



Republic of the Philippines

Supreme Court

Manila

FIRST DIVISION

**SPOUSES CELSO DICO, SR.
AND ANGELES DICO,**

Petitioners,

G.R. No. 161211

Present:

-versus-

SERENO, C.J.,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR, and
REYES, JJ.

**VIZCAYA MANAGEMENT
CORPORATION,**

Respondent.

Promulgated:

JUL 17 2013

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DECISION

BERSAMIN, J.:

The prescription of actions for the reconveyance of real property based on implied trust is 10 years.

The Case

This appeal by petition for review on *certiorari* seeks to set aside the adverse decision promulgated on September 11, 2002,¹ whereby the Court of Appeals (CA) reversed the decision rendered by the Regional Trial Court (RTC) of Negros Occidental in favor of petitioners.

Antecedents

Celso Dico was the registered owner of Lot No. 486 of the Cadiz Cadastre, comprising an area of 67,300 square meters and covered by

¹ *Rollo*, p. 46-75; penned by Associate Justice Sergio L. Pestaño (retired/deceased), with Associate Justice Teodoro P. Regino (retired) and Associate Justice Eloy R. Bello, Jr. (retired) concurring.

Transfer Certificate of Title (TCT) No. 22922 of the land records of Negros Occidental. Lot No. 486 was adjacent to Lot No. 29-B and Lot No. 1412 (formerly Lot No. 1118-B), both also of the Cadiz Cadastre. Celso and his wife Angeles resided on Lot No. 486 since 1958. On May 30, 1964, Angeles filed in the District Office of the Bureau of Lands in Bacolod City, her free patent application covering a portion of Lot No. 29-B. On his part, Celso also filed in the same office an application for free patent covering Lot No. 1412. It does not appear, however, that the Bureau of Lands acted on their applications.²

Respondent Vizcaya Management Corporation (VMC) was the registered owner under TCT No. T-41835 of Lot No. 29-B, also of the Cadiz Cadastre, comprising an area of 369,606 square meters, more or less.³ VMC derived its title to Lot No. 29-B from Eduardo and Cesar, both surnamed Lopez, the registered owners under TCT No. T-14827, which emanated from TCT No. RT-9933 (16739) in the names of Victoria, Eduardo and Cesar, all surnamed Lopez. TCT No. RT-9933 (16739) was a transfer from TCT No. T-14281, which had been transferred from Original Certificate of Title (OCT) No. 21331 in the name of Negros Philippines Lumber Company. OCT No. 21331 was issued pursuant to Decree No. 190483 of G.L.R.O. Cadastral Record No. 196.

VMC likewise claimed to be the owner of Lot No. 1412, formerly known as Lot No. 1118-B, also of the Cadiz Cadastre, containing an area of 85,239 square meters, more or less, and registered in its name under TCT No. T-41834.⁴

Lot Nos. 1426-B, with an area of 6,635 square meters covered by TCT No. T-24135, and 1426-C, with an area of 6,107 square meters covered by TCT No. T-24136, appear to be registered in the names of Eduardo Lopez and Cesar Lopez, who had earlier formed VMC.

In 1967, VMC, then newly formed, caused the consolidation and subdivision of Lot No. 29-B, Lot No. 1412, Lot No. 1426-B, and Lot No. 1426-C. The consolidation-subdivision plan was prepared by Engr. Ricardo Quilop and filed in the Land Registration Commission (LRC), renamed National Land Titles and Deeds Registration Administration, but presently known as the Land Registration Authority. The consolidation-subdivision plan was assigned the number (LRC) PCS-6611. On July 26, 1967, LRC Commissioner Antonio L. Noblejas approved the consolidation-subdivision plan, resulting in Lot No. 29-B, Lot No. 1412, Lot No. 1426-B, and Lot No. 1426-C being consolidated and subdivided as follows: Lot No. 1 with an area of 238,518 square meters under TCT No. T-47854; Lot No. 2 with an

² Id. at 48.

³ Id. at 48 and 78.

⁴ Id. at 49.

area of 216,176 square meters under TCT No. T-47855; Lot No. 3 with an area of 11,496 square meters under TCT No. T-47856; and Lot No. 4 with an area of 15,392 square meters under TCT No. T-47857.⁵ In all, the total landholding of VMC after the consolidation was 481,583 square meters.

VMC proceeded to develop the Don Eusebio Subdivision project using Lot No. 1 of the consolidation-subdivision plan under (LRC) PCS-6611. The subdivision plan under PSD-102560 subdivided Lot No. 1 into 547 small lots. Subsequently, VMC also developed the Cristina Village Subdivision project using Lots Nos. 2, 3, and 4 under (LRC) PCS-6611. Under PSD-12746 of the subdivision plan for Cristina Village Subdivision, consolidated Lots Nos. 2, 3, and 4 were subdivided into 348 small lots. Starting 1971, VMC sold lots in its Don Eusebio Subdivision and Cristina Village Subdivision.

In 1981, VMC filed against the Dicos a complaint for unlawful detainer in the City Court of Cadiz (Civil Case No. 649). On April 24, 1981, the City Court of Cadiz rendered its decision in favor of VMC, ordering the Dicos to demolish the concrete water gate or sluice gate (locally known as *trampahan*) located inside Lot No. 1, Block 3 of the Cristina Village Subdivision. Inasmuch as the Dicos did not appeal, the decision attained finality. On July 3, 1981, the City Court of Cadiz issued a writ of execution. On November 11, 1985, a second alias writ of execution was issued.

On May 12, 1986, the Dicos commenced an action for the annulment and cancellation of the titles of VMC (Civil Case No. 180-C), impleading VMC, the National Land Titles and Deeds Registration Administration, and the Director of the Bureau of Lands. On March 12, 1987, the Dicos amended the complaint. They averred, among others, that they were the registered owners of Lot No. 486 and the possessors-by-succession of Lot No. 1412 (formerly Lot No. 1118) and Lot No. 489; that VMC had land-grabbed a portion of their Lot No. 486 totaling 111,966 square meters allegedly brought about by the expansion of Cristina Village Subdivision; and that on May 30, 1964 they had filed free patent applications in the Bureau of Lands for Lot No. 1412 and Lot No. 489.⁶ They prayed that the possession of Lot No. 486, Lot No. 1412, and Lot No. 489 be restored to them; and that the judgment in Civil Case No. 649 be annulled.

Celso died during the pendency of the action, and was substituted by Angeles and their children pursuant to the order of November 22, 1991.

⁵ Id. at 50.

⁶ Id. at 51-52.

Ruling of the RTC

On January 8, 1998, the RTC ruled in favor of the Dicos, *viz*:

WHEREFORE, IN VIEW OF THE FOREGOING, judgement is rendered in favor of the plaintiffs and against the defendants in this wise:

1. The plaintiffs are hereby declared absolute owners of the 111,959 square meter portion of Lot 486 and the defendant Vizcaya Management Corporation, its agent, representatives and any persons acting in its behalf are hereby ordered to peacefully vacate the said premises and to turn over the possession of the 111, 959 square meters, a portion of Lot 486 Cadiz Cadastre, in favor of the plaintiffs;
2. The Certificate of Titles from RT-9933 (16739) and all other titles derived therefrom are all hereby declared spurious and ordered cancelled;
3. That defendant Vizcaya Management Corporation is hereby ordered to pay plaintiffs ₱3,000.00 as monthly rental on the 111, 959 square meters, portion of Lot 486, Cadiz Cadastre, which the defendant Vizcaya Management Corporation had occupied from May 12, 1986 until the plaintiff's property is fully restored to the latter;
4. That defendant Vizcaya Management Corporation is hereby ordered to pay the plaintiffs the sum of ₱100,000.00 by way of attorney's fees and ₱100,000.00 by way of moral damages and ₱50,000.00 for exemplary damages;
5. That defendant National Land Titles and Deeds Administration is hereby ordered to make the necessary rectification on the titles of the defendants;
6. The Solicitor General is hereby directed to look into the possibility of reversion of Lots 29-A, 29-B and 1412, Cadiz Cadastre in favor of the Government and initiate the Escheat proceedings thereon;
7. The counterclaims of the defendants are ordered dismissed; and
8. Defendants to pay the costs.

SO ORDERED.⁷

⁷ Id. at 139.

Ruling of the CA

On appeal, VMC assigned the following errors, to wit:

I

THE TRIAL COURT ERRED IN NOT DISMISSING PLAINTIFFS' COMPLAINT FOR BEING BARRED BY PRESCRIPTION AND/OR LACHES AND FOR LACK OF CAUSE OF ACTION.

II

THE TRIAL COURT ERRED IN CAPRICIOUSLY DISREGARDING THE CONCLUSIVENESS AND INDEFEASIBILITY OF THE SUBJECT CERTIFICATES OF TITLE AND IN IGNORING WELL-ENTRENCHED DOCTRINES, PRINCIPLES AND PRESUMPTIONS OF REGULARITY AND VALIDITY ATTENDANT TO THEIR ISSUANCES.

III

THE TRIAL COURT ERRED IN HOLDING THAT IN THE CONSOLIDATION AND SUBDIVISION OF THE LOTS COMPRISING THE EUSEBIO AND CRISTINA SUBDIVISIONS, VMC UNJUSTIFIABLY INCREASED THE AREA OF LOT NO. 29-B AND ENCROACHED ON LOT 486.

IV

THE TRIAL COURT ERRED IN HOLDING THAT LOT NOS. 29-B AND 1412 REVERTED BACK (sic) TO THE GOVERNMENT AND IN DIRECTING THE SOLICITOR GENERAL TO INITIATE ESCHEAT PROCEEDINGS THEREON.

V

THE TRIAL COURT ERRED IN DECLARING THAT TRANSFER CERTIFICATE OF TITLE ("TCT") NO. RT-9933 (EXHIBIT "K") IS A SPURIOUS TITLE AND IN ORDERING SAID TITLE, AND ALL TITLES DERIVED THEREFROM, CANCELLED.

VI

THE TRIAL COURT ERRED IN RULING THAT THERE WAS FRAUD IN VMC'S ACQUISITION OF LOT NOS. 29-B AND 1412.

VII

THE TRIAL COURT ERRED IN NOT FINDING THAT THE DESIGNATION OF LOT NO. 1246-B AND 1246-C IN THE TECHNICAL DESCRIPTIONS OF THE TITLES OF LOT NOS. 1 TO 4 IS MERELY TYPOGRAPHICAL ERROR.

VIII

THE TRIAL COURT ERRED IN ORDERING VMC TO PAY RENTALS, DAMAGES AND COSTS TO PLAINTIFFS AND IN DISMISSING THE COUNTERCLAIMS PLEADED BY VMC.⁸

⁸ Id. at 52-53.

As earlier mentioned, the CA reversed the RTC through its decision promulgated on September 11, 2002,⁹ ruling as follows:

WHEREFORE, in view of the foregoing, and finding the appeal impressed with merit, the same is hereby GRANTED. The Decision dated January 8, 1998 of Branch 60 of the Regional Trial Court of Negros Occidental in Civil Case No. 180-C is hereby REVERSED and SET ASIDE, and a new judgment is hereby rendered as follows:

1. Civil Case No. 180-C is DISMISSED for lack of merit.
2. Defendant-appellant Vizcaya Management Corporation is declared the absolute owner of Lot No. 29-B under TCT No. T-41835.
3. Defendant-appellant Vizcaya Management Corporation is declared the absolute owner of Lot No. 1412 under TCT No. T-41834.
4. Original Certificate of Title No. 21331 and Transfer Certificate of Title No. RT-9933 (16739) are declared valid and genuine;
5. Plaintiffs-appellees Angeles Dico, et al. are declared the absolute owners of Lot No. 486 under TCT No. T-22922;
6. The Decision dated April 24, 1981 of the City Court of Cadiz in Civil Case No. 649 is hereby declared VALID and UPHOLD; and
7. No cost.

SO ORDERED.¹⁰

On October 7, 2003, the CA denied the Dicos' motion for reconsideration.¹¹

Issues

Hence, this appeal, wherein the Dicos contend that the CA erred in holding that prescription and/or laches already barred them from asserting their right;¹² in accepting the theory of VMC that the consolidation of Lot No. 1246-B and Lot No. 1246-C had resulted from a merely typographical error;¹³ in reversing the decision of the RTC despite its finding that VMC

⁹ Id. at 46-75.

¹⁰ Id. at 73-74.

¹¹ Id. at 76.

¹² Id. at 26.

¹³ Id. at 30-31.

had committed land grabbing;¹⁴ and in reversing the RTC based on non-existing evidence that was contradicted by the evidence on records.¹⁵

In its comment,¹⁶ VMC counters that the petition for review should not be given due course because petitioners came to court with unclean hands; that the petition was filed out of time even with the extension given by the Court; that the petition was fatally defective in form and in substance; and that the dismissal of the complaint was in accord with applicable laws and jurisprudence.

In their reply,¹⁷ the Dicos reiterate that the findings and conclusions of the RTC were supported by evidence establishing fraud, encroachment and other anomalies perpetrated by VMC; that the rules of procedure must not be rigidly applied to override substantial justice; and that VMC could not validly invoke the indefeasibility of its titles to defeat their right over the encroached land.

The decisive issue is whether prescription already barred petitioners' cause of action. All the other issues are subsumed therein.

Ruling

We find and hold that the action of the Dicos for reconveyance was properly dismissed.

To start with, the CA's explanations for reversing the RTC were very thorough, well-founded and well-reasoned, to wit:

Granting *arguendo* that fraud intervened in the procurement of the Certificates of Title to Lot No. 29-B and plaintiffs-appellees had the personality to seek the reconveyance thereof on the basis of implied or constructive trust, their complaint filed on May 12, 1986, or about 29 years after the issuance of the certificate of title to defendant-appellant, indeed came too late. They were deemed to have discovered the fraud as early as September 20, 1934 when TCT No. RT-9933 (16739) of the Lopezes was recorded or on November 10, 1956 when TCT No. T-41835 of defendant-appellant was registered. Their right to seek reconveyance of a portion of Lot No. 29-B, if it existed at all, had already prescribed.

Plaintiffs-appellees also contend that defendant-appellant secured its Certificate of Title to Lot No. 1412 through fraud. They contend that Celso Dico had filed with the Bureau of Lands his Free Patent Application (Exh. "D", pp. 733-735, Records Vol. 3) with respect to Lot No. 1412. On

¹⁴ Id. at 32.

¹⁵ Id. at 34.

¹⁶ Id. at 301-329.

¹⁷ Id. at 335-351.

the other hand, the evidence on record shows that Lot No. 1412, formerly Lot No. 1118-B, appears to have been already registered in the name of defendant-appellant under TCT No. T-41834 (Exh. "11").

We fail to see the fraud allegedly committed by defendant-appellant in securing its Certificate of Title to Lot No. 1412. In their vain effort to show that Celso Dico filed a Free Patent Application for Lot No. 1412, plaintiffs-appellees presented his alleged Free Patent Application, Exhibit "D". Said Exhibit "D", however, is without evidentiary weight since while the name of plaintiff-appellee Angeles Dico, as applicant therein, appears in the Application for Free Patent, the Joint Affidavit in support thereof, and Notice of Application for Free Patent, the signature of one Celso Dico was only clearly super-imposed thereon to make it appear he was the applicant. Exhibit "D" is, in fact, a forged document.

Thus, the court *a quo* erred when it concluded that defendant-appellant's title to Lot No. 1412 came from a doubtful source. There is no evidence on record that clearly showed the fraud allegedly employed by defendant-appellant when it secured its title to Lot No. 1412. Moreover, plaintiffs-appellees have not established their personality to seek the reconveyance of Lot No. 1412 as they are not the registered owners thereof.

In fine, Lots Nos. 29-B and 1412 did not revert to the government, as they are already the private properties of defendant-appellant corporation.

Anent the issue of encroachment on Lot No. 486 by defendant-appellant, the court *a quo* found that defendant-appellant encroached on Lot 486 when it consolidated and subdivided the contested lots.

The court *a quo* ruled, thus:

"From the evidence presented as revealed by the records of the case, this Court is of the judicious finding that defendant Viscaya (sic) had encroached on lot 486 considering that even if it claims it has a title over lot 29-B, still it had exceeded its area of possession over lot 29-B. Exhibits "J", "K" and "L" reveal that lot 29-B only contains an area of 369,606 square meters, however, when defendant Vizcaya caused the consolidation of their lots the total area which is supposed to be 369,606 square meters was increased. Basing on defendants' exhibits "3" to "6" this Court finds that TCT No. 1735 (lot 1) has an area of 238,518 square meters, TCT No. 1736 (Lot 2), 216,176 square meters, TCT No. 1737 (Lot 3) 11,496 square meters and TCT No. 1738, 15,392 square meters which when added together will sum up to a total of 481,582 square meters, clearly exceeding the original area of 369,606 square meters appearing and described in Exhibits "J"; "K" and "L".

"Likewise, this Court further finds after an exhausted (sic) examination of the records, that defendant Vizcaya increased the area on the plan of Cristina Village Subdivision which is Lot 2 contrary to what is contained in TCT No. 1736 (Exhibits "P-1" and "4") containing an area of only 216,176 square meters.

"The increase in area in the title of defendant Vizcaya is 111,976 square meters. This area was taken from the portion of

Lot 486 of the plaintiffs covered by TCT No. T-22922 (Exh. "E") and which was derived from OCT No. 0-3146 (21337) adjacent to Lot 29-B (Exh. "J") and later became Lot 2 covered by TCT No. (T-47855) 1736, Lot 1 covered by TCT No. (T-47854) 1735 (Exh. "P") Lot 3 covered by TCT No. (T-47856) 1737 (Exh. "P-2") and Lot 4 covered by TCT No. (T-47857) 1738 (Exh. "P-3"). To the mind of this Court, the intrusion (sic) of the defendants over the area of Lot 486 is a clear and willful manipulation hatched between defendant Vizcaya and its surveyor without regard to the existing technical and (sic) descriptions of the adjacent lot, particularly the lot belonging to the plaintiffs. Upon close examination of all the evidence on record, it appears that the method and scheme employed in order to hide and confuse the increase in the area was to consolidate lots 29-B, 1246-B, 1246-C and 1412 and then subdivide these lots into several parts to become lots 1, 2, 3 and 4 with its corresponding titles, technical descriptions and already containing variable but increased areas can no longer be ascertained or if ascertained the same can be done with greater difficulty as the one tasked to unravel these confusing mazes (sic) of lots will have to dig deep into the history of the original titles. What this Court finds amusing, however, is the fact that Lots 1246-B and 1246-C were consolidated with Lots 29-B and 1412 which former lots are located in Barangay Tinampa-an, Cadiz City while Lots 29-B and 1412 are located in the City Proper and are non adjacent or contiguous (sic) lots.

"The claim of the defendants that the plaintiffs cannot establish a better right or title to real properties over and above a valid and existing title, cannot be given credence by this Court considering that a torrens title cannot cover fraud, and more particularly so, because Lot 486 is also titled property registered in the name of the plaintiff Dico." (pp. 30-31, Decision; pp. 79-80, Rollo)

We do not agree with the above findings of the court *a quo*. The documentary evidence found in the records reveals that defendant-appellant had two lots titled in its name, namely: Lot No. 29-B comprising an area of 369,606 square meters, containing identical technical description as appearing in plaintiffs-appellees' Exhs. "J", "K" and "L" and Lot No. 1412, formerly 1118-B, comprising an area of 85,239 square meters covered by TCT No. T-41834 (Exh. "11"). Further, Eduardo and Cesar Lopez were the registered owners of Lot No. 1426-B comprising an area of 6,635 square meters, covered by TCT No. T-21435 (Exh. "9") and Lot No. 1426-C comprising an area of 6,107 square meters, covered by TCT No. T-21436 (Exh. "10"). As contended by defendant-appellant, it caused the consolidation and subdivision of these four lots following the approved consolidation-subdivision plan (Exh. "7", p. 958, Records Vol. 4) it submitted to the then Land Registration Commission. The said approved consolidation-subdivision plan was assigned the number (LRC) PCS-6611. Hence, adding the land area of the four consolidated lots, the total landholding of defendant-appellant after the approved consolidation-subdivision plan would be 467,587 square meters only, thus:

Lot No.	Area in Square Meters
Lot No. 29-B	369,606 square meters
Lot No. 1412	85,239 square meters
Lot No. 1426-B	6,635 square meters
Lot No. 1426-C	<u>6,107 square meters</u>
Total	467,587 square meters

Defendant-appellant’s approved consolidation-subdivision plan (Exh. “7”) reveals that it was a consolidation-subdivision of Lots Nos. 29-B (Exh. “L”; Exh. “8”), PSD-5573; 1426-B (Exh. “9”) & 1426-C (Exh. “10”), PSD-44080, and 1412 (Exh. “11”), all of Cadiz Cadastre, which contained a total area of 481,583 square meters. However, the total land area of the four consolidated lots as added above is only 467,587 square meters. Clearly, there exists an excess of 13,996 square meters, which was included in the approved consolidation-subdivision plan of defendant-appellant. Worth noting is the fact that defendant-appellant’s approved consolidation-subdivision plan contained a handwritten entry which stated that the “x x x area is increased by 13996 sq.m” (Exh. “7”, p. 958, Records Vol. 4).

Thus, the court *a quo* erred when it concluded that there was an excess of 111,959 square meters in defendant-appellant’s landholdings. We agree with the contention of defendant-appellant that the basis for computing its total landholding should not be limited to the land area of Lot No. 29-B since three (3) other individual lots were included in the consolidation-subdivision survey. The evidence on record reveals that Lots Nos. 1412, 1426-B and 1426-C were included in the approved consolidation-subdivision plan (Exh. “7”).

Further, the Trial Court’s finding that defendant-appellant encroached by 111,959 square meters on Lot 486 belonging to plaintiffs-appellees finds no justifiable support from the evidence on record. Lot No. 486 under TCT No. T-22922 (Exh. “E”, p. 736, Records Vol. 3) in the name of Celso Dico contained an area of 67,300 square meters only. Following the Trial Court’s reasoning, defendant-appellant shall return to plaintiffs-appellees 111,959 square meters it allegedly land grabbed from Lot No. 486. Thus, Lot No. 486 would now contain an area of 179,259 square meters, substantially increased by 111,959 square meters which is clearly beyond what is stated in TCT No. T-22922.

As We have found earlier, the excess in defendant-appellant’s landholding is only 13,996 square meters.

It is likewise the contention of plaintiffs-appellees that PCS-6611 does not exist in the records of the then Land Registration Commission, as evidenced by the Certifications (Exhs. “Q” and “R”, pp. 758-758A, Records Vol. 3) issued by the Subdivision and Consolidation Division, Vault Section I, Land Registration Authority.

The court *a quo* ruled:

“x x x. Thus, the defendants failed to overcome the preponderance of evidence presented by the plaintiffs, particularly on Certifications (Exhs. “Q” and “R”) certifying to the effect that Pcs-6611 is not existing x x x” (p. 34, Decision).

We cannot agree with conclusion of the court *a quo*. The evidence on record clearly reveals that defendant-appellant presented a copy of the approved consolidation-subdivision plan (Exh. “7”) prominently showing the number (LRC) PCS-6611 assigned by the Land Registration Commission, which is located at the bottom-right portion of the document. The Certifications (Exhs. “Q” and “R”) issued by the then Land Registration Authority are not conclusive proof of the non-existence of the original of the consolidation-subdivision plan (LRC) PCS-6611 together with all the survey records pertaining thereto. As correctly pointed out by defendant-appellant, the person who issued said certifications was not presented in court to identify and affirm the veracity of their contents. Thus, as between the approved consolidation-subdivision plan (Exh. “7”) and the certifications (Exhs. “Q” and “R”), the former carries greater evidentiary weight.

Granting *arguendo* that no records pertaining to (LRC) PCS-6611 could be found in the Vault Section of the then Land Registration Commission, the existence of (LRC) PCS-6611 was already established with the presentation in evidence of a copy of the said approved consolidation-subdivision plan (Exh. “7”) prominently reflecting therein the number (LRC) PCS-6611 assigned by the Land Registration Commission. The authenticity and existence of (LRC) PCS-6611 within the records of the Land Registration Commission (now Land Registration Authority) was established by the fact that it was used as a basis for the approval of the consolidation-subdivision plan for the Don Eusebio Subdivision under (LRC) PSD-102560 (Exh. “14”, “14-A”, “14-B”, pp. 983-985, Records, Vol. 4) and Cristina Village Subdivision under (LRC) PCS-12746 (Exh. “16”, p. 982, Records, Vol. 4). In Exhibits “14” and “16”, (LRC) PCS-6611 was clearly reflected as the source of the consolidated lots.

Lastly, defendant-appellant contends that the court *a quo* erred in finding that there was no typographical error committed in designating Lots Nos. 1246-B and 1246-C instead of 1426-B and 1426-C, respectively, in its approved consolidation-subdivision plan.

The court *a quo* ruled:

“x x x. What this Court finds amusing, however, is the fact that Lots 1246-B and 1246-C were consolidated with Lots 29-B and 1412 which former lots are located in Barangay Tinampa-an, Cadiz City while Lots 29-B and 1412 are located in the City Proper and are non adjacent or contiguous (sic) lots.

“x x x x

“Granting *arguendo*, that the denomination of Lots 1246-B and 1246-C are merely typographical errors of Lots 1426-B and 1426-C as claimed by defendant Vizcaya, this Court, upon judicious evaluation of the records cannot accept the argument relied upon by the defendants since it is obvious from the evidence that defendant Vizcaya employs a retained surveyor for purposes of their subdivision, and despite the technical knowledge of its surveyor it did not bother to correct the error if indeed it is one, on the lots subject matter of the case, but had

invoked the said ground only during the litigation proper” (pp. 30-35, Decision; pp. 179-184, Rollo).

Defendant-appellant contends that it failed to correct this typographical error as such fact came to its knowledge only during the trial and two years after issuance of TCT No. T-47854-57 (Exhs. “P”, “P-1” to “P-3”; Exhs. “3” to “6”, pp. 750-756 Records Vol. 3), these Certificates of Title were subsequently cancelled and new TCTs were issued. On the other hand, plaintiffs-appellees contend that Lots Nos. 1246-B and 1246-C could not be possibly consolidated with Lot No. 29-B because the former lots were situated some 4 kilometers away from defendant-appellant’s subdivision area, besides being owned by other persons.

We agree with defendant-appellant.

While we agree with plaintiffs-appellees’ assertion that consolidation of non-contiguous and non-adjacent lots are not possible especially so when the lots are situated considerably far from each other, the case at hand does not fall under this scenario. As correctly explained by defendant-appellant there was a typographical error in the technical description of its consolidated lots in that what was stated therein as included in the consolidation plan were Lots Nos. 1246-B and 1246-C, Psd-44080, instead of Lots Nos. 1426-B and 1426-C, Psd-44080.

Worth noting are the technical description of the subject lots before and after their consolidation. –

Transfer Certificate of Title No. T-24135 (Exh. “9”) covering Lot No. 1426-B reads:

“A parcel of land (***Lot No. 1426-B of the subdivision plan Psd-44080***), being a portion of Lot 1426 of the Cadastral Survey of Cadiz, G.L.R.O. Cad. Record No. 196), situated in the Poblacion, Municipality of Cadiz, Province of Negros Occidental, Bounded on the NE., by Lot 1426-A of the subdivision plan; on the SE., by Lot No. 1423 of Cadiz, Cad.; and on the SW., by Lot 1426-C of the subdivision plan. x x x”

Transfer Certificate of Title No. T-24136 (Exh. “10”) covering Lot No. 1426-C reads.

“A parcel of land (***Lot No. 1426-C of the subdivision plan Psd-44080***), being a portion of Lot 1426 of the Cadastral Survey of Cadiz, G.L.R.O. Cad. Record No. 196), situated in the Poblacion, Municipality of Cadiz, Province of Negros Occidental, Bounded on the NE., by Lot 1426-B of the subdivision plan; on the SE., by Lot 1423 of Cadiz Cad., and on the SW., by Calle Cabahug. x x x.”

On the other hand, the technical descriptions of the properties covered by Transfer Certificates of Title Nos. T-47854 to T-47857 pertaining to Lot Nos. 1 to 4 (Exhs. “P”, “P-1” to “P-3”) read:

Transfer Certification of Title No. T-14754:

“A parcel of land (Lot 1 of the consolidation-subdivision plan (LRC) Pcs-6611, being a portion of the consolidation of Lots 29-B, Psd-5573, **1246-B, & 1246-C, Psd-44080** & 1412, Cadiz Cad., LRC (GLRO) Cad. Rec. No. 196), situated in the City of Cadiz, Island of Negros x x x containing an area of two hundred thirty-eight thousand five hundred eighteen (238, 518) square meters, more or less. x x x.”

Transfer Certificate of Title No. T-14755:

“A parcel of land (Lot 2 of the consolidation-subdivision plan (LRC) Pcs-6611, being a portion of the consolidation of Lots 29-B, Psd-5573, **1246-B, & 1246-C, Psd-44080** & 1412, Cadiz Cad., LRC (GLRO) Cad. Rec. No. 196, situated in the City of Cadiz, Island of Negros x x x containing an area of TWO HUNDRED SIXTEEN THOUSAND ONE HUNDRED SEVENTY-SIX (216,176) Square Meters, more or less. x x x.”

Transfer Certificate of Title No. T-14756:

“A parcel of land (Lot 3 of the consolidation-subdivision plan (LRC) Pcs-6611, being a portion of the consolidation of Lots 29B, Psd-5573, **1246-B, & 1246-C, Psd-44080** & 1412, Cadiz Cad., LRC (GLRO) Cad. Rec. No. 196), situated in the City of Cadiz, Island of Negros x x x containing an area of eleven thousand four hundred ninety-six (11,496) square meters, more or less. x x x.”

Transfer Certificate of Title No. T-14757:

“A parcel of land (Lot 4 of the consolidation-subdivision plan (LRC) Pcs-6611, being a portion of the consolidation of Lots 29-B, Psd-5573, **1246-B, & 1246-C, Psd-44080** & 1412, Cadiz Cad., LRC (GLRO) Cad. Rec. No. 196), situated in the City of Cadiz, Island of Negros. Bounded on the NE., points 31 to 1 and 1 to 6 by **Lot 1426-A, Psd-44080** x x x containing an area of fifteen thousand three hundred ninety-two (15,932) square meters, more or less. x x x.”

As can be gleaned clearly from the foregoing, Lots Nos. 1426-B and 1426-C came from Psd-44080. In the same way that Lots Nos. 1246-B and 1246-C came from Psd-44080. Defendant-appellant submitted a certified copy of the Cadastral Map of Cadiz (Exh. “12”, p. 986, Records Vol. 4) showing that adjacent to Lot No. 29-B was Lot No. 1426 and being contiguous, these lots could be consolidated. Even plaintiffs-appellees’ witness Engr. Luvimin Canoy testified on the possibility that a typographical error might have been committed in listing the lot numbers in the title (pp. 39-41, TSN, September 9, 1992).

There was no evidence to the effect that defendant-appellant caused the erroneous designation of Lots Nos. 1426-B and 1426-C as Lots Nos. 1246-B and 1246-C, respectively, when it consolidated these lots. The error indeed was only typographical as the subject lots all came from Psd-44080. In the absence of evidence that defendant-appellant employed fraud in consolidating these lots, a typographical error in the designation

of lot numbers in the Certificates of Title would not warrant their cancellation. An amendment may cure the error. It has been aptly ruled in one case that in the interest of justice and equity, the title-holder may not be made to bear the unfavorable effect of the mistake or negligence of the State's agents, in the absence of proof of his complicity in a fraud or of manifest damage to third persons (*Republic vs. Court of Appeals*, 301 SCRA 366).¹⁸

We have examined the factual bases of the CA in reaching its decision, and have found that its aforequoted findings of fact and conclusions were based on the evidence presented at the trial. In view of this, the Court accepts the findings of fact and conclusions of the CA, not just because we are not a trier of facts, but, more importantly, because the CA creditably performed its main task of conducting a thorough review of the evidence and records of the case in order to eruditely and carefully address each of the issues raised and argued by the Dicos.

Secondly, the CA correctly pointed out that under Article 1456 of the *Civil Code*, the person obtaining property through mistake or fraud is considered by force of law a trustee of an implied trust for the benefit of the person from whom the property comes. Under Article 1144, *Civil Code*, an action upon an obligation created by law must be brought within 10 years from the time the right of action accrues. Consequently, an action for reconveyance based on implied or constructive trust prescribes in 10 years.

Here, the CA observed that even granting that fraud intervened in the issuance of the transfer certificates of title, and even assuming that the Dicos had the personality to demand the reconveyance of the affected property on the basis of implied or constructive trust, the filing of their complaint for that purpose only on May 12, 1986 proved too late for them.

That observation was correct and in accord with law and jurisprudence. Verily, the reckoning point for purposes of the Dicos' demand of reconveyance based on fraud was their discovery of the fraud. Such discovery was properly pegged on the date of the registration of the transfer certificates of title in the adverse parties' names, because registration was a constructive notice to the whole world.¹⁹ The long period of 29 years that had meanwhile lapsed from the issuance of the pertinent transfer certificate of title on September 30, 1934 (the date of recording of TCT No. RT-9933 (16739) in the name of the Lopezes) or on November 10, 1956 (the date of recording of TCT No. T-41835 in VMC's name) was way beyond the prescriptive period of 10 years.

And, lastly, the insistence of the Dicos that prescription could not be used by the CA to bar their claim for reconveyance by virtue of VMC's

¹⁸ Id. at 61-72.

¹⁹ *Lopez v. Court of Appeals*, G.R. No. 157784, December 16, 2008, 574 SCRA 26, 39.

failure to aver them in a motion to dismiss or in the answer was unwarranted.

We agree with VMC's contention to the contrary. Although defenses and objections not pleaded in a motion to dismiss or in an answer are deemed waived, it was really incorrect for the Dicos to insist that prescription could not be appreciated against them for that reason. Their insistence was contrary to Section 1, Rule 9 of the *Rules of Court*, which provides as follows:

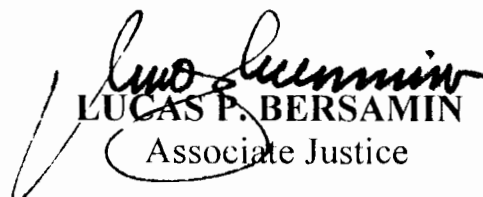
Section 1. *Defenses and objections not pleaded.*- Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. **However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim.** (2a)


Under the rule, the defenses of lack of jurisdiction over the subject matter, *litis pendentia*, *res judicata*, and prescription of action may be raised at any stage of the proceedings, even for the first time on appeal, except that the objection to the lack of jurisdiction over the subject matter may be barred by laches.²⁰

WHEREFORE, the Court **AFFIRMS** the decision of the Court of Appeals promulgated on September 11, 2002; and **ORDERS** the petitioners to pay the costs of suit.

SO ORDERED.

WE CONCUR:


LUCAS P. BERSAMIN
Associate Justice


MARIA LOURDES P. A. SERENO
Chief Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice

²⁰ See *Tijam v. Sibonghanoy*, No. L-21450, April 15, 1968, 23 SCRA 29, 34-35.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice