

SECOND DIVISION

[G.R. No. 157784, December 16, 2008]

RICHARD B. LOPEZ, IN HIS CAPACITY AS TRUSTEE OF THE TRUST ESTATE OF THE LATE JULIANA LOPEZ-MANZANO, PETITIONER, VS. COURT OF APPEALS, CORAZON LOPEZ, FERNANDO LOPEZ, ROBERTO LOPEZ, REPRESENTED BY LUZVIMINDA LOPEZ, MARIA ROLINDA MANZANO, MARIA ROSARIO MANZANO SANTOS, JOSE MANZANO, JR., NARCISO MANZANO (ALL REPRESENTED BY ATTORNEY-IN-FACT, MODESTO RUBIO), MARIA CRISTINA MANZANO RUBIO, IRENE MONZON AND ELENA MANZANO, RESPONDENTS.

D E C I S I O N

TINGA, J.:

This is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, assailing the Decision^[1] and Resolution of the Court of Appeals in CA-G.R. CV No. 34086. The Court of Appeals' decision affirmed the summary judgment of the Regional Trial Court (RTC), Branch 10, Balayan, Batangas, dismissing petitioner's action for reconveyance on the ground of prescription.

The instant petition stemmed from an action for reconveyance instituted by petitioner Richard B. Lopez in his capacity as trustee of the estate of the late Juliana Lopez Manzano (Juliana) to recover from respondents several large tracts of lands allegedly belonging to the trust estate of Juliana.

The decedent, Juliana, was married to Jose Lopez Manzano (Jose). Their union did not bear any children. Juliana was the owner of several properties, among them, the properties subject of this dispute. The disputed properties totaling more than 1,500 hectares consist of six parcels of land, which are all located in Batangas. They were the exclusive paraphernal properties of Juliana together with a parcel of land situated in Mindoro known as Abra de Ilog and a fractional interest in a residential land on Antorcha St., Balayan, Batangas.

On 23 March 1968, Juliana executed a notarial will,^[2] whereby she expressed that she wished to constitute a trust fund for her paraphernal properties, denominated as *Fideicomiso de Juliana Lopez Manzano (Fideicomiso)*, to be administered by her husband. If her husband were to die or renounce the obligation, her nephew, Enrique Lopez, was to become administrator and executor of the *Fideicomiso*. Two-thirds (2/3) of the income from rentals over these properties were to answer for the education of deserving but needy honor students, while one-third 1/3 was to shoulder the expenses and fees of the administrator. As to her conjugal properties, Juliana bequeathed the portion that she could legally dispose to her husband, and after his death, said properties were to pass to her *biznietos* or great grandchildren.

Juliana initiated the probate of her will five (5) days after its execution, but she died on 12 August 1968, before the petition for probate could be heard. The petition was pursued instead in Special Proceedings (S.P.) No. 706 by her husband, Jose, who was the designated executor in the will. On 7 October 1968, the Court of First Instance, Branch 3, Balayan, Batangas, acting as probate court, admitted the will to probate and issued the letters testamentary to Jose. Jose then submitted an inventory of Juliana's real and personal properties with their appraised values, which was approved by the probate court.

Thereafter, Jose filed a Report dated 16 August 1969, which included a proposed project of partition. In the report, Jose explained that as the only compulsory heir of Juliana, he was entitled by operation of law to one-half (1/2) of Juliana's paraphernal properties as his legitime, while the other one-half (1/2) was to be constituted into the *Fideicomiso*. At the same time, Jose alleged that he and Juliana had outstanding debts totaling P816,000.00 excluding interests, and that these debts were secured by real estate mortgages. He noted that if these debts were liquidated, the "residuary estate available for distribution would, value-wise, be very small."

From these premises, Jose proceeded to offer a project of partition. The relevant portion pertaining to the *Fideicomiso* stated, thus:

PROJECT OF PARTITION

14. Pursuant to the terms of the Will, one-half (1/2) of the following properties, which are not burdened with any obligation, shall be constituted into the "Fidei-comiso de Juliana Lopez Manzano" and delivered to Jose Lopez Manzano as trustee thereof:

<u>Location</u> <u>Improvements</u>	<u>Title No.</u>	<u>Area (Sq.</u> <u>M.).</u>
Abra de Ilog, Mindoro	TCT - 540	2,940,000 pasture, etc.
Antorcha St. Balayan, Batangas	TCT - 1217-A	13,040 residential (1/6 thereof)

15. The other half (1/2) of the aforesaid properties is adjudicated to Jose Lopez Manzano as heir.

Then, Jose listed those properties which he alleged were registered in both his and Juliana's names, totaling 13 parcels in all. The disputed properties consisting of six (6) parcels, all located in Balayan, Batangas, were included in said list. These properties, as described in the project of partition, are as follows:

<u>Location</u> <u>Improvements</u>	<u>Title No.</u>	<u>Area (Sq.</u> <u>M.).</u>
Pantay, Calaca, coconuts Batangas		91,283

Mataywanak, sugar Tuy, Batangas	OCT- 29[6]94	485,486
Patugo, Balayan, coconut, Batangas	OCT-2807	16,757,615 sugar, citrus, pasteur
Cagayan, Balayan, Batangas	TCT-1220	411,331 sugar
Pook, Baayan Batangas	TCT-1281	135,922 sugar
Bolbok, Balayan, Batangas	TCT- 18845	444,998 sugar
Calzada, Balayan, Batangas	TCT 1978	2,312 sugar
Gumamela, Balayan, Batangas	TCT-2575	829
Bombon, Balayan, Batangas		4,532
Parañaque, Rizal	TCT- 282340	800 residential
Parañaque, Rizal	TCT- 11577	800 residential
Modesto St., Manila	TCT- 52212	residential 137.8

and the existing sugar quota in the name of the deceased with the Central Azucarera Don Pedro at Nasugbo.

16. The remaining $\frac{1}{4}$ shall likewise go to Jose Lopez Manzano, with the condition to be annotated on the titles thereof, that upon his death, the same shall pass on to Corazon Lopez, Ferdinand Lopez, and Roberto Lopez:

<u>Location</u> <u>Improvements</u>	<u>Title No.</u>	<u>Area (Sq.</u> <u>M.).</u>
Dalig, Balayan, sugar Batangas	TCT-10080	482,872
San Juan, Rizal	TCT-53690	523 residential

On 25 August 1969, the probate court issued an order approving the project of partition. As to the properties to be constituted into the *Fideicomiso*, the probate court ordered that the certificates of title thereto be cancelled, and, in lieu thereof, new certificates be issued in favor of Jose as trustee of the *Fideicomiso* covering one-half (1/2) of the properties listed under paragraph 14 of the project of partition; and regarding the other half, to be registered in the name of Jose as heir of Juliana. The properties which Jose had alleged as registered in his and Juliana's names, including the disputed lots, were adjudicated to Jose as heir, subject to the condition that Jose would settle the obligations charged on these properties. The probate court, thus, directed that new certificates of title be issued in favor of Jose as the registered owner thereof in its Order dated 15 September 1969. On even date, the certificates of title of the disputed properties were issued in the name of Jose.

The *Fideicomiso* was constituted in S.P. No. 706 encompassing one-half (1/2) of the Abra de Ilog lot on Mindoro, the 1/6 portion of the lot in Antorcha St. in Balayan, Batangas and all other properties inherited *ab intestato* by Juliana from her sister, Clemencia, in accordance with the order of the probate court in S.P. No. 706. The disputed lands were excluded from the trust.

Jose died on 22 July 1980, leaving a holographic will disposing of the disputed properties to respondents. The will was allowed probate on 20 December 1983 in S.P. No. 2675 before the RTC of Pasay City. Pursuant to Jose's will, the RTC ordered on 20 December 1983 the transfer of the disputed properties to the respondents as the heirs of Jose. Consequently, the certificates of title of the disputed properties were cancelled and new ones issued in the names of respondents.

Petitioner's father, Enrique Lopez, also assumed the trusteeship of Juliana's estate. On 30 August 1984, the RTC of Batangas, Branch 9 appointed petitioner as trustee of Juliana's estate in S.P. No. 706. On 11 December 1984, petitioner instituted an action for reconveyance of parcels of land with sum of money before the RTC of Balayan, Batangas against respondents. The complaint essentially alleged that Jose was able to register in his name the disputed properties, which were the paraphernal properties of Juliana, either during their conjugal union or in the course of the performance of his duties as executor of the testate estate of Juliana and that upon the death of Jose, the disputed properties were included in the inventory as if they formed part of Jose's estate when in fact Jose was holding them only in trust for the trust estate of Juliana.

Respondents Maria Rolinda Manzano, Maria Rosario Santos, Jose Manzano, Jr., Narciso Manzano, Maria Cristina Manzano Rubio and Irene Monzon filed a joint answer with counterclaim for damages. Respondents Corazon, Fernando and Roberto, all surnamed Lopez, who were minors at that time and represented by their mother, filed a motion to dismiss, the resolution of which was deferred until trial on the merits. The RTC scheduled several pre-trial conferences and ordered the parties to submit pre-trial briefs and copies of the exhibits.

On 10 September 1990, the RTC rendered a summary judgment, dismissing the action on the ground of prescription of action. The RTC also denied respondents' motion to set date of hearing on the counterclaim.

Both petitioner and respondents elevated the matter to the Court of Appeals. On 18 October 2002, the Court of Appeals rendered the assailed decision denying the

appeals filed by both petitioner and respondents. The Court of Appeals also denied petitioner's motion for reconsideration for lack of merit in its Resolution dated 3 April 2003.

Hence, the instant petition attributing the following errors to the Court of Appeals:

I. THE COURT OF APPEAL'S CONCLUSION THAT PETITIONER'S ACTION FOR [RECONVEYANCE] HAS PRESCRIBED TAKING AS BASIS SEPTEMBER 15, 1969 WHEN THE PROPERTIES IN DISPUTE WERE TRANSFERRED TO THE NAME OF THE LATE JOSE LOPEZ MANZANO IN RELATION TO DECEMBER 12, 1984 WHEN THE ACTION FOR RECONVEYANCE WAS FILED IS ERRONEOUS.

II. THE RESPONDENT COURT OF APPEALS CONCLUSION IN FINDING THAT THE FIDUCIARY RELATION ASSUMED BY THE LATE JOSE LOPEZ MANZANO, AS TRUSTEE, PURSUANT TO THE LAST WILL AND TESTAMENT OF JULIANA LOPEZ MANZANO WAS IMPLIED TRUST, INSTEAD OF EXPRESS TRUST IS EQUALLY ERRONEOUS.

None of the respondents filed a comment on the petition. The counsel for respondents Corazon, Fernando and Roberto, all surnamed Lopez, explained that he learned that respondents had migrated to the United States only when the case was pending before the Court of Appeals.^[3] Counsel for the rest of the respondents likewise manifested that the failure by said respondents to contact or communicate with him possibly signified their lack of interest in the case.^[4] In a Resolution dated 19 September 2005, the Court dispensed with the filing of a comment and considered the case submitted for decision.

The core issue of the instant petition hinges on whether petitioner's action for reconveyance has prescribed. The resolution of this issue calls for a determination of whether an implied trust was constituted over the disputed properties when Jose, the trustee, registered them in his name.

Petitioner insists that an express trust was constituted over the disputed properties; thus the registration of the disputed properties in the name of Jose as trustee cannot give rise to prescription of action to prevent the recovery of the disputed properties by the beneficiary against the trustee.

Evidently, Juliana's testamentary intent was to constitute an express trust over her paraphernal properties which was carried out when the *Fideicomiso* was established in S.P. No. 706.^[5] However, the disputed properties were expressly excluded from the *Fideicomiso*. The probate court adjudicated the disputed properties to Jose as the sole heir of Juliana. If a mistake was made in excluding the disputed properties from the *Fideicomiso* and adjudicating the same to Jose as sole heir, the mistake was not rectified as no party appeared to oppose or appeal the exclusion of the disputed properties from the *Fideicomiso*. Moreover, the exclusion of the disputed properties from the *Fideicomiso* bore the approval of the probate court. The issuance of the probate court's order adjudicating the disputed properties to Jose as the sole heir of Juliana enjoys the presumption of regularity.^[6]

On the premise that the disputed properties were the paraphernal properties of Juliana which should have been included in the *Fideicomiso*, their registration in the