

Republic of the Philippines
Supreme Court
Manila

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Josep L. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
2016

THIRD DIVISION

**HEIRS OF ANDRES NAYA:
TERESITA B. NAYA, NORMA N.
ORBISO, CARMENCITA N.
FERNAN, and NARCISO P. NAYA,**
Petitioners,

- versus -

G.R. No. 215759

Present:
VELASCO, JR., J., *Chairperson,*
PERALTA,
PEREZ,
REYES, and
JARDELEZA, *JJ.*

**ORLANDO P. NAYA and SPOUSES
HONESIMO C. RUIZ and GLORIA
S. RUIZ,**

Respondents. Promulgated:

November 28, 2016

x-----*Wilfredo V. Lapitan*-----x

DECISION

JARDELEZA, J.:

This is a Petition for Review on *Certiorari*¹ assailing the Decision² dated July 3, 2014 and Resolution³ dated October 28, 2014 of the Court of Appeals (CA) in CA-G.R. CEB CV No. 03679. The Decision denied petitioners' appeal and affirmed the Orders of the Regional Trial Court (RTC), Branch 7 of Cebu City dismissing Civil Case No. CEB-35305 for failure to state a cause of action, while the Resolution denied petitioners' motion for reconsideration.

The Facts

Petitioners filed a complaint for quieting of title, reconveyance of ownership, damages, and attorney's fees⁴ before the RTC, Branch 7 of Cebu City against respondents involving a parcel of land at V. Rama Ave., Cebu

¹ Rollo, pp. 4-37.
² *Id.* at 39-49. Ponencia by Associate Justice Ramon Paul L. Hernando, with Associate Justices Ma. Luisa C. Quijano-Padilla and Renato C. Francisco concurring.
³ *Id.* at 52-53.
⁴ *Id.* at 95-102.

City. The property is denominated as Lot No. 6100-C-1 and has an area of 576 square meters, more or less.⁵

Petitioners alleged that they, together with respondent Orlando P. Naya (Orlando), are the legitimate and compulsory heirs of the late Spouses Andres and Gregoria Naya (Spouses Naya collectively). The property was included in the estate of Andres. In 1968, his heirs executed an extra judicial adjudication and settlement of estate where his surviving spouse, Gregoria, held all his properties in trust in favor of the other heirs and on the condition that she will assume all debts and pay all the obligations of the estate. Gregoria, however, failed to fulfill this condition. Despite knowing all these, Orlando allegedly sold the property in 1965, under the name of his parents, to one Alfonso Uy (Alfonso) by means of fraud and deceit. In 1971, after the title of the property was transferred in the name of Alfonso, he then sold it to Orlando, who thereafter managed to have the title of the property transferred in his name. Sometime in the early 1970s, the heirs of Spouses Naya initiated intestate proceedings and/or judicial settlement of their estate.⁶

In September 1974, Orlando sold the property to respondent Honesimo C. Ruiz (Honesimo). The title, however, was transferred to Honesimo's name only in 2007. Petitioners alleged that they only learned of Orlando's anomalous transactions in September 1974, prompting them to cause the annotation of an adverse claim to Orlando's title under Entry No. 4843-V-15-D.B.⁷

Petitioners alleged that with their consent, their co-petitioner, Teresita B. Naya (Teresita), occupied the property from the time of death of Spouses Naya until the time of the filing of the case. They stressed that Honesimo is not a buyer in good faith because he acquired the property after the notice of adverse claim had already been annotated on Orlando's title. Petitioners also argued that it took Honesimo 33 years before causing the transfer of title in his name.⁸

The RTC initially dismissed the complaint based on the motion to dismiss filed by Spouses Honesimo C. Ruiz and Gloria S. Ruiz (Spouses Ruiz) on the ground that the RTC did not acquire jurisdiction over their persons since the summons for them was served on their son. Petitioners moved for reconsideration and filed a motion for leave to effect summons by publication, which the RTC granted.⁹

In their Answer with Cross-Claim and Counter-Claims *Ad Cautelam*, Spouses Ruiz countered that the property was already sold by the late Spouses Naya to Alfonso in 1965 and as such, had already been excluded


⁵ *Id.* at 48.

⁶ *Id.* at 96-97.

⁷ *Id.* at 98.

⁸ *Id.* at 99.

⁹ *Id.* at 46-47.



from the decedents' estate since. They also rebutted petitioners' allegations of fraud and deceit against Orlando in selling the property to Alfonso and subsequently, to Honesimo. Spouses Ruiz argued that these general allegations of fraud and deceit were mere conclusions of law which cannot defeat the presumption of genuineness and due execution of the deeds of sale between the Spouses Naya and Alfonso, and between Alfonso and Orlando.¹⁰

In its Order dated August 9, 2010, the RTC dismissed the complaint for failure to state a cause of action and laches. The RTC ruled that the assailed transactions were conducted through the deceit and fraudulent scheme of Orlando, yet, petitioners did not give details of the same, in violation of Section 5,¹¹ Rule 8 of the Rules of Court. The RTC further ruled that time had turned petitioners' claim into a stale demand for instituting the complaint only in 2009, or 45 years after the sale of the property to Alfonso in 1965.¹²

The CA denied the appeal and affirmed the findings of the RTC that the complaint does not state a cause of action. The CA agreed that petitioners failed to allege with particularity the fraud purportedly committed by Orlando, such that Spouses Naya were deceived into executing the sale in favor of Alfonso. The CA noted that the allegations of fraud and deceit were sweeping statements that did not give a clear picture as to how they were committed. These allegations did not even state how the fraud was perpetuated or that the deeds of sale or the signatures were forgeries.¹³

The Petition

Hence, this petition, where petitioners maintain that the case sufficiently avers grounds and facts that constitute a cause of action for quieting of title. They insist that an allegation of fraud is not a mandatory requirement in such action. Being in physical possession of the land from the time of the death of Spouses Naya, petitioners likewise argue that their action for quieting of title is imprescriptible.¹⁴

Petitioners also argue that respondents violated the omnibus motion rule when the defenses of lack of cause of action and laches were only raised in their answer and not in the motion to dismiss filed earlier.¹⁵

In their Comment,¹⁶ Spouses Ruiz argue that the petition should be dismissed because petitioners are guilty of forum shopping. Spouses Ruiz

¹⁰ *Id.* at 46.

¹¹ *Sec. 5. Fraud, mistake, condition of the mind.* – In all averments of fraud or mistake, the circumstances constituting fraud or mistake must be stated with particularity. Malice, intent, knowledge or other condition of the mind of a person may be averred generally.

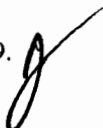
¹² *Rollo*, p. 44.

¹³ *Id.* at 40.

¹⁴ *Id.* at 16-29.

¹⁵ *Id.* at 13-16.

¹⁶ *Id.* at 114-129.



cite a Complaint for Quieting of title, Declaration of Absolute Nullity of Deed of Sale, Transfer Certificate of Title No. 107-2010001175, Tax Declaration, and Damages¹⁷ filed by petitioners against respondents and Spouses Romeo O. Jatico before the RTC, Branch 23 of Cebu City. Spouses Ruiz allege that this complaint has the same facts and issues as the case at bar.¹⁸

Spouses Ruiz further argue that the CA correctly dismissed the complaint because the omnibus motion rule did not apply to them prior to the service of summons by publication upon them. Spouses Ruiz stress that the motion to dismiss they earlier filed was for the sole purpose of assailing the jurisdiction of the RTC over their person. In other words, the RTC did not have jurisdiction over their person when they filed the motion and so Section 8, Rule 15 of the Rules of Court on the omnibus motion rule did not apply to them. It was only after the petitioners had effected a valid extraterritorial service of summons that the RTC had acquired jurisdiction over Spouses Ruiz. The first pleading they filed after the RTC acquired jurisdiction over them was their Answer with Cross-Claim and Counterclaims *Ad Cautelam*, where they alleged affirmative allegations.¹⁹

Finally, Spouses Ruiz maintain that the complaint miserably failed to state a cause of action because petitioners simply made sweeping allegations of deceit and fraud. Spouses Ruiz also argue that laches bars petitioners from questioning their title over the property.²⁰

The Court's Ruling

We grant the petition.

The complaint filed by petitioners is one for quieting of title, reconveyance of ownership, damages, and attorney's fees. To make out an action to quiet title, the initiatory pleading has only to set forth allegations showing that (1) the plaintiff has title to real property or any interest therein and (2) the defendant claims an interest therein adverse to the plaintiff's arising from an instrument, record, claim, encumbrance, or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable.²¹ Thus, the averments in petitioners' complaint that: (1) they are the legitimate, compulsory heirs of Spouses Naya, the former registered owners of the property; (2) the property is subject of intestate proceedings before the RTC, Branch 19 of Cebu City; (3) they consented to the occupation of their co-petitioner, Teresita, of the property since the time of death of Spouses Naya; (4) Orlando was able to fraudulently transfer the property in his name; and (5)

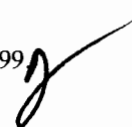
¹⁷ *Id.* at 151-163.

¹⁸ *Id.* at 117.

¹⁹ *Id.* at 119-122.

²⁰ *Id.* at 123-126.

²¹ *Ragasa v. Roa*, G.R. No. 141964, June 30, 2006, 494 SCRA 95, 99.



Spouses Ruiz subsequently purchased the property at an allegedly void sale were sufficient to make out an action to quiet title under Article 476²² of the Civil Code.²³

The action of petitioners is, at the same time, one for reconveyance. Petitioners seek to compel Spouses Ruiz, as the registered owners, to transfer or reconvey the land to them on the ground that petitioners are its rightful owners by succession and that the land was wrongfully registered in the names of Spouses Ruiz.²⁴ The case would, in effect, challenge the efficacy of Spouses Ruiz' certificate of title under the theory that there had been no valid transfer or sale from the petitioners' predecessors in interest to the respondents of the rights or interests in the land, the reason being that the transactions transferring such rights and interests were purportedly carried out by means of fraud and deceit.²⁵

In *Mendizabel v. Apao*,²⁶ where the case was one for annulment of titles, reconveyance and damages, we were also confronted with an argument that the complaint must be dismissed because the circumstances constituting the allegations of fraud or mistake were not stated with particularity. We ruled against this argument, holding that in an action for reconveyance, all that must be alleged in the complaint are two facts which, admitting them to be true, would entitle the plaintiff to recover title to the disputed land, namely, (1) that the plaintiff was the owner of the land or possessed the land in the concept of owner, and (2) that the defendant had illegally dispossessed him of the land. As already enumerated above, the allegations in petitioners' complaint certainly measure up to the requisite statement of facts to constitute an action for reconveyance based on an implied trust. Under Article 1456²⁷ of the Civil Code, if the registration of the land is fraudulent, the person in whose name the land is registered holds it as a mere trustee, and the real owner is entitled to file an action for reconveyance of the property.²⁸ On its face, therefore, the complaint states a cause of action and raises issues of fact that can be properly settled only after a full-blown trial.²⁹

We also note that petitioners allege that Teresita, a co-petitioner, is in possession of the property from the time of death of Spouses Naya until the

²² Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet the title.

An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.

²³ *Ragasa v. Roa*, *supra* at 98-99.

²⁴ See *Hortizuela v. Tagufa*, G.R. No. 205867, February 23, 2015.


²⁵ See *Heirs of Spouses Teofilo M. Reterta and Elisa Reterta v. Spouses Lorenzo Mores and Virginia Lopez*, G.R. No. 159941, August 17, 2011, 655 SCRA 580, 596.

²⁶ G.R. No. 143185, February 20, 2006, 482 SCRA 587.

²⁷ If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes.

²⁸ *Supra* note 26 at 604-605.

²⁹ See *Associated Bank v. Montano, Sr.*, G.R. No. 166383, October 16, 2009, 604 SCRA 134, 144.



filing of the case. This is a question of fact that must be also threshed out in a full-blown trial. If established, petitioners' action will be imprescriptible and hence, the defense of laches will not lie.

In the same vein, the ruling of the RTC and the CA that the action is barred by laches is premature. In *Heirs of Tomas Dolleton v. Fil-Estate Management Inc.*,³⁰ we noted that the RTC did not conduct a hearing to receive evidence proving that petitioners were guilty of laches. We reiterated the well-settled rule that the elements of laches must be proven positively. Laches is evidentiary in nature, a fact that cannot be established by mere allegations in the pleadings and cannot be resolved in a motion to dismiss. We, thus, concluded that at such stage, the dismissal of petitioners' complaint on the ground of laches was premature because the issue must be resolved at the trial of the case on the merits where both parties will be given ample opportunity to prove their respective claims and defenses.³¹

Finally, we find it would be prudent as well that the question as to whether petitioners are guilty of forum shopping be threshed out in a trial. Respondents argue that petitioners are guilty of forum shopping because they also filed another case for quieting of title, declaration of absolute nullity of deed of sale, transfer certificate of title, tax declaration, and damages before the RTC, Branch 23 of Cebu City, docketed as Civil Case No. CEB-38883.³² Respondents thusly pray that the case be dismissed on this ground. Forum shopping, however, may or may not be deliberate, intentional, or willful. The consequences in relation to the dismissal of the cases simultaneously or successively filed vary as to whether forum shopping is deliberate, intentional, or willful. If the forum shopping is not considered willful and deliberate, the subsequent case shall be dismissed without prejudice, on the ground of either *litis pendentia* or *res judicata*. If the forum shopping is willful and deliberate, both (or all, if there are more than two) actions shall be dismissed with prejudice.³³ However, the question as to whether there was deliberate or willful intent to forum shop is a question of fact, which the trial court is in the best position to determine.

WHEREFORE, the petition is **GRANTED**. The Decision of the Court of Appeals dated July 3, 2014 and its Resolution dated October 28, 2014 are **SET ASIDE**. This case is **REMANDED** to the Regional Trial Court of Cebu City, Seventh Judicial Region, Branch 7 which is directed to try and decide the case with deliberate speed.

SO ORDERED.

³⁰ G.R. No. 170750, April 7, 2009, 584 SCRA 409.

³¹ *Id.* at 430.

³² *Rollo*, pp. 116-117; *supra* note 17.

³³ *Chua v. Metropolitan Bank & Trust Company*, G.R. No. 182311, August 19, 2009, 596 SCRA 524, 541.



FRANCIS H. JARDELEZA

Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.

Associate Justice

Chairperson



DIOSDADO M. PERALTA

Associate Justice



JOSE PORTUGAL PEREZ

Associate Justice



BIENVENIDO L. REYES

Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.

Associate Justice

Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice

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