



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

ANCHOR SAVINGS BANK  
(FORMERLY ANCHOR  
FINANCE AND INVESTMENT  
CORPORATION),

G.R. No. 191178

Present:

Petitioner,

LEONARDO-DE CASTRO,\*  
PERALTA, J., *Acting Chairperson*,\*\*  
ABAD,  
MENDOZA, and  
LEONEN, JJ.

- versus -

HENRY H. FURIGAY, GELINDA  
C. FURIGAY, HERRIETTE C.  
FURIGAY and HEGEM C.  
FURIGAY,

Promulgated:

Respondents.

March 13, 2013

*Maopians*

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DECISION

MENDOZA, J.:

This concerns a petition for review on *certiorari* filed by petitioner Anchor Savings Bank (ASB) under Rule 45 of the 1997 Rules of Civil Procedure, assailing the May 28, 2009 Decision<sup>1</sup> and the January 22, 2010 Resolution<sup>2</sup> of the Court of Appeals (CA), in CA-G.R. CV No. 90123, dismissing the appeal.<sup>3</sup>

The assailed resolution denied the separate motions for reconsideration of both parties.

\* Designated Acting Member in lieu of Associate Justice Presbitero J. Velasco, Jr., per Special Order No. 1430 dated March 12, 2013.

\*\* Per Special Order No. 1429 dated March 12, 2013.

<sup>1</sup> Penned by Associate Justice Bienvenido L. Reyes (now member of the Court), with Associate Justice Isaias P. Dicdican and Associate Justice Marlenc Gonzales-Sison concurring; *rollo*, pp.77-97.

<sup>2</sup> Id. at 98-99.

<sup>3</sup> Id. at 97.

**The Facts**

On April 21, 1999, ASB filed a verified complaint for sum of money and damages with application for *replevin* against Ciudad Transport Services, Inc. (CTS), its president, respondent Henry H. Furigay; his wife, respondent Gelinda C. Furigay; and a “John Doe.” The case was docketed as Civil Case No. 99-865 and raffled to Branch 143 of the Regional Trial Court of Makati City (RTC).<sup>4</sup>

On November 7, 2003, the RTC rendered its Decision<sup>5</sup> in favor of ASB, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of plaintiff Anchor Savings Bank ordering defendants Ciudad Transport Services, Inc., Henry H. Furigay and Genilda C. Furigay to pay the following:

1) The amount of Eight Million Six Hundred Ninety Five Thousand Two Hundred Two pesos and Fifty Nine centavos (Php8,695,202.59) as PRINCIPAL OBLIGATION as of 12 April 1999;

2) An INTEREST of Twelve per cent (12%) per annum until fully paid;

3) PENALTY CHARGE of Twelve per cent (12%) per annum until fully paid;

4) LIQUIDATED DAMAGES of Ten (10%) per cent of the total amount due;

5) One Hundred Thousand pesos as reasonable ATTORNEY’S FEES;

6) Costs of suit.

SO ORDERED.<sup>6</sup>

While Civil Case No. 99-865 was pending, respondent spouses donated their registered properties in Alaminos, Pangasinan, to their minor children, respondents Hegem G. Furigay and Herriette C. Furigay. As a result, Transfer Certificate of Title (TCT) Nos. 21743,<sup>7</sup> 21742,<sup>8</sup> 21741,<sup>9</sup> and 21740<sup>10</sup> were issued in the names of Hegem and Herriette Furigay.

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<sup>4</sup> Id. at 150.

<sup>5</sup> Id. at 100-104.

<sup>6</sup> Id. at 104.

<sup>7</sup> Id. at 105-106.

<sup>8</sup> Id. at 107-108.

<sup>9</sup> Id. at 109-110.

<sup>10</sup> Id. at 111-112.

Claiming that the donation of these properties was made in fraud of creditors, ASB filed a Complaint for Rescission of Deed of Donation, Title and Damages<sup>11</sup> against the respondent spouses and their children. The case was docketed as Civil Case No. A-3040 and raffled to Branch 55 of the RTC of Alaminos, Pangasinan. In its Complaint, ASB made the following allegations:

x x x x

4. That Ciudad Transport Services, Inc., Henry H. Furigay and Gelinda C. Furigay obtained a loan from Anchor Savings Bank and subsequently the former defaulted from their loan obligation which prompted Anchor Savings Bank to file the case entitled “Anchor Savings Bank vs. Ciudad Transport Services, Inc., Henry H. Furigay and Gelinda C. Furigay” lodged before Makati City Regional Trial Court Branch 143 and docketed as Civil Case No. 99-865. On 7 November 2003 the Honorable Court in the aforesaid case issued a Decision the dispositive portion of which reads as follows:

x x x x

5. That defendants Sps. Henry H. Furigay and Gelinda C. Furigay are the registered owners of various real properties located at the Province of Pangasinan covered by Transfer Certificate of Title Nos. 19721, 21678, 21679, and 21682. x x x

6. That on 8 March 2001 defendants Sps. Henry H. Furigay and Gelinda C. Furigay executed a Deed of Donation in favor of their children herein defendants Hegem C. Furigay and Herriette C. Furigay donating to them all of the above-mentioned properties. Hence, the following titles were issued under their names to wit: Transfer Certificate of Title Nos. 21743, 21742, 21741, and 21740. x x x

7. That the donation made by defendants Sps. Henry H. Furigay and Gelinda C. Furigay were done with the intention to defraud its creditors particularly Anchor Savings Bank. Said transfer or conveyance is the one contemplated by Article 1387 of the New Civil Code, which reads:

x x x x

8. x x x In the instant case, Sps. Furigay donated the properties at the time there was a pending case against them. x x x. In the instant case, the Sps. Furigay donated the properties to their son and daughter. Moreover, the transfer or donation was executed in 2001 when both donees Hegem C. Furigay and Herriette C. Furigay are minors.

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<sup>11</sup> Id. at 113-119.

9. Clearly, the Donation made by defendants Sps. Furigay was intended to deprive plaintiff Anchor Savings Bank from going after the subject properties to answer for their due and demandable obligation with the Bank. The donation being undertaken in fraud of creditors then the same may be rescinded pursuant to Article 1381 of the New Civil Code. The said provision provides that:

X X X X

Consequently, Transfer Certificate of Title Nos. 21743, 21742, 21741, and 21740 issued under the names of defendants Herriette C. Furigay and Hegem C. Furigay should likewise be cancelled and reverted to the names of co-defendants Henry and Gelinda Furigay.

10. That because of the fraud perpetrated by defendants, plaintiff suffered the following damages.

11. Plaintiff suffered actual and compensatory damages as a result of the filing of the case the bank has spent a lot of man-hours of its employees and officers re-evaluating the account of defendant Sps. Furigay. Such man-hour when converted into monetary consideration represents the salaries and per diems of its employees particularly the CI/Appraiser, Head Office Lawyer and Bank Auditor;

12. Said claim likewise represents administrative expenses such as transportation expenses, reproduction of documents, and courier expenses among others;

13. Defendants should be made to pay plaintiff Anchor Savings Bank the amount of **PESOS: ONE MILLION (₱1,000,000.00)** as moral damages for the damage it caused to the latter's business goodwill and reputation;

14. By way of example for the public and to deter others from the malicious filing of baseless (sic) suit, defendants should be ordered to pay [plaintiff] the amount of **PESOS: TWO HUNDRED THOUSAND (₱200,000.00)** as exemplary damages.

15. Attorneys fees equivalent to twenty-five percent (25%) of the total amount that can be collected from defendant;

1[6]. Defendants should also be held liable to pay for the cost of suit.<sup>12</sup>

Instead of filing an answer, respondents sought the dismissal of the complaint, principally arguing that the RTC failed to acquire jurisdiction over their persons as well as over the subject matter in view of the failure of the ASB to serve the summons properly and to pay the necessary legal fees.

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<sup>12</sup> Id. at 114-117.

**RTC Resolutions**

On September 29, 2006, the RTC issued an Order<sup>13</sup> denying the motion to dismiss. Respondents sought reconsideration of the Order adding that the ASB's action for rescission had already prescribed.

Upon filing of ASB's opposition to the motion for reconsideration, on February 27, 2007, the RTC reconsidered its earlier pronouncement and dismissed the complaint for failure of ASB to pay the correct docket fees and for prescription.<sup>14</sup>

RTC explained that the service of summons by publication made by ASB was valid because respondents' whereabouts could not have been ascertained with exactitude and because Section 14, Rule 14 of the Rules of Court did not distinguish what kind of action it would apply.

On the issue of lack of jurisdiction over the subject matter of the case, the RTC ruled that the complaint was actually a real action as it affected title to or possession of real property. Accordingly, the basis for determining the correct docket fees was the fair market value of the real property under litigation as stated in its current tax declaration or its current zonal valuation, whichever was higher. Considering that ASB did not state the current tax declaration or current zonal valuation of the real properties involved, as well as the amount of actual damages and attorney's fees it prayed for, the trial court was of the view that ASB purposely evaded the payment of the correct filing fees.

On the issue of prescription, the RTC ruled that the action for rescission had already prescribed. It stated that an action for rescission grounded on fraud should be filed within four (4) years from the discovery of fraud. ASB filed the action for rescission only on October 14, 2005 or after four (4) years from the time the Deed of Donation was registered in the Register of Deeds of Alaminos, Pangasinan, on April 4, 2001. The four-year prescriptive period should be reckoned from the date of registration of the deed of donation and not from the date of the actual discovery of the registration of the deeds of donation because registration is considered notice to the whole world. Thus, the RTC disposed:

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<sup>13</sup> Id. at 122-124.

<sup>14</sup> Id. at 125-141.

WHEREFORE, premises considered, the Order dated September 29, 2006 is hereby reconsidered and set aside, in lieu thereof, the instant complaint is hereby ordered dismissed on the account of lack of jurisdiction over the subject matter of the case for failure of the plaintiff to pay the correct docket fees upon its institution attended by bad faith and on the ground of prescription.

SO ORDERED.<sup>15</sup>

ASB sought reconsideration, but to no avail.<sup>16</sup>

### **Ruling of the CA**

On appeal, the CA agreed with ASB that its complaint should not have been dismissed on the ground that it failed to pay the correct docket fees. It stated that the lack of specific amount of actual damages and attorney's fees in ASB's complaint did not, by itself, amount to evident bad faith. The CA noted that ASB had previously manifested before the trial court that it was willing to pay additional docket fees should the same be found insufficient.

On the issue of prescription, however, the CA saw things differently. Considering the subsidiary nature of an action for rescission, the CA found that the action of ASB had not yet prescribed, but was premature. The CA noted that ASB failed to allege in its complaint that it had resorted to all legal remedies to obtain satisfaction of its claim. The CA wrote:

After a thorough examination of the foregoing precepts and the facts engirding this case, this court opines that plaintiff-appellant's action for rescission has not yet prescribed for it must be emphasized that it has not even accrued in the first place. To stress, an action for rescission or accion pauliana accrues only if all five requisites are present, to wit:

1) That the plaintiff asking for rescission, has a credit prior to the alienation, although demandable later;

2) That the debtor has made a subsequent contract conveying a patrimonial benefit to a third person;

3) That the creditor has no other legal remedy to satisfy his claim, but would benefit by rescission of the conveyance to the third person;

4) That the act being impugned is fraudulent; and

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<sup>15</sup> Id. at 141.

<sup>16</sup> Id. at 142.

5) That the third person who received the property conveyed, if by onerous title, has been an accomplice in the fraud.

In the instant case, the plaintiff-appellant failed to satisfy the *third requirement* considering that it did not allege in its complaint that it has resorted to all legal remedies to obtain satisfaction of his claim. It did not even point out in its complaint if the decision in Civil Case No. 99-865 has already become final and executory and whether the execution thereof yielded negative result in satisfying its claims. Even the skip tracing allegedly done by the plaintiff-appellant to locate the properties of the defendant-appellees was not mentioned. And although the skip tracing reports were subsequently presented by the plaintiff-appellant, such reports are not sufficient to satisfy the third requirement. First, they are not prepared and executed by the sheriff, and second, they do not demonstrate that the sheriff failed to enforce and satisfy the judgment of the court and that the plaintiff-appellant has exhausted the property of the defendant-appellees. Perforce, the action for rescission filed by the plaintiff-appellant is dismissible.<sup>17</sup>

As stated at the outset, both parties sought reconsideration but were rebuffed.

### Issue

Hence, this recourse of ASB to the Court, presenting the lone issue of:

**WHETHER OR NOT THE COURT OF APPEALS, IN CA G.R. CV NO 90123, HAS DECIDED A QUESTION OF SUBSTANCE, NOT HERETOFORE DETERMINED BY THE SUPREME COURT, OR HAS DECIDED IT IN A WAY PROBABLY NOT IN ACCORDANCE WITH LAW OR THE APPLICABLE DECISIONS OF THE SUPREME COURT, WHEN IT RENDERED THE DECISION DATED 28 MAY 2009, AND RESOLUTION DATED 22 JANUARY 2010, IN FINDING THAT PETITIONER FAILED TO PROVE THAT IT HAS RESORTED TO ALL LEGAL REMEDIES TO OBTAIN SATISFACTION OF ITS CLAIM, WITHOUT GIVING PETITIONER THE OPPORTUNITY TO BE HEARD OR THE CHANCE TO PRESENT EVIDENCE TO SUPPORT ITS ACTION, THEREBY DEPRIVING THE LATTER OF THE RIGHT TO DUE PROCESS.**<sup>18</sup>

ASB argues that, considering that its action was still in its preliminary stages, the CA erred in dismissing its action on the ground that it failed to allege in its complaint the fact that it had resorted to all other legal remedies to satisfy its claim, because it is a matter that need not be alleged in its complaint, but, rather, to be proved during trial. It asserts that its action is

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<sup>17</sup> Id. at 95-96. (Emphasis in the original)

<sup>18</sup> Id. at 62 and 590.

not yet barred by prescription, insisting that the reckoning point of the four (4)-year prescriptive period should be counted from September 2005, when it discovered the fraudulent donation made by respondent spouses.

The basic issue in this case is whether the CA was correct in dismissing ASB's complaint on the ground that the action against respondents was premature.

### **Ruling of the Court**

The Court finds the petition bereft of merit.

Section 1 of Rule 2 of the Revised Rules of Court requires that every ordinary civil action must be based on a cause of action. Section 2 of the same rule defines a cause of action as an act or omission by which a party violates the right of another. In order that one may claim to have a cause of action, the following elements must concur: (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect or not to violate such right; and (3) an act or omission on the part of such defendant in violation of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff for which the latter may maintain an action for recovery of damages or other appropriate relief.<sup>19</sup> In other words, "a cause of action arises when that should have been done is not done, or that which should not have been done is done."<sup>20</sup>

In *Philippine American General Insurance Co., Inc. v. Sweet Lines, Inc.*,<sup>21</sup> it was held that "before an action can properly be commenced, all the essential elements of the cause of action must be in existence, that is, the cause of action must be complete. All valid conditions precedent to the institution of the particular action, whether prescribed by statute, fixed by agreement of the parties or implied by law must be performed or complied with before commencing the action, unless the conduct of the adverse party has been such as to prevent or waive performance or excuse non-performance of the condition."

Moreover, it is not enough that a party has, in effect, a cause of action. The rules of procedure require that the complaint must contain a concise statement of the ultimate or essential facts constituting the plaintiff's cause of action. "The test of the sufficiency of the facts alleged in the complaint is

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<sup>19</sup> *Soloil, Inc. v. Philippine Coconut Authority*, G.R. No. 174806, August 11, 2010, 628 SCRA 185, 190.

<sup>20</sup> *Central Philippines University v. Court of Appeals*, 316 Phil. 616, 626 (1995).

<sup>21</sup> G.R. No. 87434, August 5, 1992, 212 SCRA 194, 207.

whether or not, admitting the facts alleged, the court can render a valid judgment upon the same in accordance with the prayer of plaintiff.”<sup>22</sup> The focus is on the sufficiency, not the veracity, of the material allegations. Failure to make a sufficient allegation of a cause of action in the complaint warrants its dismissal.<sup>23</sup>

In relation to an action for rescission, it should be noted that the remedy of rescission is subsidiary in nature; it cannot be instituted except when the party suffering damage has no other legal means to obtain reparation for the same.<sup>24</sup> Article 1177 of the New Civil Code provides:

The creditors, after having pursued the property in possession of the debtor to satisfy their claims, may exercise all the rights and bring all the actions of the latter for the same purpose, save those which are inherent in his person; they may also impugn the actions which the debtor may have done to defraud them. (Emphasis added)

Consequently, following the subsidiary nature of the remedy of rescission, a creditor would have a cause of action to bring an action for rescission, if it is alleged that the following successive measures have already been taken: (1) exhaust the properties of the debtor through levying by attachment and execution upon all the property of the debtor, except such as are exempt by law from execution; (2) exercise all the rights and actions of the debtor, save those personal to him (*accion subrogatoria*); and (3) seek rescission of the contracts executed by the debtor in fraud of their rights (*accion pauliana*).<sup>25</sup>

With respect to an *accion pauliana*, it is required that the ultimate facts constituting the following requisites must all be alleged in the complaint, viz.:

- 1) That the plaintiff asking for rescission, has credit prior to the alienation, although demandable later;
- 2) That the debtor has made a subsequent contract conveying a patrimonial benefit to a third person;

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<sup>22</sup> *First Bancorp, Inc. v. Court of Appeals*, 525 Phil. 309, 327 (2006).

<sup>23</sup> *Philippine Daily Inquirer v. Alameda*, G.R. No. 160604, March 28, 2008, 550 SCRA 199, 207.

<sup>24</sup> Civil Code, Art. 1383.

<sup>25</sup> *Adorable v. Court of Appeals*, 377 Phil. 210, 218 (1999).

3) That the creditor has no other legal remedy to satisfy his claim, but would benefit by rescission of the conveyance to the third person;

4) That act being impugned is fraudulent; and

5) That the third person who received the property conveyed, if by onerous title, has been an accomplice in the fraud.<sup>26</sup>

A cursory reading of the allegations of ASB's complaint would show that it failed to allege the ultimate facts constituting its cause of action and the prerequisites that must be complied before the same may be instituted. ASB, without availing of the first and second remedies, that is, exhausting the properties of CTS, Henry H. Furigay and Genilda C. Furigay or their transmissible rights and actions, simply undertook the third measure and filed an action for annulment of the donation. This cannot be done. The Court hereby quotes with approval the thorough discourse of the CA on this score:<sup>27</sup>

To answer the issue of prescription, the case of *Khe Hong Cheng vs. Court of Appeals* (G.R. No. 144169, March 28, 2001) is pertinent. In said case, Philam filed an action for collection against Khe Hong Cheng. While the case was still pending, or on December 20, 1989, Khe Hong Cheng, executed deeds of donations over parcels of land in favor of his children, and on December 27, 1989, said deeds were registered. Thereafter, new titles were issued in the names of Khe Hong Cheng's children. Then, the decision became final and executory. But upon enforcement of writ of execution, Philam found out that Khe Hong Cheng no longer had any property in his name. Thus, on February 25, 1997, Philam filed an action for rescission of the deeds of donation against Khe Hong Cheng alleging that such was made in fraud of creditors. However, Khe Hong Cheng moved for the dismissal of the action averring that it has already prescribed since the four-year prescriptive period for filing an action for rescission pursuant to Article 1389 of the Civil Code commenced to run from the time the deeds of donation were registered on December 27, 1989. Khe Hong Cheng averred that registration amounts to constructive notice and since the complaint was filed only on February 25, 1997, or more than four (4) years after said registration, the action was already barred by prescription. The trial court ruled that the complaint had not yet prescribed since the prescriptive period began to run only from December 29, 1993, the date of the decision of the trial court. Such decision was affirmed by this court but reckoned the accrual of Philam's cause of action in January 1997, the time when it first learned that the judgment award could not be satisfied because the judgment creditor, Khe Hong Cheng, had no more properties in his name. Hence, the case reached the Supreme Court which ruled that

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<sup>26</sup> *Khe Hong Cheng v. Court of Appeals*, 407 Phil. 1058, 1068 (2001).

<sup>27</sup> *Rollo*, pp. 91-95.

the action for rescission has not yet prescribed, ratiocinating as follows:

“Essentially, the issue for resolution posed by petitioners is this: When did the four (4) year prescriptive period as provided for in Article 1389 of the Civil Code for respondent Philam to file its action for rescission of the subject deeds of donation commence to run?

The petition is without merit.

Article 1389 of the Civil Code simply provides that, ‘The action to claim rescission must be commenced within four years.’ Since this provision of law is silent as to when the prescriptive period would commence, the general rule, i.e, from the moment the cause of action accrues, therefore, applies. Article 1150 of the Civil Code is particularly instructive:

ARTICLE 1150. The time for prescription for all kinds of actions, when there is no special provision which ordains otherwise, shall be counted from the day they may be brought.

Indeed, this Court enunciated the principle that it is the legal possibility of bringing the action which determines the starting point for the computation of the prescriptive period for the action. Article 1383 of the Civil Code provides as follows:

ARTICLE 1383. An action for rescission is subsidiary; it cannot be instituted except when the party suffering damage has no other legal means to obtain reparation for the same.

It is thus apparent that an action to rescind or an accion pauliana must be of last resort, availed of only after all other legal remedies have been exhausted and have been proven futile. For an accion pauliana to accrue, the following requisites must concur:

- 1) That the plaintiff asking for rescission, has a credit prior to the alienation, although demandable later; 2) That the debtor has made a subsequent contract conveying a patrimonial benefit to a third person; 3) That the creditor has no other legal remedy to satisfy his claim, but would benefit by rescission of the conveyance to the third person; 4) That the act being impugned is fraudulent; 5) That

the third person who received the property conveyed, if by onerous title, has been an accomplice in the fraud.

We quote with approval the following disquisition of the CA on the matter:

An accion pauliana accrues only when the creditor discovers that he has no other legal remedy for the satisfaction of his claim against the debtor other than an accion pauliana. The accion pauliana is an action of a last resort. For as long as the creditor still has a remedy at law for the enforcement of his claim against the debtor, the creditor will not have any cause of action against the creditor for rescission of the contracts entered into by and between the debtor and another person or persons. Indeed, an accion pauliana presupposes a judgment and the issuance by the trial court of a writ of execution for the satisfaction of the judgment and the failure of the Sheriff to enforce and satisfy the judgment of the court. It presupposes that the creditor has exhausted the property of the debtor. The date of the decision of the trial court against the debtor is immaterial. What is important is that the credit of the plaintiff antedates that of the fraudulent alienation by the debtor of his property. After all, the decision of the trial court against the debtor will retroact to the time when the debtor became indebted to the creditor.

Petitioners, however, maintain that the cause of action of respondent Philam against them for the rescission of the deeds of donation accrued as early as December 27, 1989, when petitioner Khe Hong Cheng registered the subject conveyances with the Register of Deeds. Respondent Philam allegedly had constructive knowledge of the execution of said deeds under Section 52 of Presidential Decree No. 1529, quoted *infra*, as follows:

SECTION 52. Constructive knowledge upon registration. — Every conveyance, mortgage, lease, lien, attachment, order, judgment, instrument or entry affecting registered land shall, if registered, filed or entered in the Office of the Register of Deeds for the province or city where the land to which it relates lies, be constructive notice to all persons from the time of such registering, filing, or entering.

Petitioners argument that the Civil Code must yield to the Mortgage and Registration Laws is misplaced, for in no way does this imply that the specific provisions of the former may be all together ignored. To count the four year prescriptive period to rescind an allegedly fraudulent contract from the date of registration of the conveyance with the Register of Deeds, as alleged by the petitioners, would run counter to Article 1383 of the Civil Code as well as settled jurisprudence. It would likewise violate the third requisite to file an action for rescission of an allegedly fraudulent conveyance of property, i.e., the creditor has no other legal remedy to satisfy his claim.

An accion pauliana thus presupposes the following: 1) A judgment; 2) the issuance by the trial court of a writ of execution for the satisfaction of the judgment, and 3) the failure of the sheriff to enforce and satisfy the judgment of the court. It requires that the creditor has exhausted the property of the debtor. The date of the decision of the trial court is immaterial. What is important is that the credit of the plaintiff antedates that of the fraudulent alienation by the debtor of his property. After all, the decision of the trial court against the debtor will retroact to the time when the debtor became indebted to the creditor.

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Even if respondent Philam was aware, as of December 27, 1989, that petitioner Khe Hong Cheng had executed the deeds of donation in favor of his children, the complaint against Butuan Shipping Lines and/or petitioner Khe Hong Cheng was still pending before the trial court. Respondent Philam had no inkling, at the time, that the trial court's judgment would be in its favor and further, that such judgment would not be satisfied due to the deeds of donation executed by petitioner Khe Hong Cheng during the pendency of the case. Had respondent Philam filed his complaint on December 27, 1989, such complaint would have been dismissed for being premature. Not only were all other legal remedies for the enforcement of respondent Philam's claims not yet exhausted at the time the deeds of donation were executed and registered. Respondent Philam would also not have been able to prove then that petitioner Khe Hong Cheng had no more property other than those covered by the subject deeds to satisfy a favorable judgment by the trial court.

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As mentioned earlier, respondent Philam only learned about the unlawful conveyances made by petitioner Khe Hong Cheng in January 1997 when its counsel accompanied the sheriff to Butuan City to attach the properties of petitioner Khe Hong Cheng. There they found that he no longer had any properties in his name. It was only then that respondent Philam's action for rescission of the deeds of donation accrued because then it could be said that respondent Philam had exhausted all legal means to satisfy the trial court's judgment in its favor. Since respondent Philam filed its complaint for accion pauliana against petitioners on February 25, 1997, barely a month from its discovery that petitioner Khe Hong Cheng had no other property to satisfy the judgment award against him, its action for rescission of the subject deeds clearly had not yet prescribed."

From the foregoing, it is clear that the four-year prescriptive period commences to run neither from the date of the registration of the deed sought to be rescinded nor from the date the trial court rendered its decision but *from the day it has become clear that there are no other legal remedies by which the creditor can satisfy his claims*. [Emphases in the original]

In all, it is incorrect for ASB to argue that a complaint need not allege all the elements constituting its cause of action since it would simply adduce proof of the same during trial. "Nothing is more settled than the rule that in a motion to dismiss for failure to state a cause of action, the inquiry is into the sufficiency, not the veracity, of the material allegations."<sup>28</sup> The inquiry is confined to the four corners of the complaint, and no other.<sup>29</sup> Unfortunately for ASB, the Court finds the allegations of its complaint insufficient in establishing its cause of action and in apprising the respondents of the same so that they could defend themselves intelligently and effectively pursuant to their right to due process. It is a rule of universal application that courts of justice are constituted to adjudicate substantive rights. While courts should consider public policy and necessity in putting an end to litigations speedily they must nevertheless harmonize such necessity with the fundamental right of litigants to due process.

**WHEREFORE, the petition is DENIED.**


**SO ORDERED.**


  
**JOSE CATRAL MENDOZA**  
Associate Justice


<sup>28</sup> *Balo v. Court of Appeals*, 508 Phil. 224, 231 (2005).

<sup>29</sup> *Acuña v. Batac Producers Cooperative Marketing Association, Inc.*, 126 Phil. 896, 901 (1967).

**WE CONCUR:**

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

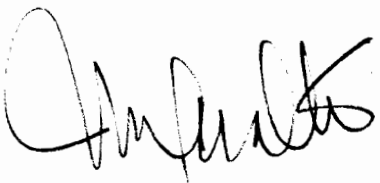
  
**DIOSDADO M. PERALTA**  
Associate Justice  
Acting Chairperson

  
**ROBERTO A. ABAD**  
Associate Justice

  
**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice

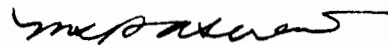
**ATTESTATION**

I attest 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.

  
**DIOSDADO M. PERALTA**  
Associate Justice  
Acting Chairperson, Third Division

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, 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