Supreme Court E-Library

1,043 square meters. That order was assailed in the petition for certiorari filed by the petitioners in this Court on May 11, 1981.

I concur in the opinion that the lower court had no jurisdiction to entertain Gimony's "motion" to correct the technical description of Lot 5284. Hence, all the proceedings in the lower court should be set aside. Gimony's remedy is an ordinary action to settle the ownership of the disputed 147 square-meter portion.

SECOND DIVISION

[G.R. No. L-37442. November 9, 1981]

FABIA MASAGANDA, CESARIO MASAGANDA, EXEQUIEL MASAGANDA, EUGENCIO SEVILLA, FIDEL SEVILLA, DOMINADOR SEVILLA, AQUILINA SEVILLA, SIMPLICIO SEVILLA, LYDIA SEVILLA, CLEMENTE SEVILLA, GREGORIO SARIO, LEON SARIO and VENERACION SARIO, plaintiffs-appellants, *vs.* JUAN ARGAMOSA and LEONOR SEVILLA, defendants-appellees.

SYNOPSIS

Thirty-one years and eight months after Original Certificate of Title No. 33171 was issued to appellees, appellants filed a complaint for reconveyance of the lot covered by said title, alleging that they inherited the same from their predecessors-in-interest and continued to possess and occupy the same; and that defendant Juan Argamosa secured title over said land by means of deceit, through fraud and misrepresentation. Appellee, on the other hand, alleged that they are the lawful and registered owners of the controverted land as evidenced by OCT No. 33171 issued pursuant to a decree dated April 15, 1931 by virtue of a decision dated November 6, 1930 rendered in a cadastral proceeding which was never controverted by the appellants or their predecessors-in-interest. They further claimed that appellants' action is already barred by the Statute of Limitations. The Court of First Instance declared appellee Juan Argamosa the lawful owner of the lot in question including the improvements thereon. Hence, this appeal.

The Supreme Court, affirming the judgment appealed from, held that appellants' action has already prescribed.

Supreme Court E-Library

SYLLABUS

1. CIVIL LAW; LAND REGISTRATION; PAYMENT OF LAND TAX IS NOT EVIDENCE OF OWNERSHIP.— Payment of land tax is not evidence of ownership of the parcel of land for which payment is made, especially when the parcel of land is covered by a Torrens title in the name of another (J.M. Tuazon and Co. *vs.* Spouses Ramon Villanueva and Victoria Fajardo, 55 Off. Gaz. (20), 3658, 3660).

2. ID.; ID.; TORRENS SYSTEM; ACTION FOR RECONVEYANCE; MAY ONLY BE MAINTAINED BY OWNER.— Pursuant to Section 55 of the Land Registration Act, the action of reconveyance of a property that is already covered by a Torrens Title under the aforesaid law, may only be maintained by the 'owner' of the property who has been prejudiced by the actual fraud committed by one who succeeded in securing the registration of the said property in his name (Pedro Nebada *vs.* Heirs of Felix Alvio, et al., 55 Off. Gaz. (23) 4238).

3. ID.; ID.; ID.; ID.; ACTION PRESCRIBES IN 10 YEARS; CASE AT BAR.— The action of reconveyance embodied in plaintiffs' second amended complaint had long ago prescribed. When the appellants herein filed their original complaint on December 14, 1962, already thirty-one (31) years and eight (8) months has elapsed, counting from April 13, 1931, date of the issuance of the Original Certificate of Title No. 33171 for Lot No. 2162 in question, in the name of Juan Argamosa married to Juana Abecilla. It is now a settled question in this jurisdiction that action for reconveyance based on implied or constructive trust prescribe in ten years. (Bañaga *vs.* Soler, et al., No. L-15717, June 30, 1961; J.M. Tuazon and Co. *vs.* Magdangal, No. L-13539, January 30, 1962; Alzona *vs.* Capunitan, et al., No. L-10228, February 28, 1962; GONZALES *vs.* JIMENEZ, ET AL., No. L-19073, January 30, 1965).

4. ID.; ID.; ID.; ID.; ACTION IN CASE AT BAR HAD PRESCRIBED DUE TO UNUSUAL DELAY IN FILING.— It is indeed beyond doubt that the long lapse of time between appellees' registration of their title and appellants' filing of their action does not only cast doubt as to the validity of their claim of ownership but is also looked with disfavor by the law. No reasonable and plausible excuse has been shown for such an unusual delay. Most importantly, even conceding appellants' contention of implied trust, there is the unequivocal jurisprudential rule cited above that make it inevitable for Us to hold that their action has prescribed.

Supreme Court E-Library

AQUINO, *J., Concurring*:

1. CIVIL LAW; LAND REGISTRATION; TORRENS SYSTEM; INDEFEASIBILITY OF TITLE; ACTION FOR RECONVEYANCE BARRED BY LAPSE OF TIME EVEN IF QUESTIONED LOT WAS HELD IN IMPLIED TRUST; CASE AT BAR.— In the case at bar, where appellants filed their complaint for cancellation of title and reconveyance of the lot to them after thirty-one years from the time Original Certificate of Title No. 33171 was issued to Juan Argamosa alleging that he obtained title thereto through fraud, it is obvious that the action is barred even on the assumption that the lot in question was held in implied trust by him because his title thereto had become indefeasible.

APPEARANCES OF COUNSEL

Leovigildo L. Cerilla for plaintiffs-appellants.
Mariano Duldulao for defendants-appellees.

DECISION

BARREDO, *J.*:

Appeal, certified to this Court by the Court of Appeals, on the ground that it involves purely questions of law, from the decision of the Court of First Instance of Quezon in Civil Case No. C-123 thereof, the dispositive part of which reads as follows:

"IN THE LIGHT OF ALL THE FOREGOING, judgment is hereby rendered in favor of defendant JUAN ARGAMOSA and against all the plaintiffs as well as defendant LEONOR SEVILLA, declaring said Juan Argamosa as the lawful owner and entitled to the material possession of Lot 2162 including the portion being claimed by plaintiffs as well as the improvements thereon, ordering Mr. Arsenio Arellano appointed Receiver to render a final accounting of all the proceeds and funds he had received from the property under receivership since July 22, 1963, when he took his oath as such, within ten (10) days upon receipt hereof, and he is ordered to deliver said funds to herein defendant Juan Argamosa, who in turn is required to pay said receiver twenty per cent (20%) of the net income as reasonable compensation, after which said Receiver shall be discharged from his duty as such. No pronouncement as to damages and costs.

"SO ORDERED." (Page 143, Record on Appeal.)

Actually, in their brief plaintiffs-appellants have assigned the following errors:

Supreme Court E-Library

"I

"THE LOWER COURT ERRED IN HOLDING THAT THE TITLE OF DEFENDANT JUAN ARGAMOSA OVER THE LAND UNDER LITIGATION HAS ALREADY BECOME SETTLED AND UNIMPEACHABLE.

"II

"THE LOWER COURT ERRED IN NOT DECLARING THAT THE LAND UNDER LITIGATION IS HELD IN TRUST BY THE DEFENDANT-APPELLEE JUAN ARGAMOSA FOR THE BENEFIT OF THE PLAINTIFFS-APPELLANTS FROM WHOM THE SAID LAND CAME.

"III

"THE LOWER COURT ERRED IN NOT ORDERING SAID DEFENDANT-APPELLEE JUAN ARGAMOSA TO RECONVEY THE TITLE OVER THE CONTROVERTED LAND TO THE PLAINTIFFS-APPELLANTS, WHO ARE THE LEGAL, AND RIGHTFUL OWNERS THEREOF." (Pp. A-B, Brief for the Plaintiffs-Appellants.)

based on a factual milieu presented by appellants. On the other hand, in their brief appellees maintain that appellants' statement of facts is incomplete, inaccurate and misleading. But the long and short of it is that the disputed facts revolve around the issue of whether or not defendants-appellees acquired their title fraudulently and, therefore, should be considered as having secured said Torrens title as mere trustees.

The subject action is one for reconveyance. In their complaint, the plaintiffs-appellants alleged:

"2. That the plaintiffs are the surviving children and only heirs of the late spouses Juan Masaganda and Sotera Esclanda who died on January 2, 1950 and September, 1944, respectively, in Lopez, Quezon.

"3. That plaintiffs inherited from their deceased parents aforementioned a parcel of land situated in Bo. Sta. Rosa, Lopez, Quezon and which is more particularly described as follows:

'A parcel of land (One-half) 1/2 portion of Lot No. 2162 of the Lopez Cadastral Survey) with the improvements thereon situated in Bo. Sta. Rosa, Lopez, Quezon. Bounded on the North by property of Proceso Argamosa; on the East by Narcisa Arellano; on the South

Supreme Court E-Library

by Proceso Argamosa; and on the West by Pedro Sevilla. Containing an area of Nineteen Thousand and Sixty-Two and .5 square meters (19,062.5) more or less.' This property is declared under Tax Declaration No. 6573 with an Assessed value of ₱630.00.

"4. That the said deceased parents of the plaintiffs had exclusively, publicly, peacefully and continuously occupied and possessed the above-described parcel of land since time immemorial during their lifetime and upon their death the plaintiffs continued its occupation and possession up to the present time.

"5. That the above-described parcel of land constitute one-half (1/2) portion of Lot No. 2162 of the Lopez Cadastral Survey which is more particularly and technically described as follows:

'A parcel of land (Lot No. 2162 of the Lopez Cadastral Survey) situated in Bo. Sta. Rosa, Lopez, Quezon. Bounded on the N., and NE., by Lot No. 7470; on the SE., and S., by Lot No. 7561; and on the W., by Lots Nos. 7432 and 7429. Containing an area of Thirty-Eight Thousand One Hundred Twenty Five (38.125) square meters, more or less.'

"6. That the remaining one-half portion of Lot No. 2162 above-described belongs to the heirs of the late Pedro Sevilla who are also all of Lopez, Quezon.

"7. That the defendant has never been in possession of the parcel of land described in paragraph 3 of this complaint which now belongs to the plaintiffs.

"8. That plaintiffs discovered that the title to the whole Lot No. 2162 was wrongfully registered in the name of the defendant who has secured Original Certificate of Title No. 33171 of the Register of Deeds of Quezon Province covering said lot by means of deceit, through fraud and misrepresentation.

"9. That, because of the wrongful registration of the title to Lot No. 2162 in the name of the defendant as a result of his fraudulent acts and misrepresentations, the plaintiffs were constrained to employ the services of counsel in the sum of Five Hundred Pesos (₱500.00) in order to protect their interests, and to incur litigation expenses in the estimated sum of Three Hundred Pesos (₱300.00)." (Pp. 2-5, Record on Appeal.)

On the other hand, in their answer, defendants-appellees denied specifically those material allegations of their adversaries and alleged as affirmative defenses that:

Supreme Court E-Library

"2. That the defendant, and not the plaintiffs, is the real, absolute lawful and registered owner and possessor of said Lot No. 2162 of the Lopez Cadastre with all its improvements thereon, his title thereto being evidenced by Original Certificate of Title No. 33171.

"3. That defendant acquired the ownership and possession of said lot and its improvements by inheritance from his grandfather Rufino Argamosa, who had been in actual, public, peaceful, exclusive, adverse and uninterrupted possession of said lot in concept of owner for thirty-eight years before defendant inherited it.

"4. That defendant has been in actual, open, public, exclusive, continuous and adverse possession of said lot and its improvements during the last forty years until now.

"5. That defendant has declared said lot and its improvements for taxation purposes in his own name and paid the corresponding land taxes for the same.

"6. That on or about Aug. 23, 1960, the plaintiffs by means of stealth and strategy and thru their agents entered upon this Lot No. 2162 and gathered the coconut fruits thereof, without the consent of the defendant or the lessee named Petronilo Argosino of said lot, and usurped the possession of the same, and by reason of which trespassing and usurpation a Criminal Case No. 941 for theft of coconuts was filed against two of the plaintiffs and their agents, namely Abdon Ablitas, Felipe Ablitas, and Hipolito Masaganda, with the Justice of the Peace Court of Lopez, Quezon.

"7. That in the Cadastral hearing of this Lot No. 2162 and its improvements sometime in the year 1930 none of the plaintiffs herein or any of their alleged predecessors in interest, the spouses Juan Masaganda and Sotera Esclanda, filed any claim or answer wherein they claim said Lot No. 2162 and its improvements. This Lot No. 2162 and its improvements were controverted only by and between defendant herein Juan Argamosa on one side and one Pedro V. Sevilla on the other. That the claim of Pedro V. Sevilla was denied or dismissed by the cadastral court, and as a result of which this Lot No. 2162 and its improvements were adjudicated in favor of Juan Argamosa, now defendant herein.

"8. That the decision of the Cadastral Judge, adjudicating said Lot No. 2162 and its improvements of Juan Argamosa was rendered on November 6, 1930, and the decree for the issuance of the corresponding title thereto was issued on or about April 15, 1931, but none of plaintiffs' alleged predecessors in interest ever filed any motion or petition in order to seek a reconsideration or revision of said decision and adjudication of said Lot No. 2162.

Supreme Court E-Library

"9. That for nineteen years since November 6, 1931 about the date of the decision and adjudication of Lot No. 2162 to Juan Argamosa, until plaintiffs' alleged predecessor in interest, Juan Masaganda died on January 2, 1950, and for about thirteen years since said date November 6, 1931 to September 1944 when Sotera Esclanda died, these two Juan Masaganda and Sotera Esclanda had more than sufficient time to file any court action against Juan Argamosa, the adjudicatee, either for the recovery of this Lot No. 2162 and its improvements, or for the reconveyance of the same to them, if these two ever believed they had any right or interest in said Lot No. 2162 and its improvements, but they did not. This failure or omission on the part of said Juan Masaganda and Sotera Esclanda to take such steps or any other is a circumstance tending to show that said spouses did not in fact have any real claim or interest in said Lot No. 2162 and its improvements, or to any portion thereof, thus adversely affecting now the claim of the plaintiffs to Lot No. 2162 and its improvements in this case.

"10. That the judicial proceedings had, leading to the issuance of Original Certificate of Title No. 33171 and its duplicate for Lot No. 2162, are proceedings *in rem,* that is, against all persons including plaintiffs' predecessors in interest.

"11. That the Original Certificate of Title No. 33171 and its owner's duplicate had long ago become conclusive and indefeasible and incontrovertible.

"12. Assuming without admitting that plaintiffs or their alleged predecessors in interest had before any right or interest in said Lot No. 2162, but for their having failed to appear at the cadastral hearing of said lot and to file any claim thereto, or to take whatsoever timely step or action against the adjudication to and title of Juan Argamosa, defendant herein, they had forever lost all their supposed right or interest if any they had, in said lot and its improvements.

"13. Plaintiffs' present action in this case is now barred by the Statute of Limitations (Pp. 10-14, Record on Appeal.)

In its decision, the trial court found and held:

"At the pre-trial which followed, it became obvious that the parties can no longer come to an amicable settlement so that it became inevitable for them to go to trial. Nonetheless, to simplify the issues, they were instructed to submit their memoranda.

"Apparently, however, defendants' counsel has grown tired of adverse counsel's repeated failure to appear in the scheduled trials in spite of notice

Supreme Court E-Library

so that on September 9, 1970, upon motion, plaintiffs were declared non-suited and defendants were authorized to present their evidence before the Clerk of Court or his Deputy, reserving the right of plaintiffs' counsel to cross-examine the witness who may be presented. Plaintiffs' counsel, thereafter moved to reconsider that order and prayed that he be allowed to present the evidence for his clients, which the Court again granted. However, defendants opposed said manifestation of plaintiffs on the ground that the case had been pending for almost eight (8) years already and plaintiffs have been afforded all the opportunities to present their evidence, added to the fact that the Court has previously ordered the dismissal of this case on November 16, 1967, again, for plaintiffs' persistent failure to attend the trial in spite of notice. It appearing that the issues so far raised can very well be passed upon without need of parol evidence, the Court deemed it appropriate under the circumstances to order the parties to submit whatever documentary evidence they may have in their possession, to which they offered no objection.

"After setting apart irrelevant matters, it came out that the only issue posed before us is the determination of who among the parties are the rightful and lawful owners of the property in controversy as well as its improvements.

"A meticulous scrutiny of the evidence on record shows that, as against plaintiffs' claim of the property in question by inheritance from their respective predecessors-in-interest, which remained unsupported except by the tax declarations (Exhs. "C" to "C-3" and "D" and "D-3") issued to the latter as well as the tax payments made in 1945, 1946, 1953 and 1959 (Exhs. "C-4" & "D-4"), defendants offered concrete and convincing documentary evidence, which evidently disclosed the futility of plaintiffs' case. Defendant Juan Argamosa maintains he is the lawful owner of the land in controversy, having inherited it from his father Rufino Argamosa, who had occupied and cultivated the property since time immemorial. To buttress said allegations of fact the same defendant offered in evidence the decision rendered on November 6, 1930 (Exh. "2") by then Judge Anastacio R. Teodoro, adjudicating Lot 2162 in his (Juan Argamosa) favor, which decision, had long become final and executory, since no appeal was taken therefrom. A cursory inspection of said exhibit will show that the land was also being claimed by Pedro V. Sevilla, predecessors-in-interest of some of plaintiffs herein but the cadastral court adjudicated Lot 2162 in favor of Juan Argamosa. The aforesaid adjudication, which was the basis for the issuance of the decree and the corresponding title in the name of herein defendant Juan Argamosa was never questioned nor appealed by any of plaintiffs. It is true and this can not be doubted, that Pedro Sevilla once

Supreme Court E-Library

filed a homestead application (H.A. No. 31517) over the same land but it was cancelled on September 29, 1931 (Exh. "A") and there was no showing that plaintiffs nor their predecessors-in-interest ever filed any motion for reconsideration of the order of cancellation. In like manner, it may be true that Pedro Sevilla was still in possession of the parcel of land described in Exh. "B" as of March 26, 1929 when he executed said document wherein he recognized the right of Juan Masaganda, who had allegedly introduced some improvements on the land, to one-half (1/2) portion thereof. Unfortunately, that possession did not blossom into one of full ownership because in the cadastral hearing of contested lots held in 1930, the claim of Pedro Sevilla was dismissed as could be gleaned from the following portion of the decision dated November 6, 1930, to wit:

> " 'Esta controvertido el lote No. 2162 entre Juan Argamosa y Pedro V. Sevilla, Pedro V. Sevilla esta debidamente notificado: Juan Argamosa en sus contestacion suscrita por su abogado expresa motivos por los cuales este lote debe ser adjudicado a el. Su posesion exclusiva es por mas de ocho años, y unida esa posesion con la de sus causantes resulta que data de mas de 38 años, habiendoce heredado Juan Argamosa de su abuelo Rufino Argamosa. La posesion de Juan Argamosa como la de sus causantes ha sido de una manera quieta, pacifica, publica, adversa y en concepto deueno.'

"It is not amiss to remind the parties that the proceedings under the Cadastral Act are judicial, which implies that process is served by publication upon all persons who may have an interest in the land, including the Government, to appear and prove or oppose the claims of ownership that may be filed. Indeed, Pedro Sevilla appeared and filed his claim but apparently failed to prove it. Since said action is *in rem,* the decision rendered binds the whole world including the Government. Unquestionably, and as sanctioned by numerous jurisprudence on the matter the certificate of title (Exh. '1') issued in favor of Juan Argamosa covering the controverted lot, having been issued in accordance with the adjudication made by the court in the cadastral proceedings held in 1930, has the same status as a Torrens title and has the same effect and validity as those granted in ordinary registration proceedings under the Land Registration Act. Consequently, said title issued in 1931 is already settled and unimpeachable, the one (1) year period to question its validity having lapsed. Since the ultimate purpose of the law here is to quiet title to any land, it follows that once the title is registered the owner can 'rest secure without the necessity of waiting in the portals of the Court, or sitting in the *mirador de su casa* to avoid the possibility of losing his land.'

Supreme Court E-Library

"Albeit incidental, it is worth noting that the decision rendered in Crim. Case No. 941 for Theft, filed at the instance of Juan Argamosa against some of the plaintiffs herein, acquitting the latter did not in any manner help sustain their case, precisely because the lower court had no jurisdiction to pass upon the question of ownership.

"Coming to the improvements on the controverted land, the designated Commissioner who conducted the physical survey sometime in July, 1966 found that there were 207 coconut trees, 35 to 40 years of age and 252 which were about 25 to 30 years old, then. As against plaintiffs' mere claim that said improvements were introduced by their predecessors-in-interests is the unrebutted findings of the cadastral court that it was Rufino Argamosa, father of herein defendant Juan Argamosa, who was found to be in actual, physical, continuous, adverse possession of the land in question since time immemorial and is presumed to have introduced the improvements thereon. At any rate, had plaintiffs' predecessors actually introduced the improvements on the land they should have raised such claim during the cadastral hearing involving said land. Moreover, there being no incumbrance appearing at the back of title issued in Juan Argamosa's name, he holds it free from any and all liens except those provided by law. Assuming that plaintiffs' predecessors actually introduced certain improvements on the land, neither could they have any right of reimbursement for their value because the title to the land was issued as early as 1931 and therefore they can not deny having knowledge of its existence, for a title, once registered is notice to the world. Verily, they are considered planters in bad faith. Accordingly, no one can plead ignorance of its registration. Moreover, it has been repeatedly held in a line of cases that claim and liens of whatever character, except those mentioned by law, existing against the land prior to the issuance of the certificate of title are cut off by such certificate, if not noted thereon and the certificate so issued binds the whole world including the Government." (Pp. 136-143, Record on Appeal)

The industry of His Honor in going over and assaying the evidence is to be commended, but We feel it was not necessary to go that far. For being decisive and in Our considered opinion, very well taken, We quote and adopt as Our own the following observations and arguments of defendants-appellees in their brief:

"(A).

"In the first place, we beg to reiterate that the appellants herein have not shown by conclusive evidence that they are the '*owners*' of Lot No. 2162 in litigation. Appellants' claim over the lot in question is predicated on

Supreme Court E-Library

supposed right of inheritance from their respective predecessors-in-interest, which claim was not supported except by an alleged Homestead Application (H.A. No. 31517) which was, however, cancelled on September 29, 1931, and by a supposed agreement dated March 26, 1929 jointly executed by Pedro V. Sevilla and Juan Masaganda (Exh. B), which does not appear noted on the title (Exh. 1) and therefore must be deemed cut off by the issuance of the certificate of title (Exh. 1), and by supposed tax declarations (Exhs. 'C' to 'C-3' and 'D' to 'D-3') and by tax receipts made in 1945, 1946, 1953 and 1959 (Exhs. 'C-4' and 'D-4'). It has been held:

> "Payment of land Tax is not evidence of ownership of the parcel of land for which payment is made, especially when the parcel of land is covered by a Torrens title in the name of another. (J.M. Tuason and Co. *vs.* Spouses Ramon Villanueva and Victoria Fajardo, 55 Off. Gaz. (20), 3658, 3660)

"And in the case of PEDRO NEBRADA *vs.* HEIRS OF FELIX ALIVIO, ET AL., 55 Off., Gaz., (23), 4238, it was held:

> " 'Torrens system; action for reconveyance; may only be maintained by owner.— Pursuant to Section 55 of the Land Registration Act, the action of reconveyance of a property that is already covered by a Torrens Title, under the aforesaid law, may only be maintained by the 'owner' of the property who has been prejudiced by the actual fraud committed by one who succeeded in securing the registration of the said property in his name.'

(B).

"The action of reconveyance embodied in plaintiff's Second Amended Complaint had long ago prescribed. When the appellants herein filed their original complaint on December 14, 1962, already thirty-one (31) years and eight (8) months had elapsed, counting from April 13, 1931, date of issuance of the Original Certificate of Title No. 33171 for Lot No. 2162 in question, in the name of Juan Argamosa, married to Juana Abecilla. It is now a settled question in this jurisdiction that action for reconveyance based on implied or constructive trust prescribed in ten years. (Bañaga *vs.* Soler et al., No. L-15717, June 30, 1961; J.M. Tuazon and Co. *vs.* Magdañgal, No. L-13539, January 30, 1962; Alzona *vs.* Capunitan, et al., L-102228, February 28, 1962; GONZALES *vs.* JIMENEZ, ET AL., No. L-19073, January 30, 1965)" (Pp. 14-16, Appellees' Brief)

It is indeed beyond doubt that the long lapse of time between appellees' registration of their title and appellants' filing of their

Supreme Court E-Library

action does not only cast doubt as to the validity of their claim of ownership but is also looked with disfavor by the law. No reasonable and plausible excuse has been shown for such an unusual delay. Most importantly, even conceding appellants' contention of implied trust, there is the unequivocal jurisprudential rule cited above that makes it inevitable for Us to hold that their action has prescribed.

WHEREFORE, the judgment appealed from is affirmed, without pronouncement as to costs.

Concepcion Jr., Abad Santos and *De Castro, JJ.,* concur.
Aquino, J., files a concurring opinion.

AQUINO, *J., concurring opinion*:

In 1930, Lot No. 2162 of the Lopez, Tayabas cadastre, located at Barrio Sta. Rosa, Lopez, with an area of 3.8 hectares, was adjudicated by the cadastral court (Judge Anastacio R. Teodoro) to Juan Argamosa over the opposition of Paulino Sevilla, who claimed the lot as his homestead. A decree was issued and in *1931,* Original Certificate of Title No. 33171 was issued to Argamosa who claimed that the lot belonged to his grandfather Marcos Argamosa.

That title was never assailed by Sevilla and Juan Masaganda during their lifetime. On December 14, 1962, or thirty-one years after the title was issued, the *heirs* of Juan Masaganda and Paulino Sevilla sued Juan Argamosa and Leonor Sevilla (a daughter of Paulino who refused to join as plaintiff and who was a copra-maker of Juan Argamosa) for the cancellation of that title and the reconveyance of the lot to them. They alleged that Juan Argamosa fraudulently caused the lot to be registered in his name.

It is obvious that the action for reconveyance is barred even on the assumption that the lot was held in implied trust by Juan Argamosa. There was no express trust. Juan Argamosa's title had become indefeasible.