

SUPREME COURT OF THE PHILIPPINES
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**Republic of the Philippines
Supreme Court
Manila**

SECOND DIVISION

HEIRS OF BENIGNO SUMAGANG, represented by **JESUS S. ABELLANOSA, MARINA BELLITA, RESURRECION CAVAN, ALEX MAPAIT and TEODORICO SUMAGANG,**
Petitioners,

G.R. No. 214315

Present:

CARPIO, J., Chairperson,
*CAGUIOA, Acting Chairperson,**
REYES, J. JR.,
LAZARO-JAVIER, and
ZALAMEDA, JJ.

- versus -

AZNAR ENTERPRISES, INC., AZNAR BROTHERS REALTY COMPANY, STA. LUCIA REALTY AND DEVELOPMENT INC., (Co-defendants and Cross-claim Defendants), HEIRS OF PERFECTA LABAYA, with Attorney-in-Fact in the person of FRANCIS R. PESTAÑO (Complainants), TERESITA DELA CALZADA-REYES, ET AL. (1st Complainants-intervenors), and CELSO DEIPARINE*** (2nd Complainant-intervenor),**
Respondents.

Promulgated:

14 AUG 2019

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* Per Special Order No. 2688 dated July 30, 2019.
** Also referred to as "Teresita de la Calzada-Reyes" in some parts of the *rollo*.
*** Also referred to as "Celso Dieparine" in some parts of the *rollo*.

DECISION

REYES, J. JR., J.:

Assailed in this Petition for Review on *Certiorari* are the June 22, 2011 Decision¹ and the July 30, 2014 Resolution² of the Court of Appeals-Cebu City (CA) in CA-G.R. CEB-CV No. 00381 which affirmed the March 8, 2004 Decision³ of the Regional Trial Court, Cebu City, Branch 5 (RTC) in Civil Case No. CEB-21695.

The Antecedents

Respondent Aznar Brothers Realty Company (ABRC) is the owner of a parcel of land (subject property), situated in Barangay Pardo, Cebu City and covered by Original Certificate of Title (OCT) No. 251. The subject property forms part of a tract of land which had been developed by respondent Sta. Lucia Realty Development Corporation (Sta. Lucia Realty) into what is now known as the Alta Vista Golf and Country Club, Inc.⁴

On March 4, 1998, the heirs of Perfecta Labaya (heirs of Perfecta) instituted an action for recovery of ownership and possession of real property, annulment of title, reconveyance and damages with prayer for a writ of preliminary injunction against ABRC, Sta. Lucia Realty and the heirs of Benigno Sumagang (heirs of Sumagang). The heirs of Perfecta alleged that they were the forced and legal heirs of the late Gregorio Labaya (Gregorio) who died intestate in 1932. The deceased left certain properties including a parcel of land situated in Kadoldolan, Pardo, Cebu City which has a total area of 11 hectares, more or less, and declared in his name for taxation purposes. The said parcel of land is now a portion of the subject property. Gregorio, during his lifetime, and his successors-in-interest, had been in actual, open, continuous, adverse and peaceful possession, in the concept of an owner of the subject property until 1992 when Sta. Lucia Realty entered and developed the area into a golf course and constructed buildings thereon for and on behalf of ABRC. It was only then that they

¹ Penned by Associate Justice Victoria Isabel A. Paredes, with Associate Justices Edgardo L. Delos Santos and Ramon Paul L. Hernando (now a Member of the Court), concurring; *rollo*, pp. 54-66.

² Penned by Associate Justice Edgardo L. Delos Santos, with Associate Justices Ramon Paul L. Hernando and Renato C. Francisco, concurring; *id.* at 50-53.

³ The RTC Decision was not attached.

⁴ *Id.* at 55.

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came to know that ABRC had caused the titling of the property in their name.⁵

Further, the heirs of Perfecta averred that the heirs of Sumagang were not tenants of the subject property, but they had filed a petition for operation land transfer with the Department of Agrarian Reform, which was eventually granted.⁶

While the case was pending with the RTC, Teresita dela Calzada-Reyes (Teresita), the first intervenor, filed a motion for leave to intervene in the case which was given due course by the RTC in its Order dated April 21, 1998. She claimed that she is also a legal heir of the late Gregorio as she is related to Perfecta, Gregorio's daughter. She further alleged that OCT No. 251 in the name of ABRC was fraudulently secured.⁷

On February 9, 1999, a second complaint-in-intervention was filed by Celso Deiparine (Celso), alleging that the late Gregorio conveyed the subject property to his legitimate daughter, Fortunata Labaya (Fortunata). Thereafter, Fortunata sold the land to a certain Dolores Gerolaga, who, in turn, sold the land to Celso.⁸

For their part, ABRC and Aznar Enterprises, Inc. asserted that OCT No. 251 was issued on June 17, 1971, but it was only on March 4, 1998 that the plaintiffs filed their complaint for recovery of ownership of the property. Thus, the plaintiffs' cause of action was already extinguished by prescription.⁹

On the other hand, the heirs of Sumagang countered that it was the late Benigno and his successors-in-interest who were in actual, open and peaceful possession of the subject property. In a cross-claim against ABRC, the heirs of Sumagang averred that it was only recently that they learned of the existence of OCT No. 251 issued in the name of ABRC. They assailed the inclusion of the subject property in the title claiming that neither the late Benigno nor his heirs sold the land to ABRC. They contended that sometime in July 1963, ABRC applied for registration over some parcels of land in the vicinity of the hilly portion of Barangay Pardo, Cebu City. Through violence, force and intimidation, ABRC was able to occupy all of the parcels of land in that location. After that, all the parcels of land in the area, including those owned by Benigno were covered by new lot numbers, Lot Nos. 1, 2, 3, 4, and 5, in a consolidation survey. It was Lot No. 4, which

⁵ Id.

⁶ Id. at 56.

⁷ Id.

⁸ Id.

⁹ Id. at 57.

was issued a separate title (OCT No. 251) that appeared to be identical with the property of Benigno.¹⁰

The RTC Ruling

In a Decision dated March 8, 2004, the trial court declared ABRC as the lawful owner of the subject property. The *fallo* reads:

WHEREFORE, judgment is hereby rendered against plaintiffs, the intervenors and the defendants and cross-claimants heirs of Benigno Sumagang and in favor of defendants Aznar Brothers Realty Company and Aznar Development Corporation, declaring them the lawful registered owners of Lot 4, as amended, plan Psu-192448, LR Case No. N-524, LRC Record No. N-25474, containing an area of 154,689 square meters, located at Pardo, Cebu City and upholding the validity of Original Certificate of Title No. 251 issued on June 17, 1971 in the name of defendants Aznar.

However, the counterclaims of defendants Aznar are denied for want of proof.

No pronouncement as to costs.

IT IS SO ORDERED.¹¹

Aggrieved, the heirs of Perfecta, first intervenor Teresita, second intervenors heirs of Celso, and the heirs of Sumagang filed their separate notices of appeal.

The CA Ruling

The appeal of the heirs of Perfecta, as well as that of first intervenor Teresita, was dismissed for failure to file their appeal briefs within the required period.

In a Decision dated June 22, 2011, the CA denied the appeal of the heirs of Celso. It held that except for their claim of the alleged sale transaction involving the subject property, the second intervenors were unable to prove that OCT No. 251, issued by a registration court in favor of ABRC, was tainted with fraud or misrepresentation.

As regards the heirs of Sumagang, the CA ruled that they only assailed the validity of OCT No. 251 through a cross-claim against their co-defendant, ABRC. It opined that the cross-claim is a collateral attack on the validity of the title which is not allowed. The dispositive portion reads:

¹⁰ Id. at 57-58.

¹¹ Id. at 58-59.

WHEREFORE, in view of the foregoing, the instant appeal is hereby DISMISSED.

SO ORDERED.¹²

The heirs of Sumagang and the heirs of Celso moved for reconsideration, but the same was denied by the CA on July 30, 2014. Hence, this Petition for Review on *Certiorari* filed by the heirs of Sumagang.

The Issue

The heirs of Sumagang raise the sole issue of whether the CA erred in sustaining the trial court's Decision declaring ABRC as the rightful owner and possessor of the subject property.

The heirs of Sumagang argue that their cross-claim is an affirmative relief and a direct attack on OCT No. 251. They further contend that OCT No. 251 should be declared null and void as the issuance thereof was attended by fraud.

The Court's Ruling

The Petition lacks merit.

I.

As a holder of a Torrens certificate of title, the law protects ABRC from a collateral attack on the same. Section 48 of Presidential Decree (P.D.) No. 1529, otherwise known as the Property Registration Decree, provides that a certificate of title cannot be the subject of a collateral attack. Thus:

SEC. 48. *Certificate not subject to collateral attack.* — A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or canceled except in a direct proceeding in accordance with law.

The attack is considered direct when the object of an action is to annul or set aside such proceeding, or enjoin its enforcement. Conversely, an attack is indirect or collateral when, in an action to obtain a different relief, an attack on the proceeding is nevertheless made as an incident thereof.¹³

Although what is involved in the case at bar is a cross-claim, jurisprudence declaring that a counterclaim can be treated as a direct attack on the title is applicable considering that a cross-claim, like a counterclaim,

¹² Id. at 65-66.

¹³ *Arangote v. Spouses Maglunob*, 599 Phil. 91, 111 (2009).

may be considered a complaint. In a cross-claim, however, the other defendant becomes the plaintiff.¹⁴

In *Heirs of Simplicio Santiago v. Heirs of Mariano E. Santiago*,¹⁵ the Court declared that a counterclaim may be considered as a complaint or an independent action and can be considered a direct attack on the title, viz.:

Section 48 of P.D. 1529, the Property Registration Decree, provides that a certificate of title shall not be subject to collateral attack and cannot be altered, modified, or canceled **except in a direct proceeding. An action is an attack on a title when the object of the action is to nullify the title, and thus challenge the judgment or proceeding pursuant to which the title was decreed. The attack is direct when the object of an action is to annul or set aside such judgment, or enjoin its enforcement.** On the other hand, the attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment or proceeding is nevertheless made as an incident thereof.

x x x A counterclaim can be considered a direct attack on the title. In *Development Bank of the Philippines v. Court Appeals*, we ruled on the validity of a certificate of title despite the fact that the nullity thereof was raised only as a counterclaim. **It was held that a counterclaim is considered a complaint, only this time, it is the original defendant who becomes the plaintiff. It stands on the same footing and is to be tested by the same rules as if it were an independent action.**¹⁶ x x x (Citation omitted; emphases supplied)

Likewise, in *Leyson v. Bontuyan*:¹⁷

While Section 47 of Act No. 496 provides that a certificate of title shall not be subject to collateral attack, the rule is that an action is an attack on a title if its object is to nullify the same, and thus challenge the proceeding pursuant to which the title was decreed. The attack is considered direct when the object of an action is to annul or set aside such proceeding, or enjoin its enforcement. On the other hand, an attack is indirect or collateral when, in an action to obtain a different relief, an attack on the proceeding is nevertheless made as an incident thereof. Such action to attack a certificate of title may be an original action or a counterclaim in which a certificate of title is assailed as void. A counterclaim is considered a new suit in which the defendant is the plaintiff and the plaintiff in the complaint becomes the defendant. It stands on the same footing and is to be tested by the same rules as if it were an independent action. Furthermore, since all the essential facts of the case

¹⁴ RULES OF COURT, Rule 6, Section 8. *Cross-claim*. — A cross-claim is any claim by one party against a co-party arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein. Such cross-claim may include a claim that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant.

¹⁵ *Heirs of Simplicio Santiago v. Heirs of Mariano E. Santiago*, 452 Phil. 238 (2003).

¹⁶ *Id.* at 252-253.

¹⁷ *Leyson v. Bontuyan*, 492 Phil. 238, 257 (2005).

for the determination of the title's validity are now before the Court, to require the party to institute cancellation proceedings would be pointlessly circuitous and against the best interest of justice.

In their cross-claim, the heirs of Sumagang averred that ABRC, through force and intimidation, was able to register the subject property in its name. They prayed that the certificate of title issued in ABRC's name be declared null and void. It is, thus, clear that the cross-claim was a direct attack on ABRC's certificate of title.

II.

Under Section 32 of P.D. No. 1529, title to the property covered by a Torrens certificate becomes indefeasible after the expiration of one year from the entry of the decree of registration. Such decree of registration is incontrovertible and becomes binding on all persons whether or not they were notified of, or participated in, the *in rem* registration process.

SEC. 32. *Review of decree of registration; Innocent purchaser for value.* The decree of registration shall not be reopened or revised by reason of absence, minority, or other disability of any person adversely affected thereby, nor by any proceeding in any court for reversing judgments, subject, however, to the right of any person, including the government and the branches thereof, deprived of land or of any estate or interest therein by such adjudication or confirmation of title obtained by actual fraud, to file in the proper Court of First Instance a petition for reopening and review of the decree of registration not later than one year from and after the date of the entry of such decree of registration, but in no case shall such petition be entertained by the court where an innocent purchaser for value has acquired the land or an interest therein, whose rights may be prejudiced. Whenever the phrase "innocent purchaser for value" or an equivalent phrase occurs in this Decree, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value.

Upon the expiration of said period of one year, the decree of registration and the certificate of title issued shall become incontrovertible. Any person aggrieved by such decree of registration in any case may pursue his remedy by action for damages against the applicant or any other persons responsible for the fraud.

ABRC's certificate of title was issued on June 17, 1971, while the cross-claim was filed by the heirs of Sumagang only in 1998, which is clearly beyond the one-year prescriptive period.

III.

Further, even an action for reconveyance is already barred by prescription. In *Spouses Aboitiz v. Spouses Po*,¹⁸ the Court held that an action for reconveyance based on implied or constructive trust prescribes in 10 years from the alleged fraudulent registration or date of issuance of the certificate of title over the property, viz.:

“[A]n action for reconveyance [x x x] prescribes in [10] years from the issuance of the Torrens title over the property.” The basis for this is Section 53, Paragraph 3 of Presidential Decree No. 1529 in relation to Articles 1456 and 1144(2) of the Civil Code.

Under Presidential Decree No. 1529 (Property Registration Decree), the owner of a property may avail of legal remedies against a registration procured by fraud:

SECTION 53. *Presentation of Owner's Duplicate Upon Entry of New Certificate.* — [x x x]

In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder for value of a certificate of title[. x x x]

Article 1456 of the Civil Code provides that a person acquiring a property through fraud becomes an implied trustee of the property's true and lawful owner.

An implied trust is based on equity and is either (i) a constructive trust, or (ii) a resulting trust. A resulting trust is created by implication of law and is presumed as intended by the parties. A constructive trust is created by force of law such as when a title is registered in favor of a person other than the true owner.

The implied trustee only acquires the right “to the beneficial enjoyment of [the] property.” The legal title remains with the true owner. In *Crisostomo v. Garcia, Jr.*:

Art. 1456 of the Civil Code provides:

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.

¹⁸ *Spouses Aboitiz v. Spouses Po*, 810 Phil. 123 (2017).

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Thus, it was held that when a party uses fraud or concealment to obtain a certificate of title of property, a constructive trust is created in favor of the defrauded party.

Constructive trusts are "created by the construction of equity in order to satisfy the demands of justice and prevent unjust enrichment. They arise contrary to intention against one who, by fraud, duress or abuse of confidence, obtains or holds the legal right to property which he ought not, in equity and good conscience, to hold."

When property is registered in another's name, an implied or constructive trust is created by law in favor of the true owner. The action for reconveyance of the title to the rightful owner prescribes in 10 years from the issuance of the title.

Thus, the law creates a trust in favor of the property's true owner.

The prescriptive period to enforce this trust is 10 years from the time the right of action accrues. Article 1144 of the Civil Code provides:

Article 1144. The following actions must be brought within ten years from the time the right of action accrues:

- (1) Upon a written contract;
- (2) Upon an obligation created by law;
- (3) Upon a judgment.

In an action for reconveyance, the right of action accrues from the time the property is registered.

In *Crisostomo*, the petitioners were able to transfer the property under their names without knowledge of the respondent. The respondent filed an action for reconveyance. In arguing that the action for reconveyance had prescribed, the petitioners claimed that the cause of action of the respondent should be based on the latter's Deed of Sale and thus the respondent's right of action should have accrued from its execution. This Court, however, ruled that the right of action accrued from the time the property was registered because registration is the act that signifies that the adverse party repudiates the implied trust:

In the case at bar, respondent's action which is for Reconveyance and Cancellation of Title is based on an implied trust under Art. 1456 of the Civil Code since he averred in his complaint that through fraud petitioners were able to obtain a Certificate of Title over the property. He does not seek the annulment of a voidable contract whereby Articles 1390 and 1391 of the Civil Code would find application such that the cause of action would prescribe in four years.

[x x x x]

An action for reconveyance based on implied or constructive trust prescribes in ten years from the alleged fraudulent registration or date of issuance of the certificate of title over the property.

It is now well-settled that the prescriptive period to recover property obtained by fraud or mistake, giving rise to an implied trust under Art. 1456 of the Civil Code, is 10 years pursuant to Art. 1144. **This ten-year prescriptive period begins to run from the date the adverse party repudiates the implied trust, which repudiation takes place when the adverse party registers the land.**

Likewise, in *Duque v. Domingo*:

The registration of an instrument in the Office of the Register of Deeds constitutes constructive notice to the whole world, and, therefore, discovery of the fraud is deemed to have taken place at the time of registration. Such registration is deemed to be a constructive notice that the alleged fiduciary or trust relationship has been repudiated. It is now settled that an action on an implied or constructive trust prescribes in ten (10) years from the date the right of action accrued. The issuance of Transfer Certificate of Title No. 7501 in 1931 to Mariano Duque commenced the effective assertion of adverse title for the purpose of the statute of limitations. x x x

Registration of the property is a “constructive notice to the whole world.” Thus, in registering the property, the adverse party repudiates the implied trust. Necessarily, the cause of action accrues upon registration.

An action for reconveyance and annulment of title does not seek to question the contract which allowed the adverse party to obtain the title to the property. What is put on issue in an action for reconveyance and cancellation of title is the ownership of the property and its registration. It does not question any fraudulent contract. Should that be the case, the applicable provisions are Articles 1390 and 1391 of the Civil Code.

Thus, an action for reconveyance and cancellation of title prescribes in 10 years from the time of the issuance of the Torrens title over the property.¹⁹ (Citations omitted; emphases supplied)

To reiterate, ABRC’s title was registered on June 17, 1971, but the heirs of Sumagang filed their cross-claim only in 1998. As early as 1963, they were aware that ABRC had applied for registration over some parcels of land in Barangay Pardo, Cebu City where the subject property is situated. They knew that Alta Vista Golf and Country Club was built on a

¹⁹ Id. at 142-147.

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tract of land which included the subject property. Yet, they asserted their right only in a cross-claim filed in 1998. Unfortunately, the heirs of Sumagang slept on their rights and allowed 27 years to lapse before attempting to assert their right. Hence, they must suffer the consequence of their inaction.

WHEREFORE, premises considered, the instant Petition is **DENIED** for lack of merit. The assailed Decision dated June 22, 2011 and the Resolution dated July 30, 2014 of the Court of Appeals-Cebu City in CA-G.R. CEB-CV No. 00381 are **AFFIRMED**.

SO ORDERED.



JOSE C. REYES, JR.
Associate Justice

WE CONCUR:

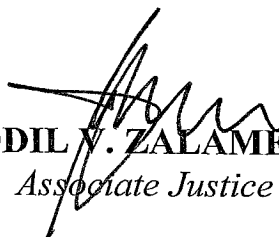
(On Official Leave)
ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson



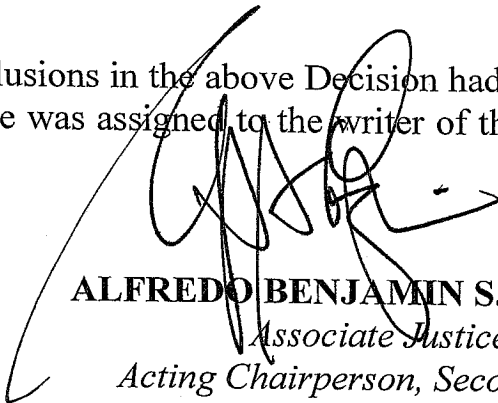
AMY C. LAZARO-JAVIER
Associate Justice



RODIL V. ZALAMEDA
Associate Justice

ATTESTATION

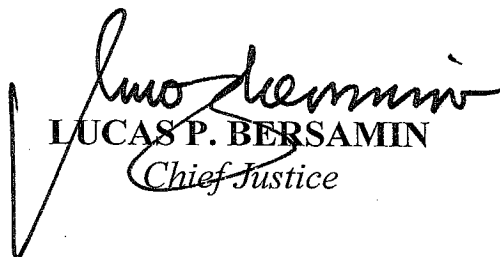
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.



LUCAS P. BERSAMIN
Chief Justice