

**SPOUSES HADJI ALI MAMADSUAL AND HADJI SALIKA MAMADSUAL,
PETITIONERS, VS. HON. COROCOY D. MOSON, SPOUSES KAGUI
ABDULA MACARAPAN AND KAGUI RAKMA MACARAPAN AND
REGISTER OF DEEDS OF...**

G.R. No. 92557. September 27, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The applicability of the regular rules of procedure and case law in this jurisdiction to civil cases before the District Shari'a Courts is the issue in this petition.

On November 14, 1988, petitioner-spouses filed a complaint against private respondents for "Quieting of Title To Property, Annulment of Original Certificates of Title Nos. P-122 and P-138, and Damages, With Application for Writ of Preliminary Injunction" with the Shari'a District Court, 5th Shari'a District at Cotabato City. Public respondent Register of Deeds of the same city was impleaded as a nominal party.

Private respondents filed their answer dated December 1, 1988.

The issues having been joined, a pre-trial conference was held on March 14, 1989 whereby Presiding Judge Hon. Corocoy D. Moson issued a pre-trial order defining the issues and directing the parties to submit statements (shudhud) of at least two (2) competent witnesses on the issues defined at the pre-trial conference and other evidence (bayyina) setting forth the facts and the law relied upon within ten (10) days from notice.

Petitioners filed the required sworn statements on April 17, 1989 but private respondents failed to do so.

The case was set for trial on the merits on May 22, 1989 but it was postponed at the instance of private respondents. Other settings were postponed for one reason or another. However, on July 4, 1989, private respondents filed a pleading designated as "Amplification of Affirmative or Special Defenses With Prayer for Dismissal of Complaint On the Ground of Lack of Jurisdiction." On the basis thereof, the trial court issued an order on November 7, 1989 dismissing the complaint in this manner:

"Before this Court, is a motion filed by defendants, through their counsel, for amplification of affirmative or special defenses with prayer for dismissal of the complaint on the following grounds: (1) That plaintiffs have no title to the property which is the subject of this suit, hence, their action to quiet title thereto is not proper; (2) that plaintiffs are not the proper parties to ask for the annulment or cancellation of the certificates of title of the defendants; and (3) that the action, being based on an implied trust, has already prescribed and could not therefore be maintained.

Plaintiffs, through their counsel, vigorously opposed the motion, and in a nutshell, their opposition may be stated as follows: (1) On the issue of no title to the property which is the subject-matter of the case, plaintiffs contended that the title referred to by them in the complaint means the legal title or ownership or dominion over the land in dispute acquired by them from their ancestors by operation of the law on succession; (2) On

the question of proper parties to ask for annulment, plaintiffs contended that they are the real party in interest because they will be benefited by the judgment or entitled to the avails of the suit in their own right, independent of any other interest, but with the authority of the law; and (3) on the question of prescription, plaintiffs contended that since they are in possession of the land, an action to quiet title does not prescribe.

Perusing the case from all angles, and without losing track of the brilliant arguments presented by both parties during the legal skirmishes, the court finds that in order that an action for quieting of title shall prosper, it is necessary that the plaintiff must have legal or equitable title to the property which is the subject-matter of the action. On this score, the Civil Code of the Philippines provides:

‘The plaintiff must have legal or equitable title to, or interest in the real property which is the subject-matter of the action. He need not be in possession of said property.’ (Art. 477, Civil Code of the Philippines).

In the case at bar, plaintiffs have no legal or equitable title to the land in question. Legal title means registered ownership and equitable title meant beneficial ownership. Since the plaintiffs have no legal or equitable title to the parcels of land in question, it is obvious that there is no cloud to be removed or to be prevented from being cast upon. The voice of judicial conscience calls for the dismissal of the instant action.

Dwelling on the second question, even assuming for a moment that the action is for annulment of the certificates of title, the court finds that the plaintiffs are not the proper parties to bring the action, but rather the Solicitor General. And even assuming further that the plaintiffs are the proper parties, the action has already prescribed because the action partakes of the nature of reconveyance which prescribes after ten years. The argument that the action has not prescribed because plaintiffs are in possession of the property does not merit the consideration of the court. That argument holds true only if plaintiffs have the legal or equitable title to the property.

WHEREFORE, in the light of the foregoing, the above-entitled case is hereby ordered DISMISSED for lack of jurisdiction and cause of action.”[1]

A motion for reconsideration filed by petitioners of said order was denied by the trial court in an order dated January 29, 1990 that reads as follows:

“Submitted for resolution by this Court is the Motion by plaintiffs seeking reconsideration of the Order rendered on November 7, 1989, which order dismissed this case ‘for lack of jurisdiction and cause of action.’

The motion asserts that the aforementioned order ‘has no legal basis on the following grounds:

- a) That the Honorable Court has jurisdiction to hear and decide the (case) or the merits;
- b) That the complaint has sufficient cause of action; and
- c) That the dismissal of the complaint is illegal.’

The first ground implies that this court is without alternative except to hear the case on the merits. This assertion has no legal leg to stand on, it being well-settled that the courts have the power to dismiss cases before them upon a finding that they have no jurisdiction over them or have lost the same, and that the act of dismissing the cases on that basis is a valid exercise of jurisdiction. Despite the lack or loss of jurisdiction the order of dismissal is nevertheless valid.

On the second ground, the best test of the sufficiency of the cause of action is the allegation in the complaint. The title over the land is registered in the names of the defendants, and the annulment or cancellation thereof is legally possible only through an action for reversion by the state. If the case would be treated as one for reconveyance of title, the period within which the same could be brought had already prescribed.

As regards the third ground, the defendants, in their opposition to the Motion, cited the case of Heirs of Olivas

vs. Judge Flor, G.R. 78343, decided on May 21, 1988, in which the Supreme Court held that a motion to dismiss filed after the answer had already been submitted within the reglementary period is not the pleading prohibited by the Rules on Summary Procedure, and what the Rule proscribes is a motion to dismiss which would stop the running of the period to file an answer and cause undue delay. As observed by the defendants, Section 13 of the Ijra-at-al Mahakim Al Shari'a is lifted from the provisions of the Rules on Summary Procedure.

WHEREFORE, finding no cogent and compelling reason to reconsider the Order of November 7, 1989, this Court hereby affirms the same and further denies plaintiffs' Motion for Reconsideration.

SO ORDERED."[2]

Hence, the herein petition for review on certiorari wherein petitioners allege the following assignment of errors committed by the trial court:

“ASSIGNMENT OF ERRORS

I. THAT THE LOWER COURT ERRED IN ORDERING THE DISMISSAL OF THE COMPLAINT, SUCH ORDER HAVING DEPARTED FROM THE SPECIAL RULES OF PROCEDURE GOVERNING THE SHARI'A COURTS (IJRA-AT AL MAHAKIM AL SHARI'A);

II. THAT THE LOWER COURT ERRED IN RULING THAT IT HAS NO JURISDICTION TO HEAR THE COMPLAINT ON THE GROUNDS THAT THE PLAINTIFFS ARE NOT THE PROPER PARTIES TO BRING THE ACTION AND/OR THE ACTION HAS PRESCRIBED; AND

III. THAT THE LOWER COURT ERRED IN RULING THAT THE COMPLAINT HAS NO CAUSE OF ACTION ON THE GROUND THAT THE PLAINTIFFS HAVE NO LEGAL OR EQUITABLE TITLE TO THE LAND IN QUESTION."[3]

Petitioners allege that the lower court should not have considered private respondents' pleading which was in effect, a motion to dismiss, as it is a pleading disallowed under Section 13 of the Ijra-At Al Mahakim Al Shari'a.

However, under Section 16 of the Ijra-At Al Mahakim Al Shari'a, it is specifically provided that the "Rules of Court shall apply in a suppletory manner" in civil cases. Section 5, Rule 16 of the Rules of Court provides as follows:

"SECTION 5. Pleading grounds as affirmative defenses. - Any of the grounds for dismissal provided for in this rule, except improper venue, may be pleaded as an affirmative defense, and a preliminary hearing may be had thereon as if a motion to dismiss had been filed."

From the foregoing, it is clear the trial court properly set the case for hearing on the affirmative defenses seeking dismissal of the complaint raised by the private respondents in their answer. What the Ijra-At Al Mahakim Al Shari'a proscribes is the filing of a motion to dismiss in lieu of an answer which would stop the running of the period to file an answer and cause undue delay. The prohibition is intended to put a stop to the filing of dilatory pleadings with the end in view of expediting proceedings before Shari'a courts.

The case of Heirs of Ricardo Olivas vs. Flor,[4] involves the application of the Rules of Summary Procedure in special cases before the Metropolitan and Municipal Circuit Trial Courts. The said Rules disallow the filing of motions to dismiss, wherein this Court held:

“In the guise of a position paper, private respondents filed a Motion to Dismiss. While this is, indeed, a prohibited pleading (Section 15(1), Rule on Summary Proceeding) it should be noted that the motion was filed after an Answer had already been submitted within the reglementary period. In essence, therefore, it is not the pleading prohibited by the Rules on Summary Procedure. What the rule proscribes is a Motion to Dismiss,

which would stop the running of the period to file an Answer and cause undue delay."

Nevertheless, the Court finds the petition to be impressed with merit.

The lower court dismissed the complaint on the ground that the action had prescribed. The said court also observed that inasmuch as it is one for reversion to the state of the property, the same should be brought by the Solicitor General and not by the petitioners.

The Court disagrees. A reading of the complaint shows that it is an action for quieting title. Therein, it is alleged that petitioners are in "actual, continuous, and adverse possession" of the land in question "since time immemorial" in the concept of owners.[5]

An action to quiet title is imprescriptible if the plaintiffs are in possession of the property.[6] In *Sapto, et al. vs. Fabiana*,[7] this Court held -

"x x x it is an established rule of American jurisprudence (made applicable in this jurisdiction by Art. 480 of the New Civil Code) that actions to quiet title to property in the possession of the plaintiff are imprescriptible (44 Am. Jur. p. 47; *Cooper vs. Rhea*, 39 L.R.A. 930; *Inland Empire Land Co. vs. Grant County*, 138 Wash. 439, 245 Pac. 14).

The prevailing rule is that the right of a plaintiff to have his title to land quieted, as against one who is assertion some adverse claim or lien thereon, is not barred while the plaintiff or his grantors remain in actual possession of the land, claiming to be owners thereof, the reason for this rule being that while the owner in fee continues liable to an action, proceeding, or suit upon the adverse claim, he has a continuing right to the aid of a court of equity in his favor to ascertain and determine the nature of such claim and its effect on his title, or to assert any superior equity in his favor. He may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right. But the rule that the statute of limitations is not available as a defense to an action to remove a cloud from title can only be invoked by a complainant when he is in possession. One who claims property which is in the possession of another must, it seems, invoke his remedy within the statutory period. (44 Am. Jur. p. 47)"

In the same complaint, petitioners allege that recently private respondents have disturbed their possession of the property by surreptitiously constructing dikes.[8] The rule is that the petitioners may wait until their possession is disturbed or their title is attacked before they may take steps to vindicate their right. The statute of limitation is not available as a defense to an action to remove a cloud from title over property in possession of the petitioners.

The trial court held that in an action to quiet title the plaintiff "must" have legal or equitable title to, or interest in the real property which is the subject matter of the action."[9] It interpreted legal title to mean registered ownership and equitable title to mean beneficial ownership.

It is not necessary that the person seeking to quiet his title is the registered owner of the property in question.

In *Chacon*,[10] this Court considered the action to be one for quieting of title where the plaintiffs alleged ownership and actual possession since time immemorial of the property in question by themselves and through their predecessors-in-interest, while defendants secured a certificate of title over said property through fraud, misrepresentation and deceit.

Thus, "title" to property does not necessarily mean the original transfer certificate of title. It can connote acquisitive prescription by possession in the concept of an owner thereof.[11] Indeed, one who has an equitable right or interest in the property may also file an action to quiet title under the law.[12]

Since the action in this case is one to quiet title to property whereby petitioners claim to have acquired title to the same by prescription, the property was thereby effectively withdrawn from the public domain and became

property of private ownership. Thus, the ruling of the trial court that the action being one for reversion only the Solicitor General can institute the same has no cogent basis.

WHEREFORE, the petition is GRANTED. The questioned orders of the trial court dated November 7, 1989 and January 23, 1990 are hereby reversed and set aside, and the records of the case are remanded to the lower court for further proceedings.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Feliciano, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.
Paras, J., on leave.

[1] Pages 16 to 18, Rollo.

[2] Pages 32 to 33, Rollo.

[3] Page 6, Rollo.

[4] 161 SCRA 393 (1988).

[5] Paragraph 14, Complaint; Annex F to the Petition.

[6] Faja vs. Court of Appeals, 75 SCRA 441 (1977); and Heirs of Segundo Uberas vs. CFI of Negros Occidental; 86 SCRA 144 (1978).

[7] 103 Phil. 683 (1958).

[8] Chacon Enterprises vs. Court of Appeals, 124 SCRA 784 (1983); Faja vs. Court of Appeals, supra; and Sapto, et al. vs. Fabiana, supra.

[9] Citing Article 477 of the Civil Code of the Philippines.

[10] Supra.

[11] Articles 540, 541, 1117 and 1130 of the Civil Code.

[12] Article 477, supra.

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