

## THIRD DIVISION

[ G.R. No. 227894, July 05, 2017 ]

**JOSE S. OCAMPO, PETITIONER, VS. RICARDO<sup>[1]</sup> S. OCAMPO, SR.,  
RESPONDENT.**

### DECISION

**VELASCO JR., J.:**

#### The Case

Pending before the Court is a Petition for Review on *Certiorari* filed under Rule 45 of the Rules of Court, seeking to reverse and set aside the Decision<sup>[2]</sup> dated June 28, 2016 and the Resolution<sup>[3]</sup> dated October 20, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 99908. The CA affirmed the Decision<sup>[4]</sup> dated September 30, 2011 of the Regional Trial Court (RTC) of Manila, Branch 55, in Civil Case No. 92-61716, which ordered the partition of the subject property and the annulment and cancellation of petitioner's title over the same.

#### The Facts

Petitioner Jose S. Ocampo and respondent Ricardo S. Ocampo are full-blooded brothers being sons of the late Basilio Ocampo and Juliana Sunglao.<sup>[5]</sup>

The present case arose from a complaint filed by respondent against petitioner for partition and annulment of Transfer Certificate of Title (TCT) No. 102822 ("Subject Property").<sup>[6]</sup>

In the complaint, respondent alleged that he and petitioner are co owners of the Subject Property, which was a conjugal property left by their parents, consisting of a 150-square meter lot and the improvements thereon located at 2227 Romblon Street, G. Tuazon, Sampaloc, Manila. The Subject Property was originally registered in their parents' names under TCT No. 36869.<sup>[7]</sup>

Respondent claimed that petitioner and his wife, Andrea Mejia Ocampo, conspired in falsifying his signature on a notarized Extra-Judicial Settlement with Waiver ("ESW") dated September 1970, and effecting the transfer of the property in the name of petitioner under TCT No. 102822, which was issued on November 24, 1970. Based on a finding by the National Bureau of Investigation (NBI) that respondent's signature was forged, an Information was filed against petitioner, the notary public, and two others. Respondent requested for partition of the property, but petitioner refused to do so and secretly mortgaged the property for P200,000.00.<sup>[8]</sup>

Petitioner and his wife moved for the dismissal of the complaint, but it was denied by the trial court. Thereafter, they filed their Answer with Motion for Preliminary

Hearing on the Affirmative Defense of prescription.<sup>[9]</sup>

Based on their Answer, petitioner and his wife claimed that their parents executed a Deed of Donation *Propter Nuptias* of the Subject Property in their favor as they were getting married, with a promise on their part to demolish the old house and replace it with a new two-storey house, which they did. To build the new house, they obtained a P10,000.00 loan from the Development Bank of the Philippines (DBP), with petitioner and his parents as borrowers.<sup>[10]</sup>

Petitioner further alleged that his parents gave respondent several properties outside Metro Manila, which respondent eventually lost. Petitioner and his wife then allowed respondent to stay at the second floor of the house. Petitioner was able to pay the DBP loan through a loan secured from the Social Security System (SSS) with the consent of his father. He claimed that on September 30, 1970, their father executed the ESW and secured respondent's signature. By virtue of the ESW, petitioner was able to have TCT No. 36869 cancelled and have TCT No. 102822 issued in favor of himself and his wife.<sup>[11]</sup>

Finally, petitioner argued that TCT No. 102822 became indefeasible one year after its issuance on November 24, 1971, and that the action to annul TCT No. 102822 had prescribed since it was filed only on June 29, 1992, or 21 years and 7 months from the issuance of the title. He further claimed that the action to annul the ESW is a collateral attack on the title, and the rule on non-prescription against a co-owner does not apply since he and his wife had become exclusive owners of the Subject Property.<sup>[12]</sup>

In an Order dated January 21, 1994, the trial court dismissed the complaint on the ground of prescription. Respondent filed a Motion for Reconsideration and other supplemental pleadings, but they were denied by the trial court. Respondent thus elevated the matter to the CA, which declared the RTC's January 21, 1994 Order null and void. Petitioner filed a motion for extension of time to file a petition for review on certiorari before this Court, but the same was denied in a minute resolution.<sup>[13]</sup>

Thereafter, respondent filed a motion for writ of execution before the RTC. However, the motion was denied on the ground that there is nothing to execute since the setting aside of the RTC Order dated January 21, 1994 calls for the case to be tried on the merits. Thus, the RTC set the case for pre-trial.<sup>[14]</sup>

Meanwhile, petitioner filed a Motion for Leave to File Amended Answer which was granted by the RTC. In the Amended Answer, petitioner alleged that after their mother passed away in 1965, the P3,000.00 balance of the DBP loan was paid through an SSS loan. Petitioner alleged that in consideration of the loan, respondent and their father waived their rights to the property under the ESW. Petitioner further claimed that on November 19, 1970, their father executed a Deed of Absolute Sale, where he sold his interest in the Subject Property for P9,000.00 in favor of petitioner.<sup>[15]</sup>

Pre-trial ensued and the case was twice referred to mediation, but the parties refused to mediate. Thus, trial proceeded.<sup>[16]</sup>

Respondent presented three witnesses, as follows: 1) himself, 2) his wife, Francisca Elera Ocampo, and 3) Rhoda B. Flores, the Officer-in-Charge of the Questioned Documents Division of the NBI.<sup>[17]</sup> On the other hand, petitioner presented himself as the only witness for the defense.<sup>[18]</sup>

### **Ruling of the Regional Trial Court**

In a Decision dated September 30, 2011, the RTC ruled in favor of respondent, to wit:

WHEREFORE, premises considered, judgment is hereby rendered IN FAVOR OF THE PLAINTIFF, RICARDO S. OCAMPO and AGAINST the defendant JOSE S. OCAMPO, as follows:

1. ORDERING the property located at 2227 Romblon St. G. Tuazon, Sampaloc, Manila, including the improvements found therein to be partitioned between the plaintiff and the defendant, each having a share of one-half in the property;
2. ORDERING that TCT No. 102822 of the Registry of Deeds of the City of Manila be ANNULLED;
3. ORDERING the Registry of Deeds of the City of Manila to CANCEL Transfer Certificate of Title No. 102822, issued in the name of defendant, the same being null and void;
4. ORDERING the defendant to pay the costs of the suit.

SO ORDERED.<sup>[19]</sup>

Petitioner's motion for reconsideration was denied in an Order dated May 21, 2012. Thus, he filed a Notice of Appeal, which was granted in the Order dated July 10, 2012.<sup>[20]</sup>

### **Ruling of the Court of Appeals**

In the assailed Decision dated June 20, 2016, the CA affirmed the findings of the RTC, the dispositive portion of which reads:

**WHEREFORE**, the appeal is **DENIED**. The September 30, 2011 Decision of the Regional Trial Court, Branch 55, Manila in Civil Case No. 92-61716 is **AFFIRMED**.

**SO ORDERED.**<sup>[21]</sup>

In dismissing the petition, the CA found that respondent was able to prove that his signature on the ESW is not genuine, based on his and his wife's testimony, as well as the NBI report. According to the CA, this finding of forgery was also supported by petitioner's own admission on cross-examination that he was not present when the ESW was executed. Based on the evidence presented, the preponderance of

evidence weighed in favor of respondent and against petitioner.

As to petitioner's argument that the action is a collateral and not a direct attack on the title, the CA found it unmeritorious and ruled that the action precisely assails the validity of petitioner's title on the ground that it is based on a forged document, and it is also an action for reconveyance. Thus, the CA ruled that the action to annul the ESW is imprescriptible since it is a void or inexistent contract. With this, the CA affirmed the RTC Decision.

Petitioner filed a Motion for Reconsideration before the CA, but the same was denied in the assailed Resolution<sup>[22]</sup> dated October 20, 2016.

Hence, this petition.

### **The Petition**

Petitioner argues that the CA committed a reversible error in dismissing the appeal and in affirming the RTC Decision. Petitioner claims that the ESW, being a notarized document, enjoys a prima facie presumption of authenticity and due execution. He claims that there was no clear and convincing evidence to overcome this presumption.

Even assuming that the ESW is void or inexistent, petitioner argues that the action filed by respondent is barred by the doctrine of estoppel by laches. The ESW was executed and notarized on September 30, 1970. However, it was only on July 1, 1992 that respondent filed the present case for partition and annulment of title, claiming that the ESW was forged. Thus, petitioner argues that there was an unreasonable delay on respondent's part to assert his rights and pursue his claims against petitioner.

In compliance with the Court's Resolution dated February 1, 2017, respondent filed his Comment dated April 20, 2017. Respondent prayed for the dismissal of the petition, arguing that the issues raised therein have already been exhaustively and judiciously passed upon by the CA and the trial court. He argues that the CA was correct in declaring that the action was not barred by laches since the ESW is a void or inexistent contract which makes an action declaring it imprescriptible.

### **The Issue**

Petitioner raises the following grounds in support of his petition:

1. The CA erred in finding that the preponderance of evidence lies in favour of the view that the signature of the respondent is not genuine.
2. The CA erred in sustaining that the ESW is a void or inexistent contract.
3. The CA erred in ruling that the action to declare the nullity of the ESW is not barred by laches.

Essentially, the principal issue in this case is whether or not the CA committed reversible error in upholding the RTC's findings.

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

The petition is without merit.

#### ***The petition raises questions of fact***

It is well settled that questions of fact are not reviewable in petitions for review on certiorari under Rule 45 of the Rules of Court. Only questions of law distinctly set forth shall be raised in a petition and resolved. Moreover, the factual findings of the lower courts, if supported by substantial evidence, are accorded great respect and even finality by the courts. Except for a few recognized exceptions, this Court will not disturb the factual findings of the trial court.<sup>[23]</sup> This Court sees no reason to overturn the factual findings of the trial court, as affirmed by the CA, as the records show that preponderant evidence established the falsity of the ESW and the fraudulent registration of the subject property in petitioner's name.

#### ***Prescription has not set in***

We find it proper to delve into the more important issue to be resolved, that is, whether the action for annulment of title and partition has already prescribed. It must be pointed out that the issue of prescription had already been raised by petitioner in his Motion to Dismiss<sup>[24]</sup> dated August 5, 1992. This motion was granted by the trial court in its Order<sup>[25]</sup> dated January 21, 1994. However, respondent appealed this Order with the Court of Appeals in CA-G.R. CV No. 45121. The CA then rendered a Decision<sup>[26]</sup> dated March 30, 2001, nullifying the order of dismissal of the trial court. The CA essentially ruled that the case for partition and annulment of title did not prescribe. The CA Decision was eventually affirmed by the Second Division of this Court in G.R. No. 149287 by virtue of a minute Resolution<sup>[27]</sup> dated September 5, 2001, which became final and executory and was entered into the Book of Entries of Judgments on October 16, 2001.

Accordingly, the resolution in G.R. No. 149287 should have written *finis* to the issue of prescription. Nonetheless, to finally put to rest this bothersome issue, it behooves this Court to further elucidate why the respondent's action and right of partition is not barred by prescription. The CA explained that prescription is inapplicable. While the appellate court's observation is proper, it is inadequate as it fails to sufficiently explain why the rule on the imprescriptibility and indefeasibility of Torrens titles do not apply.

In the recent case of *Pontigon v. Sanchez*, We explained thus:

Under the Torrens System as enshrined in P.D. No. 1529, the decree of registration and the certificate of title issued become incontrovertible upon the expiration of one (1) year from the date of entry of the decree of registration, without prejudice to an action for damages against the applicant or any person responsible for the fraud. However, actions for reconveyance based on implied trusts may be allowed beyond the one-year period. As elucidated in *Walstrom v. Mapa, Jr.*: