



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

ANTONIO JAMES, GERTRUDES  
JAMES, BEATRIZ JAMES, JERRY  
JAMES, CECILIA JAMES and HEIRS  
OF GORGONIO JAMES, JR. namely:  
BOND JAMES, SAINT JAMES and  
MAY JAMES VARGAS,  
Petitioners,

G.R. No. 190650

Present:

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

- versus -

EUREM REALTY DEVELOPMENT  
CORPORATION,  
Respondent.

Promulgated:

OCT 14 2013

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DECISION

REYES, J.:

This is a petition for review<sup>1</sup> of the Decision<sup>2</sup> dated January 29, 2009 and Resolution<sup>3</sup> dated November 17, 2009 of the Court of Appeals (CA) in CA-G.R. CV. No. 00119-MIN, which dismissed the petitioners' appeal from the Resolution<sup>4</sup> dated February 24, 2004 of the Regional Trial Court (RTC) of Dipolog City, Branch 6 in Civil Case No. 5877 for Declaration of Nullity of Title and Ownership of Real Property with Damages.

<sup>1</sup> Rollo, pp. 11-28.

<sup>2</sup> Penned by Associate Justice Mario V. Lopez, with Associate Justices Romulo V. Borja and Elihu A. Ybañez, concurring; CA rollo, pp. 56-66.

<sup>3</sup> Id. at 92-93.

<sup>4</sup> Issued by Judge Primitivo S. Abarquez, Jr.; records, pp. 109-113.

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### Facts of the Case

On September 17, 2003, the heirs of Gorgonio James (Gorgonio), namely, Antonio, Gertrudes, Beatriz, Gorgonio, Jr., Cecilia and Jerry (herein petitioners) filed **Civil Case No. 5877** against Eurem Realty Development Corporation (respondent). The petitioners alleged in their complaint that: (1) they are the registered owners and possessors of a property in Dipolog City containing an area of 448 square meters covered by Transfer Certificate of Title (TCT) No. T-18833 (Lot 1, Pcs-09-002753); (2) the respondent, on the other hand, is the registered owner of a 344-sq m portion of the same property owned by the petitioners, and covered by TCT No. T-10713 (Lot 1, Pcs-8080); (3) the respondent derived its title from Eufracio Lopez (Lopez) who executed in its favor a Deed of Assignment and Exchange on September 6, 1990, as annotated in TCT No. (T-19539) 12386 in the name of Lopez; (4) Lopez, in turn, derived his title from Primitivo James (Primitivo), who was Gorgonio's brother; (3) in the same title, TCT No. (T-19539) 12386, there is an annotation made on April 20, 1992 of a final decision by the CA in CA-G.R. No. 50208-R (**Civil Case No. 1447**), declaring TCT Nos. T-6272 and T-6273 in the name of Primitivo as null and void, and ordering the partition of Lots 854-C-1 and 854-C-2 among the heirs of Butler James in accordance with the terms of "Partition Extrajudicially" executed on October 21, 1949; (4) said annotation was not carried on to TCT No. T-10713 in the respondent's name; (5) the respondent's title is void *ab initio* as its predecessor-in-interest Lopez derived his title from Primitivo's void title; (6) Lopez acted in bad faith in assigning the property to the respondent as he knew fully well that he had no right or interest over said property; (7) the respondent has knowledge of Lopez's bad faith since it is a corporation organized by Lopez; and (8) there is a need to declare TCT No. T-10713 in the respondent's name as null and void and the petitioners be declared as the lawful owner of the entire Lot 1, among others.<sup>5</sup>

Respondent, in its answer, argued that the complaint is barred by prior judgment (*res judicata*) and that prescription has already set in. On the ground of *res judicata*, the respondent argued that: (1) the petitioners are the heirs of Gorgonio who was the defendant in **Civil Case No. 2503** for recovery of possession and damages filed by Lopez; (2) the RTC of Dipolog City, Branch 1, in its Decision dated November 27, 1975, declared Lopez as the lawful and absolute owner and possessor of Lot 1, Pcs-8080; and (3) Gorgonio's appeal was dismissed by the CA in CA-G.R. No. SP-05553 and said dismissal became final on August 17, 1978; entry of judgment was already made in due course. The respondent also argued that since the petitioners filed the complaint in **Civil Case No. 5877** on September 17, 2003, or more than thirty (30) years after its predecessor-in-interest Lopez bought the property from Primitivo way back in April 25, 1972. Hence,

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<sup>5</sup>

Id. at 2-4.

such action was barred by prescription, which under Article 1141 of the New Civil Code provides for a 30-year period for the filing of a real action involving an immovable property.<sup>6</sup>

On February 24, 2004, the RTC sustained the respondent's defenses and dismissed the complaint.<sup>7</sup> According to the RTC, *res judicata* does not apply because the causes of action involved in Civil Case No. 2503 and Civil Case No. 5877 are different. As to the ground of prescription, however, the RTC agreed with the respondent that the petitioners' action had already prescribed. The RTC noted that the title of the respondent's predecessor-in-interest, Lopez, was issued on October 11, 1972 and has not been judicially declared null and void by any competent court up to the present, while the complaint for the declaration of nullity of the respondent's title was filed only on September 26, 2003. Hence, more than 30 years have lapsed before the petitioners decided to question the legality of the respondent's title over the property.

Aggrieved, the petitioners appealed to the CA contending that: (1) the RTC erred in dismissing the case on the ground of prescription; and (2) the RTC erred in not declaring TCT No. T-10713 covering Lot 1, Pcs-8080 in the respondent's name as null and void.

In the Decision<sup>8</sup> dated January 29, 2009, the CA dismissed the appeal. The CA ruled that the issues of *res judicata* and prescription, and the determination of the nullity of the respondent's TCT No. T-10713 are questions of law that should have been raised *via* a petition for review under Rule 45 of the Rules of Court before the Supreme Court. The petitioners sought reconsideration<sup>9</sup> but their motion was denied per Resolution<sup>10</sup> dated November 17, 2009.

Hence, this petition.

The petitioners posed the issues to be resolved as follows:

1. Whether or not the issues raised by the petitioners in their appeal are purely questions of law or mixed questions of facts and law;
2. Whether or not petitioners' action is barred by prescription; [and]

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<sup>6</sup> Id. at 24-27; Article 1141 of the NEW CIVIL CODE states: Real actions over immovables prescribe after thirty years.

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<sup>7</sup> Id. at 109-113.

<sup>8</sup> CA *rollo*, pp. 56-66.

<sup>9</sup> Id. at 70-80.

<sup>10</sup> Id. at 92-93.

3. Whether or not the summary dismissal of the case constitutes a denial of due process.<sup>11</sup>

### **The Court's Ruling**

#### **Propriety of the dismissal of the petitioners' appeal**

The question of whether *res judicata* serves as a bar to the filing of a case is unquestionably one of law. For a question to be one of law, the same must not involve an examination of the probative value of the pertinent evidence presented by the litigants or any of them.<sup>12</sup> All the court has to do in resolving the applicability of *res judicata* is apply the undisputed facts of the two cases pitted against each other and determine whether: (a) the former judgment is final; (b) the court which rendered it had jurisdiction over the subject matter and the parties; (c) it is a judgment on the merits; and (d) there is as between the first and second actions identity of parties, subject matter and causes of action.<sup>13</sup> But the question of whether prescription is applicable can be either one of law or fact. In *Macababbad, Jr. v. Masirag*,<sup>14</sup> the Court stated that it is a question of fact when the doubt or difference arises as to the truth or falsity of an allegation of fact; it is a question of law when there is doubt or controversy as to what the law is on a given state of facts.<sup>15</sup>

In this case, the RTC dismissed the petitioners' complaint with the bare statement that "the title of the [respondent's] predecessor Eufracio Lopez was issued on October 11, 1972 and the same has not as yet been judicially declared null and void by any competent court up to the present, as against [petitioners'] complaint which was filed with [the RTC] only on September 26, 2003, or more than thirty (30) years have lapsed before [petitioners] instituted [the] present action."<sup>16</sup> The RTC simply reckoned the commencement of the prescriptive period on the issuance of Lopez's title on October 11, 1972, as alleged by the respondent in its answer. In their complaint, however, the petitioners disputed the validity of the respondent's title, alleged bad faith on the part of Lopez and the respondent, and reiterated the existence of the final and executory decision of the CA in Civil Case No. 1447. The petitioners also alleged in their complaint and appellants' brief that they are holders of TCT No. 18833 issued on September 20, 1999 pursuant to the CA decision in Civil Case No. 1447.<sup>17</sup>

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<sup>11</sup> Rollo, p. 18.

<sup>12</sup> *Tongonan Holdings and Development Corporation v. Escaño, Jr.*, G.R. No. 190994, September 7, 2011, 657 SCRA 306, 314.

<sup>13</sup> *S.L. Teves, Inc./Hacienda Nuestra Señora Del Pilar and/or Teves v. Eran*, 576 Phil. 570, 574 (2008), citing *Aldovino v. NLRC*, 359 Phil. 54, 61 (1998).

<sup>14</sup> G.R. No. 161237, January 14, 2009, 576 SCRA 70.

<sup>15</sup> *Id.* at 82, citing *Crisostomo v. Garcia, Jr.*, 516 Phil. 743, 749 (2006).

<sup>16</sup> Records, p. 113. (Emphasis omitted)

<sup>17</sup> CA rollo, pp. 9-10.

Thus, the petitioners prayed, both in their complaint and in their appellant's brief, that the respondent's title be set aside and their own title upheld. While the existence of different titles over the same property is an established fact, the allegations in the petitioners' complaint and appellants' brief as to the antecedent facts that led to the issuance of the titles create an uncertainty regarding the applicability of prescription and call for a calibration of the evidence on hand. This constitutes a question of fact and not a run-of-the-mill question of law as the CA would like to present it; more so since the petitioners charge the respondent and its predecessors-in-interest with bad faith. **"[T]he question of whether a person acted with good faith or bad faith in purchasing and registering real property is a question of fact, x x x."**<sup>18</sup> It is evidentiary and has to be established by the claimant with clear and convincing evidence, and this necessitates an examination of the evidence of all the parties.<sup>19</sup> In *Macababbad, Jr.*, the Court also ruled that **prescription is a question of fact where there is a need to determine the veracity of factual matters such as the date when the period to bring the action commenced to run.**<sup>20</sup>

Given the mixed question of fact and law raised, the petitioners properly elevated the RTC decision to the CA on ordinary appeal under Rule 41, Section 2 of the Rules of Court.<sup>21</sup> The CA, therefore, committed a reversible error in dismissing the petitioners' appeal.

Normally, the Court would remand the case to the CA for proper disposition of the petitioners' appeal. Considering, however, that a remand would further delay Civil Case No. 5877 which is yet to reach the trial stage, the Court will resolve the issue of whether the RTC committed a reversible error in dismissing the same on ground of prescription without touching on the substantial merits of the case.<sup>22</sup>

**The period for the filing of Civil Case No. 5877 has not yet prescribed**

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<sup>18</sup> *Heirs of Nicolas S. Cabigas v. Limbaco*, G.R. No. 175291, July 27, 2011, 654 SCRA 643, 652, citing *Sps. Bautista v. Silva*, 533 Phil. 627 (2006).

<sup>19</sup> *Belle Corporation v. De Leon-Banks*, G.R. No. 174669, September 19, 2012, 681 SCRA 351, 362, citing *NM Rothschild and Sons, (Australia) Limited v. Lepanto Consolidated Mining Company*, G.R. No. 175799, November 28, 2011, 661 SCRA 328; *Magaling v. Ong*, G.R. No. 173333, August 13, 2008, 562 SCRA 152, 169; *Gubat v. National Power Corporation*, G.R. No. 167415, February 26, 2010, 613 SCRA 742, 757.

<sup>20</sup> Supra note 14, at 82, citing *Crisostomo v. Garcia, Jr.*, 516 Phil. 743, 749-750 (2006).

<sup>21</sup> Sec. 2. *Modes of appeal.* (a) Ordinary appeal—The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party.

<sup>22</sup> *Heirs of the Late Ruben Reinoso, Sr. v. Court of Appeals*, G.R. No. 116121, July 18, 2011, 654 SCRA 1, 12.

The Court notes that the RTC's dismissal was triggered by the defenses raised by the respondent in its answer. There was yet to be a trial on the merits but the RTC merely relied on the averments in the complaint and answer and forthwith dismissed the case. On this point, the Court has already ruled that the "affirmative defense of prescription does not automatically warrant the dismissal of a complaint, x x x."<sup>23</sup> While trial courts have authority and discretion to dismiss an action on the ground of prescription, it may only do so when the parties' pleadings or other facts on record show it to be indeed time-barred.<sup>24</sup> "If the issue of prescription is one involving evidentiary matters requiring a full-blown trial on the merits, it cannot be determined in a motion to dismiss."<sup>25</sup>

Parenthetically, there are two kinds of prescription provided in the Civil Code. One is acquisitive, *i.e.*, the acquisition of a right by the lapse of time; the other is extinctive, whereby rights and actions are lost by the lapse of time.<sup>26</sup> The kind of prescription raised by the respondent pertains to extinctive prescription.

As previously noted, Civil Case No. 5877 is one for the declaration of nullity of TCT No. T-10713 in the name of the respondent, which covers a portion of Lot 1, Pcs-09-02753 under TCT No. T-18833 in the name of the petitioners, and for the declaration of the petitioners' absolute ownership over said property. As basis for their claim, the petitioners claimed that the respondent's title over the property is void *ab initio*, having acquired the same from Lopez who, in turn, acquired it from Primitivo with the knowledge that the latter's title was void. **An action to declare the nullity of a void title does not prescribe.**<sup>27</sup>

Moreover, the action filed by the petitioners is essentially one for quieting of title. An action to quiet title is a common law remedy designed for the removal of any cloud upon, or doubt, or uncertainty affecting title to real property.<sup>28</sup> The pleadings filed in this case show that both the petitioners and respondent have title over the same property, albeit the petitioners' title covers 448 sq m, while that of the respondent's covers a 344-sq m portion thereof. It likewise appears from the records that both parties are in possession of their respective portions of the property. In an action for quieting of title, the competent court is tasked to determine the

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<sup>23</sup> *Heirs of Tomas Dolleton v. Fil-Estate Management, Inc.*, G.R. No. 170750, April 7, 2009, 584 SCRA 409, 428.

<sup>24</sup> *Heirs of the Late Fernando S. Falcasantos v. Tan*, G.R. No. 172680, August 28, 2009, 597 SCRA 411, 415, citing *Gicano v. Gegato*, 241 Phil. 139, 145 (1988).

<sup>25</sup> *Supra* note 23, at 428-429, citing *Pineda v. Heirs of Eliseo Guevarra*, 544 Phil. 554, 563 (2007).

<sup>26</sup> *De Morales v. CFI of Misamis Occidental, Br. 11, Ozamis City*, 186 Phil. 596, 598 (1980). *See also Mercado v. Espinocilla*, G.R. No. 184109, February 1, 2012, 664 SCRA 724, 730-732.

<sup>27</sup> *Spouses De Guzman v. Agbagala*, 569 Phil. 607, 614 (2008).


<sup>28</sup> *Green Acres Holding, Inc. v. Victoria P. Cabral, Sps. Enrique T. Moraga and Victoria Soriano, Filcon Ready Mixed, Inc., Department of Agrarian Reform Adjudication Board (DARAB), and Registry of Deeds of Bulacan, Meycauayan, Branch*, G.R. No. 175542, June 5, 2013.

respective rights of the complainant and the other claimants, not only to place things in their proper places, and make the claimant, who has no rights to the immovable, respect and not disturb the one so entitled, but also for the benefit of both, so that whoever has the right will see every cloud of doubt over the property dissipated, and he can thereafter fearlessly introduce any desired improvements, as well as use, and even abuse the property.<sup>29</sup>

An action to quiet title is a real action over immovables, which prescribes after thirty years.<sup>30</sup> Thus, even assuming that the petitioners' action is subject to extinctive prescription, it was error for the RTC to reckon the date when prescription began to run solely on the date of the issuance of Lopez's title on October 11, 1972. The petitioners cannot be expected to file the action after the issuance of Lopez's title since at that time, the appeal in Civil Case No. 1447, the case between their predecessor Gorgonio and his siblings as against their other sibling Primitivo, was still pending and was only resolved with finality by the CA only on November 7, 1978. The appeal in Civil Case No. 2503 between Lopez and Gorgonio, meanwhile, was dismissed by the CA with finality only on August 17, 1978. It should also be noted that what is being attacked is the respondent's TCT No. T-10713, which was issued on **March 2, 1992**. Thus, reckoning the prescriptive period from said date, the 30-year period clearly has not yet lapsed since the complaint was filed only on September 17, 2003.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated January 29, 2009 and Resolution dated November 17, 2009 of the Court of Appeals in CA-G.R. CV. No. 00119-MIN are **REVERSED and SET ASIDE**. Consequently, Civil Case No. 5877 is **REINSTATED**. Let records of the case be **REMANDED** to the Regional Trial Court of Dipolog City, Branch 6, which is **DIRECTED** to proceed with the case with dispatch.


**SO ORDERED.**


  
**BIENVENIDO L. REYES**  
Associate Justice

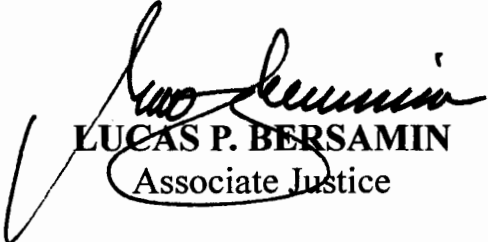
<sup>29</sup> Id.

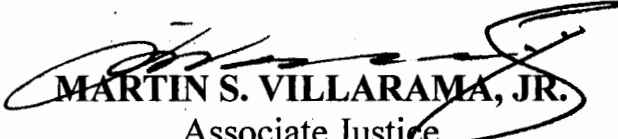
<sup>30</sup> CIVIL CODE OF THE PHILIPPINES, Article 1141. See also *Republic v. Mangotara*, G.R. No. 170375, July 7, 2010, 624 SCRA 360, 455.

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson

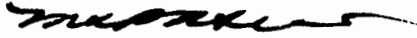
  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

### **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