

ESTRELLA TIONGCO YARED (DECEASED) SUBSTITUTED BY CARMEN M. TIONGCO A.K.A. CARMEN MATILDE B. TIONGCO, PETITIONER, VS. JOSE B. TIONGCO AND ANTONIO G. DORONILA, JR., RESPONDENTS.

G.R. No. 161360. October 19, 2011

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

Before us on appeal by way of a petition for review on certiorari under Rule 45 is the Court of Appeals (CA) August 28, 2003 Decision[1] which dismissed petitioner Estrella Tiongco Yared's appeal and affirmed the Decision[2] of the Regional Trial Court (RTC), Branch 26, of Iloilo City, dismissing petitioner's complaint for annulment of affidavit of adjudication, deeds of sale and Transfer Certificates of Title (TCTs), reconveyance and damages. Also assailed is the appellate court's November 27, 2003 Resolution[3] denying petitioner's motion for reconsideration.

The factual antecedents, as culled from the records, follow:

Matilde, Jose, Vicente, and Felipe, all surnamed Tiongco, were born to Atanacio and Maria Luis Tiongco. Together they were known as the Heirs of Maria Luis de Tiongco.

The present dispute involves three parcels of land namely, Lots 3244, 3246 and 1404, all located in Iloilo City. Lots 3244 and 1404 used to be covered by Original Certificates of Title (OCTs) Nos. 484 and 1482, respectively, in the names of Matilde (wife of Vicente Rodriguez), Jose (married to Carmen Sonora), Vicente (married to Ursula Casador), and Felipe (married to Sabina Montelibano), each in ¼ undivided share, while Lot 3246 used to be covered by OCT No. 368 in the name of "Heirs of Maria Luis de Tiongco." [4]

While all of the Heirs of Maria Luis de Tiongco have died, they were survived by their children and descendants. Among the legitimate children of Jose were petitioner and Carmelo Tiongco, the father of respondent Jose B. Tiongco. [5]

Sometime in 1965, petitioner built her house on Lot 1404 [6] and sustained herself by collecting rentals from the tenants of Lots 3244 and 3246. In 1968, petitioner, as one of the heirs of Jose, filed an adverse claim affecting all the rights, interest and participation of her deceased father on the disputed lots, but the adverse claim was annotated only on OCT No. 484 and OCT No. 1482, respectively covering Lots 3244 and 1404. [7]

In 1983, respondent Jose prohibited petitioner from collecting rentals from the tenants of Lots 3244 and 3246. In December 1983, respondent Jose filed a suit for recovery of possession with preliminary injunction against several tenants of Lots 3244 and 3246 wherein he obtained a judgment in his favor. [8] Respondent Jose also filed a case for unlawful detainer with damages against petitioner as she was staying on Lot 1404. While the RTC, Branch 33, of Iloilo City ruled in respondent Jose's favor, the CA reversed the RTC's decision and ruled in favor of petitioner. [9] As such, respondent Jose never took possession of the properties.

In 1988, when petitioner inquired at the Office of the Register of Deeds of Iloilo City, she discovered that

respondent Jose had already executed an Affidavit of Adjudication[10] dated April 17, 1974, declaring that he is the only surviving heir of the registered owners and adjudicating unto himself Lots 3244, 3246 and 1404. Consequently, the OCTs of the aforementioned lots were cancelled, and in place thereof, the Register of Deeds of Iloilo City issued TCT No. T-37195 for Lot 3244, TCT No. T-4665 for Lot 3246, and TCT No. T-37193 for Lot 1404, all in the name of respondent Jose.[11]

Based on the records with the Register of Deeds, it also appears that on May 10, 1974, the same day when the TCTs covering Lots 3244 and 1404 were issued, respondent Jose sold the said lots to Catalino Torre. TCT Nos. T-37195 and T-37193 were thus cancelled and TCT Nos. T-37196 and T-37194 were issued in the name of Catalino Torre.[12]

Similarly, the records of the Register of Deeds showed that Lot 3246 was likewise disposed of by respondent Jose. On March 30, 1979, or barely two days after obtaining TCT No. T-4665, respondent Jose sold Lot 3246 to respondent Antonio G. Doronila, Jr. who was issued TCT No. T-4666 which cancelled TCT No. T-4665. Catalino Torre also sold Lots 3244 and 1404 on the same date to Doronila who was issued the corresponding new TCTs.[13] However, just a few days later, or on April 2, 1979, Doronila sold Lot 1404 back to respondent Jose. Lots 3244 and 3246 were also sold back to respondent on January 17, 1980.[14]

On October 2, 1990, petitioner filed a complaint before the court a quo against her nephew respondent Jose and respondent Antonio G. Doronila, Jr. Petitioner argued that respondent Jose knowingly and wilfully made untruthful statements in the Affidavit of Adjudication because he knew that there were still other living heirs entitled to the said properties.[15] Petitioner claimed that the affidavit was null and void ab initio and as such, it did not transmit or convey any right of the original owners of the properties. Any transfer whatsoever is perforce likewise null and void.[16] Moreover, the petitioner averred that since respondent Jose executed said documents through fraud, bad faith, illegal manipulation and misrepresentation, Lots 3244 and 1404 should be reconveyed to its original registered owners and Lot 3246 to the heirs of Maria Luis de Tiongco subject to subsequent partition among the heirs.[17] Petitioner also posited that granting for the sake of argument that the affidavit of adjudication was simply voidable, respondent Jose became a trustee by constructive trust of the property for the benefit of the petitioner.[18]

Respondent Jose, for his part, argued that the petitioner's father, Jose, was not an heir of Maria Luis de Tiongco but an heir of Maria Cresencia de Loiz y Gonzalez vda. De Tiongco. Respondent Jose claimed that he was the only legitimate son and that while it was true that he has two other siblings, he refused to acknowledge them because they are illegitimate.[19] Respondent Jose denied that the series of sales of the properties was fraudulent. He claimed that Lot 3244 was bought by the City of Iloilo from its own auction sale for tax delinquency and was merely resold to him. Respondent Jose averred that he has been paying real property taxes on the said properties for more than ten (10) years and that petitioner collected rentals from Lots 3244 and 3246 only because he allowed her.[20]

After trial, the Iloilo City RTC ruled in favor of respondent Jose. The court a quo ruled that prescription has set in since the complaint was filed only on October 2, 1990 or some sixteen (16) years after respondent Jose caused to be registered the affidavit of adjudication on May 10, 1974.[21]

Aggrieved, petitioner appealed to the CA[22] which, however, sustained the trial court's ruling. The CA agreed with the trial court that an action for reconveyance can indeed be barred by prescription. According to the CA, when an action for reconveyance is based on fraud, it must be filed within four years from discovery of the fraud, and such discovery is deemed to have taken place from the issuance of the original certificate of title. On the other hand, an action for reconveyance based on an implied or constructive trust prescribes in ten (10) years from the

date of issuance of the original certificate of title or transfer certificate of title. For the rule is that the registration of an instrument in the Office of the Register of Deeds constitutes constructive notice to the whole world and therefore the discovery of fraud is deemed to have taken place at the time of registration.[23]

Petitioner filed a motion for reconsideration of the above ruling, but the CA as aforesaid, denied petitioner's motion. Hence, the present petition for review on certiorari.

Petitioner raised the following arguments in the petition, to wit:

- THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE LOWER COURT THAT THE AFFIDAVIT OF ADJUDICATION EXECUTED BY RESPONDENT JOSE B. TIONGCO, WHO IS A LAWYER AND IS AWARE OF ITS NULLITY, IS MERELY VOIDABLE; ON THE CONTRARY, SAID DOCUMENT IS A COMPLETE NULLITY BECAUSE RESPONDENT JOSE B. TIONGCO HAS MALICIOUSLY AND IN BAD FAITH ADJUDICATED IN FAVOR OF HIMSELF THE PROPERTIES IN QUESTION OVER WHICH HE, AS A LAWYER, KNOWS HE HAS NO RIGHTS WHATSOEVER AND HE ALSO KNOWS HAS BEEN IN POSSESSION OF THE PETITIONER AND HER PREDECESSORS-IN-INTEREST UNTIL THE PRESENT.

- THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE DISMISSAL OF PETITIONER'S COMPLAINT BY THE LOWER COURT ON THE GROUND OF PRESCRIPTION BECAUSE THE RESPONDENT JOSE B. TIONGCO'S AFFIDAVIT OF ADJUDICATION, BEING A TOTAL NULLITY, THE ACTION TO DECLARE SUCH NULLITY AND OF THOSE SUBSEQUENT TRANSACTIONS ARISING FROM SAID ADJUDICATION DOES NOT PRESCRIBE, ESPECIALLY BECAUSE IN THIS CASE THE PETITIONER AND HER PREDECESSORS-IN-INTEREST HAVE ALWAYS BEEN IN POSSESSION OF THE LOTS IN QUESTION AND RESPONDENT JOSE B. TIONGCO HAS NEVER BEEN IN POSSESSION THEREOF.[24]

- FURTHER, EVEN IF ARGUENDO, THE AFFIDAVIT OF ADJUDICATION IS VOIDABLE, THE HONORABLE COURT OF APPEALS STILL ERRED IN AFFIRMING THE DISMISSAL OF THE COMPLAINT BY THE LOWER COURT ON THE GROUND OF PRESCRIPTION BECAUSE THE RESPONDENT, JOSE B. TIONGCO, BEING A LAWYER AND BEING AWARE OF PETITIONER'S OWNERSHIP OF THE LOTS IN QUESTION, THE SAID AFFIDAVIT OF ADJUDICATION MAKES THE RESPONDENT AN IMPLIED TRUSTEE THEREOF FOR THE PETITIONER AND THE ACTION FOR RECONVEYANCE BASED ON TRUST DOES NOT PRESCRIBE SO LONG AS THE BENEFICIARY LIKE THE PETITIONER HAS BEEN IN ACTUAL PHYSICAL POSSESSION OF THE PROPERTY SUBJECT THEREOF, AS HELD IN THE CASE OF VDA. DE CABRERA VS. COURT OF APPEALS (267 SCRA 339).[25]

The only issue in this case is who has a better right over the properties.

The petition is meritorious.

The Court agrees with the CA's disquisition that an action for reconveyance can indeed be barred by prescription. In a long line of cases decided by this Court, we ruled that an action for reconveyance based on implied or constructive trust must perforce prescribe in ten (10) years from the issuance of the Torrens title over the property.[26]

However, there is an exception to this rule. In the case of *Heirs of Pomposa Saludaes v. Court of Appeals*,[27] the Court reiterating the ruling in *Millena v. Court of Appeals*,[28] held that there is but one instance when prescription cannot be invoked in an action for reconveyance, that is, when the plaintiff is in possession of the land to be reconveyed. In *Heirs of Pomposa Saludaes*,[29] this Court explained that the Court in a series of cases,[30] has permitted the filing of an action for reconveyance despite the lapse of more than ten (10) years

from the issuance of title to the land and declared that said action, when based on fraud, is imprescriptible as long as the land has not passed to an innocent buyer for value. But in all those cases, the common factual backdrop was that the registered owners were never in possession of the disputed property. The exception was based on the theory that registration proceedings could not be used as a shield for fraud or for enriching a person at the expense of another.

In *Alfredo v. Borrás*,^[31] the Court ruled that prescription does not run against the plaintiff in actual possession of the disputed land because such plaintiff has a right to wait until his possession is disturbed or his title is questioned before initiating an action to vindicate his right. His undisturbed possession gives him the continuing right to seek the aid of a court of equity to determine the nature of the adverse claim of a third party and its effect on his title. The Court held that where the plaintiff in an action for reconveyance remains in possession of the subject land, the action for reconveyance becomes in effect an action to quiet title to property, which is not subject to prescription.

The Court reiterated such rule in the case of *Vda. de Cabrera v. Court of Appeals*,^[32] wherein we ruled that the imprescriptibility of an action for reconveyance based on implied or constructive trust applies only when the plaintiff or the person enforcing the trust is not in possession of the property. In effect, the action for reconveyance is an action to quiet the property title, which does not prescribe.

Similarly, in the case of *David v. Malay*^[33] the Court held that there was no doubt about the fact that an action for reconveyance based on an implied trust ordinarily prescribes in ten (10) years. This rule assumes, however, that there is an actual need to initiate that action, for when the right of the true and real owner is recognized, expressly or implicitly such as when he remains undisturbed in his possession, the statute of limitation would yet be irrelevant. An action for reconveyance, if nonetheless brought, would be in the nature of a suit for quieting of title, or its equivalent, an action that is imprescriptible. In that case, the Court reiterated the ruling in *Faja v. Court of Appeals*^[34] which we quote:

x x x There is settled jurisprudence that one who is in actual possession of a piece of land claiming to be owner thereof may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right, the reason for the rule being, that his undisturbed possession gives him a continuing right to seek the aid of a court of equity to ascertain and determine the nature of the adverse claim of a third party and its effect on his own title, which right can be claimed only by one who is in possession. No better situation can be conceived at the moment for Us to apply this rule on equity than that of herein petitioners whose mother, Felipa Faja, was in possession of the litigated property for no less than 30 years and was suddenly confronted with a claim that the land she had been occupying and cultivating all these years, was titled in the name of a third person. We hold that in such a situation the right to quiet title to the property, to seek its reconveyance and annul any certificate of title covering it, accrued only from the time the one in possession was made aware of a claim adverse to his own, and it is only then that the statutory period of prescription commences to run against such possessor.

In this case, petitioner's possession was disturbed in 1983 when respondent Jose filed a case for recovery of possession.^[35] The RTC of Iloilo City ruled in respondent Jose's favor but the CA on November 28, 1991, during the pendency of the present controversy with the court a quo, ruled in favor of petitioner.^[36] Petitioner never lost possession of the said properties, and as such, she is in a position to file the complaint with the court a quo to protect her rights and clear whatever doubts has been cast on her title by the issuance of TCTs in respondent Jose's name.

The Court further observes that the circuitous sale transactions of these properties from respondent Jose to Catalino Torre, then to Antonio Doronila, Jr., and back again to respondent Jose were quite unusual. However,

this successive transfers of title from one hand to another could not cleanse the illegality of respondent Jose's act of adjudicating to himself all of the disputed properties so as to entitle him to the protection of the law as a buyer in good faith. Respondent Jose himself admitted that there exists other heirs of the registered owners in the OCTs. Even the RTC found that "[t]hese allegations contained in the Affidavit of Adjudication executed by defendant Jose B. Tiongco are false because defendant Jose B. Tiongco is not the only surviving heir of Jose Tiongco, Matilde Tiongco, Vicente Tiongco and Felipe Tiongco as the latters have other children and grandchildren who are also their surviving heirs." [37]

In the case of *Sandoval v. Court of Appeals*, [38] the Court defined an innocent purchaser for value as one who buys property of another, without notice that some other person has a right to, or interest in, such property and pays a full and fair price for the same, at the time of such purchase, or before he has notice of the claim or interest of some other persons in the property. He is one who buys the property with the belief that the person from whom he receives the thing was the owner and could convey title to the property. A purchaser can not close his eyes to facts which should put a reasonable man on his guard and still claim that he acted in good faith.

And while it is settled that every person dealing with a property registered under the Torrens title need not inquire further but only has to rely on the title, this rule has an exception. The exception is when the party has actual knowledge of facts and circumstances that would impel a reasonably cautious man to make such inquiry or when the purchaser has some knowledge of a defect or the lack of title in his vendor or of sufficient facts to induce a reasonably prudent man to inquire into the status of the title of the property in litigation. The presence of anything which excites or arouses suspicion should then prompt the vendee to look beyond the certificate and investigate the title of the vendor appearing on the face of said certificate. One who falls within the exception can neither be denominated an innocent purchaser for value nor a purchaser in good faith and hence does not merit the protection of the law. [39]

In this case, when the subject properties were sold to Catalino Torre and subsequently to Doronila, respondent Jose was not in possession of the said properties. Such fact should have put the vendees on guard and should have inquired on the interest of the respondent Jose regarding the subject properties. [40] But regardless of such defect on transfer to third persons, the properties again reverted back to respondent Jose. Respondent Jose cannot claim lack of knowledge of the defects surrounding the cancellation of the OCTs over the properties and benefit from his fraudulent actions. The subsequent sale of the properties to Catalino Torre and Doronila will not cure the nullity of the certificates of title obtained by respondent Jose on the basis of the false and fraudulent Affidavit of Adjudication.

WHEREFORE, the petition for review on certiorari is GRANTED. The August 28, 2003 Decision and November 27, 2003 Resolution of the Court of Appeals in CA-G.R. CV No. 44794 are hereby REVERSED and SET ASIDE. The Register of Deeds of Iloilo City is ordered to RESTORE Original Certificates of Title Nos. 484, 1482, and 368, respectively covering Lots 3244, 1404 and 3246, under the name/s of the registered original owners thereof.

Furthermore, respondent Atty. Jose B. Tiongco is ORDERED to SHOW CAUSE, within ten (10) days from notice hereof, why he should not be sanctioned as a member of the bar for executing the April 17, 1974 Affidavit of Adjudication and registering the same with the Register of Deeds.

No pronouncement as to costs.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Del Castillo, JJ., concur.

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- [1] Rollo, pp. 83-92 . Penned by Associate Justice Roberto A. Barrios with Associate Justices Rebecca De Guia-Salvador and Jose C. Reyes, Jr. concurring.
- [2] Id. at 93-103. Penned by Judge Ricardo M. Ilarde.
- [3] Id. at 105-106.
- [4] Records, pp. 11-13.
- [5] Rollo, p. 84.
- [6] Id. at 86.
- [7] Id. at 54, 86.
- [8] Id. at 85-87.
- [9] Id. at 54-55.
- [10] Id. at 117-118.
- [11] Id. at 84-85, 87; records, pp. 28-30.
- [12] Id. at 85; id at 31-34.
- [13] Id.; id at 36-39.
- [14] Id. at 56.
- [15] Id. at 87.
- [16] Id.
- [17] Id. at 87-88.
- [18] Id. at 71.
- [19] Id. at 88.
- [20] Id.
- [21] Id. at 101.
- [22] Id. at 89.
- [23] Id. at 90-91.
- [24] Id. at 62-63.
- [25] Id. at 68-69.
- [26] Amerol v. Bagumbaran, No. L-33261, September 30, 1987, 154 SCRA 396, 406-407; Bautista v. Bautista, G.R No.160556, August 3, 2007, 529 SCRA 187, 192.
- [27] G.R. No. 128254, January 16, 2004, 420 SCRA 51, 57.
- [28] G.R. No. 127797, January 31, 2000, 324 SCRA 126, 132.
- [29] Supra note 27 at 58.

[30] *Rodriguez v. Director of Lands*, 31 Phil. 272 (1915); *Zarate v. Director of Lands*, 34 Phil. 416 (1916); *Amerol v. Bagumbaran*, supra note 26; *Caro v. Court of Appeals*, G.R. No. 76148, December 20, 1989, 180 SCRA 401.

[31] G.R. No. 144225, June 17, 2003, 404 SCRA 145, 166.

[32] G.R. No. 108547, February 3, 1997, 267 SCRA 339, 353.

[33] G.R. No. 132644, November 19, 1999, 318 SCRA 711, 720.

[34] No. L-45045, February 28, 1977, 75 SCRA 441, 446.

[35] *Rollo*, p. 86.

[36] *Id.* at 55.

[37] *Id.* at 96.

[38] G.R. No. 106657, August 1, 1996, 260 SCRA 283, 296-297.

[39] *David v. Malay*, supra note 33 at 722.

[40] *Vide: Heirs of Trinidad De Leon Vda. de Roxas v. Court of Appeals*, G.R. No. 138660, February 5, 2004, 422 SCRA 101, 117, citing *Development Bank of the Philippines v. Court of Appeals*, G.R. No. 129471, April 28, 2000, 331 SCRA 267, 291.

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