

SECOND DIVISION

[G.R. No. 135885, April 28, 2000]

**SPOUSES JUAN J. DIAZ AND ELIZABETH L. DIAZ, PETITIONERS,
VS. JOSE DIAZ AND COURT OF APPEALS, RESPONDENTS.**

D E C I S I O N

DE LEON, JR., J.:

This case stems from the action for a sum of money filed before the Regional Trial Court of Mandaluyong City, Branch 214^[1] by private respondent Jose Diaz against petitioners Juan and Elizabeth Diaz. In the instant Petition for Review on Certiorari, petitioners assail the Decision^[2] dated July 14, 1998 and Resolution^[3] dated October 8, 1998 of the Court of Appeals,^[4] affirming the trial court's denial of their Motion to Dismiss. In their Supplemental Petition, petitioners question the trial court's Order^[5] dated January 8, 1999, denying their Motion to Set Aside Order of Default and to Admit Attached Answer, and the Order^[6] dated January 12, 1999, correcting certain paragraphs of the Order dated January 8, 1999.

The relevant facts are:

In his Complaint, private respondent alleged that:

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Plaintiff and defendant Juan J. Diaz are brothers, and together with their recently widowed sister, Marita D. Papa, owned in common, as co-heirs (sic), a parcel of land, with improvements thereon, situated in the Municipality of Mandaluyong (now Mandaluyong City), hereinafter referred to as the Mandaluyong property, in the following proportions:

| | | |
|------------------------|---|-----|
| Defendant Juan J. Diaz | - | 6/8 |
| Plaintiff Jose Diaz | - | 1/8 |
| Marita D. Papa | - | 1/8 |

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On May 17, 1968, the above-mentioned co-owners sold their Mandaluyong property to PHILAMGEN for P125,000.00. Thus, the corresponding amounts pertaining to each co-owner from the sale were as follows:

| | | |
|----------------|---|------------|
| Juan J. Diaz | - | P90,000.00 |
| Jose Diaz | - | 15,000.00 |
| Marita D. Papa | - | 15,000.00 |

Immediately after the sale of the Mandaluyong property, defendant Juan J. Diaz, purchased a 1,000 sq. meter lot in Greenhills Subdivision, San Juan, for P140,000.00 (hereinafter referred to as the Greenhills lot), using as part of the purchase price plaintiff's P15,000.00 share of the sale of the Mandaluyong property, and thereafter caused title thereto to be issued in his name, all with the knowledge and without objection of the plaintiff;

x x x

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Defendant spouses have recently sold the Greenhills lot, together with their Greenhills home, for P54,000,000.00.

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Considering that defendant Juan J. Diaz, in buying the Greenhills lot, used as part of the purchase price plaintiff's afore-mentioned P15,000.00 share of the sale of the Mandaluyong property, and caused the title to said lot to be issued in his name, all with the knowledge and without the objection on the part of the plaintiff, an implied trust was created by force of law, between plaintiff and defendants, in favor of the former, in proportion to his interest in said Greenhills lot, pursuant to Article 1452 of the Civil Code of the Philippines;

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On June 18, 1997, plaintiff wrote defendant spouses a letter demanding from them an amount of at least P2 million as his share of the actual value of the Greenhills lot which can reasonably be placed at P30 million but defendant spouses, however, refused to honor plaintiff's demand in a letter to him dated August 28, 1997 x x x.^[7]

On September 19, 1997, private respondent filed an action for sum of money with the Regional Trial Court of Mandaluyong City. On October 7, 1997, petitioners filed a Motion to Dismiss^[8] on the ground that private respondent's Complaint failed to state a cause of action, and assuming that private respondent had a cause of action against them, it was already barred by prescription and laches. Private respondent filed his Opposition to the Motion to Dismiss, to which petitioners responded by filing a Reply.

In its Order dated November 27, 1997, the trial court denied petitioners' Motion to Dismiss as the "points invoked and the arguments advanced were contentious and evidentiary in nature which could not be established by mere allegations in the pleadings but must be proved during the trial on the merits."^[9] The trial court denied the Motion for Reconsideration of petitioners in its Order dated January 14, 1998.

On February 6, 1998, petitioners filed a Petition for Certiorari and Prohibition^[10] with the Court of Appeals. In its Resolution dated February 12, 1998, the Second Division of the Court of Appeals dismissed the petition for failure to comply with Section 11, Rule 13 of the 1997 Rules of Civil Procedure (the "Rules").^[11]

On February 23, 1998, petitioners filed another Petition for Certiorari and Prohibition with the Court of Appeals. On July 14, 1998, the appellate court denied the petition. Petitioners' Motion for Reconsideration was denied on October 8, 1998.

Dissatisfied, on October 29, 1998, petitioners filed a Petition for Certiorari and Prohibition with this Court. In our Resolution^[12] dated November 25, 1998, we treated said petition as a petition for review on certiorari under Rule 45.

In the meantime, during the pendency of petitioners' first Petition for Certiorari before the Court of Appeals, private respondent filed with the trial court a motion dated February 16, 1998 to declare petitioners in default for failure to file an answer on or before January 27, 1998, allegedly the last day for filing the same. Petitioners filed their Opposition thereto on February 25, 1998. In its Order dated March 2, 1998, the trial court granted the motion of private respondent and set the date for the *ex-parte* presentation of evidence on March 30, 1998. On March 20, 1998, petitioners moved for reconsideration of the order of default. Before the trial court could act upon said motion, on March 27, 1998, the Court of Appeals granted petitioners' March 17, 1998 motion for issuance of a temporary restraining order thereby enjoining the trial court from proceeding with the scheduled hearing on March 30, 1998 or on any future date until ordered by the appellate court.^[13]

With the denial by the Court of Appeals of petitioners' second Petition for Certiorari, private respondent filed with the trial court a motion dated July 27, 1998, praying that he be allowed to proceed with the *ex-parte* presentation of evidence. The trial court granted said motion in its Order dated August 7, 1998,.

On August 13, 1998, petitioners filed a Motion for Reconsideration of the Order dated August 7, 1998, contending that their Motion for Reconsideration dated March 20, 1998 had not yet been resolved. In the *interim*, petitioners filed their Answer on October 21, 1998.

In its Order dated October 28, 1998, the trial court denied petitioners' Motions for Reconsideration dated March 20, 1998 and August 13, 1998 and expunged their Answer from the records. Subsequently, in its Order dated November 6, 1998, the trial court allowed private respondent to present his evidence *ex-parte*.

On November 9, 1998, petitioners filed a Motion to Set Aside the Order of Default and to Admit Attached Answer. Petitioners filed a supplement thereto on November 17, 1998. On January 8, 1999, the trial court denied the motion on the ground that:

It is clear from the records that after the denial of defendants' Motion to Dismiss and Motion for Reconsideration, they failed to file any answer or pleading within the remaining period provided under Section 4, Rule 16 of the Rules and opted instead to file a petition for certiorari with the Court of Appeals. It was only upon receipt of the adverse decision of the

Court of Appeals that defendants partially sought to set things right.

The foregoing simply demonstrate defendants' obstinate refusal or inordinate neglect of the rules of procedure which deserves no compassion from the court. Therefore, the default order should be maintained.^[14]

In an Order dated January 12, 1999, the trial court corrected certain paragraphs^[15] in its Order dated January 8, 1998 which "had been inadvertently and/or erroneously typed and/or omitted."^[16]

On February 3, 1999, petitioners filed, with leave from this Court, a Supplemental Petition,^[17] assailing the trial court's Orders dated January 8, 1999 and January 12, 1999 for having been issued without or in excess of jurisdiction, and/or with grave abuse of discretion amounting to lack of jurisdiction.

Parenthetically, on March 11, 1999, the trial court rendered judgment in favor of private respondent. On March 30, 1999, petitioners filed a Notice of Appeal to the Court of Appeals, which was given due course by the trial court in its Order dated March 31, 1999. Sometime thereafter, the appellate court granted private respondent's Motion for Execution Pending Appeal. Petitioners posted a supersedeas bond with the trial court. Petitioners manifested that while they were preparing their Appellants' Brief, they also filed with the Court of Appeals a Motion for Deferment of Any Proceeding Relative to the Appeal in light of this Court's Resolution dated October 4, 1999, giving due course to their petition. On December 6, 1999, the appellate court promulgated a Resolution: (1) reversing its prior decision allowing petitioners to file a supersedeas bond and thereby ordering them to comply with the writ of execution of the trial court, (b) declaring petitioners guilty of forum-shopping, and (c) denying petitioners' second motion for an extension of forty-five (45) days within which to file their Appellant's Brief. Claiming that they would suffer grave injustice from the enforcement of said Resolution, petitioners filed an urgent motion with this Court on December 10, 1999, praying for issuance of a *status quo* or temporary restraining order.^[18] On December 13, 1999, we granted petitioners' prayer.

In their petition for review, petitioners assign the following errors:

I. THE COURT OF APPEALS ERRED IN NOT FINDING THAT, ON ITS FACE, THE COMPLAINT FAILED TO STATE A CAUSE OF ACTION.

II. THE COURT OF APPEALS LIKewise ERRED IN NOT DISMISSING THE COMPLAINT DUE TO PRIVATE RESPONDENT'S VACILLATING CAUSE OF ACTION, WHICH SHOWS HIS INABILITY TO ALLEGE AN ACTIONABLE CAUSE IN HIS COMPLAINT.

III. ASSUMING FOR THE SAKE OF ARGUMENT THAT THE COMPLAINT DID STATE A CAUSE OF ACTION, THE COURT OF APPEALS STILL ERRED IN FINDING THAT PRESCRIPTION HAD NOT SET IN WHEN THE CASE WAS FILED ON SEPTEMBER 19, 1997.

IV. ASSUMING FOR THE SAKE OF ARGUMENT THAT PRESCRIPTION HAD NOT SET IN WHEN THIS CASE WAS FILED, THE COURT OF APPEALS ALSO ERRED IN FINDING THAT PETITIONERS' ARGUMENT ON LACHES IS UNSUSTAINABLE.

V. THE COURT OF APPEALS ERRED IN RULING THAT A SPECIAL CIVIL ACTION FOR CERTIORARI IS NOT THE APPROPRIATE REMEDY FOR THE PETITIONERS.

VI. THE COURT OF APPEALS FURTHER ERRED IN DENYING PETITIONERS' MOTION FOR RECONSIDERATION BECAUSE OF THE ALLEGED LACK OF COMPELLING REASON TO MODIFY, REVERSE OR RECONSIDER THE DECISION, AND THE ARGUMENTS RAISED THEREIN WERE PURPORTEDLY ALREADY CONSIDERED AND PASSED UPON IN THE DECISION.

On the other hand, petitioners' Supplemental Petition hinges upon the resolution of the following issues:

I. WHETHER OR NOT THE TRIAL JUDGE ERRED AND/OR ACTED WITHOUT JURISDICTION AND/OR GRAVE ABUSE OF DISCRETION AMOUNTING TO EXCESS OR LACK OF JURISDICTION IN DECLARING PETITIONERS IN DEFAULT AND ORDERING THEIR ANSWER EXPUGNED FROM THE RECORDS OF THE CASE.

II. ASSUMING THAT PETITIONERS WERE PROPERLY DECLARED IN DEFAULT, WHETHER OR NOT THE TRIAL JUDGE STILL ERRED AND/OR ACTED WITHOUT JURISDICTION IN NOT SETTING ASIDE THE ORDER OF DEFAULT AND ADMITTING PETITIONERS' ANSWER.

III. IN ISSUING THE ASSAILED ORDERS AND CATEGORICALLY DECLARING THAT HE WOULD PROCEED TO RESOLVE THE MAIN CASE "UNLESS ENJOINED BY [THE] SUPREME COURT," THE TRIAL JUDGE ERRED AND ACTED WITH GRAVE ABUSE OF DISCRETION.

I. Denial of Petitioners' Motion to Dismiss

Petitioners maintain that private respondent's Complaint failed to state a cause of action as it contained mere averments of facts and conclusions of law that neither establish any right or claim on the part of private respondent nor constitute wrongful acts or omissions violative of his right. Petitioners specifically draw this Court's attention to paragraphs 5 and 12 upon which private respondent allegedly anchors his cause of action. Citing *Remitere v. Vda. de Yulo*^[19] as the case in point, petitioners contend that the allegations in paragraph 5 failed to state private respondent's claim to the P15,000.00, the Greenhills property, or the manner by which his rights or interests were prejudiced by the alleged use of his P15,000.00 by petitioners while paragraph 12 is a mere reiteration of paragraph 5.

We disagree with petitioners. It has been our consistent ruling that a complaint states a cause of action when it contains the following elements: (1) the legal right of plaintiff, (2) the correlative obligation of the defendant, and (3) the act or