

PAZ VILLAGONZALO, ESTELA VILLAGONZALO, AIDA VILLAGONZALO, HERMINIA VILLAGONZALO, GWENDOLYN VILLAGONZALO, JENSINE VILLAGONZALO AND LEONILA VILLAGONZALO, PETITIONERS, VS. INTERMED...

G.R. No. 71110. November 22, 1988

Ponente: REGALADO J.

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REGALADO J.:

From a decision rendered in favor of herein petitioners, as plaintiffs, against herein private respondent, as defendant, in an action for reconveyance in the then Court of First Instance of Leyte,[1] which reads:

"Wherefore, decision is hereby rendered in favor of the plaintiffs and against defendant declaring Lot No. 7429 of the Ormoc Cadastre, situated at Bo. Dolores, Ormoc City, with an area of 97,213 square meters, more or less, as the conjugal property of the deceased spouses, Juan Villagonzalo and Felicisima Abella Villagonzalo hereby ordering the cancellation of Transfer Certificate of Title No. 4259 in the name of Cecilia A. Villagonzalo and ordering the Register of Deeds of Ormoc City to issue another Transfer Certificate of Title in the name of spouses Juan C. Villagonzalo and Felicisima A. Villagonzalo, Filipinos, of legal age, residents of Cebu City now deceased and survived by the present plaintiffs and defendants, each of whom upon payment of the inheritance taxes with the BIR, shall be entitled to 1/9 share of the land, subject to claims by other heirs and creditors within a period of two (2) years as provided for by the Rules of Court, and further ordering the partition of the said land within a period of ninety (90) days from the finality of this decision and if the parties cannot agree on partition this Court may appoint a commissioner to partition the same without pronouncement as to costs."[2]

therein defendant appealed to the former Intermediate Appellate Court which, in a decision[3] of the Second Civil Cases Division in AC-G.R. No. 65128, reversed the appealed judgment and dismissed the complaint for reconveyance.

As found by the respondent Court -

"The facts in this regard show that on February 22, 1961, Juan C. Villagonzalo, the predecessor-in-interest of the parties, purchased Lot No. 7429 of the Ormoc Cadastre, situated at Barrio Dolores, Municipality of Ormoc, containing an area of 97,213 sq. meters covered by Transfer Certificate of Title No. 24611 of the Register of Deeds of Ormoc City, from the Heirs of Roman Matuguina for P1,500.00 (Exhibits A and 6, Folder of Exhibits, pp. 1, 15). It was made to appear however that the sale was in the name of his daughter, defendant Cecilia Villagonzalo, who was single, since he borrowed from her the sum of P500.00 to complete the full payment of the price of the lot. Consequently, TCT No. 4259 was issued in the name of defendant Cecilia A. Villagonzalo as the registered owner (Exhibit 5, Ibid., p. 15) on July 18, 1962. The complaint was filed on April 2, 1975 thirteen (13) years after the issuance of Transfer Certificate of Title No. 4259 on the subject land in the name of the defendant Cecilia Villagonzalo."[4]

On such factual moorings, the respondent court, now the Court of Appeals, held that the right of action of therein

plaintiffs-appellees, petitioners herein, had prescribed for the reasons that follow.[5]

It ratiocinated that when private respondent obtained Transfer Certificate of Title No. 4259 in her name she thereby excluded herein petitioners from the estate of their deceased predecessor-in-interest and, consequently, she set up a title to the land adverse to them. The registration of the deed of sale with the Register of Deeds, so it opined, was constructive notice to the whole world of defendant's adverse claim to the property, thereby repudiating any fiduciary or trust relationship involved. It anchored its conclusion on doctrinal holdings that an action for reconveyance based on an implied or constructive trust prescribes in ten years counted from the date when adverse title is asserted by the possessor of the property.

Prescinding therefrom into the field of laches, respondent court further noted that because of the neglect and inaction of the present petitioners, the private respondent was thereby made to feel secure in her belief that she had rightly acquired the controverted land and that no legal action would be filed against her. She was thus induced to spend time, money and effort for the cultivation of the land and the payment of the taxes thereon. It then further rested its conclusion on the established principle that inaction and neglect of a party to assert a right can convert what could otherwise be a valid claim into a stale demand.

Petitioners have come before Us contending that their action was seasonably filed because private respondent's registration of the land in her name was not a repudiation of the implied trust created between her and their father; and, confusing extinctive for acquisitive prescription, that good faith and just title are essential requisites in this case.

The respondent court is correct and certiorari must be denied.

It is now well settled that an action for reconveyance of real property to enforce an implied trust shall prescribe after ten years,[6] since it is an action based upon an obligation created by law,[7] and there can be no doubt as to its prescriptibility.[8]

It is likewise established that said period of ten years is counted from the date adverse title to the property is asserted by the possessor thereof. In the case at bar, that assertion of adverse title, which consequently was a repudiation of the implied trust for the purpose of the statute of limitations, took place when Transfer Certificate of Title No. 4259 was issued in the name of private petitioner on July 18, 1962. As succinctly but pithily resolved in *Vda. de Pama vs. Pama, et al.*: [9]

"x x x considering the settled doctrine that an action for reconveyance of real property based upon constructive or implied trust prescribes in ten (10) years counted from the date adverse title is asserted by the possessor of the property (*Diaz vs. Gorricho*, 103 Phil. 261; *Candelaria vs. Romero*, 109 Phil. 100; *J. M. Tuazon vs. Magdangal*, 114 Phil. 42); that when respondent Guillermo Pama caused the registration on June 18, 1956 of the affidavit of adjudication declaring himself to be the sole heir of the late Mateo Pama and obtained Transfer Certificate of Title No. T-4006 in his own name, he thereby excluded petitioners from the estate of the deceased Mateo Pama and, consequently, set up a title adverse to them; that such registration constitutes constructive notice to petitioners of the respondent's adverse claim to the property (*Carantes vs. Court of Appeals*, 76 SCRA 514, 523; *Gerona vs. de Guzman*, 11 SCRA 153, 157); and it appearing that petitioners filed their complaint for reconveyance only on April 28, 1969, or twelve (12) years, ten (10) months and ten (10) days after their cause of action had accrued on June 18, 1956; this Court resolved to dismiss this petition and to affirm the questioned order dismissing petitioner's complaint x x x." [10]

There is also evidence of record that as far back as 1961, private respondent refused to give any share in the produce of the land to petitioners; that in 1963 she mortgaged the property in her own name; and that in 1969, she leased the same to one Ramon Valera, without the petitioners taking preventive or retaliatory legal action.[11]

The rule in this jurisdiction is that an action to enforce an implied trust may be barred not only by prescription but also by laches, in which case repudiation is not even required.[12] Whether the trust is resulting or constructive, its enforcement may be barred by laches.[13] Petitioners were, therefore, correctly faulted for their unjustified inaction.

WHEREFORE, the judgment of the respondent Court is hereby AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairperson), Paras, Padilla, and Sarmiento, JJ., concur.

[1] Fifth Branch; Civil Case No. 1409-0.

[2] Rollo, 11-12.

[3] Penned by Crisolito Pascual, J., with whom concurred Serafin E. Camilon and Desiderio P. Jurado, JJ.

[4] Rollo, 12-13.

[5] Rollo, *ibid*.

[6] Cuaycong, et al. vs. Cuaycong, et al., 21 SCRA 1193 (1967); See also Buencamino, et al. vs. Matias, et al., 16 SCRA 849 (1966); Araneta vs. Perez, et al., 17 SCRA 643 (1966); Pascual, et al. vs. Meneses, et al., 20 SCRA 219 (1967); Julio vs. Dalandan, 21 SCRA 543 (1967); Fabian, et al. vs. Fabian, et al., 22 SCRA 231 (1968); Escay, et al. vs. Court of Appeals, et al., 61 SCRA 369 (1974).

[7] Art. 1144 (2), Civil Code.

[8] Ramos, et al. vs. Ramos, et al., 61 SCRA 284 (1974).

[9] 124 SCRA 377 (1983).

[10] See also Duque, et al. vs. Domingo, et al., 80 SCRA 654 (1977).

[11] Brief for Private Respondent, Rollo, 101-102.

[12] Perez vs. Ong Chua, 116 SCRA 732 (1982).

[13] Ramos, et al. vs. Ramos, et al., *supra*, citing 90 C.J.S. 887-889; 54 Am. Jur. 449-450.

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