

**MARLENE CRISOSTOMO & JOSE G. CRISOSTOMO,
PETITIONERS, VS. FLORITO M. GARCIA, JR., RESPONDENT.**

G.R. NO. 164787. January 31, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

On 20 June 2002, respondent Florito M. Garcia, Jr. filed Civil Case No. C-20128 for cancellation of Transfer Certificate of Title (TCT) No. 273165 of the Registry of Deeds of Caloocan City against petitioners-spouses Marlene and Jose Crisostomo raffled to Branch 121 of the Regional Trial Court of Caloocan City.[1]

In his Complaint,[2] dated 16 June 2002, respondent alleged that on 24 September 1986, Victoria Garcia Vda. de Crisostomo, mother of petitioner Jose G. Crisostomo, sold to him, by way of a Deed of Absolute Sale,[3] the property, described in the aforesaid TCT including the improvements and rights thereon, particularly described as TAG No. 84-205-1097 (Urban Bliss Level I [ZIP] located at 163 Libis Talisay, Caloocan City). In the Deed of Sale, petitioner Jose Crisostomo and his sister Cristina Crisostomo signed as witnesses in the execution of the instrument. Since they were distant relatives, respondent allowed Victoria and her children, petitioner Jose and Cristina, to stay in the subject property as lessees under a Contract of Lease.[4] By virtue of the said deed of sale, respondent effected the transfer of the tax declaration covering the property, under his name from the City Assessor's Office of Caloocan City.

However, before the transfer of title to respondent could be completed, petitioners-spouses Jose and Marlene Crisostomo were able to secure a loan from the National Home Mortgage Finance Corporation using the subject property as security through bad faith and machinations. Worse, petitioners were able to transfer the subject property under their names, obtaining TCT No. 273165, from the Registry of Deeds of Caloocan City, without the knowledge and consent of the respondent.

Instead of an Answer, petitioners filed an "Urgent Motion to Dismiss Action,"[5] alleging that since respondent's cause of action is based on an alleged deed of sale executed on 24 September 1986, the cause of action of the respondent to enforce and to implement the instrument arose on 24 September 1986 and pursuant to Article 1144[6] of the Civil Code, the action must be brought within 10 years from the time the right of action accrues. Thus, from 24 September 1986, respondent had only up to 24 September 1996 within which to file the action. Since the complaint was filed only on 20 June 2002, or after the lapse of more than 16 years, the cause of action is clearly barred by prescription.

Respondent, in his Comment[7] to the Motion to Dismiss, countered that the cause of action has not yet prescribed. He contends that Article 1144 of the Civil Code does not apply to the case because the complaint is for cancellation of title registered in the names of the petitioners and for reconveyance. Respondent further points out that he did not file an action for specific performance based on the deed of sale. The complaint, he said, is for reconveyance based on an implied or constructive trust which expires in 10 years counted from the date the adverse title to the property is asserted by the possessor.

After the parties filed their respective reply[8] and rejoinder,[9] the motion was deemed submitted for resolution.

Resolving the motion,[10] the trial court issued an Order dated 12 August 2003, dismissing the same for lack of merit, in this wise:

It appears from the pleadings submitted by the parties that the mother of defendant Jose Crisostomo had sold the property subject matter of this case to the plaintiff as evidenced by a Deed of Absolute Sale. However, before the property could have been registered with the Register of Deeds and a transfer certificate of title could have been issued, the defendants had obtained a loan from the National Home Mortgage Finance Corporation using the subject property as collateral. The defendants were able to transfer the subject property in their names now covered by Transfer Certificate of Title No. 273165 before the Register of Deeds of Caloocan City.

By way of an opposition, the plaintiff alleged that the action is for the cancellation of title based on fraud which was discovered upon the registration of the property in 1993. The case was filed on June 20, 2003,(sic) hence, the action has not yet prescribed.

While it is true that in action based on a written contract prescribes in 10 years, the same however does not find application in the case at bar. The plaintiff is trying to cancel the transfer certificate of title issued in favor of the private defendants based on the alleged fraud which was discovered in 1993.

WHEREFORE, in view of the foregoing, the instant motion is hereby DENIED for utter lack of merit.

The defendants are directed to file their Answer within ten (10) days from receipt of a copy of this order.[11]

Petitioners filed a Motion for Reconsideration,[12] dated 11 September 2003[13] which the respondent opposed.[14] The trial court denied the Motion for Reconsideration in an Order dated 21 October 2003.[15] Undaunted, petitioners filed a Petition for Certiorari[16] before the Court of Appeals.[17]

In a resolution[18] dated 20 February 2004, the Court of Appeals resolved to dismiss the petition outright stating that the defense of prescription being a question of fact, the same is not proper in a petition for certiorari.[19]

Petitioners filed a Motion for Reconsideration[20] dated 22 March 2004 which was denied in a resolution dated 06 August 2004.[21]

Hence, this petition grounded on the following:

I.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN RULING THAT THE ISSUE OF PRESCRIPTION INVOLVES A QUESTION OF FACT.

II.

EVEN ASSUMING ARGUENDO THAT SAID ISSUE OF PRESCRIPTION INVOLVES A QUESTION OF FACT, WHETHER OR NOT THE COURT OF APPEALS ERRED BY REFUSING TO RESOLVE THE MERITS OF THE SAID PETITION BELOW.

III.

WHETHER OR NOT THE ACTION FILED BY THE RESPONDENT HAD ALREADY PRESCRIBED.[22]

On the issue of whether the defense of prescription is a question of fact or law, the distinction is settled that there is a question of fact when the doubt or difference arises as to the truth or falsehood of the alleged facts. On the

other hand, a question of law exists when there is a doubt or controversy as to what the law is on a certain state of facts.[23] For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them.[24] The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact.[25]

The test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise it is a question of fact. [26]

In the case of Santos, et al. v. Aranzanso,[27] this Court has held that the question of prescription of the action involves the ascertainment of factual matters such as the date when the period to bring the action commenced to run. In Lim v. Chan,[28] this Court has again decreed that prescription is a factual matter when it held that without conducting trial on the merits, the trial court cannot peremptorily find the existence of estoppel, laches, fraud or prescription of actions as these matters require presentation of evidence and determination of facts.

At first glance, applying these jurisprudence as bases, it may seem that the Court of Appeals acted correctly in denying the petition. However, while we agree with the Court of Appeals that the issue of prescription is a factual matter, we deem it erroneous on its part to have dismissed the petition on this ground. The Court of Appeals could have squarely ruled if the trial court committed grave abuse of discretion in denying the motion to dismiss the Complaint filed by the petitioners considering that the facts from which the issue of prescription can be adduced are available to the appellate court, they being extant from the records.

The records disclose that the date of registration of the subject property in the name of the petitioners was 16 November 1993 while the Deed of Sale executed in favor of the respondent was dated 24 September 1986. The complaint for the reconveyance and cancellation of TCT was filed by the respondent on 20 June 2002.

Moreover, a motion to dismiss based on prescription hypothetically admits the truth of the facts alleged in the complaint.[29] Such hypothetical admission is limited to the facts alleged in the complaint which relate to, and are necessary for, the resolution of the grounds stated in the motion to dismiss as preliminary matters involving substantive or procedural laws, but not to the other facts of the case. As applied herein, the hypothetical admission extends to the date of execution of the Deed of Sale in favor of the respondent and to the date of registration of title in favor of the petitioners.

The foregoing considered, the Court of Appeals was properly equipped with the tools to determine if the trial court abused its discretion in ruling that respondent's cause of action had not prescribed. Nevertheless, instead of remanding this case to the Court of Appeals which is concededly a costly endeavor in terms of the parties' resources and time, we shall rule on the issue of prescription.[30]

Petitioners' allegation that an action for the reconveyance of real property on the ground of fraud must be filed within four years from the discovery of the fraud[31] is without basis.

The four-year prescriptive period relied upon by the petitioners apply only if the complaint seeks to annul a voidable contract under Article 1390[32] of the Civil Code. In such case, the four-year prescriptive period under Article 1391[33] begins to run from the time of discovery of the mistake, violence, intimidation, undue influence or fraud.[34]

Generally, an action for reconveyance of real property based on fraud prescribes in four years from the discovery of fraud; such discovery is deemed to have taken place upon the issuance of the certificate of title over the property. Registration of real property is a constructive notice to all persons and, thus, the four-year period shall

be counted therefrom.[35]

In the case at bar, respondent's action which is for Reconveyance and Cancellation of Title is based on an implied trust under Art. 1456 of the Civil Code since he averred in his complaint that through fraud petitioners were able to obtain a Certificate of Title over the property. He does not seek the annulment of a voidable contract whereby Articles 1390 and 1391 of the Civil Code would find application such that the cause of action would prescribe in four years.

Art. 1456 of the Civil Code provides:

Art. 1456. If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes.

Thus, it was held that when a party uses fraud or concealment to obtain a certificate of title of property, a constructive trust is created in favor of the defrauded party.[36]

Constructive trusts are "created by the construction of equity in order to satisfy the demands of justice and prevent unjust enrichment. They arise contrary to intention against one who, by fraud, duress or abuse of confidence, obtains or holds the legal right to property which he ought not, in equity and good conscience, to hold." [37]

When property is registered in another's name, an implied or constructive trust is created by law in favor of the true owner.[38] The action for reconveyance of the title to the rightful owner prescribes in 10 years from the issuance of the title.[39]

An action for reconveyance based on implied or constructive trust prescribes in ten years from the alleged fraudulent registration or date of issuance of the certificate of title over the property.[40]

It is now well-settled that the prescriptive period to recover property obtained by fraud or mistake, giving rise to an implied trust under Art. 1456 of the Civil Code, is 10 years pursuant to Art. 1144. This ten-year prescriptive period begins to run from the date the adverse party repudiates the implied trust, which repudiation takes place when the adverse party registers the land.[41]

Clearly, the applicable prescriptive period is ten years under Art. 1144 and not four years under Arts. 1389 and 1391.[42]

Applying the law and jurisprudential declaration above-cited to the allegations of fact in the complaint, it can clearly be seen that respondent has a period of 10 years from the registration of the title within which to file the action. Since the title was registered in the name of the petitioners on 16 November 1993, respondent had a period of 10 years from the time of the registration within which to file the complaint. Since the complaint was filed on 20 June 2002, the action clearly has not prescribed and was timely-filed.

WHEREFORE, premises considered, the instant petition is:

(1) GRANTED, with respect to the petitioners' prayer that the Court of Appeals should have resolved the petition on the merits.

(2) DENIED, with respect to the prayer for the dismissal of Civil Case No. C-20128 before the Regional Trial Court of Caloocan City, Branch 121.

The case is ordered remanded to the trial court which is directed to continue with the hearing and proceed with Civil Case No. C-20128 with deliberate dispatch. No costs.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Callejo Sr., JJ., concur.

[1] Presided by Judge Adoracion G. Angeles.

[2] Annex J, rollo, p. 64.

[3] Annex K, Id. at 71.

[4] Annex L, Id. at 72.

[5] Annex N, Id. at 74.

[6] Civil Code, Art. 1144. The following actions must be brought within ten years from the time the right of action accrues:

(1) Upon a written contract;

(2) Upon an obligation created by law;

(3) Upon a judgment.

[7] Annex O, rollo, p. 79.

[8] Annex P, Id. at 82.

[9] Annex Q, Id. at 85.

[10] Id. at 87-88.

[11] Id. at 87-88.

[12] Id. at 89.

[13] Records, p. 103.

[14] Annex T, rollo, p. 95.

[15] Records, p. 117.

[16] Rollo, p. 27.

[17] Docketed as CA-G.R. SP No. 813117.

[18] Penned by Associate Justice Hakim S. Abdulwahid with Associate Justices Delilah Vidallon-Magtolis and Jose L. Sabio, Jr., concurring.

[19] Annex C, rollo, pp. 100-101.

[20] Annex D, Id. at 103.

[21] Annex A, Id. at 27.

[22] Rollo, p. 150.

[23] Olave v. Mistas, G.R. No. 155193, 26 November 2004, 444 SCRA 479, 490, citing Skippers Pacific, Inc. v. Mira, G.R. No. 144314, 21 November 2002, 392 SCRA 371, 383; Western Shipyard Services, Inc. v. Court of Appeals, G.R. No. 110340, 28 May 2001, 358 SCRA 257, 264.

[24] Ramos v. Pepsi Cola Bottling Co. of the Phils., 125 Phil. 701, 705 (1967).

[25] Microsoft Corporation and Lotus Development Corp. v. Maxicorp, Inc., G.R. No. 140946, 13 September 2004, 438 SCRA 224, 231, citing Cheesman v. Intermediate Appellate Court, G.R. No. 74833, 21 January 1991, 193 SCRA 93, 101; Cucueco v. Court of Appeals, G.R. No. 139278, 25 October 2004, 441 SCRA 290, 299.

[26] Saludo, Jr. v. Court of Appeals, G.R. No. 95536, 23 March 1992, 207 SCRA 498, 506; Cucueco v. Court of Appeals, *supra*.

[27] 201 Phil. 481, 484 (1982).

[28] G.R. No. 127227, 28 February 2001, 353 SCRA 55, 60.

[29] Halimao v. Villanueva, 323 Phil. 1, 10 (1996); see also I Remedial Law Compendium, Florenz D. Regalado, p. 242, (7th Ed.).

[30] Bunao v. Social Security Sytem, G.R. No. 156652, 13 December 2005, citing Vallejo v. Court of Appeals, G.R. No. 156413, 14 April 2004, 427 SCRA 658, 669; San Luis v. Court of Appeals, 417 Phil. 598, 605 (2001).

[31] Memorandum for the Petitioners; Rollo, p. 159.

[32] Art. 1390. The following contracts are voidable or annulable, even though there may have been no damage to the contracting parties;

(1) Those where one of the parties is incapable of giving consent to a contract.

(2) Those where the consent is vitiated by mistake, violence, intimidation, undue influence or fraud.

These contracts are binding, unless they are annulled by a proper action in court. They are susceptible of ratification.

[33] Art. 1391. The action for annulment shall be brought within four years.

This period shall begin: In cases of intimidation, violence or undue influence, from the time the defect of the consent ceases.

In case of mistake or fraud, from the time of the discovery of the same.

And when the action refers to contracts entered into by minors or other incapacitated persons, from the time the guardianship ceases.

[34] Pascual v. Court of Appeals, G.R. No. 115925, 15 August 2003, 409 SCRA 105, 113.

[35] Philippine Economic Zone Authority v. Fernandez, 411 Phil. 107, 119 (2001), cited in Government Service Insurance System v. Santiago, G.R. No. 155206, 28 October 2003, 414 SCRA 563, 571.

[36] Juan v. Zuñiga, 114 Phil. 1163, 1167-1168 (1962), cited in Heirs of Clemente Ermac v. Heirs of Vicente Ermac, 451 Phil. 368, 378-379 (2003).

[37] Cuenco v. Cuenco Vda. De Manguerra, G.R. No. 149844, 13 October 2004, 440 SCRA 252, 262-263, citing Sps. Rosario v. Court of Appeals, 369 Phil. 729, 750 (1999).

[38] Austria-Magat v. Court of Appeals, 426 Phil. 263, 278 (2002).

[39] Austria-Magat v. Court of Appeals, *supra*, p. 279.

[40] Pascual v. Court of Appeals, *supra* note 34, pp. 114-115.

[41] Sps. Alfredo v. Sps. Borrás, G.R. No. 144225, 17 June 2003, 404 SCRA 145, 165; Vda. De Delgado v. Court

of Appeals, 416 Phil. 263, 274 (2001); Villanueva-Mijares v. Court of Appeals, 386 Phil. 555, 566 (2000).

[42] Pascual v. Court of Appeals, *supra* note 34, p. 113.

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