

EUGENIO CABRAL AND SABINA SILVESTRE, PETITIONERS, VS. COURT OF APPEALS, SILVINO SAN DIEGO AND EUGENIA ALCANTARA, RESPONDENTS.

G.R. No. 54449. July 20, 1984

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the application of *res judicata* to an action to declare void or inexistent an alleged forged sale of registered land. The controversy involves 13,472 square meters of Lot No. 378 of the Malinta Friar Lands Estate, located at Barrio Lingunan, Valenzuela, Bulacan.

That proindiviso one-sixth portion was supposedly sold by the spouses Silvino San Diego and Eugenia Alcantara to the spouses Eugenio Cabral and Sabina Silvestre on August 14, 1948 for P4,000. The San Diegos claim that the sale was fabricated (p. 44, Rollo).

Eugenio Cabral was charged in the Court of First Instance at Baliuag with falsification of that sale. Judge Juan F. Echiverri dismissed the charge on the ground of prescription because the information was filed only on September 24, 1974 (pp. 77-78, Rollo). The dismissal was upheld by this Court in *Cabral vs. Puno*, L-41692, April 30, 1976, 70 SCRA 606.

More than a quarter of a century after that alleged sale, or on May 2, 1974, the San Diego spouses, acting on the theory that the sale was falsified, filed in the Court of First Instance, Valenzuela Branch, an action to nullify the title which the Cabrals had obtained for that 1/6 portion and for damages (p. 48, Rollo).

Judge Eduardo P. Caguioa in an order dated January 9, 1978 dismissed the action on the ground that the order of dismissal issued by Judge Echiverri in the criminal case was *res judicata* in the civil case (pp. 79-81, Rollo).

The San Diegos assailed the order of dismissal by means of a petition for certiorari in the Court of Appeals. In a resolution dated January 30, 1979, Justices Porfirio V. Sison, Gancayco, and Gorospe ruled that Judge Caguioa erred in applying *res judicata* and that the San Diegos' action was imprescriptible because it was an action to nullify a document which was void *ab initio* (p. 260, Rollo).

However, in its decision of March 30, 1979, Justices Porfirio V. Sison, Gancayco and Germaldez dismissed the petition because certiorari is not available to correct erroneous factual or legal conclusions and because an action based on a contract prescribes in ten years (pp. 109 and 261, Rollo).

The San Diegos filed a motion for reconsideration. The Appellate Court in its resolution of November 29, 1979 set aside its decision. It held that, as the action of the San Diegos is for a declaration of the forged or fictitious character of the deed of sale, it is imprescriptible. It reversed the lower court's order of dismissal. In the interest of justice, it ordered a trial on the merits.

The Cabrals appealed to this Court. They contend that the Appellate Court erred in not applying *res judicata* in

holding that the trial court's order of dismissal is bereft of factual and legal findings necessary to "apprise the parties of their legal standing"; in not holding that the order of Judge Echiverri in the criminal case, as affirmed by this Court, constitutes res judicata in the civil case and in not holding that the action had already prescribed.

It is obvious that the order of dismissal in the criminal action for falsification, which was based on prescription of the crime, cannot be considered res judicata or a bar to the civil action of the San Diegos against the Cabrals.

The civil complaint of the San Diegos does not stress that the deed of sale is void ab initio. For that reason, its imprescriptible character is not immediately apparent. But the fact is that the concocted character of the sale and the imprescriptibility of the action to declare it inexistent constitute the premise on which the civil action is based (See art. 1410, Civil Code).

Since the trial court erred in dismissing the complaint on the ground of res judicata, the Appellate Court acted correctly in reversing that order.

WHEREFORE, without prejudging the merits of the action of the San Diegos, the resolution of the Court of Appeals is affirmed. No costs.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Guerrero, Escolin, and Cuevas, JJ., concur.

Abad Santos, J., see separate concurring opinion.

CONCURRING OPINION

ABAD SANTOS, J.:

I concur and wish to add the following comments:

1. Obviously the dismissal of the criminal action for falsification against Cabral did not constitute res judicata in respect of the action to nullify the title which the Cabrals had obtained. The two actions are so disparate that it is impossible to apply the doctrine of prior judgment.
2. An action (or defense) for the declaration of the inexistence of a contract, i.e. void, does not prescribe (Art. 1410, Civil Code.) Accordingly, the action to nullify the title of the Cabrals on the ground that the sale to them was falsified does not prescribe.
3. Upon the other hand extraordinary acquisitive prescription of real property must also be considered. (Art. 1137, Civil Code.)

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