

SOTERA ARAVEJO ET AL., PLAINTIFFS AND APPELLANTS, VS. ALFONSO DORONILA ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 46024. May 25, 1939

Ponente: AVANCENA, C.J.

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AVANCENA, C.J.:

The plaintiffs appeal from the resolution of the trial court sustaining the demurrer interposed to the complaint on the ground that it does not allege facts sufficient to constitute a cause of action.

The complaint substantially alleges: that the plaintiffs are the undivided owners of the land described in the complaint; that on September 23, 1919, one, Epifania Sitchon, on her own behalf and as attorney-in-fact of Catalina Sitchon, sold in a concealed and fraudulent manner the land in question to the defendant Alfonso Doronila; that on September 21, 1923, the said Epifania Sitchon, with Luisa Sitchon, sold the same land to Adolfo Doronila; that on November 5, 1923, Alfonso Doronila conveyed his rights and interest over this land to Adolfo Doronila; that, based upon this conveyance, Adolfo Doronila applied to the court for the registration of this land in his name on January 8, 1923; that in 1924, this registration case was heard and thereafter the land was adjudicated to Alfonso Doronila, it now being lot No. 1-PSWO-8143, covered by original certificate of title No. 21636; that the land is now in possession of Alfonso Doronila from the year 1930. Upon these allegations the plaintiffs ask that the defendants be ordered to pay them, by way of damages, the amount of fifty thousand pesos (P50,000), with legal interest thereon from the filing of the complaint.

According to these allegations, the plaintiffs base their action to recover from the defendants the amount which they claim by way of damages, upon their having lost ownership of the land. The fact determinative of the loss of this ownership is, from what can be deduced from the complaint, the registration thereof in the name of the defendant Alfonso Doronilla to whom the corresponding original certificate of title was issued.

Section 107 of Act No. 496 provides that all actions brought thereunder for the recovery of damages and rights over registered property shall be begun within the period of six years from the time when the right to bring such action first accrued, and not afterwards. According to the very allegations of the complaint, the case for the registration of his land was heard in 1924, and it is inferred that it was adjudicated to Alfonso Doronila in the same year after the trial. This being so, the action brought by the appellants on May 11, 1936 was after six years fixed by law within which the action could be brought. It is thus seen that, under the very allegations of the complaint, the plaintiffs are already without right to bring the present action.

We have said that from the complaint it is inferred that the land was adjudicated to Adolfo Doronila in the same year 1924, after the trial of the case, because there is really no specification of the year when this adjudication was made, or of the year when the original certificate of title was issued. This inference, nevertheless, seems conclusive in the light of the language of the complaint. But even if this were not so, there being no express allegation that the action is brought within the six years, as provided by law, the complaint does not allege facts sufficient to constitute a cause of action. The period within which the action should be brought being a necessary

condition, required by law, it should be expressly alleged in the complaint.

In view of the foregoing, the appealed resolution is affirmed insofar as it sustains the demurrer interposed to the complaint and dismisses the case for failure to amend the complaint, with the costs to the appellants. So ordered.

Villa-Real, Imperial, Diaz, Laurel, and Moran, JJ., concur.

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