EUGENIO FELICIANO, SUBSTITUTED BY HIS WIFE CEFERINA DE PALMA- FELICIANO, ANGELINA DE LEON, REPRESENTING THE HEIRS OF ESTEBAN FELICIANO, TRINIDAD VALIENTE, AND BASILIA TRINIDAD, ...

G.R. No. 161746. September 01, 2010

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

Before the Court is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, seeking to annul and set aside the Decision[1] dated June 26, 2003 and Resolution[2] dated January 15, 2004 of the Court of Appeals (CA) in CA-G.R. CV No. 61888. The CA had reversed the Decision[3] dated August 3, 1998 of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 11, in Civil Case No. 819-M-93 and dismissed petitioners' complaint on the ground of prescription.

The facts are as follows:

When Antonio Feliciano passed away on May 20, 1930, he left behind his only property, a parcel of land located at Bunga[4] Mayor, Bustos, Bulacan. The land had an area of 1,125 square meters and was evidenced by Tax Declaration No. 1402[5] in his name. On March 28, 1972, Leona, Maria, Pedro and Salina, all surnamed Feliciano, declared themselves to be the only surviving heirs of Antonio Feliciano, with the exception of Salina. They executed an extrajudicial settlement of Antonio Feliciano's estate[6] and appropriated among themselves the said parcel of land, to the exclusion of the heirs of Esteban Feliciano and Doroteo Feliciano, deceased children of Antonio Feliciano. On even date, Leona, Maria, Pedro and Salina executed a deed of absolute sale or Kasulatan sa Ganap Na Bilihan over the property in favor of the late Jacinto Feliciano (Pedro's portion), Felisa Feliciano (Salina's portion) and Pedro Canoza (Leona and Maria's portions).[7]

During his lifetime, Jacinto Feliciano applied for a free patent over the portion of land he bought, declaring that the same was a public land, first occupied and cultivated by Pedro Feliciano.[8] Jacinto was issued Free Patent No. (IV-4) 012293 on November 28, 1977[9] and the same was forwarded to the Register of Deeds of Malolos, Bulacan, but unfortunately, it was burned on March 7, 1987. Pedro Canoza, for his part, also applied for a free patent over the portion of land which he bought, claiming that the same was public land, first occupied and cultivated by Leona and Maria Feliciano.[10] He was issued Free Patent No. (IV-4) 012292, now covered by Original Certificate of Title (OCT) No. P-364,[11] on February 23, 1979.

On October 18, 1993, Eugenio Feliciano and Angelina Feliciano-de Leon, surviving heirs of the late Esteban Feliciano, and Trinidad Feliciano-Valiente and Basilia Feliciano-Trinidad, surviving children of the late Doroteo Feliciano, filed a complaint[12] against Salina Feliciano, Felisa Feliciano, Pedro Canoza and the heirs of the late Jacinto Feliciano, namely Delia, Rosauro, Elsa, Nardo and Ponciano, all surnamed Feliciano, for the Declaration of Nullity of Documents and Title, Recovery of Real Property and Damages. They alleged that the settlement of the estate and sale were done without their participation and consent as heirs of Esteban and Doroteo. Likewise,

they averred that the ancestral home of the Felicianos is erected on the subject property and that they have occupied the same since birth. Canoza and Jacinto falsely declared that the property was not occupied, so their titles to the property should be declared null and void on the ground that they have made false statements in their respective applications for free patent.

On November 4, 1993, before an Answer could be filed, the petitioners amended their complaint to include the allegation that they sought to recover the shares of their fathers, Esteban and Doroteo, which they could have acquired as heirs of Antonio Feliciano.[13]

In their Answer,[14] respondent Pedro Canoza and his spouse, respondent Delia Feliciano, alleged that they were buyers in good faith and for value. They likewise contended that assuming that there was preterition of legal heirs, they never took part in it. As affirmative defenses, they alleged that the complaint failed to state a cause of action; the lower court had no jurisdiction as the subject of the case were free patents and therefore prior exhaustion of administrative remedies was required; the case was prematurely filed; no effort was exerted towards a settlement; plaintiffs' right has prescribed; Eugenio Feliciano was a mere squatter who should be ordered to vacate; the deed of sale was validly, genuinely and duly executed; Eugenio and Angelina were guilty of misleading the court because there were other heirs who were indispensable parties but who were not included; and Presidential Decree No. 1508 or the Revised Katarungang Pambarangay Law was not resorted to by plaintiffs.

Respondents Rosauro Feliciano, Elsa Feliciano and Ponciano Feliciano likewise filed an Answer[15] containing the same allegations and defenses as respondents Pedro Canoza and Delia Feliciano. The other defendants, Salina Feliciano, Felisa Feliciano and Nardo Feliciano were declared in default.

On August 3, 1998, the trial court rendered a Decision, the dispositive portion of which reads as follows:

> WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants, as follows:
>
> - Declaring the extra-judicial settlement of estate of Antonio Feliciano null and void;
>
> - Declaring the sale of the property in question to Pedro Canoza, Felisa Feliciano and Jacinto Feliciano null and void;
>
> - Declaring the original certificate of Title No. 364 in the name of Pedro Canoza and the certificates of titles in the name of defendants over Lot 1874-Cad-344, Bustos Cadastre (Tax Declaration No. 1402) as null and void;
>
> - Ordering defendants to reconvey ownership and possession of said property to plaintiffs subject to a just and equitable partition thereof by and between all interested parties.
>
> No pronouncement as to cost.
>
> SO ORDERED.[16]

The trial court explained that by operation of law, the plaintiffs (herein petitioners) have as much right as Leona, Maria, Pedro and Salina Feliciano to inherit the property in question, and they cannot be deprived of their right unless by disinheritance for causes set forth in the law. When Leona Feliciano, Pedro Feliciano, Maria Feliciano and Salina Feliciano appropriated the disputed lot solely to themselves through the extrajudicial settlement of estate, they committed a fraudulent act. To the extent that Doroteo and Esteban were deprived of their rightful share, the said out-of-court settlement was annullable, said the trial court. The trial court also declared that Pedro Canoza was not a buyer in good faith of Leona and Maria's shares. Records show that Pedro Canoza's live-in partner, Delia Feliciano, was a relative of the petitioners and the other defendants; thus, he could be reasonably charged with the knowledge of petitioners' status vis-à-vis the subject property. The acquisition by Canoza and Jacinto Feliciano of free patent titles over portions of the contested lot also did not legitimize their ownership

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thereof, as they acquired no greater rights over the property than their predecessors-in-interest, having merely stepped into their shoes.[17]

Aggrieved, respondents appealed to the CA with the following assignment of errors:

> I. THE LOWER COURT COMMITTED A REVERSIBLE ERROR IN ADMITTING IN EVIDENCE THE EXTRA-JUDICIAL SETTLEMENT OF ESTATE OF ANTONIO FELICIANO (EXHIBIT "B")[;]
>
> II. THE LOWER COURT COMMITTED A REVERSIBLE ERROR IN DECLARING AS NULL AND VOID THE EXTRA-JUDICIAL SETTLEMENT OF ESTATE OF ANTONIO FELICIANO (EXHIBIT "B")[;]
>
> III. THE LOWER COURT COMMITTED A REVERSIBLE ERROR IN DECLARING AS NULL AND VOID THE DEED OF SALE (EXHIBIT "C") IN FAVOR OF JACINTO FELICIANO, FELISA FELICIANO AND PEDRO CANOZA[;]
>
> IV. THE LOWER COURT COMMITTED A REVERSIBLE ERROR IN DECLARING O.C.T. NO. 364 IN THE NAME OF PEDRO CANOZA AND CERTIFICATES OF TITLE OF DEFENDANTS AS NULL AND VOID[; AND]
>
> V. THE LOWER COURT COMMITTED A REVERSIBLE ERROR IN ORDERING DEFENDANTS TO RECONVEY OWNERSHIP AND POSSESSION OF THE SUBJECT PROPERTY TO PLAINTIFFS SUBJECT TO A JUST AND EQUITABLE PARTITION THEREOF BY AND BETWEEN ALL INTERESTED PARTIES.[18]

On June 26, 2003, the appellate court rendered the assailed Decision reversing the trial court's decision. The CA held,

> WHEREFORE, premises considered, the appeal is hereby GRANTED. Accordingly, the Decision dated August 3, 1998 of the Regional Trial Court, Branch 11 (XI), Malolos, Bulacan in Civil Case No. 819-M-93 is hereby REVERSED AND SET ASIDE and plaintiffs-appellees' complaint is ordered DISMISSED for being time-barred.
>
> SO ORDERED.[19]

The CA ruled that prescription had set in, citing the case of Pedrosa v. Court of Appeals,[20] which held that the applicable prescriptive period to annul a deed of extrajudicial settlement is four (4) years from the discovery of the fraud. It reasoned that when petitioners filed the instant complaint for the annulment of the extrajudicial settlement of Antonio Feliciano's estate, more than four (4) years had elapsed from the issuance of the free patents. As regards the portion claimed by the late Jacinto Feliciano, sixteen (16) years had elapsed from the time the free patent was issued to him before petitioners filed the complaint, while in the case of Canoza, fourteen (14) years had elapsed from the issuance of the free patent in Canoza's favor. Hence, according to the CA, the action for the annulment of the documents had prescribed.

Petitioners filed a motion for reconsideration of the aforesaid Decision but it was denied by the CA in the Resolution dated January 15, 2004 for lack of merit.

Hence, this petition.

The grounds relied upon by the petitioners are the following:

> A. THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN GRANTING THE APPEAL BY ORDERING THE DISMISSAL OF THE COMPLAINT ON GROUND OF PRESCRIPTION OF ACTION, DESPITE THE FACT THAT THE ISSUE OF PRESCRIPTION OF ACTION HAS NOT BEEN RAISED ON

> APPEAL AS AN ISSUE, NOR ASSIGNED AS AN ERROR, NOR DEFINED IN THE PRE-TRIAL ORDER AS AMONG THE ISSUES TO BE RESOLVED;
>
> B. ASSUMING THAT PRESCRIPTION OF ACTION MAY BE TAKEN AS A GROUND FOR DISMISSING THE COMPLAINT EVEN IF NOT RAISED ON APPEAL, NOR ASSIGNED AS AMONG THE ERRORS COMMITTED, THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN HOLDING THAT THE ACTION PRESCRIBES IN FOUR YEARS, OR IN NOT HOLDING THAT THE ACTION IS IMPRESCRIPTIBLE;
>
> C. THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT AFFIRMING THE DECISION OF THE TRIAL COURT.[21]

Essentially, the issue for our resolution is whether the CA erred in reversing the trial court's decision.

Petitioners allege that the CA gravely erred in granting the appeal and in dismissing the complaint on the ground of prescription of action because that issue was never raised on appeal, nor defined as one (1) of the issues outlined and limited in the pre-trial order.

We do not agree.

While respondents have not assigned the defense of prescription in their appeal before the CA, they raised such defense in their December 1, 1993 Answer as one (1) of their affirmative defenses.[22] In their brief before the CA, respondents specifically prayed for the reliefs mentioned in their respective answers before the trial court. Thus, by reference, they are deemed to have adopted the defense of prescription, and could not properly be said to have waived the defense of prescription.

Moreover, Rule 9, Section 1 of the 1997 Rules of Civil Procedure, as amended, provides that when it appears from the pleadings or the evidence on record that the action is already barred by the statute of limitations, the court shall dismiss the claim. Thus, in Gicano v. Gegato,[23] we held:

> We have ruled that trial courts have authority and discretion to dismiss an action on the ground of prescription when the parties' pleadings or other facts on record show it to be indeed time-barred x x x; and it may do so on the basis of a motion to dismiss, or an answer which sets up such ground as an affirmative defense; or even if the ground is alleged after judgment on the merits, as in a motion for reconsideration; or even if the defense has not been asserted at all, as where no statement thereof is found in the pleadings, or where a defendant has been declared in default. What is essential only, to repeat, is that the facts demonstrating the lapse of the prescriptive period, be otherwise sufficiently and satisfactorily apparent on the record: either in the averments of the plaintiffs complaint, or otherwise established by the evidence. (Underscoring supplied.)

But did the CA nonetheless commit error when it held that the applicable prescriptive period is four (4) years?

Petitioners argue that the CA erroneously treated the action they filed at the trial court as one (1) for annulment of the extrajudicial settlement and applied the four (4)-year prescriptive period in dismissing the same. They contend that the action they filed was one (1) for Declaration of Nullity of Documents and Titles, Recovery of Real Property and Damages, and as such, their action was imprescriptible pursuant to Article 1410[24] of the Civil Code.

Respondents, for their part, maintain that the CA did not err in holding that the deed of extrajudicial partition executed without including some of the heirs, who had no knowledge of the partition and did not consent thereto, is merely fraudulent and not void. They stress that the action to rescind the partition based on fraud prescribes in four (4) years counted from the date of registration, which is constructive notice to the whole world.

We affirm the ruling of the CA. As the records show, the heirs of Doroteo and Esteban did not participate in the

extrajudicial partition executed by Salina with the other compulsory heirs, Leona, Maria and Pedro. Undeniably, the said deed was fraudulently obtained as it deprived the known heirs of Doroteo and Esteban of their shares in the estate. A deed of extrajudicial partition executed without including some of the heirs, who had no knowledge of and consent to the same, is fraudulent and vicious.[25] 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 (4) years from the discovery of the fraud.

In Gerona v. De Guzman,[26] respondents therein executed a deed of extrajudicial settlement declaring themselves to be the sole heirs of the late Marcelo de Guzman. They secured new transfer certificates of title in their own names, thereby excluding the petitioners therein from the estate of the deceased. The petitioners brought an action for the annulment of the said deed upon the ground that the same is tainted with fraud. The Court held,

> Inasmuch as petitioners seek to annul the aforementioned deed of "extra-judicial settlement" upon the ground of fraud in the execution thereof, the action therefor may be filed within four (4) years from the discovery of the fraud (Mauricio v. Villanueva, L-11072, September 24, 1959). Such discovery is deemed to have taken place, in the case at bar, on June 25, 1948, when said instrument was filed with the Register of Deeds and new certificates of title were issued in the name of respondents exclusively, for the registration of the deed of extra-judicial settlement constitute constructive notice to the whole world.[27] (Emphasis and underscoring supplied.)

Evidently, the applicable prescriptive period to institute the action to annul the deed of extrajudicial settlement was four (4) years counted from the discovery of fraud as held in the case of Gerona v. De Guzman.[28] However, the records show that petitioners' complaint was filed only on October 18, 1993, or almost sixteen (16) years after Jacinto Feliciano was issued Free Patent No. (IV-4) 012293 on November 28, 1977, and almost fourteen (14) years from the time Pedro Canoza was issued OCT No. P-364 on November 28, 1979. As petitioners are deemed to have obtained constructive notice of the fraud upon the registration of the Free Patent, they clearly failed to institute the present civil action within the allowable period. The same result obtains even if their complaint is treated as one (1) essentially for reconveyance as more than ten (10) years have passed since petitioners' cause of action accrued. The CA committed no error in dismissing their complaint.

WHEREFORE, the petition for review on certiorari is DENIED. The Decision dated June 26, 2003 and Resolution dated January 15, 2004, of the Court of Appeals in CA-G.R. CV No. 61888 are AFFIRMED.

With costs against petitioners.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Del Castillo,[*] and Sereno, JJ., concur.

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[*] Designated additional member per Special Order No. 879 dated August 13, 2010.

[1] Rollo, pp. 32-44. Penned by Associate Justice Remedios A. Salazar-Fernando with Associate Justices Delilah Vidallon-Magtolis and Edgardo F. Sundiam concurring.

[2] Id. at 45-46.

[3] Id. at 28-31. Penned by Judge Basilio R. Gabo, Jr.

[4] Also spelled as "Bonga" in some parts of the records.

[5] Records, pp. 9-10.

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[6] Id. at 11.

[7] Id. at 12.

[8] Id. at 13-14.

[9] Rollo, p. 43.

[10] Records, pp. 15-16.

[11] Id. at 68-69.

[12] Id. at 1-8.

[13] Id. at 20-27.

[14] Id. at 39-45.

[15] Id. at 86-88.

[16] Rollo, pp. 30-31.

[17] Id. at 29-30.

[18] CA rollo, pp. 55-56.

[19] Rollo, p. 43.

[20] G.R. No. 118680, March 5, 2001, 353 SCRA 620, 627-628, citing Gerona v. De Guzman, No. L-19060, May 29, 1964, 11 SCRA 153, 157.

[21] Rollo, p. 19.

[22] Records, p. 42.

[23] No. L-63575, January 20, 1988, 157 SCRA 140, 145-146.

[24] ART. 1410. The action or defense for the declaration of the inexistence of a contract does not prescribe.

[25] Pedrosa v. Court of Appeals, supra at 628, citing Villaluz v. Neme, No. L-14676, January 31, 1963, 7 SCRA 27, 30.

[26] No. L-19060, May 29, 1964, 11 SCRA 153.

[27] Id. at 157, citing Diaz v. Gorricho, No. L-11229, March 29, 1958; Avecilla v. Yatco, L-11578, May 14, 1958; J.M. Tuason & Co., Inc. v. Magdangal, L-15539, January 30, 1962; Lopez v. Gonzaga, L-18788, January 31, 1964.

[28] Supra note 26.

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