

MARIA PEÑALES AND CONSORCIA PEÑALES, ACCOMPANIED BY HER HUSBAND, FELIPE LUSTRIA, PETITIONERS, VS. HON. INTERMEDIATE APPELLATE COURT; SALVACION LUSTRIA, ACCOMPANIED BY HER HUSBAN...

G.R. No. 73611. October 27, 1986

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This case is a litigation between petitioners and private respondents in regards to the ownership of a one-half share in Lot No. 6026 of the cadastral survey of Pototan, Iloilo, containing 3,145 sq. m. more or less (the PROPERTY, for short). The case originated in 1977 before the then Court of First Instance of Iloilo, which rendered judgment in favor of private respondents. Upon appeal to the then Intermediate Court of Appeals, the judgment of the Trial Court was affirmed. The present Petition for Review on Certiorari is in respect of the Decision of the Appellate Tribunal.

The pivotal fact in the controversy is that on June 8, 1953, the Register of Deeds of Iloilo had issued Transfer Certificate of Title No. T-14243 covering the PROPERTY, wherein it appeared on the face thereof that said cadastral lot was being:

"REGISTERED IN ACCORDANCE WITH THE PROVISIONS OF THE LAND REGISTRATION ACT IN THE NAME OF *

ADALIA Peñaflorida, single, of legal age, Filipino, and resident of Pototan, Iloilo, Philippines;

AS OWNER THEREOF IN FEE SIMPLE, SUBJECT TO SUCH OF THE INCUMBRANCES MENTIONED IN ARTICLE 39 OF SAID ACT AS MAY BE SUBSISTING, AND TO

any claim provided for in Section 4, Rule 74 of the New Rules of Court with respect to the 1/2 "share of the deceased Segundo Lustria within the period of two years counting from the date hereof."

Private respondents (the LUSTRIAS, for short) are three children of Segundo Lustria.

On August 25, 1970, ADALIA sold to petitioners (the PEÑALES, for short) "the parcel of land described" in TCT No. T-14243; that is, what was sold was the entire PROPERTY[1] and not only one-half thereof. The vendees were issued TCT No. T-63055, which also contained the encumbrances mentioned in TCT No. T-14243. On May 15, 1972, the encumbrance in favor of claimants under Segundo Lustria was cancelled[2] when the PEÑALES executed an affidavit entitled "Cancellation of Two Years Claim" which they registered with the Register of Deeds of Iloilo on the same date.

The determinative facts can now be stated as follows:

(a) The encumbrance in TCT No. T-14243, issued in the name of ADALIA was inserted under the provisions of Section 4, Rule 74, of the Rules of Court.[3] The indication is that the preceding title, TCT No.T-14242[4],

was in the names of the spouses Segundo Lustria and the predecessor-in-interest of ADALIA, whose unknown name may herein be given as "Jane Doe".

(b) According to paragraph 1 of the complaint of the LUSTRIAS, their father, Segundo Lustria, died in 1931 in Iloilo City.

(c) Before the Trial Court, the parties had stipulated that the PROPERTY "was originally registered under Original Certificate of Title No. 40766 in the name of the late Segundo Lustria, Sr.;"[5]

(d) In both TCTs Nos. T-14243 and T-63055, it appears that the PROPERTY was originally registered on March 5, 1932 with OCT No. 40766 being issued. At that time, Segundo Lustria was already dead. Who the mother of the LUSTRIAS was, and the date of her presumed death, do not appear of record.

On March 21, 1977, claiming to be the heirs of Segundo Lustria, the LUSTRIAS instituted an action for cancellation of the PEÑALES title and damages, and for reconveyance of the 1/2 portion of the PROPERTY.

The Trial Court ordered reconveyance as well as payment of moral and exemplary damages of P500.00, respectively, and P500.00 as attorney's fees. That judgment rested on the theory that at the time of the sale to the PEÑALES, the vendor ADALIA owned only one-half of the property.

On appeal, respondent Appellate Court affirmed the Decision in all respects rationalizing that when the PEÑALES had appropriated to themselves the entire land in 1972 "in effect, they had set up a title adverse to the Lustrias", thus, "an implied trust pursuant to Article 1456 of the New Civil Code had been constituted for the benefit of the trustees (the Lustrias)," and "an action arising from an implied trust prescribe(s) in 10 years", which period had not yet lapsed at the time petitioners instituted the action for reconveyance in 1977. Hence, this petition seeking review.

We are constrained to reverse.

It was error for the Appellate Tribunal to have taken the position that (a) the PEÑALES "set up a title adverse to the heirs of Segundo Lustria" only when the annotation under Section 4, Rule 74, was cancelled on May 15, 1972; and (b) that prescriptive periods commenced only on that date of May 15, 1972.

Title to the entire PROPERTY was placed on June 8, 1953 solely in the name of ADALIA, subject to possible claims with reference to one-half of the PROPERTY from heirs of Segundo Lustria, or others, not heirs, but who can claim an interest in one-half of the PROPERTY. From that date of registration, the LUSTRIAS must be deemed to have had constructive notice of the adverse claim of ADALIA on June 8, 1953 when said TCT No. T-14243 was issued. The prescriptive period, therefore, commences from said date.

There was also error on the part of the Appellate Tribunal in stating that the annotation in TCT No. T-63055 "recognizes the fact that the late Segundo Lustria, Sr., is an owner to the extent of one-half" of the PROPERTY, implying that Segundo Lustria should be legally considered a co-owner of an undivided one-half of the PROPERTY. The proper view, under Section 4, Rule 74, is that, in TCT No. T-14243, "A parcel of land (Lot No. 6026 of the cadastral survey of Pototan) x x x is registered x x x x in the name of ADALIA x x x as owner thereof in fee simple", subject to the condition that one-half thereof may be claimed, within the 2-year period after June 8, 1953, by a third person with an alleged interest therein.

Generally, an annotation under Section 4, Rule 74, reads only as subject to "the 'rights of any legal heir or claims of any creditor of the deceased which have not been paid". Under the erroneous view of the Appellate Tribunal the heirs and creditors of the deceased would, in effect, be "owners" of the PROPERTY of the deceased extra-judicially partitioned, and that would be incongruous.

When the LUSTRIAS filed their complaint on March 21, 1977, or more than 10 years after June 8, 1953, they had already lost their rights, if any, to any part of the PROPERTY. Their claim could not be based on the encumbrance appearing on the faces of TCTs Nos. T-14243 and T-63055 because the effectivity of that reservation expired two years after June 8, 1953. It was held in *Carreon vs. Agcaoile*, 111 Phil., pp. 119, 123, that the annotation of an encumbrance pursuant to Section 4, Rule 74, becomes *functus officio* at the expiration of the 2-year period therein mentioned.

The prescriptive period in Section 4, Rule 74, was enacted with the following principle in mind:

"Prescription is rightly regarded as a statute of repose whose object is to suppress fraudulent and stale claims from springing up at great distances of time and surprising the parties or their representatives when the facts have become obscure from the lapse of time or death or removal of witnesses (*Sinaon v. Soroñgon*, 136 SCRA 407, citing 53 CJS 903)."

Before concluding, it might expressly be mentioned that the basic rights of the PEÑALES, as assignees of ADALIA, should be equated with the rights of ADALIA, as their assignor.

WHEREFORE, the judgment appealed from is hereby SET ASIDE and the property in question held to appertain exclusively to petitioners.

SO ORDERED.

Yap, (Chairman), Narvasa, Cruz, and Feliciano, JJ., concur.

[1] Rollo, p. 49.

[2] *ibid.*, p. 54.

[3] SEC. 4. Liability of distributees and estate. - If it shall appear at any time within two (2) years after the settlement and distribution of an estate in accordance with the provisions of either of the first two sections of this rule, that an heir or other person has been unduly deprived of his lawful participation in the estate, such heir or such other person may compel the settlement of the estate in the courts in the manner hereinafter provided for the purpose of satisfying such lawful participation. And if within the same time of two (2) years, it shall appear that there are debts outstanding against the estate which have not been paid, or that an heir or other person has been unduly deprived of his lawful participation payable in money, the court having jurisdiction of the estate may, by order for that purpose, after hearing, settle the amount of such debts or lawful participation and order how much and in what manner each distribute shall contribute in the payment thereof, and may issue execution, if circumstances require, against the bond provided in the preceding section or against the real estate belonging to the deceased, or both. Such bond and such real estate shall remain charged with a liability to creditors, heirs, or other persons for the full period of two (2) years after such distribution, notwithstanding any transfers of real estate that may have been made.

[4] Rollo, p. 51.

[5] Rollo, p. 79.

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