

THIRD DIVISION

[CA-G.R. CV No. 99291, May 29, 2014]

RAMON V. DAGOT, PLAINTIFF-APPELLANT, VS. SPS. ROSALINDA RODRIGUEZ AND DIOSCORO RODRIGUEZ, ROCELYN RODRIGUEZ-RAYMUNDO, ROCHELLE RODRIGUEZ-ANTONIO, JOCELYN RODRIGUEZ-VILLA, OFFICE OF THE REGISTER OF DEEDS OF PUERTO PRINCESA CITY AND OFFICE OF THE CITY ASSESSOR, PUERTO PRINCESA CITY. DEFENDANTS-APPELLEES.

DECISION

GARCIA, R.R. J.:

Before Us is an appeal from the January 18, 2012 Order^[1] of the Regional Trial Court (RTC), Branch 52, Puerto Princesa City, Palawan in Civil Case No. 4733 which dismissed plaintiff-appellant's complaint for reconveyance and damages on the ground of lack of jurisdiction.

THE FACTS

The instant case stemmed from a Complaint^[2] for Reconveyance, Recovery of a Portion of Land, Cancellation of TCT No. 15922, TCT No. 176887, TCT No. 176889 and TCT No. 176888 and Damages filed by plaintiff-appellant Ramon Dagot against defendants-appellees spouses Rosalinda and Dioscoro Rodriguez and their three (3) children, namely: Rocelyn Rodriguez-Raymundo, Rochelle Rodriguez-Antonio, and Jocelyn Rodriguez-Villa.

The complaint alleged that appellant and his siblings were the co-owners of a parcel of land containing an area of 43,452 square meters situated at Barrio Tiniguiban, Puerto Princesa City previously covered by Transfer Certificate of Title (TCT) No. 14529.^[3] In 1988, the property was subdivided into thirty-three (33) smaller lots. Through a Deed of Partition Agreement with Waiver and Donation^[4] dated March 17, 1989, appellant was given Lot 9 and Lot 10 with an area of 2,096 sq. m. and 404 sq. m., respectively.

Sometime in September 1991, appellee spouses Rosalinda and Dioscoro Rodriguez offered to purchase the 1,000 sq. m. portion of Lot 9 for the consideration of P20,000.00. Appellant agreed to the proposal provided appellees would shoulder all the expenses for the transfer of title, documentation, as well as the subdivision of Lot 9 and segregation of the 1,000 sq. m. portion thereof. Appellant entrusted to appellees the owner's duplicate copy of TCT No. 14529 and the technical description of Lot 9. Since the 1,000 sq. m. subject of the sale has no approved technical description yet at the time, the technical description corresponding to the entire Lot 9 was indicated in the Deed of Absolute Sale^[5] dated September 25, 1991.

In 2008, appellant was surprised when appellees demanded for him to vacate Lot 9. After making inquiries with the Register of Deeds, appellant discovered that Lot 9

was already registered in the names of appellees under TCT No. 15922^[6] and the same has been declared for taxation purposes under Tax Declaration No. 063-10701. Appellees, through fraud, deceit, dishonesty and bad faith, registered the Deed of Absolute Sale dated September 25, 1991 and by virtue thereof, appellees obtained title thereto in their names. Appellant further learned that appellees subdivided Lot 9 into five (5) lots and donated three (3) lots measuring 424 sq. m. each to their daughters Rocelyn, Rochelle and Jocelyn upon which TCT Nos. 176887, 176889 and 176888 were issued in their respective names.

Consequently, appellant filed the instant complaint for reconveyance and damages against appellees alleging that the latter have no right of possession and ownership in excess of 1,000 sq. m. portion of Lot 9. Appellant thus prayed for: (1) the reconveyance of the 1,098 sq. m. portion of Lot 9, (2) the cancellation of TCT No. 15922 in the names of appellees and its derivatives, namely: TCT Nos. 176887, 176889 and 176888, and (3) the reinstatement of TCT No. 14529. Appellant also sought the payment of attorney's fees of P50,000.00 and cost of suit.

In an Answer with Affirmative Defense and Counterclaim^[7], appellees averred that they purchased from appellant an aggregate land area of 2,096 sq.m. In fact, when the property was subdivided in 1988, appellee Rosalinda's name appeared opposite of Lot 9 consisting of 2,098 sq. m. Also, in an Affidavit^[8] dated December 17, 1988, appellant admitted having initially sold to appellees 2,000 sq. m. portion of his inheritance including an additional area of 96 sq. m as right of way easement. As affirmative defenses, appellees alleged that the action for reconveyance is already barred by laches and prescription. The complaint should likewise be dismissed for failure to pay docket fee and on the ground of lack of jurisdiction considering that there was no allegation pertaining to the assessed value of the subject property. As counterclaim, appellees pray that appellant be made liable to pay moral damages of P50,000.00, exemplary damages of P20,000.00 and attorney's fees and litigation expenses of P50,000.00.

After the hearing on the affirmative defenses raised by appellees, the court *a quo* issued an Order^[9] dated January 18, 2012 dismissing the complaint for lack of jurisdiction. The pertinent portions of the said Order are quoted:

Anent the fourth ground, defendants raise the issue that the Court lacks jurisdiction over the subject matter because "there was no allegation whatsoever as to the AMOUNT of the assessed value of the property in question."

In the case of *Quinagoran vs. CA*, the Supreme Court has had the occasion to rule on whether the assessed value of the property involved should be alleged in the Complaint, thus:

In no uncertain terms, the Court has already held that a complaint must allege the assessed value of the real property subject of the complaint or the interest thereon to determine which court has jurisdiction over the action. This is because the nature of the action and which court has original and exclusive jurisdiction over the same is determined by the material allegations of the complaint, the type of relief prayed for by the plaintiff and the law in effect when the action is

filed, irrespective of whether the plaintiffs are entitled to some or all of the claims asserted therein.

This Court has scrutinized the Complaint and found that the assessed value of the subject property is not alleged in the said Complaint. "There is therefore no showing on the face of the complaint that the RTC has exclusive jurisdiction over the action of the respondents. Indeed, absent any allegation in the complaint of the assessed value of the property, it cannot be determined whether the RTC or the MTC has original and exclusive jurisdiction over the petitioner's action. The courts cannot take judicial notice of the assessed value or market value of the land."

Viewed by and large from these standpoints, the circumstances clearly militate a favorable action on the Motion to Dismiss of the defendants. The present action must be dismissed for lack of jurisdiction and prescription as to TCT No. 15922.

WHEREFORE, PREMISES CONSIDERED, the Motion to Dismiss of the defendants, is GRANTED. The present action is DISMISSED for lack of jurisdiction and prescription as to TCT No. 15922.

IT IS SO ORDERED.^[10]

Appellant filed a Motion for Reconsideration^[11] dated March 26, 2012 insisting that the assessed value of the subject property is more than enough for the court *a quo* to acquire jurisdiction over the case.

On the other hand, appellees filed a Partial Motion for Reconsideration^[12] dated April 4, 2012 alleging that since prescription has already set in as regards the mother title TCT No. 15922, the same necessarily applies to its derivative titles.

In an Omnibus Order^[13] dated July 19, 2012, the court *a quo* denied both appellant's Motion for Reconsideration and appellees' Partial Motion for Reconsideration. The pertinent portions of the said Order are quoted:

Accordingly, the Court is confronted with the following issues, thus:

- a. Whether or not the Court erred in declaring that it lacks jurisdiction over the case for failure of the plaintiff to allege the value of the properties involved in this case;
- b. Whether or not the Court erred in declaring that the present action has prescribed only against TCT No. 15922.

In the Order sought to be reconsidered, the Court has resolved that the non-allegation in the Complaint of the value of the property involved in the case deprives the Court of its jurisdiction to hear the case on the basis of the ruling in the case of *Quinagoran vs. Court of Appeals*. It has been ruled by the Supreme Court in said case that "absent any allegation in the complaint of the assessed valued of the property, it cannot be determined whether the RTC or MTC has original and exclusive jurisdiction over the petitioner's action. The courts cannot take judicial notice of the assessed or market value of the land."

Based on the arguments put forward by the plaintiff, the Court has no basis to reverse its Order sought to be reconsidered. It is undeniable that the plaintiff has failed to allege in his Complaint neither the assessed nor the market value of the properties involved in the case. And this fact is not in any way affected by the tax declarations attached to the complaint as stating the assessed or fair market value of the properties involved in the litigation. In other words, the assessed or market value of the property subject of the Complaint must appear on the face of the Complaint itself for the Court to determine its jurisdiction.

The Court cannot even be liberal on this matter. The ruling in *Quinagoran* is explicit that the allegation must appear on the face of the Complaint. Assuming that liberality may be exercised in this case, the Court notes that there is not even substantial compliance with the requirements for notwithstanding the attachment of the tax declarations to the Complaint, there is no reference thereto by the plaintiff, directly or indirectly, as to the assessed or market value of the properties and the case being within the jurisdiction of the Court.

On the claim that the ruling in *Quinagoran* has not been invoked by the defendants, it suffices to state that the court may *motu proprio* dismiss a case on the basis of the same, as the Court has done in this case. Hence, this Court maintains that the present case should be dismissed for lack of jurisdiction.

On the issue of prescription, this Court is not persuaded by the argument of defendants. It must be emphasized that the present action is one of reconveyance based on implied or constructive trust as provided in Section 53, paragraph 3 of Presidential Decree No. 1529 and Article 1456 of the Civil Code. As such, the applicable prescriptive period is ten (10) years as provided under Article 1144 of the Civil Code/ the ten (10) year period is to be counted from the issuance of torrens title over the property, as ruled in the case of *Caro vs. Court of Appeals*.

However, in the more recent case of *GSIS vs. Santiago*, the Supreme Court ruled that "the prescriptive period for filing of the action for reconveyance based on implied trust *[is]* from the actual discovery of fraud". Considering that the Complaint alleges that the plaintiff discovered the fraud sometime in 2008, and the Complaint was filed in 2011, this action for reconveyance based on implied trust has not prescribed.

WHEREFORE, PREMISES CONSIDERED, the Motion for Reconsideration of plaintiff and the Partial Motion for Reconsideration of defendants are both hereby DENIED for lack of merit. The Order of dismissal issued on January 18, 2012 by the Court is MAINTAINED with MODIFICATION that the action for reconveyance in this Complaint has not prescribed even as to TCT No. 15922.

IT IS SO ORDERED.^[14]

Aggrieved, appellant filed the instant appeal, raising the lone **assignment of error**^[15], to wit: