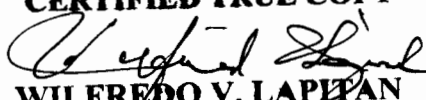




Republic of the Philippines
SUPREME COURT
 Manila

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

JUL 31 2017

THIRD DIVISION

JOSE S. OCAMPO,
 Petitioner,

G.R. No. 227894

Present:

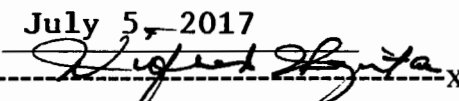
- versus -

VELASCO, JR., J., Chairperson,
 BERSAMIN,
 REYES,
 JARDELEZA, and
 TIJAM, JJ.

RICARDO¹ S. OCAMPO, SR.,
 Respondent.

Promulgated:

July 5, 2017

X----------X

DECISION

VELASCO, JR., J.:

The Case

Pending before the Court is a Petition for Review on *Certiorari* filed under Rule 45 of the Rules of Court, seeking to reverse and set aside the Decision² dated June 28, 2016 and the Resolution³ dated October 20, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 99908. The CA affirmed the Decision⁴ dated September 30, 2011 of the Regional Trial Court (RTC) of Manila, Branch 55, in Civil Case No. 92-61716, which ordered the partition of the subject property and the annulment and cancellation of petitioner's title over the same.

The Facts

Petitioner Jose S. Ocampo and respondent Ricardo S. Ocampo are full-blooded brothers being sons of the late Basilio Ocampo and Juliana Sunglao.⁵

¹ Petitioner indicated in the caption of the petition that respondent is **Roberto S. Ocampo, Sr.** However, the body of the petition and the assailed Decision show that the correct name of respondent is **Ricardo S. Ocampo, Sr.**

² *Rollo*, pp. 28-41. Penned by Associate Justice Melchor Q.C. Sadang and concurred in by Associate Justices Celia C. Librea-Leagogo and Amy C. Lazaro-Javier.

³ *Id.* at 43.

⁴ *Id.* at 133-141. Rendered by Pairing Judge Armando A. Yanga.

⁵ *Id.* at 5.

The present case arose from a complaint filed by respondent against petitioner for partition and annulment of Transfer Certificate of Title (TCT) No. 102822 (“Subject Property”).⁶

In the complaint, respondent alleged that he and petitioner are co-owners of the Subject Property, which was a conjugal property left by their parents, consisting of a 150-square meter lot and the improvements thereon located at 2227 Romblon Street, G. Tuazon, Sampaloc, Manila. The Subject Property was originally registered in their parents’ names under TCT No. 36869.⁷

Respondent claimed that petitioner and his wife, Andrea Mejia Ocampo, conspired in falsifying his signature on a notarized Extra-Judicial Settlement with Waiver (“ESW”) dated September 1970, and effecting the transfer of the property in the name of petitioner under TCT No. 102822, which was issued on November 24, 1970. Based on a finding by the National Bureau of Investigation (NBI) that respondent’s signature was forged, an Information was filed against petitioner, the notary public, and two others. Respondent requested for partition of the property, but petitioner refused to do so and secretly mortgaged the property for ₱200,000.00.⁸

Petitioner and his wife moved for the dismissal of the complaint, but it was denied by the trial court. Thereafter, they filed their Answer with Motion for Preliminary Hearing on the Affirmative Defense of prescription.⁹

Based on their Answer, petitioner and his wife claimed that their parents executed a Deed of Donation *Propter Nuptias* of the Subject Property in their favor as they were getting married, with a promise on their part to demolish the old house and replace it with a new two-storey house, which they did. To build the new house, they obtained a ₱10,000.00 loan from the Development Bank of the Philippines (DBP), with petitioner and his parents as borrowers.¹⁰

Petitioner further alleged that his parents gave respondent several properties outside Metro Manila, which respondent eventually lost. Petitioner and his wife then allowed respondent to stay at the second floor of the house. Petitioner was able to pay the DBP loan through a loan secured from the Social Security System (SSS) with the consent of his father. He claimed that on September 30, 1970, their father executed the ESW and secured respondent’s signature. By virtue of the ESW, petitioner was able to have TCT No. 36869 cancelled and have TCT No. 102822 issued in favor of himself and his wife.¹¹

⁶ Id. at 28.

⁷ Id. at 28-29.

⁸ Id. at 29.

⁹ Id.

¹⁰ Id. at 29-30.

¹¹ Id. at 30.

Finally, petitioner argued that TCT No. 102822 became indefeasible one year after its issuance on November 24, 1971, and that the action to annul TCT No. 102822 had prescribed since it was filed only on June 29, 1992, or 21 years and 7 months from the issuance of the title. He further claimed that the action to annul the ESW is a collateral attack on the title, and the rule on non-prescription against a co-owner does not apply since he and his wife had become exclusive owners of the Subject Property.¹²

In an Order dated January 21, 1994, the trial court dismissed the complaint on the ground of prescription. Respondent filed a Motion for Reconsideration and other supplemental pleadings, but they were denied by the trial court. Respondent thus elevated the matter to the CA, which declared the RTC's January 21, 1994 Order null and void. Petitioner filed a motion for extension of time to file a petition for review on certiorari before this Court, but the same was denied in a minute resolution.¹³

Thereafter, respondent filed a motion for writ of execution before the RTC. However, the motion was denied on the ground that there is nothing to execute since the setting aside of the RTC Order dated January 21, 1994 calls for the case to be tried on the merits. Thus, the RTC set the case for pre-trial.¹⁴

Meanwhile, petitioner filed a Motion for Leave to File Amended Answer which was granted by the RTC. In the Amended Answer, petitioner alleged that after their mother passed away in 1965, the ₱3,000.00 balance of the DBP loan was paid through an SSS loan. Petitioner alleged that in consideration of the loan, respondent and their father waived their rights to the property under the ESW. Petitioner further claimed that on November 19, 1970, their father executed a Deed of Absolute Sale, where he sold his interest in the Subject Property for ₱9,000.00 in favor of petitioner.¹⁵

Pre-trial ensued and the case was twice referred to mediation, but the parties refused to mediate. Thus, trial proceeded.¹⁶

Respondent presented three witnesses, as follows: 1) himself, 2) his wife, Francisca Elera Ocampo, and 3) Rhoda B. Flores, the Officer-in-Charge of the Questioned Documents Division of the NBI.¹⁷ On the other hand, petitioner presented himself as the only witness for the defense.¹⁸

¹² Id.

¹³ Id. at 30-31.

¹⁴ Id. at 31.

¹⁵ Id. at 31-32.

¹⁶ Id. at 32.

¹⁷ Id. at 133.

¹⁸ Id. at 136.

Ruling of the Regional Trial Court

In a Decision dated September 30, 2011, the RTC ruled in favor of respondent, to wit:

WHEREFORE, premises considered, judgment is hereby rendered **IN FAVOR OF THE PLAINTIFF, RICARDO S. OCAMPO** and **AGAINST** the defendant JOSE S. OCAMPO, as follows:

1. **ORDERING** the property located at 2227 Romblon St. G. Tuazon, Sampaloc, Manila, including the improvements found therein to be partitioned between the plaintiff and the defendant, each having a share of one-half in the property;
2. **ORDERING** that TCT No. 102822 of the Registry of Deeds of the City of Manila be **ANNULLED**;
3. **ORDERING** the Registry of Deeds of the City of Manila to **CANCEL** Transfer Certificate of Title No. 102822, issued in the name of defendant, the same being null and void;
4. **ORDERING** the defendant to pay the costs of the suit.

SO ORDERED.¹⁹

Petitioner's motion for reconsideration was denied in an Order dated May 21, 2012. Thus, he filed a Notice of Appeal, which was granted in the Order dated July 10, 2012.²⁰

Ruling of the Court of Appeals

In the assailed Decision dated June 20, 2016, the CA affirmed the findings of the RTC, the dispositive portion of which reads:

WHEREFORE, the appeal is **DENIED**. The September 30, 2011 Decision of the Regional Trial Court, Branch 55, Manila in Civil Case No. 92-61716 is **AFFIRMED**.

SO ORDERED.²¹

In dismissing the petition, the CA found that respondent was able to prove that his signature on the ESW is not genuine, based on his and his wife's testimony, as well as the NBI report. According to the CA, this finding of forgery was also supported by petitioner's own admission on cross-examination that he was not present when the ESW was executed.

¹⁹ Id. at 140-141.

²⁰ Id. at 32.

²¹ Id. at 40.

Based on the evidence presented, the preponderance of evidence weighed in favor of respondent and against petitioner.

As to petitioner's argument that the action is a collateral and not a direct attack on the title, the CA found it unmeritorious and ruled that the action precisely assails the validity of petitioner's title on the ground that it is based on a forged document, and it is also an action for reconveyance. Thus, the CA ruled that the action to annul the ESW is imprescriptible since it is a void or inexistent contract. With this, the CA affirmed the RTC Decision.

Petitioner filed a Motion for Reconsideration before the CA, but the same was denied in the assailed Resolution²² dated October 20, 2016.

Hence, this petition.

The Petition

Petitioner argues that the CA committed a reversible error in dismissing the appeal and in affirming the RTC Decision. Petitioner claims that the ESW, being a notarized document, enjoys a prima facie presumption of authenticity and due execution. He claims that there was no clear and convincing evidence to overcome this presumption.

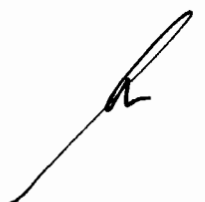
Even assuming that the ESW is void or inexistent, petitioner argues that the action filed by respondent is barred by the doctrine of estoppel by laches. The ESW was executed and notarized on September 30, 1970. However, it was only on July 1, 1992 that respondent filed the present case for partition and annulment of title, claiming that the ESW was forged. Thus, petitioner argues that there was an unreasonable delay on respondent's part to assert his rights and pursue his claims against petitioner.

In compliance with the Court's Resolution dated February 1, 2017, respondent filed his Comment dated April 20, 2017. Respondent prayed for the dismissal of the petition, arguing that the issues raised therein have already been exhaustively and judiciously passed upon by the CA and the trial court. He argues that the CA was correct in declaring that the action was not barred by laches since the ESW is a void or inexistent contract which makes an action declaring it imprescriptible.

The Issue

Petitioner raises the following grounds in support of his petition:

²² Id. at 43.



1. The CA erred in finding that the preponderance of evidence lies in favour of the view that the signature of the respondent is not genuine.
2. The CA erred in sustaining that the ESW is a void or inexistent contract.
3. The CA erred in ruling that the action to declare the nullity of the ESW is not barred by laches.

Essentially, the principal issue in this case is whether or not the CA committed reversible error in upholding the RTC's findings.

The Court's Ruling

The petition is without merit.

The petition raises questions of fact

It is well settled that questions of fact are not reviewable in petitions for review on certiorari under Rule 45 of the Rules of Court. Only questions of law distinctly set forth shall be raised in a petition and resolved. Moreover, the factual findings of the lower courts, if supported by substantial evidence, are accorded great respect and even finality by the courts. Except for a few recognized exceptions, this Court will not disturb the factual findings of the trial court.²³ This Court sees no reason to overturn the factual findings of the trial court, as affirmed by the CA, as the records show that preponderant evidence established the falsity of the ESW and the fraudulent registration of the subject property in petitioner's name.

Prescription has not set in

We find it proper to delve into the more important issue to be resolved, that is, whether the action for annulment of title and partition has already prescribed. It must be pointed out that the issue of prescription had already been raised by petitioner in his Motion to Dismiss²⁴ dated August 5, 1992. This motion was granted by the trial court in its Order²⁵ dated January 21, 1994. However, respondent appealed this Order with the Court of Appeals in CA-G.R. CV No. 45121. The CA then rendered a Decision²⁶ dated March 30, 2001, nullifying the order of dismissal of the trial court. The CA essentially ruled that the case for partition and annulment of title did not prescribe. The CA Decision was eventually affirmed by the Second Division of this Court in G.R. No. 149287 by virtue of a minute Resolution²⁷

²³ *Virtucio v. Alegarbes*, G.R. No. 187451, August 29, 2012, 679 SCRA 412.

²⁴ *Rollo*, pp. 73-75.

²⁵ *Id.* at 80-81.

²⁶ *Id.* at 83-96.

²⁷ *Id.* at 115-116.



dated September 5, 2001, which became final and executory and was entered into the Book of Entries of Judgments on October 16, 2001.

Accordingly, the resolution in G.R. No. 149287 should have written *finis* to the issue of prescription. Nonetheless, to finally put to rest this bothersome issue, it behooves this Court to further elucidate why the respondent's action and right of partition is not barred by prescription. The CA explained that prescription is inapplicable. While the appellate court's observation is proper, it is inadequate as it fails to sufficiently explain why the rule on the imprescriptibility and indefeasibility of Torrens titles do not apply.

In the recent case of *Pontigon v. Sanchez*, We explained thus:

Under the Torrens System as enshrined in P.D. No. 1529, the decree of registration and the certificate of title issued become incontrovertible upon the expiration of one (1) year from the date of entry of the decree of registration, without prejudice to an action for damages against the applicant or any person responsible for the fraud. However, actions for reconveyance based on implied trusts may be allowed beyond the one-year period. As elucidated in *Walstrom v. Mapa, Jr.*:

[N]otwithstanding the irrevocability of the Torrens title already issued in the name of another person, he can still be compelled under the law to reconvey the subject property to the rightful owner. The property registered is deemed to be held in trust for the real owner by the person in whose name it is registered. After all, the Torrens system was not designed to shield and protect one who had committed fraud or misrepresentation and thus holds title in bad faith. In an action for reconveyance, the decree of registration is respected as incontrovertible. What is sought instead is the transfer of the property, in this case the title thereof, which has been wrongfully or erroneously registered in another person's name, to its rightful and legal owner, or to one with a better right. This is what reconveyance is all about. Yet, **the right to seek reconveyance based on an implied or constructive trust is not absolute nor is it imprescriptible.** An action for reconveyance based on an implied or constructive trust must perforce prescribe in **ten years** from the issuance of the Torrens title over the property. (Emphasis supplied)

Thus, an action for reconveyance of a parcel of land based on implied or constructive trust prescribes in ten (10) years, the point of reference being the date of registration of the deed or the date of the issuance of the certificate of title over the property.

By way of additional exception, the Court, in a catena of cases, has permitted the filing of an action for reconveyance despite the lapse of more than ten (10) years from the issuance of title. **The common denominator of these cases is that the plaintiffs therein were in actual possession of the disputed land, converting the action from reconveyance of property into one for quieting of title.** Imprescriptibility is accorded to cases for quieting of title since the plaintiff has the right to wait until his possession is disturbed or his title is



questioned before initiating an action to vindicate his right.²⁸ (Emphasis supplied; citations omitted)

Given the falsity of the ESW, it becomes apparent that petitioner obtained the registration through fraud. This wrongful registration gives occasion to the creation of an implied or constructive trust under Article 1456 of the New Civil Code.²⁹ An action for reconveyance based on an implied trust generally prescribes in ten years. However, if the plaintiff remains in possession of the property, the prescriptive period to recover title of possession does not run against him. In such case, his action is deemed in the nature of a quieting of title, an action that is imprescriptible.³⁰

In the case before us, the certificate of title over the subject property was issued on November 24, 1970. Yet, the complaint for partition and annulment of the title was only filed on July 1, 1992, more than twenty (20) years since the assailed title was issued. Respondent's complaint before the RTC would have been barred by prescription. However, based on respondent's submission before the trial court, both petitioner and respondent were residing at the subject property at the time the complaint was filed. The complaint³¹ states:

- 1) That Plaintiff is of legal age, married, Filipino and presently residing at 2227 Romblon St., G. Tuazon, Sampaloc, Manila; while defendant is likewise of legal age, married, Filipino and residing at 2227 Romblon St., G. Tuazon, Sampaloc, Manila, where he may be served with summons and other processes of this Honorable Court;³²

This was unqualifiedly admitted by petitioner in his Amended Answer and no denial was interposed therefrom.³³ Petitioner's failure to refute respondent's possession of the subject property may be deemed as a judicial admission. A party may make judicial admissions in (a) the pleadings, (b) during the trial, either by verbal or written manifestations or stipulations, or (c) in other stages of the judicial proceeding.³⁴ A judicial admission conclusively binds the party making it and he cannot thereafter take a position contradictory to or inconsistent with his pleadings. Acts or facts admitted do not require proof and cannot be contradicted, unless it is shown that the admission was made through palpable mistake or that no such admission was made.³⁵

²⁸ G.R. No. 221513, December 5, 2016.

²⁹ Art. 1456. 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.

³⁰ *Aniceto Uy v. Court of Appeals, Mindanao Station, Cagayan de Oro City, Carmencita Naval-Sai, rep. by her Attorney-in-fact Rodolfo Florentino*, G.R. No. 173186, September 16, 2015.

³¹ *Rollo*, pp. 68-72.

³² *Id.* at 68.

³³ *Id.* at 123.

³⁴ *Adolfo v. Adolfo*, G.R. No. 201427, March 18, 2015, 753 SCRA 580, citing 2 Regalado, REMEDIAL LAW COMPENDIUM 656 (9th rev ed.).

³⁵ *Extraordinary Development Corporation v. Samson-Bico*, G.R. No. 191090, October 13, 2014, 738 SCRA 147, 164.

Considering that respondent was in actual possession of the disputed land at the time of the filing of the complaint, the present case may be treated as an action for quieting of title.

Quieting of title is a common law remedy for the removal of any cloud, doubt, or uncertainty affecting title to real property.³⁶ In *Heirs of Delfin and Maria Tappa v. Heirs of Jose Bacud*,³⁷ this Court reiterated the requisites for an action for quieting of title:

The action filed by Spouses Tappa was one for quieting of title and recovery of possession. In *Baricuatro, Jr. v. Court of Appeals*, an action for quieting of title is essentially a common law remedy grounded on equity, to wit:

x x x Originating in equity jurisprudence, its purpose is to secure "...an adjudication that a claim of title to or an interest in property, adverse to that of the complainant, is invalid, so that the complainant and those claiming under him may be forever afterward free from any danger of hostile claim." In an action for quieting of title, the competent court is tasked to determine the respective rights of the complainant and other claimants, "...not only to place *things in their proper place*, to make the one who has no rights to said immovable *respect and not disturb* the other, but also for the *benefit of both*, so that he who has the right would see every *cloud of doubt over* the property dissipated, and he could afterwards without fear *introduce the improvements* he may desire, to *use*, and even to *abuse* the property as he deems best. x x x." (Emphasis in the original.)

In our jurisdiction, the remedy is governed by Article 476 and 477 of the Civil Code, which state:

Art. 476. 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.

Art. 477. 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.

From the foregoing provisions, we reiterate the rule that for an action to quiet title to prosper, two indispensable requisites must concur, namely: (1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.

x x x x

³⁶ *Quintos v. Nicolas*, G.R. No. 210252, June 16, 2014, 726 SCRA 482, 493.

³⁷ G.R. No. 187633, April 4, 2016, 788 SCRA 13, 25-30.

A cloud on a title exists when (1) there is an instrument (deed, or contract) or record or claim or encumbrance or proceeding; (2) which is apparently valid or effective; (3) but is, in truth and in fact, invalid, ineffective, voidable, or unenforceable or extinguished (or terminated) or barred by extinctive prescription; and (4) and may be prejudicial to the title.

Since it was already established that respondent's signature on the ESW, which was the basis of petitioner's title over the property, was forged, then it is only necessary for the cloud on respondent's title to be removed. Thus, the trial court's order to cancel TCT No. 102822 and uphold the parties' co-ownership was proper.

The present action is not barred by laches

We also find no merit in petitioner's argument that the case is barred by laches.

Jurisprudence has defined laches as the failure or neglect, for an unreasonable and unexplained length of time, to do that which—by the exercise of due diligence—could or should have been done earlier. It is the negligence or omission to assert a right within a reasonable period, warranting the presumption that the party entitled to assert it has either abandoned or declined to assert it.³⁸

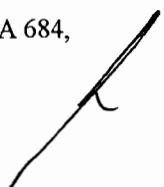
Based on the facts presented before us, it appears that respondent did not sleep on his rights, as claimed by petitioner. It is undeniable that respondent had filed several cases to assert his rights over the property. Aside from the present complaint, respondent also filed, on separate occasions, three criminal complaints for: 1) falsification of public document, 2) estafa through falsification of public documents, and 3) forgery, all against herein petitioner. To Our mind, the filing of these cases at different times negates the claim of laches. Time and again, this Court has ruled that courts, under the principle of equity, will not be guided or bound strictly by the statute of limitations or the doctrine of laches when to do so, manifest wrong or injustice would result.³⁹

IN VIEW OF THE FOREGOING, the petition is **DENIED**. The Decision dated September 30, 2011 of the Regional Trial Court, Branch 55, Manila in Civil Case No. 92-61716, as affirmed by the Court of Appeals in its Decision dated June 28, 2016 in CA-G.R. CV No. 99908, is hereby **AFFIRMED**.

The Regional Trial Court shall proceed with the partition of the subject lot with dispatch.

³⁸ *Quintos v. Nicolas*, supra note 36, at 502.

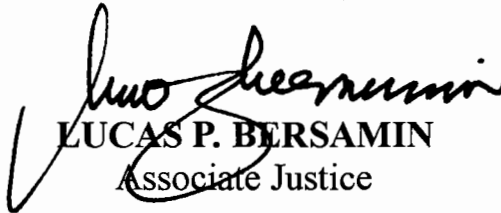
³⁹ *Raymundo Coderias v. Estate of Juan Cidoco*, G.R. No. 180476, June 26, 2013, 699 SCRA 684, 698.

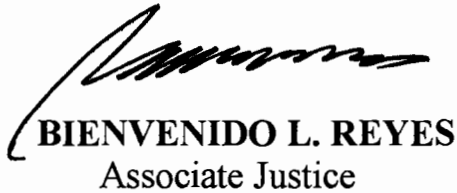


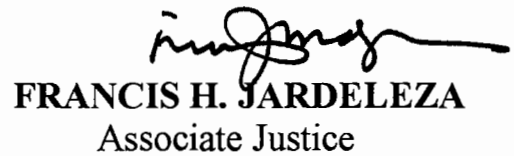
SO ORDERED.


PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Associate Justice

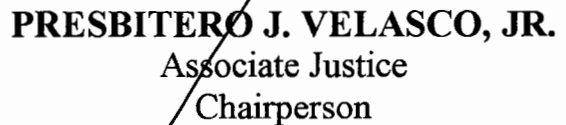

BIENVENIDO L. REYES
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice

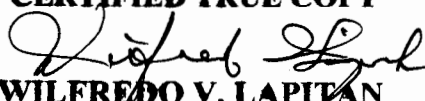
ATTESTATION

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

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify 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.

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division


MARIA LOURDES P. A. SERENO
Chief Justice

JUL 31 2017