

FIRST DIVISION

[G.R. No. 118836, March 21, 1997]

FEDERICO DORDAS, SUBSTITUTED BY HIS WIDOW, EXCELSA DELA FUENTE AND CHILDREN, REMIGIO, EVELIO, WILLIAM, NONITO, ELDA, FEDERICO, ELMA, RICARDO AND REYNALDO ALL SURNAMED DORDAS; AND VILMA, LEONORA, FLORENTINA, PRAXIDES, POTENCIANA, PURIFICACION AND TEOTIMO, ALL SURNAMED DIZON, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, FRANCISCO BORRES AND DIOSDADO BORRES, RESPONDENTS.

D E C I S I O N

HERMOSISIMA, JR., J.:

Before us is a petition for review of the decision on appeal^[1] rendered by respondent Court of Appeals^[2] in an action for reconveyance^[3] filed by private respondents Francisco and Diosdado Borres against petitioner, Federico Dordas, now deceased and substituted herein by his heirs.

The object of the action for reconveyance is a parcel of land situated in the Poblacion, Municipality of Maayon, Province of Capiz, containing an area of 6,097 square meters.

Aforesaid parcel of land was originally owned by one Rafael Dizon. On February 8, 1927, Dizon sold the lot to one Francisco Contreras, Contreras, in turn, sold the lot to private respondents Diosdado and Federico Borres on December 27, 1957. Respondents have had actual possession of the lot since 1957 up to the present. Since 1957 also, after declaring the lot for taxation purposes, respondents have been paying the realty taxes on the lot.

In 1961, the heirs of Rafael Dizon and petitioner Federico Dordas filed a petition for judicial reconstitution of the title of the lot. The court ordered the reconstitution of the title upon the ground that the title was lost or destroyed during the last world war. This, notwithstanding the fact that the only documents submitted by petitioner was a tracing cloth and blueprint plan which are not among the documents recognized by Republic Act No. 26 that warrant judicial reconstitution of title. Furthermore, petitioner Dordas failed to serve notice of the reconstitution proceedings on private respondents who were the actual occupants of the subject lot. This is clearly violative of the notice requirement mandated by R.A. No. 26.

Private respondents filed an action for reconveyance against petitioner in the Court of First Instance (now the Regional Trial Court), Branch 15, Roxas City. The trial court ruled that since private respondents filed the case on March 27, 1962, prescription has set in and on this ground, the trial court dismissed the action. The

lower court said:

"But the records of this case show that the ancient document executed by Rafael Dizon ceding Lot 1574 to Francisco Contreras and Lucy Contreras by way of pacto de retro, February 8, 1927, (Exhibit B) and the deed of sale (Exhibit "A") of Francisco Contreras to Francisco Borres and spouses Diosdado Borres and Remedios Espinosa dated December 27, 1957, were not registered within the reglementary period as required in Act No. 496, so title to Lot 1574 cannot pass to plaintiffs in this case. The Supreme Court in the case of Viacrucis v. Court of Appeals, et al., stated:

'The title to a land registered under Act No. 496 cannot pass where the deed of conveyance has not been registered, for according to said Act, the act of registration shall be the operative act to convey and affect the land.' (44 SCRA, p. 176)

Significantly, after the expiration of the four (4) year period, within which, Rafael Dizon, may repurchase the property in question, in accordance with their document of February 8, 1927 (Exhibit B), Act 190 (Code of Civil Procedure), is applicable in this case. It is not disputed that the herein plaintiffs' cause of action accrued on February 9, 1931, when Rafael Dizon and his heirs failed to exercise his right [of] repurchase. Article 116 of the New Civil Code provides:

'Art. 116. Prescription already running before the effectivity of this Code shall be governed by laws previously in force; but if since the time this code took effect the entire period herein required for prescription should elapse, the present Code shall be applicable even though by the former laws a longer period might be required.' (Peralta, et al. v. Alipio, G.R. No. L-8273, Prom. October 1955).

Since the prescriptive period applicable in this case is governed by the laws enforced prior to the effectivity of the New Civil Code, (on August 30, 1950) then the prescriptive period provided in Act 190 (Code of Civil Procedure), the law enforced in 1931, is the one applicable in the present case. Section 40 of the said Act states:

'Sec. 40 of the Code of Civil Procedure fixes ten years as the period of prescription for actions to recover real property, counted from the time the cause of action accrued. This is the applicable law because Article 116 of the New Civil Code provides that 'prescription already running before the effectivity of this Code (August 30, 1950) shall be governed by laws previously in force. The suit herein having been filed only on April 22, 1961, or more than ten (10) years from April 24, 1950, has prescribed.' (Carillo v. de Paz, 18 SCRA 467-468)

This present action for reconveyance was filed on March 27, 1962, or more than twenty (20) years x x x from February 9, 1931 is surely barred by the statutes of limitation"^[4]

Private respondents appealed to the respondent Court of Appeals. The respondent court reversed the trial court and declared null and void the reconstituted title obtained by petitioner. The respondent appellate court held:

"Art. 1139 of the New Civil Code provides that actions prescribe by mere lapse of time fixed by law. In the case of Talle v. CA, 208 SCRA 266, it was ruled that actions for reconveyance based on fraud or on implied or constructive trusts prescribe in ten (10) years. But it is unsafe to assume that plaintiff's cause of action in this case accrued on February 9, 1931 or after the expiration of the four (4) year repurchase period in the Deed of Sale between Rafael Dizon and Francisco Contreras The pacto de retro period is a personal prerogative of Rafael Dizon to exercise and is not applicable to herein plaintiff's who acquired the lot from Rafael Dizon's vendee (Francisco Contreras) only in December 27, 1957. In other words, the computation as to when herein plaintiff's cause of action accrued should not be counted from February 9, 1931.

Nonetheless, what seems to be the crucial point in this case is the Reconstituted Title No. RT-2063 (Exh.. B) issued in the name of the heirs of Rafael Dizon. In the Amended Complaint, appellants question the validity of this title as having been issued out of an illegal reconstitution proceedings thus making said title null and void. Conversely, appellees maintain that the reconstitution of RT-2063 was done all in accordance with the procedure laid down by law.

We agree with the appellants.

Republic Act No. 26, is "THE ACT PROVIDING FOR A SPECIAL PROCEDURE FOR THE RECONSTITUTION OF TORRENS TITLE WHICH WERE LOST OR DESTROYED." As the title of the law suggests, it covers reconstitution of previously issued but lost or destroyed title over any parcel of land. In other words it presupposes that the lot had already been brought under the provisions of the Torrens System or Act 496. In obtaining a new title in lieu of the lost or destroyed one, the same Republic Act. No. 26 laid down procedures which must strictly be followed because it could be the source of anomalous titles or unscrupulously availed of as an easy substitute for original registration of title proceedings.

xxx xxx xxx

In the same petition, Federico Dordas claimed that the lot has actually been in this possession and that all improvements thereon belong to him with no one having any adverse interests whatsoever. This fact is re-echoed in the order granting the reconstitution (pp. 72-73, RTC Records)