As held in the case of Diaz v. Gorricho, L-11229, March 29, 1958, however, the continuing or subsisting trusts contemplated in section 38 of the Code of Civil Procedure referred only to express unrepudiated trusts, and did not include constructive trusts (that are imposed by law) where no fiduciary relation exists and the trustee does not recognize the trust at all.[14]

This principle was amplified in Escay v. Court of Appeals this way: "Express trusts prescribe 10 years from the repudiation of the trust (Manuel Diaz, et al. vs. Carmen Gorricho et al., 54 0.G. p. 8429, Sec. 40, Code of Civil Procedure)."[15]

In the more recent case of Secuya v. De Selma, we again ruled that the prescriptive period for the enforcement of an express trust of ten (10) years starts upon the repudiation of the trust by the trustee.[16]

In the case at bar, Maximo Labanon never repudiated the express trust instituted between him and Constancio Labanon. And after Maximo Labanon's death, the trust could no longer be renounced; thus, respondents' right to enforce the trust agreement can no longer be restricted nor prejudiced by prescription.

It must be noted that the Assignment of Rights and Ownership and Maximo Labanon's Sworn Statement were executed after the Homestead Patent was applied for and eventually granted with the issuance of Homestead Patent No. 67512 on June 6, 1942. Evidently, it was the intent of Maximo Labanon to hold the title over the land in his name while recognizing Constancio Labanon's equitable ownership and actual possession of the eastern portion of the land covered by OCT No. P-14320.

In addition, petitioners can no longer question the validity of the positive declaration of Maximo Labanon in the Assignment of Rights and Ownership in favor of the late Constancio Labanon, as the agreement was not impugned during the former's lifetime and the recognition of his brother's rights over the eastern portion of the lot was further affirmed and confirmed in the subsequent April 25, 1962 Sworn Statement.

Section 31, Rule 130 of the Rules of Court is the repository of the settled precept that "[w]here one derives title to property from another, the act, declaration, or omission of the latter, while holding the title, in relation to the property, is evidence against the former." Thus, petitioners have accepted the declaration made by their predecessor-in-interest, Maximo Labanon, that the eastern portion of the land covered by OCT No. P-14320 is owned and possessed by and rightfully belongs to Constancio Labanon and the latter's heirs. Petitioners cannot now feign ignorance of such acknowledgment by their father, Maximo.

Lastly, the heirs of Maximo Labanon are bound to the stipulations embodied in the Assignment of Rights and Ownership pursuant to Article 1371 of the Civil Code that contracts take effect between the parties, assigns, and heirs.

Petitioners as heirs of Maximo cannot disarrow the commitment made by their father with respect to the subject property since they were merely subrogated to the rights and obligations of their predecessor-in-interest. They simply stepped into the shoes of their predecessor and must therefore recognize the rights of the heirs of Constancio over the eastern portion of the lot. As the old adage goes, the spring cannot rise higher than its source.

WHEREFORE, the petition is DENIED. The May 8, 2003 CA Decision and October 13, 2003 Resolution in CA-G.R. CV No. 65617 are AFFIRMED with the modifications that the Kidapawan City, Cotabato RTC, Branch 17 is directed to have OCT No. P-14320 segregated and subdivided by the Land Management Bureau into two (2) lots based on the terms of the February 11, 1955 Assignment of Rights and Ownership executed by Maximo Labanon and Constancio Labanon; and after approval of the subdivision plan, to order the Register of Deeds of Kidapawan City, Cotabato to cancel OCT No. P-14320 and issue one title each to petitioners and respondents

based on the said subdivision plan.

Costs against petitioners.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Tinga, JJ., concur.

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[1] Rollo, pp. 40-49. The Decision was penned by Associate Justice Eloy R. Bello, Jr., with Justices Cancio C. Garcia (Chairman) and Mariano C. Del Castillo concurring.

[2] Id. at 25-39.

[3] Id. at 42-43.

[4] Id. at 43-45.

[5] Id. at 25; per August 18, 1999 RTC Decision; cf. November 3, 2003 Petition, id. at 6, where the complaint is dated November 12, 1999, which should be November 12, 1991 per the RTC Decision.

[6] Supra note 2, at 39.

[7] Rollo, p. 15.

[8] G.R. No. 149679, May 30, 2003, 403 SCRA 291, 297; citations omitted.

[9] No. L-26083, May 31, 1977, 77 SCRA 196, 201.

[10] IV A. Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines 669 (1995).

[11] Id. at 670.

[12] Id. at 675.

[13] G.R. No. 159810, October 9, 2006, 504 SCRA 67, 81.

[14] No. L-22587, April 28, 1969, 27 SCRA 1179, 1183; citations omitted.

[15] No. L-37504, December 18, 1974, 61 SCRA 369, 388; citation omitted.

[16] G.R. No. 136021, February 22, 2000, 326 SCRA 244, 254.

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