

## FIRST DIVISION

[ G.R. No. 197380, October 08, 2014 ]

**ELIZA ZUÑIGA-SANTOS,\* REPRESENTED BY HER ATTORNEY-IN-FACT, NYMPHA Z. SALES, PETITIONERS, VS. MARIA DIVINA GRACIA SANTOS-GRAN\*\* AND REGISTER OF DEEDS OF MARIKINA CITY, RESPONDENTS.**

### DECISION

**PERLAS-BERNABE, J.:**

Before the Court is a petition for review on *certiorari*<sup>[1]</sup> assailing the Decision<sup>[2]</sup> dated January 10, 2011 and the Resolution<sup>[3]</sup> dated June 22, 2011 of the Court of Appeals (CA) in CA-G.R. CV No. 87849 which affirmed the Order<sup>[4]</sup> dated July 6, 2006 of the Regional Trial Court of San Mateo, Rizal, Branch 76 (RTC) in Civil Case No. 2018-06, dismissing the Amended Complaint for annulment of sale and revocation of title on the ground of insufficiency of factual basis.

#### The Facts

On January 9, 2006, petitioner Eliza Zuñiga-Santos (petitioner), through her authorized representative, Nympha Z. Sales,<sup>[5]</sup> filed a Complaint<sup>[6]</sup> for annulment of sale and revocation of title against respondents Maria Divina Gracia Santos-Gran (Gran) and the Register of Deeds of Marikina City before the RTC, docketed as Civil Case No. 2018-06. The said complaint was later amended<sup>[7]</sup> on March 10, 2006 (Amended Complaint).

In her Amended Complaint,<sup>[8]</sup> petitioner alleged, among others, that: (a) she was the registered owner of three (3) parcels of land located in the Municipality of Montalban, Province of Rizal, covered by Transfer Certificate of Title (TCT) Nos. N-5500,<sup>[9]</sup> 224174,<sup>[10]</sup> and N-4234<sup>[11]</sup> (subject properties) prior to their transfer in the name of private respondent Gran; (b) she has a second husband by the name of Lamberto C. Santos (Lamberto), with whom she did not have any children; (c) she was forced to take care of Lamberto's alleged daughter, Gran, whose birth certificate was forged to make it appear that the latter was petitioner's daughter; (d) pursuant to void and voidable documents, i.e., a Deed of Sale, Lamberto succeeded in transferring the subject properties in favor of and in the name of Gran; (e) despite diligent efforts, said Deed of Sale could not be located; and (f) she discovered that the subject properties were transferred to Gran sometime in November 2005. Accordingly, petitioner prayed, *inter alia*, that Gran surrender to her the subject properties and pay damages, including costs of suit.<sup>[12]</sup>

For her part, Gran filed a Motion to Dismiss,<sup>[13]</sup> contending, *inter alia*, that (a) the action filed by petitioner had prescribed since an action upon a written contract

must be brought within ten (10) years from the time the cause of action accrues, or in this case, from the time of registration of the questioned documents before the Registry of Deeds;<sup>[14]</sup> and (b) the Amended Complaint failed to state a cause of action as the void and voidable documents sought to be nullified were not properly identified nor the substance thereof set forth, thus, precluding the RTC from rendering a valid judgment in accordance with the prayer to surrender the subject properties.<sup>[15]</sup>

### **The RTC Ruling**

In an Order<sup>[16]</sup> dated July 6, 2006, the RTC granted Gran's motion and dismissed the Amended Complaint for its failure to state a cause of action, considering that the deed of sale sought to be nullified – an "essential and indispensable part of [petitioner's] cause of action"<sup>[17]</sup> – was not attached. It likewise held that the certificates of title covering the subject properties cannot be collaterally attacked and that since the action was based on a written contract, the same had already prescribed under Article 1144 of the Civil Code.<sup>[18]</sup>

Dissatisfied, petitioner elevated the matter to the CA.

### **The CA Ruling**

In a Decision<sup>[19]</sup> dated January 10, 2011, the CA sustained the dismissal of petitioner's Amended Complaint but on the ground of insufficiency of factual basis.

It disagreed with the RTC's finding that the said pleading failed to state a cause of action since it had averred that: (a) petitioner has a right over the subject properties being the registered owner thereof prior to their transfer in the name of Gran; (b) Lamberto succeeded in transferring the subject properties to his daughter, Gran, through void and voidable documents; and (c) the latter's refusal and failure to surrender to her the subject properties despite demands violated petitioner's rights over them.<sup>[20]</sup> The CA likewise ruled that the action has not yet prescribed since an action for nullity of void deeds of conveyance is imprescriptible.<sup>[21]</sup> Nonetheless, it held that since the Deed of Sale sought to be annulled was not attached to the Amended Complaint, it was impossible for the court to determine whether petitioner's signature therein was a forgery and thus, would have no basis to order the surrender or reconveyance of the subject properties.<sup>[22]</sup>

Aggrieved, petitioner moved for reconsideration<sup>[23]</sup> and attached, for the first time, a copy of the questioned Deed of Sale<sup>[24]</sup> which she claimed to have recently recovered, praying that the order of dismissal be set aside and the case be remanded to the RTC for further proceedings.

In a Resolution<sup>[25]</sup> dated June 22, 2011, the CA denied petitioner's motion and held that the admission of the contested Deed of Sale at this late stage would be contrary to Gran's right to due process.

Hence, the instant petition.

## The Issue Before the Court

The primordial issue for the Court's resolution is whether or not the dismissal of petitioner's Amended Complaint should be sustained.

## The Court's Ruling

Failure to state a cause of action and lack of cause of action are distinct grounds to dismiss a particular action. The former refers to the insufficiency of the allegations in the pleading, while the latter to the insufficiency of the factual basis for the action. Dismissal for failure to state a cause of action may be raised at the earliest stages of the proceedings through a motion to dismiss under Rule 16 of the Rules of Court, while dismissal for lack of cause of action may be raised any time after the questions of fact have been resolved on the basis of stipulations, admissions or evidence presented by the plaintiff.<sup>[26]</sup> In *Macaslang v. Zamora*,<sup>[27]</sup> the Court, citing the commentary of Justice Florenz D. Regalado, explained:

Justice Regalado, a recognized commentator on remedial law, has explained the distinction:

x x x What is contemplated, therefore, is a *failure to state* a cause of action which is provided in Sec. 1(g) of Rule 16. This is a matter of insufficiency of the pleading. Sec. 5 of Rule 10, which was also included as the last mode for raising the issue to the court, refers to the situation where the evidence *does not prove* a cause of action. This is, therefore, a matter of insufficiency of evidence. Failure to state a cause of action is different from failure to prove a cause of action. The remedy in the first is to move for dismissal of the pleading, while the remedy in the second is to demur to the evidence, hence reference to Sec. 5 of Rule 10 has been eliminated in this section. The procedure would consequently be to require the pleading to state a cause of action, by timely objection to its deficiency; or, at the trial, to file a demurrer to evidence, if such motion is warranted.<sup>[28]</sup>

In the case at bar, both the RTC and the CA were one in dismissing petitioner's Amended Complaint, but varied on the grounds thereof – that is, the RTC held that there was failure to state a cause of action while the CA ruled that there was insufficiency of factual basis.

At once, it is apparent that the CA based its dismissal on an incorrect ground. From the preceding discussion, it is clear that "insufficiency of factual basis" is not a ground for a motion to dismiss. Rather, it is a ground which becomes available only after the questions of fact have been resolved on the basis of stipulations, admissions or evidence presented by the plaintiff. The procedural recourse to raise such ground is a demurrer to evidence taken only after the plaintiff's presentation of evidence. This parameter is clear under Rule 33 of the Rules of Court:

RULE 33  
Demurrer to Evidence

Section 1. *Demurrer to evidence.* — After the plaintiff has completed the presentation of his evidence, the defendant may move for dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. If his motion is denied he shall have the right to present evidence. If the motion is granted but on appeal the order of dismissal is reversed he shall be deemed to have waived the right to present evidence.

At the preliminary stages of the proceedings, without any presentation of evidence even conducted, it is perceptibly impossible to assess the insufficiency of the factual basis on which the plaintiff asserts his cause of action, as in this case. Therefore, that ground could not be the basis for the dismissal of the action.

However, the Amended Complaint is still dismissible but on the ground of failure to state a cause of action, as correctly held by the RTC. Said ground was properly raised by Gran in a motion to dismiss pursuant to Section 1, Rule 16 of the Rules of Court:

RULE 16  
Motion to Dismiss

Section 1. *Grounds.* — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

x x x x

(g) That the pleading asserting the claim states no cause of action;

x x x x

A complaint states a cause of action if it sufficiently avers the existence of the three (3) essential elements of a cause of action, namely: (a) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (b) an obligation on the part of the named defendant to respect or not to violate such right; and (c) an act or omission on the part of the named defendant violative of the right of the plaintiff or constituting a breach of the obligation of defendant to the plaintiff for which the latter may maintain an action for recovery of damages.<sup>[29]</sup> If the allegations of the complaint do not state the concurrence of these elements, the complaint becomes vulnerable to a motion to dismiss on the ground of failure to state a cause of action.<sup>[30]</sup>

It is well to point out that the plaintiff's cause of action should not merely be "stated" but, importantly, the statement thereof should be "sufficient." This is why the elementary test in a motion to dismiss on such ground is whether or not the complaint alleges facts which if true would justify the relief demanded.<sup>[31]</sup> As a

corollary, it has been held that only ultimate facts and not legal conclusions or evidentiary facts are considered for purposes of applying the test. [32] This is consistent with Section 1, Rule 8 of the Rules of Court which states that the complaint need only allege the ultimate facts or the essential facts constituting the plaintiff's cause of action. A fact is essential if they cannot be stricken out without leaving the statement of the cause of action inadequate. [33] Since the inquiry is into the sufficiency, not the veracity, of the material allegations, it follows that the analysis should be confined to the four corners of the complaint, and no other. [34]

A judicious examination of petitioner's Amended Complaint readily shows its failure to sufficiently state a cause of action. Contrary to the findings of the CA, the allegations therein do not proffer ultimate facts which would warrant an action for nullification of the sale and recovery of the properties in controversy, hence, rendering the same dismissible.

While the Amended Complaint does allege that petitioner was the registered owner of the subject properties in dispute, nothing in the said pleading or its annexes would show the basis of that assertion, either through statements/documents tracing the root of petitioner's title or copies of previous certificates of title registered in her name. Instead, the certificates of title covering the said properties that were attached to the Amended Complaint are in the name of Gran. At best, the attached copies of TCT Nos. N-5500 and N-4234 only mention petitioner as the representative of Gran at the time of the covered property's registration when she was a minor. Nothing in the pleading, however, indicates that the former had become any of the properties' owner. This leads to the logical conclusion that her right to the properties in question – at least through the manner in which it was alleged in the Amended Complaint – remains ostensibly unfounded. Indeed, while the facts alleged in the complaint are hypothetically admitted for purposes of the motion, it must, nevertheless, be remembered that the hypothetical admission extends only to the relevant and material facts **well pleaded** in the complaint as well as to inferences fairly deductible therefrom. [35] Verily, the filing of the motion to dismiss assailing the sufficiency of the complaint does not hypothetically admit allegations of which the court will take judicial notice of to be not true, nor does the rule of hypothetical admission apply to legally impossible facts, or to facts inadmissible in evidence, or to **facts that appear to be unfounded by record or document included in the pleadings.** [36]

Aside from the insufficiency of petitioner's allegations with respect to her right to the subject properties sought to be recovered, the ultimate facts supposedly justifying the "annulment of sale," by which the reconveyance of the subject properties is sought, were also insufficiently pleaded. The following averments in the Amended Complaint betray no more than an insufficient narration of facts:

6. That pursuant to a voidable [*sic*] and void documents, the second husband of the plaintiff succeed [*sic*] in transferring the above TITLES in the name of MARIA DIVINAGRACIA SANTOS, who is (sic) alleged daughter of LAMBERTO C. SANTOS in violation of Article 1409, Par. 2 of the Civil Code;