

SECOND DIVISION

[G.R. NO. 152575, June 29, 2007]

**FIL-ESTATE GOLF AND DEVELOPMENT, INC., PETITIONER, VS.
FELICIDAD NAVARRO, RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

This is a petition for review^[1] of the Decision^[2] dated 28 September 2001 and the Resolution dated 11 March 2002 of the Court of Appeals in CA-G.R. SP No. 34537.

The Facts

On 7 October 1993, Felicidad Navarro (respondent) filed a complaint for Cancellation of Title and Recovery of Ownership and Possession with Damages against Carmona Realty Development Corporation (CRDC), Cerilo Layos (Layos), Rogelio Paular (Paular), Policarpio Diaz (Diaz), Ernesto Logarta (Logarta), Fil-Estate Golf and Development, Inc.^[3] (petitioner), and the Registrar of the Registry of Deeds, Cavite.

Respondent alleged that she is the registered owner of two parcels of land covered by Transfer Certificate of Title Nos. 76157 and 273624 (TCT Nos. 76157 & 273624), with an area of about 6,636 square meters and 465 square meters, respectively. In her Complaint, respondent stated that through the fraudulent and deceitful misrepresentations of Layos, Paular, Diaz, and Logarta, TCT Nos. 76157 & 273624 were cancelled and new titles were issued in the name of CRDC. The two parcels of land are now claimed and developed by petitioner.

Instead of filing an answer, petitioner filed a motion to dismiss the complaint, alleging that the action had prescribed and that the trial court did not acquire jurisdiction over the case because respondent did not pay the correct amount of docket fees.

On 14 April 1994, the trial court issued an Order denying the motion to dismiss, stating that the docket fees had been fully paid as certified by the clerk of court. The trial court likewise denied the motion for reconsideration.

Petitioner filed a petition for certiorari with the Court of Appeals. On 28 September 2001, the Court of Appeals denied the petition. The Court of Appeals likewise denied petitioner's motion for reconsideration.

Hence, this petition for review on certiorari.

The Ruling of the Court of Appeals

The Court of Appeals found no grave abuse of discretion on the part of the trial court in denying petitioner's motion to dismiss. The Court of Appeals held that an order denying a motion to dismiss is merely interlocutory and therefore not appealable. On the issue of prescription, the Court of Appeals held that such issue is best ventilated in a full blown proceeding before the trial court. The Court of Appeals cited the case of *Baranda v. Baranda*^[4] where this Court held that under Article 1410 of the Civil Code, an action to declare the inexistence of void contracts does not prescribe. On the issue of non-payment of the correct amount of docket fees, the Court of Appeals held that the certification of the clerk of court that the docket fees have been fully paid by respondent must be given due respect based on the presumption that official duty has been regularly performed in accordance with law.

The Issues

Petitioner contends that:

1. THE COURT OF APPEALS ERRED IN NOT HOLDING THAT THE ACTION BELOW HAD ALREADY PRESCRIBED.
2. THE COURT OF APPEALS ERRED IN SUSTAINING THE JURISDICTION OF THE TRIAL COURT OVER CIVIL CASE NO. BCV 93-127.^[5]

The Ruling of the Court

The petition is partly meritorious.

Under Section 1(c), Rule 41 of the Rules of Court, an interlocutory order is not appealable. An order denying a motion to dismiss is interlocutory and not appealable.^[6] We agree with the Court of Appeals in finding that the trial court did not commit grave abuse of discretion in denying the petitioner's motion to dismiss. However, we agree with petitioner that the docket fees paid were insufficient and that the clerk of court should reassess and determine the correct docket fees based on the assessed or estimated value of the subject properties for respondent to pay.

Prescription

Petitioner alleges that on 25 October 1982, the Register of Deeds cancelled TCT No. 76157 and issued a new title, TCT No. 125941, in the name of CRDC. Since respondent filed the complaint only on 7 October 1993, petitioner argues that 11 years had lapsed since the discovery of the alleged fraud which is deemed to have taken place when the Register of Deeds issued the new title. Therefore, petitioner asserts that the action has already prescribed since under Article 1391 of the Civil Code, an action to nullify a contract based on fraud should be filed within four years from the discovery of fraud.

On the other hand, respondent impugns the validity of the deed of sale for lack of consent. Respondent alleges that she is an illiterate widow. Sometime in 1980, when respondent was about 96 years old, Layos, Paular, Diaz, and Logarta convinced respondent to hand over the titles to her properties allegedly to obtain sugar quota from the Canlubang Sugar Estate. Taking advantage of respondent's advanced age

and illiteracy, Layos, Paular, Diaz, and Logarta subsequently convinced respondent to affix her thumbmark on a document which turned out to be a deed of absolute sale in favor of CRDC. In effect, respondent is impugning the validity of the deed of sale because even though she affixed her thumbmark on the document, she was unaware that the document was a deed of sale. Thus, respondent's complaint for cancellation of title alleged as basis the nullity of the deed of sale because of the absence of respondent's consent. If this is the case, then the complaint filed has not yet prescribed since under Article 1410 of the Civil Code, an action or defense for the declaration of the inexistence of a contract does not prescribe. As held in *Heirs of Rosa Dumaliang v. Damiano Serban*:^[7]

Without prejudging the issue as it is the trial court which would ultimately determine the same, if it is established that petitioners' consent was not given to the 1962 Deed of Extra-Judicial Settlement and Sale which became the basis for the issuance of the new title over the entire lot in respondent Damiano's name in 1965, the absence of such consent makes the Deed null and void *ab initio* and subject to attack anytime. x x x Article 1410 of the Civil Code clearly provides that an action to declare the inexistence of a void contract does not prescribe.

x x x x

If indeed petitioners' consent was not given, respondents could not have acquired ownership over the 56,804 sq. m. lot by virtue of the 1962 Deed of Extra-Judicial Settlement and Sale. While a certificate of title was issued in respondents' favor, such title could not vest upon them ownership of the entire property; neither could it validate a deed which is null and void. Registration does not vest title; it is merely the evidence of such title. Our land registration laws do not give the holder any better title than what he actually has.

Furthermore, in *Baranda v. Baranda*,^[8] where the complainant alleged that she signed the deeds of sale without knowing their contents, the Court held:

The Civil Code provides in Article 1391 that an action to annul a contract on the ground of vitiated consent must be filed within four years from the discovery of the vice of consent. In the instant case, however, we are dealing not with a voidable contract tainted with fraud, mistake, undue influence, violence or intimidation that can justify its nullification, but with a contract that is null and void *ab initio*.

Paulina Baranda declared under oath in her complaint that she signed the deeds of sale without knowing what they were, which means that her consent was not merely marred by the above-stated vices, so as to make the contracts voidable, but that she had not given her consent at all. We are also satisfied that there was no valid consideration either for the alleged transfers, for reasons already discussed. Lack of consent and consideration made the deeds of sale void altogether and rendered them subject to attack at any time, conformably to the rule in Article 1410 that an action to declare the inexistence of void contracts does not prescribe.

The issue of prescription in this case is not as simple as petitioner would have us believe. Prescription as a ground for a motion to dismiss is adequate when the complaint on its face shows that the action has already prescribed.^[9] This is not the