

THIRD DIVISION

[CA-G.R. CV No. 96385, February 23, 2015]

HEIRS OF ALBERTO RADAM, NAMELY POLICRONIA RADAM-BACUEL AND NEMESIA RADAM-CAABAY, PLAINTIFFS-APPELLANTS, VS. AURELIA E. RADAM, DEFENDANT-APPELLEE.

D E C I S I O N

REYES-CARPIO, A., J.:

This is an Appeal,^[1] filed under Rule 41 of the 1997 Rules of Civil Procedure, seeking the reversal of the Order,^[2] dated July 29, 2008, rendered by the Regional Trial Court of Puerto Princesa City, Branch 51 in Civil Case No. 4273 for Cancellation of Title and Recovery of Ownership of land with Damages.

The instant case stemmed from a Complaint,^[3] filed by plaintiffs-appellants Policronia Radam-Bacuel and Nemesia Radam-Caabay on February 5, 2007. Plaintiffs-appellants alleged that they are sisters, being the daughters of Alberto C. Radam. Defendant-appellee, on the other hand, is Alberto's sister in law.

According to plaintiffs-appellants, Alberto acquired a parcel of land with an area of 20,000 square meters, introduced improvements and paid the taxes thereon prior to 1963. Upon Alberto's death in 1979, plaintiffs-appellants extrajudicially divided the land between themselves and paid the taxes covering the same, as shown by Tax Declaration No. 5243,^[4] dated October 31, 2006.

They later discovered, however, that the property had already been registered and Original Certificate of Title No. E-12983^[5] was issued on November 10, 1993 in the name of defendant-appellee. Plaintiffs-appellants claimed that the registration was fraudulent as defendant-appellee knew that her husband Felix Radam only borrowed the land from plaintiffs-appellants' father. As a result, they filed an Affidavit of Adverse Claim before the Office of the Provincial Register of Deeds which denied the registration of the same and advised them to file the instant action.

In turn, defendant-appellee filed a Motion to Dismiss^[6] on the ground that the Complaint stated no cause of action. She explained that plaintiffs-appellants had no legal right over the said property. It was further argued that the complaint was filed beyond the one-year period provided by Presidential Decree No. 1520, otherwise known as the Property Registration Act.

After hearing, the trial court issued the assailed Order,^[7] dated July 29, 2008, ruling that the complaint not only failed to state a cause of action but that plaintiffs-appellants failed to comply with the barangay conciliation procedure which was a condition precedent for the filing of the complaint, thus:

"A cursory reading of the allegations in the Complain (sic) filed by the plaintiff (sic) though shows (sic) that there is neither an allegations (sic) in the said Complaint that the plaintiff's (sic) cause of action including those in the prayer, that the plaintiff (sic) is (sic) asking for Reconveyance of Property by reason of extrinsic fraud. On the contrary, the remedy prayed for is one for Cancellation of Title, Recovery of Possession and Damages as contradistinguish (sic) from the remedy of Reconveyance of Real Property. Likewise there is neither any allegation that by reason of extrinsic fraud committed by the defendant, a relationship of trust between the parties is by law presumed which relation created an obligation on the part of the defendant to reconvey the property to the plaintiff. It is of course assumed valid but by reason of fraud in the issuance of title said title is held in trust for the benefit of the true owner but in an action for cancellation of title on the other hand, the title is cancelled and the property returned to the mass of the public domain. Hence, cancellation of title by reason of fraud is the principal function and mandate of the government to initiate thru the Office of the Solicitor General. As it is, it was plaintiff (sic) himself (sic) who initiated the cancellation of the title to the property and not the Office of the Solicitor General in contradistinction with an action for reconveyance which he could have validly initiated by reason of fraud.

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WHEREFORE, for failure to state valid causes of action and likewise for failure to comply with the Katarungang Pambarangay (PD 1529) and therefore finding the Motion to Dismiss to be impressed with merits (sic), as prayed for, let this case be as it is hereby ordered dismissed.

SO ORDERED."^[8]

Plaintiffs-appellants sought reconsideration of the above-quoted Order, arguing that the RTC mistakenly assumed that the action was one for cancellation of title when the "actual action filed is one for Cancellation of Title coupled with Recovery of Ownership of Land (not possession) with Damages)."^[9] Plaintiffs-appellants argued that the complaint itself was sufficient in substance and stated a cause of action for recovery of ownership, cancellation of title and damages.

In a Resolution,^[10] dated October 14, 2010, the RTC denied the Motion for Reconsideration on the ground that plaintiffs-appellants failed to set the hearing of the motion within ten (10) days after its filing as mandated by Rule 15, Section 4 of the 1997 Rules of Civil Procedure. The trial court noted that the hearing was set seventeen (17) days after the filing of the motion. It also stated that even if the trial court liberally applies such rules, the motion must still fail on its merits.

Hence, this appeal.

Plaintiffs-appellants raise the following errors:

- I. - THE COURT A QUO ERRED IN GRANTING THE MOTION TO DISMISS BY DEFENDANT-APPELLEE ON THE GROUND THAT THE COMPLAINT FAILED TO STATE VALID CAUSES OF ACTION