

CORNELIA CLANOR VDA. DE PORTUGAL, FRANCISCO C. PORTUGAL, PETRONA C. PORTUGAL, CLARITA PORTUGAL, LETICIA PORTUGAL, AND BENEDICTO PORTUGAL, JR., PETITIONERS, VS. INTERMEDIATE APPE...*G.R. No. 73564. March 25, 1988*

Ponente: SARMIENTO, J.

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Seeking the reversal of the decision[1] dated October 21, 1985 of the former Intermediate Appellate Court in CA-G.R. CV No. 70247, entitled "Cornelia Clanor Vda. de Portugal, et al. vs. Hugo Portugal," and the reinstatement of the decision[2] in their favor, dated June 30, 1980, of the Court of First Instance of Cavite in Civil Case No. NC-699 entitled "Cornelia Vda. de Portugal, et al. vs. Hugo Portugal," the petitioners now come to us by way of this petition for review by certiorari.

The factual background that gave rise to the present controversy is summarized as follows:

Petitioner Cornelia Clanor and her late husband Pascual Portugal, during the lifetime of the latter, were able to accumulate several parcels of real property. Among these were a parcel of residential land situated in Poblacion, Gen. Trias, Cavite, designated as Lot No. 3201, consisting of 2,069 square meters, more or less, and covered by T.C.T. No. RT-9355, in their names, and an agricultural land located at Pasong Kawayan, Gen. Trias, Cavite, with an area of 43,587 square meters, more or less, known as Lot No. 2337, and also registered in their names under T.C.T. No. RT-9356 of the Registry of Deeds for the Province of Cavite.

Sometime in January, 1967, the private respondent Hugo Portugal, a son of the spouses, borrowed from his mother, Cornelia, the certificates of title to the above-mentioned parcels of land on the pretext that he had to use them in securing a loan that he was negotiating. Cornelia, the loving and helpful mother that she was, assented and delivered the titles to her son. The matter was never again brought up until after Pascual Portugal died on November 17, 1974. (Cornelia herself died on November 12, 1987.) When the other heirs of the deceased Pascual Portugal, the petitioners herein, for the purposes of executing an extra-judicial partition of Pascual's estate, wished to have all the properties of the spouses collated, Cornelia asked the private respondent for the return of the two titles she previously loaned, Hugo manifested that the said titles no longer exist. When further questioned, Hugo showed the petitioners Transfer Certificate of Title (T.C.T.) No. 23539 registered in his and his brother Emiliano Portugal's names, and which new T.C.T. cancelled the two previous ones. This falsification was triggered by a deed of sale by which the spouses Pascual Portugal and Cornelia Clanor purportedly sold for P8,000.00 the two parcels of land adverted to earlier to their two sons, Hugo and Emiliano. Confronted by his mother of this fraud, Emiliano denied any participation. And to show his good faith, Emiliano caused the reconveyance of Lot No. 2337 previously covered by TCT No. RT-9356 and which was conveyed to him in the void deed of sale. Hugo, on the other hand, refused to make the necessary restitution thus compelling the petitioners, his mother and his other brothers and sisters, to institute an action for the annulment of the controversial deed of sale and the reconveyance

of the title over Lot No. 3201 (the residential land). After hearing, the trial court rendered its decision, the dispositive portion of which reads:

xxx xxx xxx

WHEREFORE, under our present perspectives, judgment is hereby rendered; and the Court hereby declares inoperative the Deed of Sale (Exhibit A and Exhibit 1) and all its appertaining and subsequent documents corresponding with Transfer Certificate of Title No. T-23539 of the Register of Deeds for the Province of Cavite, as well as all subsequent Transfer Certificates of Title which may have been produced corresponding to the parcels of land, subject matter hereof.

SO ORDERED.[3]

From this decision, Hugo Portugal, the private respondent herein and the defendant in the trial court, appealed to the respondent appellate court which reversed, hence the present petition.

The issues raised by the petitioners are:

- Whether or not the present action has prescribed;
- Whether or not the respondent court was justified in disturbing the trial court's findings on the credibility of the witnesses presented during the trial; and
- Whether or not the appellate court could entertain the defense of prescription which was not raised by the private respondents in their answer to the complaint nor in a motion to dismiss.

We find the petition meritorious.

There is really nothing novel in this case as all the issues raised had been, on several occasions, ruled upon by the Court. Apropos the first issue, which is the timeliness of the action, the trial court correctly ruled that the action instituted by the petitioners has not yet prescribed. Be that as it may, the conclusion was reached through an erroneous rationalization, i.e., the case is purely for reconveyance based on an implied or constructive trust. Obviously, the trial court failed to consider the lack of consideration or cause in the purported deed of sale by which the residential lot was allegedly transferred to the private respondent by his parents. On the other hand, the respondent Intermediate Appellate Court held that since the action for reconveyance was fathered by a fraudulent deed, of sale, Article 1391 of the Civil Code which lays down the rule that an action to annul a contract based on fraud prescribes in four years, applies. Hence, according to the respondent court, as more than four years had elapsed from January 23, 1967 when the assailed deed was registered and the petitioners' cause of action supposedly accrued, the suit has already become stale when it was commenced on October 26, 1976, in the Court of First Instance of Cavite. For reasons shortly to be shown, we can not give our imprimatur to either view.

The case at bar is not purely an action for reconveyance based on an implied or constructive trust. Neither is it one for the annulment of a fraudulent contract. A closer scrutiny of the records of the case readily supports a finding that fraud and mistake are not the only vices present in the assailed contract of sale as held by the trial court. More than these, the alleged contract of sale is vitiated by the total absence of a valid cause or consideration. The petitioners in their complaint, assert that they, particularly Cornelia, never knew of the existence of the questioned deed of sale. They claim that they came to know of the supposed sale only after the private respondent, upon their repeated entreaties to produce and return the owner's duplicate copy of the transfer certificate of title covering the two parcels of land, showed to them the controversial deed. And their claim was immeasurably bolstered when the private respondent's co-defendant below, his brother Emiliano Portugal, who was allegedly his co-vendee in the transaction, disclaimed any knowledge or participation therein. If this is so, and this is not contradicted by the decisions of the courts below, the inevitable implication of the allegations is that contrary to the recitals found in

the assailed deed, no consideration was ever paid at all by the private respondent. Applying the provisions of Articles 1350, 1352, and 1409 of the new Civil Code in relation to the indispensable requisite of a valid cause or consideration in any contract, and what constitutes a void or inexistent contract, we rule that the disputed deed of sale is void ab initio or inexistent, not merely voidable. And it is provided in Article 1410 of the Civil Code, that "(T)he action or defense for the declaration of the inexistence of a contract does not prescribe."

But even if the action of the petitioners is for reconveyance of the parcel of land based on an implied or constructive trust, still it has been seasonably filed. For as heretofore stated, it is now settled that actions of this nature prescribe in ten years, the point of reference being the date of registration of the deed or the date of the issuance of the certificate of title over the property.[4] In this case, the petitioner commenced the instant action for reconveyance in the trial court on October 26, 1976, or less than ten years from January 23, 1967 when the deed of sale was registered with the Register of Deeds.[5] Clearly, even on this basis alone, the present action has not yet prescribed.

On the credibility of witnesses presented in court, there is no doubt that the trial court's findings on this score deserves full respect and we do not have any reason to disturb it here now.[6] After all, the trial court judge is in a better position to make that appreciation for having heard personally the witnesses and observed their deportment and manner of testifying during the trial.[7] The exceptions to this time honored policy are: when the trial court plainly overlooked certain facts of substantial import and value which if only correctly considered by the court might change the outcome of the case;[8] and, if the judge who rendered the decision was not the one who heard the evidence.[9] Neither of these exceptions is present here. Therefore, the respondent appellate court's ruling questioning the credibility of petitioner Cornelia Clanor Vda. de Portugal must be reversed.

Anent the last issue raised by the petitioner, we have already ruled that the defense of prescription although not raised by the defendant may nevertheless be passed upon by the court when its presence is plainly apparent on the face of the complaint itself.[10] At any rate, in view of our earlier finding that the deed of sale in controversy is not simply fraudulent but void ab initio, or inexistent, our ruling on this third issue would not have any material bearing on the overall outcome of this petition. The petitioner's action remains to be seasonably instituted.

WHEREFORE, the petition is hereby GRANTED, the Decision dated October 21, 1985 and the Resolution dated January 24, 1986 of the Intermediate Appellate Court are hereby REVERSED and SET ASIDE; the deed of sale dated January 23, 1967 evidencing the sale of Lot No. 3201 to private respondent Hugo Portugal is declared VOID AB INITIO; and the private respondent is ORDERED to reconvey to petitioners the title over the said Lot No. 3201 which is now under TCT No. T-23539. Costs against the private respondent.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Paras, and Padilla, JJ., concur.

[1] Ejercito, Bienvenido, J.; Coquia, Jorge, Zosa, Mariano, and Castro-Bartolome, Florelia, JJ., Concurring.

[2] Rendered by Judge Pablo D. Suarez.

[3] Decision of the Court of First Instance; Record on Appeal (to the Court of Appeals), Annex "D" of Petition, 28.

[4] Amerol v. Bagumbaran, No. L-33261, September 30, 1987.

[5] Decision of the Intermediate Appellate Court, 10, Rollo, 31.

[6] People vs. Villeza, No. L-56113, January 31, 1984, 127 SCRA 349 (1984); People vs. Palong, No. L-33271, February 20, 1984, 127 SCRA 529 (1984); People vs. De Leon, No. L-36443, March 8, 1984, 128 SCRA 121 (1984); People vs. Cabanit, No. L-62030- 31, October 4, 1985, 139 SCRA 94 (1985).

[7] People vs. Olalia, Jr., No. L-50669, March 12, 1984, 128 SCRA 139 (1984); People vs. Pelias Jones, No. L-61165, June 24, 1985, 137, SCRA 1 (1985).

[8] People vs. Olalia, Jr. *supra*.

[9] People vs. Escalante, No. L-37147, August 22, 1984, 131 SCRA 237 (1984).

[10] Garcia vs. Mathis, No. L-48577, September 30, 1980, 100 SCRA 250 (1980) citing: Philippine National Bank vs. Pacific Commission House, No. L-22675, March 28, 1969, 27 SCRA 766 (1969).

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