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THIRD DIVISION

[G.R. No. 66479. November 21, 1991]

JUANITO GONZALES and CORONACION GONZALES, *petitioners, vs.* **THE INTERMEDIATE APPELLATE COURT, ROSITA LOPEZ, GAVINO CAYABYAB, AGUEDA UBANDO, FELIPA UBANDO, PEDRO SORIANO, TEODISIA LOPEZ and FEDERICO BALLESTEROS,** *respondents*.

SYLLABUS

1. **CIVIL LAW; IMPLIED OR CONSTRUCTIVE TRUST; SHOULD NOT BE ALLOWED WHEN THE TITLE OF THE REGISTERED OWNER OF A LOT HAD BECOME INDEFEASIBLE. —** We hold that after Fausto Soy, the predecessor-in-interest of herein petitioners, had appeared to be the registered owner of the lot for more than thirty years, his title had become indefeasible and his dominical rights over it could no longer be challenged. Any insinuation as to the existence of an implied or constructive trust should not be allowed.

2. **ID.; ID.; ACTION FOR RECONVEYANCE OF REAL PROPERTY TO ENFORCE IMPLIED TRUST; PRESCRIBES IN TEN YEARS. —** It is well-settled that an action for reconveyance of real property to enforce an implied trust prescribes in ten years, the period reckoned from the issuance of the adverse title to the property which operates as a constructive notice.

3. **ID.; ID.; ACTION TO ENFORCE IMPLIED TRUST MAY BE CIRCUMSCRIBED NOT ONLY BY PRESCRIPTION BUT ALSO BY LACHES; CASE AT BAR. —** In the case at bar, that assertion of adverse title, which was an explicit indication of repudiation of the trust for the purpose of the statute of limitations, took place when OCT No. 49661 was issued in the name of Fausto Soy in 1932, to the exclusion of his three sisters. But even if there were no repudiation — as private respondent Rosita Lopez would have us believe when she testified in court that while Fausto Soy might have succeeded in securing title in his sole name, he nonetheless recognized the co-ownership between him and his sisters — the rule in this jurisdiction is

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that an action to enforce an implied trust may be circumscribed not only by prescription but also by laches, in which case repudiation is not even required. From 1932 to 1965, or a period of thirty-three years, private respondents had literally slept on their rights, presuming they had any. They can no longer dispute the conclusive and incontrovertible character of Fausto Soy's title as they are deemed, by their unreasonable long inaction, to have acquiesced therein. Moreover, the law protects those who are vigilant of their rights. Undue delay in the enforcement of a right is strongly indicative of a lack of merit in the claim, since it is human nature for persons to assert their rights most vigorously when threatened or invaded.

4. ID.; PRESCRIPTION; PURPOSE. — Prescription is rightly regarded as a statute of repose whose object is to suppress fraudulent and stale claims from springing up at great distances of time and surprising the parties or their representatives when the facts have become obscure from the lapse of time or the defective memory or death or removal of witnesses.

APPEARANCES OF COUNSEL

Victor Llamas, Jr. for petitioners.
Hermogenes S. Decano for private respondents.

D E C I S I O N

FERNAN, *C.J.*:

This is a petition for review on *certiorari* of the decision of the then Intermediate Appellate Court dated July 29, 1983 reversing the decision of the then Court of First Instance dated September 30, 1977 in Civil Case No. D-1724 and reinstating said lower court's judgment of March 22, 1974.

The facts of the case are as follows:

On April 14, 1965, private respondents, as plaintiffs, instituted a complaint for partition against Fausto Soy. They alleged that they had a pro-indiviso share (to the extent of three-fourths) in a parcel of residential land identified as Lot No. 6870-B, located in Dagupan City, with an area of 480 square meters

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and covered by Torrens Certificate of Title No. 9144. Their claim was anchored on the fact that Fausto Soy was the brother of Emilia Soy, the deceased mother of Rosita Lopez; of Cornelia Soy, the deceased mother of Agueda Ubando, Amado Ubando and Felipe Ubando; and of Anastacia Soy, the deceased mother of Teodosia Lopez.[1]

As a consequence of the filing of the complaint, a notice of *lis pendens* was annotated on the same day on TCT No. 9144.[2]

In his answer, Fausto Soy contested the claims of the plaintiffs and asserted exclusive title in his name. He countered that the land in question was never registered in the names of his parents Eugenio Soy and Ambrosia Marcella, that he had been the registered owner of the premises since 1932 in consequence of which Original Certificate of Title No. 49661 of the Register of Deeds of Pangasinan was issued in his favor, and that spouses Eugenio Soy and Ambrosia Marcella from whom the property allegedly came died more than 24 years ago.[3]

During the pendency of the action for partition, Fausto Soy died and was substituted by his children named Jose, Antonio, Teofilo, Amparo and Walter, all surnamed Soy. Walter later died and was substituted by his wife Susing Cornel and minor children Myrna, Linda and Linly, all surnamed Soy.[4]

On March 22, 1974, the trial court rendered its decision holding that private respondents and Fausto Soy were co-owners of Lot No. 6870-B and ordering the partition thereof. Significantly, the parties were enjoined to make the project of partition among themselves and to submit the same to the lower court for confirmation. If they could not agree, then the court would appoint commissioners who would undertake the partition on behalf of the co-owners.[5]

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[1] Amended Record on Appeal, p. 2.

[2] *Ibid*., p. 48.

[3] *Ibid*., p. 5.

[4] *Ibid*., pp. 8-9.

[5] *Ibid*., pp. 13-14.

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On execution, the sheriff was unable to effect the apportionment of the property due to the filing by petitioners Juanito and Coronacion Gonzales of their third party claim stating that they were the registered owners of 480 square meters of Lot No. 6870-B. In his report submitted to the trial court on October 10, 1974, the sheriff likewise noted the various improvements petitioners had introduced on the residential land, specifically a 2-door apartment, a residential house and a piggery.[6]

Petitioners Juanito and Coronacion Gonzales subsequently filed their motion for intervention on April 11, 1975, stating, *inter alia*:

"1. That at the time the instant case was commenced, they were already the registered owners of 480 square meters as shown by Transfer Certificate of Title No. 16922, dated January 29, 1960, pursuant to deeds of sale executed at an earlier date by the late Fausto Soy;

"2. That at the time this suit was instituted, the said Fausto Soy was no longer the owner in fee simple, which fact plaintiffs already knew being residents of Bonuan where the property in question is situated and where herein spouses likewise reside;

"3. That inspite of the foregoing, plaintiffs deliberately concealed this suit from the herein-named spouses by not including them as indispensable parties-defendants pursuant to Sections 2 and 7 of Rule 3 of the New Rules of Court, and likewise failed and omitted to inform the Honorable Court pursuant to Section 9, Rule 3 of the Rules of Court, of such fact which, had it been conveyed would have been a compulsory basis for the Honorable Court to summon their appearance, for without their presence, no valid judgment could ever be rendered.

"x x x x x x x x x"[7]

Petitioners then prayed that the decision of March 22, 1974 be set aside or reconsidered; that Civil Case No. D-1724 be reopened, and that they be allowed to intervene and present their evidence.

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[6] *Ibid*., pp. 17-18.

[7] *Ibid*, pp. 18-19.

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On July 23, 1975, there being no opposition, the trial court allowed the Gonzaleses spouses to intervene as indispensable parties in the case, vacated the judgment of March 22, 1974 and granted a new trial. The lower court reasoned that the intervention even at that stage was proper since the judgment was not complete for want of a final project of partition supposed to be submitted to the court for confirmation. Being incomplete, the judgment had not become final and executory. Moreover, without the Gonzales spouses as indispensable parties, no valid decision could ever be rendered.[8]

The parties then agreed to submit the case for adjudication on a stipulation of facts which states as follows:

"A. Stipulation of Facts *as proposed by the Intervenors (Gonzales spouses) and admitted by the plaintiffs*, to wit:

"1. That the land is originally covered by Original Certificate of Title No. 49661 (now Transfer Certificate of Title No. 3904, Dagupan city), Record No. 916, Case No. 35 in the name of Fausto Soy;

"2. That on January 22, 1941, Fausto Soy sold 253 square meters of the land to Francisco Landingin, x x x;

"3. That on July 22, 1954, Antonio Soy and Gregoria Miranda sold 240 square meters of the said land to Juanito Gonzales and Coronacion Ganaden as intervenors herein xxx. The basis of the vendors' right was pursuant to a deed of donation executed by Fausto Soy in their favor, described as Doc. No. 201, Page No. 4, Bk. III, Series of 1952, notarial register of Maximo Landingin;

"4. That on September 22, 1954, TCT No. 9141 was issued. Therein was indicated the following as registered owners: Fausto Soy with an area of 480 sq. meters, Pio Siapno, 253 sq. m. and Juanito Gonzales and Coronacion Ganaden, 240 sq. m.;

"5. That on March 3, 1958 said co-owners subdivided the land pursuant to a deed of confirmation and subdivision, registered March 4, 1958;

"6. That on January 27, 1960, Fausto Soy sold 240 sq. m. of the land to Juanito Gonzales and Coronacion Ganaden by means of Doc.

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[8] *Supra*, pp. 27-28.

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No. 15, Page 23, Bk. VII, Series of 1960, notarial register of Maximino Landingin, registered on January 29, 1960;

"7. That on January 29, 1960, Transfer Certificate of Title No. 16922 was issued to Juanito Gonzales, wherein was indicated his share as co-owner of 480 square meters; and Fausto Soy, 240 square meters;

"8. That on March 11, 1965, Fausto Soy sold 140 square meters of the land to intervenors herein by means of Doc. No. 112, Page 53 Bk. XI, Series of 1965 of the Notarial Register of Maximino Landingin registered on October 31, 1967;

"9. That on April 14, 1965, plaintiffs filed the instant complaint for partition against Fausto Soy;

"10. That on April 14, 1965, plaintiffs filed a notice of lis pendens annotated in the certificate of title of the said land;

"11. That on May 16, 1965, Fausto Soy filed his answer;

"12. That on December 8, 1967, the case was dismissed for failure of the parties to appear;

"13. That on December 15, 1967 the Court issued an order in Cadastral Case No. 35, Record No. 916, cancelling the annotation of lis pendens (upon petition of the intervenors);

"14. That on November 28, 1967, plaintiff filed a motion to reconsider order dismissing the complaint;

"15. That on January 18, 1968, plaintiffs filed a notice of death of defendant Fausto Soy;

"16. That on March 18, 1968, the Court reopened the case;

"17. That on October 31, 1968 plaintiffs filed an amended complaint;

"18. That on November 16, 1973, the case was again dismissed for non-appearance of the parties;

"19. That on November 16, the order of dismissal was set aside;

"20. That on January 9, 1974 defendants did not appear and plaintiffs were allowed to present their evidence *ex-parte*;

"21. That on March 22, 1974, the case was decided on the basis of the evidence adduced *ex-parte*;

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"22. That a writ of execution was issued for execution but could not be enforced because of the third party claim of the herein intervenors;

"23. That herein intervenors filed a motion for intervention on April 15, 1975 which was granted pursuant to the order of the Court dated July 23, 1975;

"24. That intervenors filed an Answer in Intervention on September 17, 1976;

"25. That on May 24, 1976, plaintiffs filed a re-amended complaint, and on June 14, 1976, intervenors filed an amended answer in intervention;

"26. That intervenors had been in possession of the area of 620 sq. meters on the various dates of acquisition stated in the foregoing up to the present;

"27. That intervenors had been paying the real estate taxes and had declared the same for taxation purposes in their names as owner;

"28. That the possession of the foregoing properties including the land in question is open and public.

"B. Stipulation of Facts *proposed by plaintiffs and admitted by intervenors* as follows:

"1. That the original complaint was filed on April 14, 1965 by plaintiffs Rosita Lopez, x x x against Fausto Soy;

"2. That upon the death of Fausto Soy, the complaint was reamended to implead his heirs x x x;

"3. That the original plaintiffs and original defendant are brother and sisters;

"4. That the disputed property is Cadastral Lot No. 6870, TCT No. 9144 and particularly described in paragraph 3 of the original complaint;

"5. That due to the failure of the defendants to appear in the hearing, the plaintiffs were allowed to adduce their evidence and on March 22, 1974, the Honorable Court rendered a decision in favor of plaintiffs;

"6. That when the said decision became final and executory, the same cannot be implemented in view of the third party claim on the intervention;

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"7. That the intervenors intervened and filed their Answer to the complaint;

"8. That on April 14, 1965, the plaintiffs filed with the Register of Deeds a Notice of *Lis Pendens* which is duly annotated as Entry No. 30414 in TCT No. 9144;

"9. That on January 27, 1960, the spouses intervenors bought a portion of 240 sq. meters for the sum of ₱900.00 from Fausto Soy, as per Entry 19356 of TCT No. 9144;

"10. That as a consequence of such purchase x x x, TCT No. 9144 was cancelled by TCT Nos. 9178 and 16922, the latter in the name of intervenors and Fausto Soy, in the portion of 480 sq. meters for Fausto Soy;

"11. That said intervenors purchased their remaining portion of 140 sq. meters in the name of Fausto Soy, all of which purchase were subsequently to the annotation of the *lis pendens*;

"12. That the intervenors were able to obtain new title TCT NO. 19848 in their names over the entire property, by filing a petition for cancellation of lis pendens, when the case was dismissed (but was reconsidered) and which cancellation was entered as Entry No. 39511."[9]

Accordingly, the trial court rendered its decision on September 30, 1977 and ruled thus:

"In this instant case, the Court finds out that there is no iota of proof to show that the plaintiffs are co-owners of the property in question. The case has no leg to stand on because the land has long been covered by O.C.T. as far back as 1932 in the name of their predecessor in interest Fausto Soy.

"WHEREFORE, judgment is hereby rendered as follows:

"(a) Ordering the case filed by the herein plaintiffs dismissed;

"(b) Declaring and sustaining the ownership of the INTERVENORS over the portions of the property purchased by them from Fausto Soy;

"(c) Ordering the cancellation of the notice of *lis pendens* annotated at the back of their title.

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[9] *Supra*, pp. 40-43.

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"(d) Ordering the plaintiffs jointly and severally to pay attorney's fees to the Intervenors in the amount of ₱2,000.00 and to pay the costs. x x x."[10]

On appeal to the Appellate Court, private respondents argued that the trial court erred in finding that the appellants (private respondents) had not established co-ownership of the property in question; in not declaring as invalid the sale of 140 square meters of the disputed realty even after the annotation of *lis pendens* in the title thereof; and in not ordering the appellees (petitioners) to reconvey to appellants the 140 square meters covered by the *lis pendens*.

On the bases of the above-assigned errors and on the alleged failure of the appellees to file their appellees' brief, the Appellate Court resolved the appeal in favor of the appellants, declaring that the sale to the intervenors-appellees (petitioners) by Fausto Soy did not terminate the trust relationship between the appellants and the appellees. The decision of the Appellate Court dated July 29, 1983, now under review, states:

"WHEREFORE, We reverse and set aside the appealed judgment and render another one reviving and reinstating the lower court's decision of March 22, 1974 with the modification that the sales deeds executed by Fausto Soy in favor of intervenors-appellees shall be enforced against the one-fourth (¼) share of defendants, as heirs of said Fausto Soy. x x x."[11]

The crucial issue to be resolved in the instant case is whether Lot 6870-B was held in trust by Fausto Soy for his sisters Emilia, Cornelia and Anastacia.

According to the Appellate Court:

"From the time the subject property (Lot 6870) was brought under the operation of the Land Registration Act in the name alone of Fausto Soy, who had recognized the proprietary rights of plaintiffs-appellants as co-owners, the land was impressed with a trust relationship in

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[10] *Supra*, p. 46.

[11] *Rollo*, p. 28.

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favor of Fausto's sisters or their children. When Fausto sold a portion of 140 square meters to intervenors, the relationship of trust included said intervenors. Upon the death of Fausto Soy, the trust relationship subsisted between Fausto's heirs and his living sisters or the latters' children, as well as the Intervenors-appellees. x x x.

"In other words, the sales in favor of intervenors-appellees did not terminate the trust relationship between plaintiffs-appellants and intervenors-appellees."[12]

We hold that after Fausto Soy, the predecessor-in-interest of herein petitioners, had appeared to be the registered owner of the lot for more than thirty years, his title had become indefeasible and his dominical rights over it could no longer be challenged. Any insinuation as to the existence of an implied or constructive trust should not be allowed.

Private respondent have invoked Article 1456 of the Civil Code which states that "if property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes."

The trust alluded to in this case is a constructive trust arising by operation of law. It is not a trust in the technical sense.[13]

Even assuming that there was an implied trust, private respondents' attempt at reconveyance (functionally, an action for partition is both an action for declaration of co-ownership, and for segregation and conveyance of a determinate portion of the subject property. See *Roque vs. IAC*, G.R. No. 75886, August 30, 1988, 165 SCRA 118) was clearly barred by prescription.

Prescription is rightly regarded as a statute of repose whose object is to suppress fraudulent and stale claims from springing up at great distances of time and surprising the parties or their representatives when the facts have become obscure from the

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[12] *Rollo*, pp. 27-28.

[13] *Gayondato vs. Treasurer of the P.I.*, 49 Phil. 244.

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lapse of time or the defective memory or death or removal of witnesses.[14]

It is well-settled that an action for reconveyance of real property to enforce an implied trust prescribes in ten years, the period reckoned from the issuance of the adverse title to the property which operates as a constructive notice.[15]

In the case at bar, that assertion of adverse title, which was in explicit indication of repudiation of the trust for the purpose of the statute of limitations, took place when OCT No. 49661 was issued in the name of Fausto Soy in 1932, to the exclusion of his three sisters.[16]

But even if there were no repudiation — as private respondent Rosita Lopez would have us believe when she testified in court that while Fausto Soy might have succeeded in securing title in his sole name, he nonetheless recognized the co-ownership between him and his sisters — the rule in this jurisdiction is that an action to enforce an implied trust may be circumscribed not only by prescription but also by laches, in which case repudiation is not even required.

From 1932 to 1965, or a period of thirty-three years, private respondents had literally slept on their rights, presuming they had any. They can no longer dispute the conclusive and incontrovertible character of Fausto Soy's title as they are deemed, by their unreasonably long inaction, to have acquiesced therein. Moreover, the law protects those who are vigilant of their rights. Undue delay in the enforcement of a right is strongly indicative of a lack of merit in the claim, since it is human

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[14] 53 C.J.S. 903 cited in *Sinaon vs. Sorogon*, G.R. No. 59879, May 13, 1985, 136 SCRA 407, 410.

[15] *Amerol vs. Bagumbaran*, No. L-33261, September 30, 1967, 154 SCRA 396; *Lebrilla vs. IAC*, G.R. No. 72633, December 18, 1989 180 SCRA 188.

[16] *Paz Villagonzalo, et al. vs. IAC*, G.R. No. 71110, November 22, 1988, 167 SCRA 535.

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nature for persons to assert their rights most vigorously when threatened or invaded.[17]

WHEREFORE, the judgment of the Appellate Court dated July 29, 1983 is *REVERSED* and the complaint for partition is hereby ordered DISMISSED. No costs.

SO ORDERED.

Davide, Jr. and *Romero, JJ.*, concur.

Gutierrez, Jr., J., concurs in the result.

Bidin, J., no part.

THIRD DIVISION

[G.R. No. 71145. November 21, 1991]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **ARSENIO CAPONPON *Y* MARZO,** *accused-appellant.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; CONFESSION MADE DURING CUSTODIAL INVESTIGATION; INADMISSIBLE WHEN OBTAINED IN THE ABSENCE OF COUNSEL. — Confession made during custodial investigation in the absence of counsel renders that particular piece of evidence totally inadmissible and the lower court gravely erred in not disregarding the same.

2. ID.; ID.; SALE OF PROHIBITED DRUG; CONSUMMATION OF ILLEGAL TRANSACTION MUST BE PROVED; CASE AT BAR. — The Court is unconvinced that the two police officers really witnessed the claimed sale of marijuana. For while they readily admitted not having heard what was being said between

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[17] *Salao vs. Salao*, No. L-26699, March 16, 1976, 70 SCRA 65, 85.