

**BRIGIDO RAMOS AND FELICIDAD JUAN, PETITIONERS, VS.
INTERMEDIATE APPELLATE COURT, RODOLFO RAMOS AND
GERTRUDES MERCADO, RESPONDENTS.***G.R. No. 78282. July 05, 1989*

Ponente: REGALADO, J.

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The usual conflicting claims of ownership culminated in this case involving a parcel of land in Tanawan, Bustos, Bulacan covered by Transfer Certificate of Title No. T-92071 in the name of private respondent Rodolfo Ramos. Said realty was formerly part of the public land constituting the Buenavista Estate which was under the administration of and subject to disposition by the Land Tenure Administration pursuant to Republic Act No. 1400 and, later, by the Land Authority under Republic Act No. 3844.

The evidence of record show that respondent Rodolfo Ramos filed with the Land Authority an application, dated January 5, 1965, for the purchase of the parcel of land in question[1] and was later compelled to file a complaint therein against another claimant in CLA Case No. 40, entitled "Rodolfo Ramos v. Gerardo Ramos." The case resulted in the adjudication to Rodolfo Ramos of an area of 24,793 square meters of the land applied for and an area of 1,810.05 square meters to Gerardo Ramos after the Acting Governor of said office, Remigio T. Eusebio, found both claimants qualified to purchase said portions. Consequently, a contract of sale was executed between private respondent Rodolfo Ramos and the Land Authority on February 5, 1968,[2] which became the basis for the issuance of the aforesaid Transfer Certificate of Titled No. T-92071 on February 9, 1968.[3]

Annotated as encumbrances on said certificate of title are the conditions that, except by hereditary succession, the land shall not be subdivided, sold or in any manner transferred or encumbered, without the prior written consent of the Governor of the Land Authority and only to qualified persons specified therein.

On January 19, 1978, without the prior consent of the Minister of Land Reform who had succeeded the Governor of the Land Authority, petitioner spouses filed a complaint docketed as Civil Case No. 845-B before the former Court of First Instance of Bulacan, Branch IV, praying for the cancellation of the name of respondent Rodolfo Ramos in the aforesaid certificate of title, to be replaced with petitioners' names. Petitioners alleged that the property in question was titled in the name of respondent Rodolfo Ramos for convenience and in trust, petitioners claiming to be the beneficial owners thereof all along. They attempted to prove in the proceedings below that they acquired the property from a certain Patricio Cruz sometime in 1959, after which they had the same tenanted by one Ramon Samson in 1969. After the latter's death, Pancracio Lopez supposedly took over as tenant from 1969 to 1976. Evidence was likewise adduced to prove that petitioner Felicidad Juan applied for the purchase of said property sometime in 1960 but her application was withdrawn allegedly because of some family problems.[4] Thereafter, petitioners were supposed to have requested their nephew, respondent Rodolfo Ramos, to have the title of the land issued in his name with petitioner Brigido Ramos pursuing the application with the former Land Tenure Administration. Petitioners further claim that respondent Rodolfo Ramos took over the tenancy rights to

the land in 1976.

After considering all the evidence presented, the trial court rendered a decision^[5] dismissing the complaint and the counterclaim, for insufficiency of evidence to warrant a declaration that petitioners are entitled to reconveyance of the property. Also, said the court below, there was failure to establish petitioners' ownership over the land and to prove the alleged oral agreement between the parties to have the land titled in the name of private respondent Rodolfo Ramos. Furthermore, the court *a quo* observed that the approval of the application of said private respondent by the administrative body to which such function belongs may not be interfered with by the courts.^[6]

Finding no reversible error on the part of the trial court, the then Intermediate Appellate Court affirmed said decision on appeal.^[7]

The amply supported judgment of respondent court commends itself for approval. It being undisputed that the parcel of land in question originally formed part of the public land, with the present ownership thereof duly acquired by private respondents subject to the encumbrances annotated on the certificate of title thereto, as hereinbefore noted, petitioners have no basis to ask for reconveyance of the land to them. Also, as pointed out earlier, they claim to have acquired the rights to the land from one Patricio Cruz, but they utterly failed to show how the latter acquired said rights in the first place. Aside from their bare assertions, neither did petitioners adduce evidence of the transfer of such rights to them. Furthermore, they should be deemed to have acknowledged that the land belongs to the State when they filed an application for its purchase with the administrative office concerned. It would have been absurd for them to have applied for the purchase of property which they believed was theirs.

Despite such inconsistent postures, petitioners shift to a new tack, this time on a claim of ownership of the land by invoking Article 440 of the Civil Code on accession natural. We do not have to unduly dwell on this issue which was only raised by petitioners for the first time on appeal. An issue which was neither averred in the complaint nor raised during the trial in the court below cannot be raised for the first time on appeal as it would be offensive to the basic rules of fair play, justice and due process.^[8] Besides, We cannot but note petitioners' apocryphal submissions on the matter. They contend that the land in dispute, being supposedly a part of an abandoned river bed, is automatically owned by them as owners of the adjoining lot. Had the petitioners proceeded to read the succeeding provisions of the Civil Code, they would not have missed Article 461 thereof which provides that "river beds which are abandoned through the natural change in the course of the waters *ipso facto* belong to the owners of the land occupied by the new course" with the owners of the adjoining lots having the right to acquire them only after paying their value.

With the undisputable absence of any legal right to the land in favor of petitioners, the award to private respondents consequent to their purchase of said land should be given the respect it deserves. As the body empowered by law to approve applications to purchase and dispose of lots under its administration, the determination of the Land Authority in favor of private respondents is binding on this Court, there being a demonstrated absence of any grave abuse of discretion, collusion, fraud or clear error of law and fact.^[9]

Incidentally, We digress to clarify what appears to have been an oversight on the part of respondent court when it noted that the action herein had prescribed after four years from registration of the deed of sale in favor of private respondent Rodolfo Ramos. This was premised on the assumption that the action was for annulment of a contract on the ground of fraud. A scrutiny of the basic complaint^[10] which commenced this case, however, shows that petitioners based their claim for recovery on an alleged implied trust. Consequently, the action for reconveyance prescribes after ten years counted from the date adverse title to the property was asserted, that is, from the

registration of the title.[11] At any rate, such misperception would not affect the adjudication made by respondent court since, as already explained, there is no ownership of petitioners over the land on which they can anchor their fancied theory of an implied trust in their favor.

WHEREFORE, the decision of respondent court is AFFIRMED.

SO ORDERED.

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

[1] Exhibits 2, 2-a and 3; Original Record, 219-220.

[2] Exhibit 5; *ibid.*, 225-226.

[3] Exhibit 6; *ibid.*, 227.

[4] Original Record, 277.

[5] Penned by Judge Natividad G. Dizon, Regional Trial Court, Branch XIII, Malolos, Bulacan.

[6] Original Record; 278.

[7] CA-G.R. CV. No. 07309; Coquia, J., ponente, Bellosillo and Aldecoa, JJ., concurring.

[8] *De la Santa vs. Court of Appeals, et al.*, 140 SCRA 44 (1985); *Dihiansan, et al. vs. Court of Appeals, et al.*, 153 SCRA 712 (1987); *Dulos Realty & Development Corporation vs. Court of Appeals*, 157 SCRA 425 (1988).

[9] *Batangas Transportation Company vs. Rivera, et al.*, 109 Phil. 175 (1960); *Timbancaya vs. Vicente*, 9 SCRA 852 (1963); *Lim vs. Secretary of Agriculture and Natural Resources*, 34 SCRA 751 (1970).

[10] Original Record, 1-5.

[11] *Villagonzalo, et al. vs. Intermediate Appellate Court, et al.*, G.R. No. 71110, Nov. 22, 1988.

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