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SO ORDERED.

Teehankee (Chairman), Makasiar, Muñoz Palma, Martin, and *Guerrero, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-33762. December 29, 1977]

POTENCIANA DUQUE, AMADEO DUQUE and ARSENIO DUQUE, *petitioner vs.* **PAZ DOMINGO, represented by her guardian *ad litem*, MARCOSA DUQUE-VALENZUELA, Intestate Estate of JULIA DUQUE, in substitution of Julia Duque, and the COURT OF APPEALS,** *respondents.*

SYLLABUS

CIVIL LAW; PRESCRIPTION; IMPLIED OR CONSTRUCTIVE TRUST; PRESCRIBES IN TEN YEARS FROM DATE THE RIGHT OF ACTION ACCRUED.— No implied trust between Juana Duque and either Faustino Duque or Mariano Duque has been established by sufficient evidence. At any rate, granting, *arguendo*, that such an implied or constructive trust existed, the right of action upon the same has prescribed. From 1931 when Transfer Certificate of Title No. 7501 covering the land in question was issued to Mariano Duque until 1966 when the present case was commenced a period of 35 years had passed. The registration of an instrument in the Office of the Register of Deeds constitutes constructive notice to the whole world, and, therefore, discovery of the fraud is deemed to have taken place at the time of registration. Such registration is deemed to be a constructive notice that the alleged fiduciary or trust relationship has been repudiated. It is now settled that an action on an implied or constructive trust prescribes in ten (10) years from the date the right of action accrued. The issuance of

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Transfer Certificate of Title No. 7501 in 1931 to Mariano Duque commenced the effective assertion of adverse title for the purpose of the statute of limitations.

APPEARANCES OF COUNSEL

Antonio K. Aranda & Virgilio B. Jara for petitioners.
Arturo Agustines for respondents.

D E C I S I O N

FERNANDEZ, *J.*:

This is a petition for *certiorari* to review the decision of the Court of Appeals in CA-G.R. No. 43557-R entitled "JULIA DUQUE, for herself and as natural guardian of her daughter of unsound mind, *PAZ DOMINGO, versus POTENCIANA DUQUE, AMADEO DUQUE* and *ARSENIO DUQUE,*" the dispositive part of which reads:

"WHEREFORE, the decision appealed from is hereby reversed and another one entered instead, declaring Julia Duque the absolute owner of lot 1083 currently covered by TCT No. T-25195 in the name of defendants; declaring said TCT No. T-25195 null and void; and ordering that a new certificate of title be issued in the name of Julia Duque. Without pronouncement as to costs.

SO ORDERED."[1]

On September 5. 1966, Julia Duque, for herself and as natural guardian of her daughter of unsound mind, Paz Domingo, instituted against Potenciana Duque, Amadeo Duque and Arsenio Duque Civil Case No. 266-V in the Court of First Instance of Bulacan for reconveyance of Lot 1083 of Malinta Estate located in Polo, Bulacan and in the alternative, to declare Transfer Certificate

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[1] *Rollo*, p. 44. The decision was written by Justice Lourdes P. San Diego and concurred in by Justice Ruperto G. Martin and Justice Eulogio S. Serrano. Justice Edilberto Soriano dissented in a separate opinion concurred in by Presiding Justice Salvador V. Esquerra.

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of Title No. 25195 in the name of the defendants void and to declare the plaintiffs as the absolute owners of said Lot 1083.

The complaint alleged that plaintiff, Julia Duque, is a niece of Juana Duque who died in 1928; that the defendants are the children of Mariano Duque, a deceased nephew of Juana Duque and natural brother of the plaintiff, Julia Duque; that sometime in 1908, Juana Duque, through her other nephew, Faustino Duque, whom she had employed as her agent, purchased from the government Lot 1083 of the Malinta Estate at Polo, Bulacan assessed under Tax Declaration No. 8724 at ₱1,600.00, more particularly described in Original Certificate of Title No. 374; that Lot 1083 was then a part of the Friar Estate of the government disposable by the Director of Lands on installment pursuant to the Friar Land Act; that Faustino Duque, the agent, caused the document of purchase, Sale Certificate No. 1138, to be issued by the government in his name with the consent of his principal, Juana Duque; that under the terms of Sale Certificate No. 1138, the price of Lot 1083 was ₱503.00 payable in 20 annual installments of ₱25.00 each; that the original of the sale certificate was lost in the files of the Bureau of Lands during the war and plaintiffs could not secure a copy for attachment to the complaint; that on June 22, 1915, Faustino Duque transferred his Sale Certificate No. 1138 with the permission of Juana Duque to his brother, Mariano Duque, who later received in 1931 Transfer Certificate No. 7501 for Lot 1083 from the government; that since the issuance of the sale certificate in 1909, Juana Duque had been in the exclusive possession of Lot 1083 as owner paying the installments stipulated in the contract to the government through Faustino Duque and Mariano Duque or reimbursing their advances therefor; that in 1927, Juana Duque verbally donated and delivered Lot 1083 to plaintiff Julia Duque, her niece; that from then on up to the present, the plaintiff Julia Duque has been in the exclusive possession of Lot 1083 as beneficial owner thereof; that Mariano Duque, the title holder, died and in 1957, his children, Emilio Duque, Potenciana Duque, Amadeo Duque and Arsenio Duque registered Lot 1083 in their names under Transfer Certificate of Title No. T-19924 of the Registry of Deeds of Bulacan; that subsequently Emilio Duque

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died without issue and the defendants had Lot 1083 recorded in their names under Transfer Certificate of Title No. T-25195 in 1959; that plaintiff, Julia Duque, requested the defendants to reconvey to her the title of Lot 1083 but they refused and still refuse to comply with her request; that Juana Duque, the original owner of Lot 1083 died single, without issue and intestate in 1928 survived by her nephews, as legal heirs, Mariano Duque, Domingo Duque, Faustino Duque and Apolonio Duque; that the foregoing legal heirs recognized the donation of Lot 1083 made by Juana Duque to plaintiff, Julia Duque, in or about 1927 and repudiated and abandoned all rights to contest it, as in fact they caused Lot 1083 to be declared for tax purposes in the name of Paz Domingo, the only child of Julia Duque, in or about 1933; and that the defendants had recognized plaintiffs' beneficial ownership of Lot 1083 after the death of their father, Mariano Duque.[2]

In their answer filed on October 5, 1966, the defendants averred as affirmative and special defenses that Lot 1083 of the Malinta Estate is owned in fee simply by defendants, Potenciana, Amadeo and Arsenio, all surnamed Duque, as evidenced by T.C.T. No. T-25195 of the Registry of Deeds of Bulacan; that said property was originally purchased in 1915 by defendants' father and predecessor-in-interest, Mariano Duque, from the government of the Philippine Islands; that the purchase price of the land being payable in installment, it was only in 1931, after full payment of said price, when Mariano Duque acquired ownership in fee simply over Lot 1083 by the issuance in his favor of T.C.T. No. 7501 of the Registry of Deeds of Bulacan by the government of the Philippine Islands; that from 1915 up to the present, over a period of 51 years, Mariano Duque, his heirs and successors in interest which include defendants herein have continuously treated, held and possessed Lot 1083 as their sole and exclusive property and that no one among them has recognized that the beneficial ownership thereof was vested in Julia Duque, Juana Duque, Paz Domingo or any

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[2] Record on Appeal, pp. 5-11, *Rollo*, p. 69.

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third person; that the validity of the grant in 1931 by the Government of the Philippine Islands of T.C.T. No. T-7501 in favor of Mariano Duque was never questioned by the plaintiffs in spite of their knowledge about it; that in fact the plaintiffs were aware that from the issuance of said title in 1931 and in exercise of the rights of ownership over the land, at least three conveyances involving Lot 1083 had been recorded in the Office of the Registry of Deeds of Bulacan which resulted in the grant of new certificates of title in the name of the proper parties; that notwithstanding their knowledge about these conveyances, the plaintiffs kept silent and never raised any objections thereto; that although the plaintiffs and defendants belong to the same family, no allegation that earnest efforts towards a compromise have been made by the former is contained in the complaint; that under the circumstances, plaintiffs have no cause of action against the defendants; that even assuming that they have a cause of action, the same has been barred by the statute of limitations and/or by laches or it is enforceably under the Statute of Frauds; and that in any event, the plaintiff are in estoppel from claiming any rights of interest over Lot 1083.[3]

The parties filed on June 22, 1968 the following:

"PARTIAL STIPULATION OF FACTS

The parties hereto hereby submit the following partial stipulation of facts, in compliance with the verbal permission of the Court at the hearing on June 25, 1968:

1. Plaintiff Julia Duque is the natural sister of the late Mariano Duque, who died on June 20, 1947;

2. Defendants Potenciana, Arsenio and Amadeo, all surnamed, Duque, are the legitimate children of said Mariano Duque;

3. The property in question, which was formerly a part of the Friar Land Estate of the Government (Lot 1083 of the Malinta Estate), was disposed of by the Government of the Philippine Islands on January 1, 1909 by virtue of Sales Certificate No. 1138 for a consideration of ₱503.00 payable in 20 annual installments of ₱25.00 per year, effective January 1. 1909;

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[3] *Ibid.*, pp. 15-20. *Rollo*, p. 69.

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4. As per Sales Certificate No. 1138, the grantee thereof was one Faustino Duque;

5. On September 15, 1931. Transfer Certificate of Title No. 7501, covering said parcel of land, was issued in favor of the late Mariano Duque;

6. As of this date, the property in question is covered by Transfer Certificate of Title No. 25195 of the Registry of Deeds for the Province of Bulacan issued in the names of defendants Potenciana Arsenio and Amadeo, all surnamed, Duque;

7. The present value of said property is more than ₱300,000.00.

WHEREFORE, it is respectfully prayed that the foregoing partial Stipulation of Facts be approved and made a part of the records of this case.

AVIADO & ARANDA.

By:

(Sgd.) ILLEGIBLE
Counsel for the defendants
214 Bank of P.I. Bldg.
Plaza Moraga, Manila.

(Sgd.) ARTURO AGUSTINES
Counsel for the Plaintiffs
Polo, Bulacan"[4]

The trial court rendered the decision dated February 1969 dismissing the complaint without cost.

Meanwhile, the plaintiff Julia Duque died on January 31, 1969. She was ordered substituted by her daughter and co-plaintiff, Paz Domingo for whom Marcosa Duque-Valenzuela was appointed as guardian *ad litem* in an order of the trial court dated March 31, 1969.[5]

The plaintiffs appealed to the Court of Appeals where the appeal was docketed as CA-G.R. No. 43557-R.

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[4] *Ibid.*, pp. 49-51. *Rollo*. p. 69.

[5] *Ibid.*, p. 75. *Rollo*. p. 69.

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The Court of Appeals declared Julia Duque the absolute owner of Lot 1083 because "Although the plaintiff's theory is that the property in question was acquired by Julia Duque through an oral donation made by her aunt Juana Duque in her favor, the case should be considered from the point of view of a *verbal partition* among heirs made by the decedent and consented to by them." The Court of Appeals said that "In 1927 one year before her death Juana Duque gathered her nephews and nieces in her house and made a verbal partition of her properties: to each of them she gave something and to Julia she gave the property in question, all of the heirs including Mariano Duque, consented to each other's largesse."[6]

The petitioners assign the following errors:

"I

THE COURT *A QUO* ERRED IN NOT HOLDING THAT THE CLAIM OF PRIVATE RESPONDENTS TO ENFORCE AN IMPLIED TRUST OVER REAL PROPERTY HAD PRESCRIBED OR HAD BEEN BARRED BY LACHES.

II

THE COURT *A QUO* ERRED IN NOT HOLDING THAT THE ORAL DONATION MADE IN 1927 OF LOT 1083, ASSUMING THE TRUTH THEREOF, WAS NULL AND VOID.

III

THE COURT *A QUO* ERRED IN PRESUMING, EVEN WITHOUT ANY SHRED OF EVIDENCE PRESENTED IN SUPPORT THEREOF, AND IN UTTER DISREGARD OF THE SALES CERTIFICATE ISSUED BY THE GOVERNMENT AND ITS CORRESPONDING ASSIGNMENT, THAT FAUSTINO DUQUE AND MARIANO DUQUE ACTED AS AGENTS OF JUANA DUQUE.

IV

THE COURT *A QUO* ERRED IN NOT HOLDING THAT AN IMPLIED TRUST OVER A REAL PROPERTY COVERED BY TORRENS TITLE CANNOT BE ESTABLISHED BY A MERE TAX DECLARATION.

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[6] *Rollo*, p. 33.

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V

THE COURT *A QUO* ERRED IN PROMULGATING THE DECISION, WHICH IS PREMISED ON FACTS AND INVOLVING ISSUES. NOT COVERED BY THE EVIDENCE AND RAISED IN THE PLEADINGS."[7]

The partial stipulation of facts and the evidence established that the land in question, Lot 1083 of the Malinta Estate was formerly a part of the Friar Land Estate of the Government; that on January 1, 1909 the Government of the Philippine Islands sold to Faustino Duque Lot 1083 by virtue of Sale Certificate No. 1138 for a consideration of ₱503.00 payable in 20 annual installments of ₱25.00 per year, effective on January 1, 1909; that in 1915 Faustino Duque assigned his right on Lot 1083 in favor of Mariano Duque, the legitimate father of the petitioners Potenciana Duque, Amadeo Duque and Arsenio Duque; that on September 15, 1931, Transfer Certificate of Title No. 7501 was issued in the name of Mariano Duque; that upon the death of Mariano Duque, his widow, Dorotea Vda. de Duque and children, Potenciana, Amadeo, Arsenio and Emilio, all surnamed Duque, as heirs, instituted in the Court of First Instance of Manila a proceeding for the settlement of the estate of said Mariano Duque; that in the estate proceeding Lot 1083 was adjudicated pro-indiviso to the widow and children of Mariano Duque; that Transfer Certificate of Title No. 19924 was issued to the said heirs; that when Dorotea Vda. de Duque and Emilio Duque died in 1954 and 1956, respectively, their shares in Lot 1083 were inherited by the petitioners to whom Transfer Certificate of Title No. 25195 was issued; that in 1933 the land in question was declared for taxation in the name of the respondent, Paz Domingo; that beginning with the year 1949 the tax declaration embracing the land in question was in the name of Mariano Duque; and that Tax Declaration No. 15214 is in the names of the petitioners.[8]

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[7] Brief for Petitioners, pp. 1-2, *Rollo*, p. 125.

[8] Record on Appeal, pp. 49-51, *Rollo*, p. 68; and Brief for Petitioners, pp. 3-6, *Rollo*, p. 125.

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The private respondents adduced oral evidence that sometime in 1908 Juana Duque, through her nephew whom she had employed as her agent, purchased from the Government Lot 1083 of the Malinta Estate in Polo, now Valenzuela, Bulacan; that Faustino Duque, the agent, caused the document of purchase, Sale Certificate No. 1138, to be issued by the government in his name with the consent of his principal, Juana Duque; and that in or about 1927 Juana Duque verbally donated and delivered Lot 1083 to her niece, Julia Duque.[9]

The theory of the private respondents that the land in question was purchased by Juana Duque through her agent Faustino Duque and that in 1927 she verbally donated said land to Julia Duque is supported only by testimonial evidence which cannot prevail over the petitioners' documentary evidence consisting of Sale Certificate No. 1138 issued in 1909 whereby the Director of Lands sold Lot 1083 to Faustino Duque on a 20-year installment of ₱25.00 per year for a total price of ₱503.00 and the transfer certificates of title in the name of Mariano Duque and his heirs. If Juana Duque was the real purchaser, it is odd that Faustino Duque appeared as the purchaser of Lot 1083 in Sale Certificate No. 1138. From 1909 until her death in 1928 Juana Duque had never taken any step to have the land in question transferred in her name despite the fact that in 1915 Faustino Duque transferred his right to the land under Sale Certificate No. 1138 to Mariano Duque. There is no sufficient evidence to show that Juana Duque consented to the transfer by Faustino Duque of his right to the land in question in favor of Mariano Duque. Moreover, if Juana Duque was the real owner of Lot 1083 she would not have consented to the aforementioned transfer by Faustino Duque to Mariano Duque.

The complaint[10] admitted that in 1931 Mariano Duque received Transfer Certificate of Title No. 7501 for Lot 1083 from the government; that Mariano Duque, the holder, died and in 1957 his children registered Lot 1083 in their names under Transfer

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[9] *Rollo*, pp. 48-54.

[10] Record on Appeal, pp. 8-9, *Rollo*, p. 69.

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Certificate of Title No. T-19924; and that upon the death of Emilio Duque without issue, the defendants, petitioners herein, had said Lot 1083 recorded in their names under Transfer Certificate of Title No. T-25195 in 1959.

From 1931 the title to the land in question, Lot 1083, had always been in the name of Mariano Duque and after his death, in those of his children, the herein petitioners. The complaint was filed by Julia Duque only in September 1966 after the lapse of thirty-five (35) years from the issuance of Transfer Certificate of Title No. 7501 to Mariano Duque.

The alleged possession by the private respondents of the land in question did not divest the petitioners, as registered owners, of their rights to Lot 1083. Adverse possession under claim of ownership for the period fixed by law is ineffective against a Torrens title.[11]

The alleged oral donation by Juana Duque in favor of Julia Duque did not transfer any right over Lot 1083 to the donee. Both under the Spanish Civil Code and the Civil Code of the Philippines, a donation of an immovable, to be valid must be made in a public document, specifying therein the property donated and the value of the charges which the donee must satisfy.[12]

The Court of Appeals must have realized the fatal infirmity of the alleged verbal donation because it considered the case "from the point of view of a verbal partition among heirs made by the decedent and consented to by them."[13]

There is no adequate showing that Mariano Duque consented in 1927 to a verbal partition made by Juana Duque wherein she gave the property in question, Lot 1083, to Julia Duque. On the contrary, in 1931, after full payment of the purchase

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[11] *Valiente vs. Court of First Instance of Tarlac, et al.*, 80 Phil. 415; *Bolaños vs. J. M. Tuason & Co., Inc.*, 37 SCRA 223, 228.

[12] Art. 633, Spanish Civil Code; Art. 749 Civil Code of the Philippines.

[13] *Rollo*, p. 35.

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price, Mariano Duque obtained in his name Transfer Certificate of Title No. 7501 for Lot 1083 from the government.[14]

The improbability of the alleged oral partition becomes more evident when it is considered that Lot 1083 is registered land and any transaction affecting registered land should be evidenced by a registerable deed.[15]

No implied trust between Juana Duque and either Faustino Duque or Mariano Duque has been established by sufficient evidence.

At any rate, granting, *arguendo*, that such an implied or constructive trust existed, the right of action upon the same has prescribed. From 1931 when Transfer Certificate of Title No. 7501 covering the land in question was issued to Mariano Duque until 1966 when the present case was commenced a period of 35 years had passed. The registration of an instrument in the Office of the Register of Deeds constitutes constructive notice to the whole world, and, therefore, discovery of the fraud is deemed to have taken place at the time of registration.[16] Such registration is deemed to be a constructive notice that the alleged fiduciary or trust relationship has been repudiated. It is now settled that an action on an implied or constructive trust prescribes in ten (10) years from the date the right of action accrued.[17] The issuance of Transfer Certificate of Title No. 7501 in 1931 to Mariano Duque commenced the effective assertion of adverse title for the purpose of the statute of limitations.

WHEREFORE, the decision of the Court of Appeals appealed from is hereby set aside and Civil Case No. 266-V of the Court of First Instance of Bulacan is dismissed, without pronouncement as to costs.

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[14] Paragraph 8, Complaint, Record on Appeal, p. 8, *Rollo*, p. 69.

[15] *Salao vs. Salao,* 70 SCRA 65, 83.

[16] *Carantes vs. Court of Appeals,* 76 SCRA 514, 523.

[17] *De la Cerna vs. De la Cerna*, 72 SCRA 514, 518.

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SO ORDERED.

Makasiar, Muñoz Palma and *Guerrero, JJ.*, concur.

Teehankee (Chairman), J., in the result.

Martin, J., took no part.

SECOND DIVISION

[G.R. No. L-36082. December 29, 1977]

THE PEOPLE OF THE PHILIPPINES, *petitioner, vs.* **ENRIQUE EGUAC,** *defendant-appellant.*

SYLLABUS

1. **CONSTITUTIONAL LAW; BILL OF RIGHTS; RIGHTS OF THE ACCUSED; PRESUMPTION OF INNOCENCE; OVERCOME BY EVIDENCE IN CASE AT BAR.**— A conscientious appraisal of the transcript as well as the other evidence presented yields the same conclusion arrived at by the lower court. There is more than ample justification for the finding that rape was indeed committed by appellant. In addition to complainant's recital of the sexual abuse inflicted on her, there was the impartial testimony coming from the doctor who conducted the physical examination. The constitutional presumption of innocence clearly has been overcome.

2. **REMEDIAL LAW; EVIDENCE; QUANTUM OF PROOF; REQUIRED IN RAPE CASES; ONLY NECESSARY THAT THE FORCE USED BY GUILTY PARTY BE SUFFICIENT TO CONSUMMATE PURPOSE WHICH HE HAD IN VIEW; CASE AT BAR.**— It suffices to cite this portion of the decision of Justice Torres as *ponente*: "It is a doctrine well established by the courts that in order to consider the existence of the crime of rape it is not necessary that the force employed in