

FLORENTINA CALMA, TOGETHER WITH HER HUSBAND ENRIQUE ONTANILLAS, PLAINTIFFS AND APPELLANTS, VS. JOSE MONTUYA, FELIX CARIAS, QUIRINA CARIAS, DOMINGO CARIAS AND ILUMINADA CARIAS, T...

G.R. No. 18674. September 30, 1964

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

On January 17, 1961 plaintiffs-appellants, spouses, filed a complaint in the Court of First Instance of Iloilo alleging, among others, that sometime in 1922 defendant Felix Carias, as registered owner of Lot No. 1460 of the Cabatuan, Iloilo Cadastre, containing 1,649 square meters and covered by Original Certificate of Title No. 5105 in his name, sold thru a notarial document a one-half (1/2) portion thereof, approximately 800 square meters, to Eulogio Iniego; that said one half (1/2) portion was thereafter possessed openly, continuously adversely and peacefully by Eulogio Iniego as absolute and exclusive owner until his death on October 16, 1941; that plaintiff Florentina Calma, granddaughter of Eulogio Iniego, succeeded the latter in the ownership and possession of the abovementioned portion of land, constructing a residential house thereon, and has continued her possession to the present; that on October 31, 1960 defendants, knowing that defendant Felix Carias had already sold the abovementioned one-half (%) portion of the lot to Eulogio Iniego, confederated and connived with each other and sold, under the "Deed of Adjudication and Sale" annexed to the complaint, the same portion to defendant Jose Montuya, who also knew then, and long before, of the said previous sale and that defendant-vendor Felix Carias was then no longer owner thereof and had no more rights thereto; that defendants-vendors in executing such later sale and defendant-vendee Jose Montuya in purchasing thereunder, acted in bad faith and with malice aforethought, to plaintiffs' damage and prejudice.

Accordingly, the complaint asked that plaintiffs be declared owners of the one-half (1/2) portion of the lot above-mentioned; that the annexed "Deed of Adjudication and Sale" be rescinded and be declared null and void and without force or effect; that attorney's fees of P350.00 and exemplary damages of P500.00 be awarded in plaintiffs' favor.

Defendants filed a motion to dismiss on February 14, 1961 on the grounds (1) that the complaint states no cause of action, and (2) that the cause of action, if any, has prescribed.

Plaintiffs filed their opposition and reply to said motion on February 17, 1961.

On February 25, 1961 the court a quo issued an order dismissing plaintiffs' complaint for the reason that "the motion to dismiss is well-taken." (Rec. on App., p. 9)

A motion for reconsideration filed by plaintiffs was denied by the order issued on March 25, 1961 (Rec. on App., p. 24).

Plaintiffs have appealed from the two order above-mentioned.

The sufficiency of a complaint is tested on whether a competent court could render a valid judgment upon the facts alleged therein if said facts were admitted or proved. If it could, then the allegations are sufficient (*Castelvi Raquiza vs. Ofilada, et al.*, G. R. No. Lr-17182, September 30, 1963). Applying this test, the facts alleged in plaintiffs-appellants' complaint constitute a cause of action. For, the facts admitted would be that a one-half (1/2) portion of Lot No. 1463 was sold by its registered owner in 1922 to plaintiffs' predecessor-in-interest; that the vendee of 1922 and his successor-in-interest thereafter possessed that portion of land until the present; that the vendor and his co-defendants, claiming ownership thereof, sold the same portion of land to defendant Jose Montuya in 1960, and that they all acted, in reference to said 1960 sale, in bad faith and with knowledge of the previous sale. Plaintiffs-appellants thereby clearly set forth a cause of action for declaration of ownership, as against defendants-appellees, to the portion of land in litigation. That the sale in 1922 to plaintiffs-appellants' predecessor-in-interest was unregistered does not preclude such a cause of action against those bound by an unregistered sale. The allegations in the complaint which for the nonce are deemed admitted, place defendants within such a category, either as party to the unregistered sale (*Capitol Subdivision, Inc. vs. Lopez Montelibano*, 109 Phil., 546) or as persons who acted in bad faith and with knowledge of said previous unregistered sale (*Ignacio vs. Chua Hong*, 52 Phil., 940; *Gustilo vs. Maravilla*, 48 Phil., 442; *Leung Yee vs. Strong Machinery Co.*, 37 Phil. 644).

There is no need to examine further whether a cause of action for rescission or declaration of nullity of the 1960 sale is also pleaded. There being a cause of action for declaration of ownership as among the parties, the complaint cannot be dismissed on the first ground invoked.

As for the finding of prescription, the same cannot be sustained. It is predicated on the erroneous assumption that plaintiffs-appellants' cause of action arose in 1922 when the sale in favor of their predecessor-in-interest was accomplished, instead of in 1960, when the other sale, alleged as constituting the first act adverse to plaintiffs' rights, was executed.

Prescription of an action is counted from the time the action may be brought (Art. 1150, new Civil Code). This action could not have been brought before the 1960 sale, as there was then no cause of action in favor of plaintiffs and against defendants, since cause of action requires not only a right but an act or omission in violation of said right (*Ma-ao Sugar Central Co. vs. Barrios*, 79 Phil. 666; 1 Moran, *Comments on the Rules of Court* [1963], p. 91). Admitting the allegations in the complaint, it was only on October 31, 1960 that plaintiff-appellants' right to the portion of land abovementioned was violated and their ownership thereof questioned or disturbed. Therefore, the period for prescription of their instant action should start from said date. The complaint having been filed on January 17, 1961, prescription does not obtain.

WHEREFORE, the orders appealed from are set aside and this case is remanded for further proceedings to the court a quo, without costs.

IT IS SO ORDERED.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J.B.L., Paredes, Dizon, Regala, Makalintal, and Zaldivar, JJ., concur.

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