

HEIRS OF MARIA DE LA CRUZ Y GUTIERREZ, PETITIONERS, VS. COURT OF APPEALS AND HEIRS OF MARIA DE LA CRUZ Y GUEVARRA, RESPONDENTS.

G.R. No. 76590, February 26, 1990

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari of the June 17, 1986 decision[*] of the then Intermediate Appellate Court in AC--G.R. CV No. 05785 reversing the appealed decision of the Regional Trial Court of Angeles City, and the November 12, 1986 resolution of the same court denying the motion for reconsideration.

Herein petitioners are the heirs (children) of the late Maria de la Cruz y Gutierrez, married to Mateo del Rosario Lansang, while herein private respondents are the heirs of Maria de la Cruz y Guevarra, married to Calixto Dimalanta, and Fermin dela Cruz. The controversy involves a 1,980 square meters portion of Lot 1488.

From 1921 until her death 1951, Maria de la Cruz y Gutierrez resided in the questioned lot in the concept of an owner. She declared the lot for tax purposes in her name. Later, she entrusted the administration of the said lot to her niece Maria de la Cruz y Guevarra. When cadastral proceedings were held in Porac, in Cadastral Case No. 18, on March 17, 1926, Maria de la Cruz y Gutierrez filed an answer to the questioned lot. In the said filed answer, over the handwritten name "Maria de la Cruz y Gutierrez" is a thumbmark presumably affixed by her, Exhibit "2-C"; that in paragraph 7, a person named therein as Fermin de la Cruz y Gutierrez is stated to have an interest or participation on the said lot. However, in the space provided in paragraph 8 to be filled up with the personal circumstances of claimant Maria de la Cruz y Gutierrez, what appears therein is the name Maria de la Cruz, married to Calixto Dimalanta, instead of Maria de la Cruz y Gutierrez, Exhibit "2-A"; and in the space provided in paragraph 9, intended for the personal circumstances of other person or persons who may have an interest on the said lot, the name Fermin de la Cruz, single, appears, Exhibit "2-B". Accordingly, the trial court rendered a decision adjudicating Lot No. 1488 in favor of Maria de la Cruz, 26 years old, married to Calixto Dimalanta and Fermin de la Cruz, Single. Finally, Original Certificate of Title No. 16684 of the Register of Deeds of Pampanga was issued in their names.

Petitioners, claiming to have learned of the same only on July 1, 1974, on October 1, 1974 (allegedly barely three months after discovery of the registration, and two years after the death of Maria de la Cruz y Guevarra who, before she died in 1974, revealed to petitioners Daniel Lansang and Isidro Lansang that the lot of their mother Maria de la Cruz y Gutierrez had been included in her title), filed with the then Court of First Instance of Pampanga, Branch IV, presided over by Hon. Cesar V. Alejandria, a complaint for reconveyance, docketed therein as Civil Case No. 2148. The same was amended on June 16, 1975.

The main thrust of the complaint is that the claimant of Lot 1488 in Cadastral Case No. 18 was Maria de la Cruz y Gutierrez and not Maria de la Cruz y Guevarra who by not using her maternal surname "Guevarra" succeeded in registering Lot 1488 in her name and that of her brother Fermin de la Cruz. Under the circumstances, it is claimed

that Maria de la Cruz married to Calixto Dimalanta and Fermin de la Cruz hold the property in trust for the petitioners.

In their answer (Rollo, pp. 62-65), private respondents claimed that the land in question is their exclusive property, having inherited the same from their parents and the OCT No. 16684 was issued in their names. Moreover, they asserted that petitioners have lost their cause of action by prescription.

During, the pre-trial, the parties stipulated the following facts:

1. That Lot No. 1488 is the lot in question as stated in Paragraph 3 of the Complaint;
2. That on March 17, 1926, Maria de la Cruz y Gutierrez filed her Answer over the cadastral lot in question;
3. That Maria de la Cruz y Gutierrez affixed her thumbmark in the Answer dated March 17, 1926;
4. That by virtue of the Answer over Cadastral lot in question filed by Maria de la Cruz y Gutierrez on March 17, 1926, OCT No. 16684 was issued covering the lot in question;
5. That the maternal surname of Maria de la Cruz and Fermin de la Cruz is Guevarra and not Gutierrez; and
6. That Maria de la Cruz y Guevarra and Fermin de la Cruz y Guevarra did not file their answer over the lot in question. (p. 3, Intermediate Appellate Court Decision; p. 46, Rollo)

The issues stated are as follows:

1. Whether or not the handwritings in the Answer of Maria de la Cruz y Gutierrez were her handwritings;
2. Whether or not the heirs of Maria dela Cruz y Gutierrez are paying the land taxes of the lot in question proportionately to their respective shares;
3. Whether or not Lot 1488, the lot in question, is declared in the name of Maria de la Cruz y Gutierrez;
4. Whether or not during the lifetime of Maria de la Cruz y Gutierrez up to the time of her death, she was in actual possession of the lot in question; and
5. If there was fraud in securing OCT No. 16684 in the name of Maria de la Cruz, married to Calixto Dimalanta, and Fermin de la Cruz, single. (pp. 3-4, Intermediate Appellate Court Decision; pp. 46-47, Rollo)

After trial, the trial court, in a decision dated November 17, 1983 (Ibid., pp. 34-42), ruled in favor of the petitioners. The decretal portion of the said decision, reads:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiffs;

(a) ordering the above-named defendants to reconvey to the plaintiffs a portion of 1, 980 square meters of Lot No. 1488 covered by Original Certificate of Title No. 16684 of the Register of Deeds of Pampanga, by executing a deed of reconveyance and registering the same with the said Office at their own expense;

(b) ordering the parties to cause the survey and division of Lot No. 1844 into two equal parts in order that two separate titles, one for the plaintiffs and the other for the defendants can be issued by the Register of Deeds of Pampanga in their favor and one-half of the expenses therefore to be shouldered by the plaintiffs, and the other half by the defendant;

(c) ordering that the land to be adjudicated to the plaintiffs should include the portion where the existing house of the late Maria de la Cruz y Gutierrez is situated;

(d) ordering the plaintiffs and the defendants to pay the corresponding estate and inheritance taxes if the parcels of land inherited by them are subject to the payment of the same;

(e) ordering the defendants to pay the costs of suit."

On appeal, considering the action as based on an implied trust, the then Intermediate Appellate Court in its decision promulgated on June 17, 1986 (Ibid., pp. 44-53) reversed the decision of the trial court. The dispositive portion reads:

"WHEREFORE, the Court is constrained to REVERSE the decision appealed from. A new one is hereby entered dismissing the complaint."

A Motion for Reconsideration was filed, but the same was denied in a resolution dated November 12, 1986. (Ibid., p. 66). Hence, the instant petition.

Petitioners raised three (3) reasons warranting review, to wit:

I

RESPONDENT COURT ERRED WHEN IT RULED THAT THE ACTION FOR RECONVEYANCE FILED BY HEREIN PETITIONERS WITH THE LOWER COURT HAD ALREADY PRESCRIBED;

II

RESPONDENT COURT ERRED IN RULING THAT PETITIONERS WERE GUILTY OF LACHES; and

III

RESPONDENT COURT ERRED IN RULING THAT THERE WAS NO EVIDENCE OF FRAUD COMMITTED BY THE PREDECESSOR-IN-INTEREST OF PRIVATE RESPONDENTS IN SECURING TITLE TO THE LOT IN QUESTION. (pp. 13, 20 and 22, Petition for Review; pp. 21, 28, and 30, Rollo)

The instant petition is impressed with merit.

The main issue in this case is whether or not petitioners' action for reconveyance has already prescribed.

The answer is in the negative.

As aptly argued by petitioners, the Court of Appeals erred when it ruled that their action has already prescribed; obviously on the wrong premise that the action is one based on implied or constructive trust. As maintained by petitioners, their action is one based on express trust and not on implied or constructive trust. Petitioners' predecessor-in-interest, Maria de la Cruz y Gutierrez, was an unlettered woman, a fact borne out by her affixing her thumbmark in her answer in Cadastral Case No. 18, Exhibit "2-C". Because of her mental weakness, in a prepared document for her, Exhibit "B-3", she consented and authorized her niece Maria de la Cruz y Guevarra to administer the lot in question. Such fact is corroborated by the testimony of Daniel Lansay, the son of Maria de la Cruz y Gutierrez that Maria de la Cruz y Guevarra was the one entrusted with the paying of land taxes.

Private respondents argue that said Exhibit "B-3" is a portion of the tax declaration (Exhibit "B") which was prepared by the Office of the Municipal Assessor/Treasurer where the lot in question is located, and clearly not the written instrument constituting an express trust required under Article 1443 of the Civil Code. This argument of private respondents, is untenable. It has been held that under the law on Trusts, it is not necessary that the document expressly state and provide for the express trust, for it may even be created orally, no particular words are required for its creation (Article 1444, Civil Code). An express trust is created by the direct and positive acts of the parties, by some writing or deed or will or by words evidencing an intention to create a trust (Sotto v. Teves, 86 SCRA 154 [1978]). No particular words are required for the creation of an express trust, it being sufficient that a trust is clearly intended (Vda. de Mapa v. Court of Appeals, 154 SCRA 294 [1987]). Hence, petitioner's action, being one based on express trust, has not yet prescribed. Be it noted that Article 1443 of the

Civil Code which states "No express trusts concerning an immovable or any interest therein may be proved by parol evidence," refers merely to enforceability, not validity of a contract between the parties. Otherwise stated, for purposes of validity between the parties, an express trust concerning an immovable does not have to be in writing. Thus, Article 1443 of the Civil Code may be said to be an extension of the Statute of Frauds. The action to compel the trustee to convey the property registered in his name for the benefit of the cestui for trust does not prescribe. If at all, it is only when the trustee repudiates the trust that the period of prescription may run (*Enriquez v. Court of Appeals*, 104 SCRA 656 [1981]).

PREMISES CONSIDERED, the June 17, 1986 decision of the Intermediate Appellate Court is hereby REVERSED and the November 17, 1983 decision of the trial court is hereby REINSTATED, except as to the latter court's finding that this case deals with an implied trust.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

[*] Special Third Civil Cases Division; penned by Associate Justice Jorge R. Coquia and concurred in by Associate Justices Florelia Castro-Bartolome and Leonor Ines Luciano.

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