

**RAMON B. BRITO, SR., PETITIONER, VS. SEVERINO D. DIANALA,
VIOLETA DIANALA SALES, JOVITA DIANALA DEQUINTO, ROSITA
DIANALA, CONCHITA DIANALA AND JOEL DEQUINTO,
RESPONDENTS.**

G.R. No. 171717. December 15, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

Before the Court is a petition for review on certiorari seeking to annul and set aside the Decision[1] dated January 12, 2005 and Resolution[2] dated February 13, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 70009. The assailed Decision set aside the Joint Orders[3] dated June 29, 2000 of the Regional Trial Court (RTC) of Negros Occidental, Branch 60, Cadiz City, while the questioned Resolution denied petitioner's Motion for Reconsideration.

The factual and procedural antecedents of the case are as follows:

Subject of the present petition is a parcel of land located at Barrio Sicaba, Cadiz City, Negros Occidental. The said tract of land is a portion of Lot No. 1536-B, formerly known as Lot No. 591-B, originally owned by a certain Esteban Dichimo and his wife, Eufemia Dianala, both of whom are already deceased.

On September 27, 1976, Margarita Dichimo, assisted by her husband, Ramon Brito, Sr., together with Bienvenido Dichimo, Francisco Dichimo, Edito Dichimo, Maria Dichimo, Herminia Dichimo, assisted by her husband, Angelino Mission, Leonora Dechimo, assisted by her husband, Igmedio Mission, Felicito, and Merlinda Dechimo, assisted by her husband, Fausto Dolleno, filed a Complaint for Recovery of Possession and Damages with the then Court of First Instance (now Regional Trial Court) of Negros Occidental, against a certain Jose Maria Golez. The case was docketed as Civil Case No. 12887.

Petitioner's wife, Margarita, together with Bienvenido and Francisco, alleged that they are the heirs of a certain Vicente Dichimo, while Edito, Maria, Herminia, Leonora, Felicito and Merlinda claimed to be the heirs of one Eusebio Dichimo; that Vicente and Eusebio are the only heirs of Esteban and Eufemia; that Esteban and Eufemia died intestate and upon their death Vicente and Eusebio, as compulsory heirs, inherited Lot No. 1536-B; that, in turn, Vicente and Eusebio, and their respective spouses, also died intestate leaving their pro indiviso shares of Lot No. 1536-B as part of the inheritance of the complainants in Civil Case No. 12887.

On July 29, 1983, herein respondents filed an Answer-in-Intervention claiming that prior to his marriage to Eufemia, Esteban was married to a certain Francisca Dumalagan; that Esteban and Francisca bore five children, all of whom are already deceased; that herein respondents are the heirs of Esteban and Francisca's children; that they are in open, actual, public and uninterrupted possession of a portion of Lot No. 1536-B for more than 30 years; that their legal interests over the subject lot prevails over those of petitioner and his co-heirs; that, in fact, petitioner and his co-heirs have already disposed of their shares in the said property a long time ago.

On November 26, 1986, the trial court issued an Order dismissing without prejudice respondents' Answer-in-Intervention for their failure to secure the services of a counsel despite ample opportunity given them.

Civil Case No. 12887 then went to trial.

Subsequently, the parties in Civil Case No. 12887 agreed to enter into a Compromise Agreement wherein Lot No. 1536-B was divided between Jose Maria Golez, on one hand, and the heirs of Vicente, namely: Margarita, Bienvenido, and Francisco, on the other. It was stated in the said agreement that the heirs of Eusebio had sold their share in the said lot to the mother of Golez. Thus, on September 9, 1998, the Regional Trial Court (RTC) of Bacolod City, Branch 45 rendered a decision approving the said Compromise Agreement.

Thereafter, TCT No. T-12561 was issued by the Register of Deeds of Cadiz City in the name of Margarita, Bienvenido and Francisco.

On January 18, 1999, herein petitioner and his co-heirs filed another Complaint for Recovery of Possession and Damages, this time against herein respondents. The case, filed with the RTC of Cadiz City, Branch 60, was docketed as Civil Case No. 548-C. Herein respondents, on the other hand, filed with the same court, on August 18, 1999, a Complaint for Reconveyance and Damages against petitioner and his co-heirs. The case was docketed as Civil Case No. 588-C.

The parties filed their respective Motions to Dismiss. Thereafter, the cases were consolidated.

On June 29, 2000, the RTC issued Joint Orders, disposing as follows:

WHEREFORE, in view of the foregoing, this Court hereby orders the following:

1. The Motion to Dismiss Civil Case No. 548-C is hereby GRANTED and Civil Case No. 548[-C] is hereby ordered DISMISSED for violation of the rule on forum shopping;
2. The Motion to Dismiss Civil Case No. 588-C is likewise hereby GRANTED and the Complaint dated August 13, 1999 is hereby DISMISSED for want of jurisdiction.
3. All counterclaims in both cases, Civil Case No. 548-C and 588-C are likewise ordered DISMISSED.

SO ORDERED.[4]

The parties filed their respective motions for reconsideration, but both were denied by the RTC in an Order dated October 5, 2000.

Herein respondents then appealed the case to the CA praying that the portion of the RTC Joint Orders dismissing Civil Case No. 588-C be declared null and void and that the case be decided on the merits.

On January 12, 2005, the CA rendered judgment disposing as follows:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us GRANTING the appeal filed in this case and SETTING ASIDE, as we hereby set aside, the Joint Order[s] dated June 29, 2000 of the RTC of Cadiz City, Branch 60, dismissing Civil Case No. 588-C. Further, let the entire records of this case be remanded to the court a quo for the trial and hearing on the merits of Civil Case No. 588-C.

SO ORDERED.[5]

Petitioner filed a Motion for Reconsideration, but the CA denied it in a Resolution dated February 13, 2006.

Hence, the instant petition with the following assigned errors:

- THE HONORABLE COURT OF APPEALS ERRED WHEN IT RULED THAT THE LOWER COURT

HAS THE JURISDICTION TO HEAR THE RECONVEYANCE CASE OF THE HEREIN PLAINTIFFS-APPELLANTS BEFORE THE REGIONAL TRIAL COURT OF NEGROS OCCIDENTAL, BRANCH 60, CADIZ CITY.

- THE HONORABLE COURT OF APPEALS ERRED IN FINDING THAT THE AMENDMENT OF THE DECISION IN CIVIL CASE NO. 12887 IS NOT TANTAMOUNT TO ANNULMENT OF THE SAID DECISION. THE HONORABLE COURT IS WITHOUT JURISDICTION TO TAKE COGNIZANCE OF THIS CASE.[6]

In his first assigned error, petitioner claims that the CA erred in holding that respondents are not parties in Civil Case No. 12887 contending that, since their Answer-in-Intervention was admitted, respondents should be considered parties in the said case. Petitioner also avers that, being parties in Civil Case No. 12887, respondents are bound by the judgment rendered therein.

The Court is not persuaded.

It is true that the filing of motions seeking affirmative relief, such as, to admit answer, for additional time to file answer, for reconsideration of a default judgment, and to lift order of default with motion for reconsideration, are considered voluntary submission to the jurisdiction of the court.[7] In the present case, when respondents filed their Answer-in-Intervention they submitted themselves to the jurisdiction of the court and the court, in turn, acquired jurisdiction over their persons. Respondents, thus, became parties to the action. Subsequently, however, respondents' Answer-in-Intervention was dismissed without prejudice. From then on, they ceased to be parties in the case so much so that they did not have the opportunity to present evidence to support their claims, much less participate in the compromise agreement entered into by and between herein petitioner and his co-heirs on one hand and the defendant in Civil Case No. 12887 on the other. Stated differently, when their Answer-in-Intervention was dismissed, herein respondents lost their standing in court and, consequently, became strangers to Civil Case No. 12887. It is basic that no man shall be affected by any proceeding to which he is a stranger, and strangers to a case are not bound by judgment rendered by the court.[8] Thus, being strangers to Civil Case No. 12887, respondents are not bound by the judgment rendered therein.

Neither does the Court concur with petitioner's argument that respondents are barred by prescription for having filed their complaint for reconveyance only after more than eight years from the discovery of the fraud allegedly committed by petitioner and his co-heirs, arguing that under the law an action for reconveyance of real property resulting from fraud prescribes in four years, which period is reckoned from the discovery of the fraud.

In their complaint for reconveyance and damages, respondents alleged that petitioner and his co-heirs acquired the subject property by means of fraud.

Article 1456 of the Civil Code provides that a person acquiring property through fraud becomes, by operation of law, a trustee of an implied trust for the benefit of the real owner of the property. An action for reconveyance based on an implied trust prescribes in ten years, the reckoning point of which is the date of registration of the deed or the date of issuance of the certificate of title over the property.[9] Thus, in *Caro v. Court of Appeals*, [10] this Court held as follows:

x x x The case of *Liwalug Amerol, et al. v. Molok Bagumbaran*, G.R. No. L-33261, September 30, 1987, 154 SCRA 396, illuminated what used to be a gray area on the prescriptive period for an action to reconvey the title to real property and, corollarily, its point of reference:

x x x It must be remembered that before August 30, 1950, the date of the effectivity of the new Civil Code, the old Code of Civil Procedure (Act No. 190) governed prescription. It provided:

SEC. 43. Other civil actions; how limited.- Civil actions other than for the recovery of real property can only be brought within the following periods after the right of action accrues:

x x x x x x x x

3. Within four years: xxx An action for relief on the ground of fraud, but the right of action in such case shall not be deemed to have accrued until the discovery of the fraud;

x x x x x x x x

In contrast, under the present Civil Code, we find that just as an implied or constructive trust is an offspring of the law (Art. 1456, Civil Code), so is the corresponding obligation to reconvey the property and the title thereto in favor of the true owner. In this context, and vis-a-vis prescription, Article 1144 of the Civil Code is applicable.

Article 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.

x x x x x x x x. (*Italics supplied.*)

An action for reconveyance based on an implied or constructive trust must perforce prescribe in ten years and not otherwise. A long line of decisions of this Court, and of very recent vintage at that, illustrates this rule. Undoubtedly, it is now well settled that an action for reconveyance based on an implied or constructive trust prescribes in ten years from the issuance of the Torrens title over the property. The only discordant note, it seems, is *Balbin vs. Medalla*, which states that the prescriptive period for a reconveyance action is four years. However, this variance can be explained by the erroneous reliance on *Gerona vs. de Guzman*. But in *Gerona*, the fraud was discovered on June 25, 1948, hence Section 43(3) of Act No. 190, was applied, the new Civil Code not coming into effect until August 30, 1950 as mentioned earlier. It must be stressed, at this juncture, that article 1144 and article 1456, are new provisions. They have no counterparts in the old Civil Code or in the old Code of Civil Procedure, the latter being then resorted to as legal basis of the four-year prescriptive period for an action for reconveyance of title of real property acquired under false pretenses.

An action for reconveyance has its basis in Section 53, paragraph 3 of Presidential Decree No. 1529, which provides:

In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder of the decree of registration on the original petition or application, x x x.

This provision should be read in conjunction with Article 1456 of the Civil Code, x x x

x x x x

The law thereby creates the obligation of the trustee to reconvey the property and the title thereto in favor of the true owner. Correlating Section 53, paragraph 3 of Presidential Decree No. 1529 and Article 1456 of the Civil Code with Article 1144(2) of the Civil Code, *supra*, the prescriptive period for the reconveyance of fraudulently registered real property is ten (10) years reckoned from the date of the issuance of the certificate of title. x x x[11]

In the instant case, TCT No. T-12561 was obtained by petitioner and his co-heirs on September 28, 1990, while respondents filed their complaint for reconveyance on August 18, 1999. Hence, it is clear that the ten-year

prescriptive period has not yet expired.

The Court, likewise, does not agree with petitioner's contention that respondents are guilty of laches and are already estopped from questioning the decision of the RTC in Civil Case No. 12887 on the ground that they slept on their rights and allowed the said decision to become final.

In the first place, respondents cannot be faulted for not appealing the decision of the RTC in Civil Case No. 12887 simply because they are no longer parties to the case and, as such, have no personality to assail the said judgment.

Secondly, respondents' act of filing their action for reconveyance within the ten-year prescriptive period does not constitute an unreasonable delay in asserting their right. The Court has ruled that, unless reasons of inequitable proportions are adduced, a delay within the prescriptive period is sanctioned by law and is not considered to be a delay that would bar relief.[12] Laches is recourse in equity.[13] Equity, however, is applied only in the absence, never in contravention, of statutory law.[14]

Moreover, the prescriptive period applies only if there is an actual need to reconvey the property as when the plaintiff is not in possession thereof.[15] Otherwise, if the plaintiff is in possession of the property, prescription does not commence to run against him.[16] Thus, when an action for reconveyance is nonetheless filed, it would be in the nature of a suit for quieting of title, an action that is imprescriptible.[17] The reason for this is that one who is in actual possession of a piece of land claiming to be the owner thereof may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right, the rationale for the rule being, that his undisturbed possession provides 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 the one who is in possession.[18]

In the present case, there is no dispute that respondents are in possession of the subject property as evidenced by the fact that petitioner and his co-heirs filed a separate action against respondents for recovery of possession thereof. Thus, owing to respondents' possession of the disputed property, it follows that their complaint for reconveyance is, in fact, imprescriptible. As such, with more reason should respondents not be held guilty of laches as the said doctrine, which is one in equity, cannot be set up to resist the enforcement of an imprescriptible legal right.

In his second assignment of error, petitioner argues that the objective of respondents in filing Civil Case No. 588-C with the RTC of Cadiz City was to have the decision of the RTC of Bacolod City in Civil Case No. 12887 amended, which is tantamount to having the same annulled. Petitioner avers that the RTC of Cadiz City has no jurisdiction to act on Civil Case No. 588-C, because it cannot annul the decision of the RTC of Bacolod City which is a co-equal court.

The Court does not agree.

The action filed by respondents with the RTC of Cadiz City is for reconveyance and damages. They are not seeking the amendment nor the annulment of the Decision of the RTC of Bacolod City in Civil Case No. 12887. They are simply after the recovery of what they claim as their rightful share in the subject lot as heirs of Esteban Dichimo.

As earlier discussed, respondents' Answer-in-Intervention was dismissed by the RTC of Bacolod City without prejudice. This leaves them with no other option but to institute a separate action for the protection and enforcement of their rights and interests. It will be the height of inequity to declare herein petitioner and his co-heirs as exclusive owners of the disputed lot without giving respondents the opportunity to prove their claims that they have legal interest over the subject parcel of land, that it forms part of the estate of their deceased

predecessor and that they are in open, and uninterrupted possession of the same for more than 30 years. Much more, it would be tantamount to a violation of the constitutional guarantee that no person shall be deprived of property without due process of law.[19]

WHEREFORE, the instant petition is DENIED. The assailed Decision dated January 12, 2005 and Resolution dated February 13, 2006 of the Court of Appeals in CA-G.R. CV No. 70009 are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Nachura, Abad, and Mendoza, JJ., concur.

[1] Annex "I" to Petition, rollo, pp. 67-75.

[2] Annex "O" to Petition, id. at 135-136.

[3] Annex "H" to Petition, id. at 61-65.

[4] CA rollo, pp. 164-165.

[5] Rollo, p. 74.

[6] Id. at 14-15.

[7] Leah Palma v. Hon. Danilo P. Galvez, etc., et al., G.R. No. 165273, March 10, 2010; Dole Philippines, Inc. (Tropifresh Division) v. Quilala, G.R. No. 168723, July 9, 2008, 557 SCRA 433, 437; Hongkong and Shanghai Banking Corp. Ltd. v. Catalan, 483 Phil. 525, 542 (2004).

[8] Heirs of Marcelino Doronio v. Heirs of Fortunato Doronio, G.R. No. 169454, December 27, 2007, 541 SCRA 479, 501; Manotok Realty, Inc. v. CLT Realty Development Corporation, G.R. Nos. 123346 and 134385, December 14, 2007, 540 SCRA 304, 339; National Housing Authority v. Evangelista, 497 Phil. 762, 770 (2005).

[9] Manuel P. Ney and Romulo P. Ney v. Spouses Celso Quijano and Mina N. Quijano, G.R. No. 178609, August 4, 2010.

[10] 259 Phil. 891 (1989).

[11] Id. at 897-899. (Underscoring supplied.)

[12] LICOMCEN, Incorporated v. Foundation Specialists, Inc., G.R. Nos. 167022 & 169678, August 31, 2007, 531 SCRA 705, 724; De Castro v. Court of Appeals, 434 Phil 53, 68 (2002).

[13] Bank of the Philippine Islands v. Royeca, G.R. No. 176664, July 21, 2008, 559 SCRA 207, 219; De Castro v. Court of Appeals, *supra*.

[14] Id.

[15] Ney v. Spouses Quijano, *supra* note 9, citing Lasquite v. Victory Hills, Inc., 590 SCRA 616, 631 (2009).

[16] Id.

[17] Id.

[18] D.B.T. Mar-Bay Construction, Incorporated v. Panes, G.R. No. 167232, July 31, 2009, 594 SCRA 578, 591, citing Vda. de Gualberto v. Go, 463 SCRA 671, 681 (2005).

[19] Galicia v. Manriquez Vda. de Mindo, G.R. No. 155785, April 13, 2007, 521 SCRA 85, 95.

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