

FIFTH DIVISION

[CA-G.R. CV NO. 69999, September 22, 2006]

RENATO TENGCO, PLAINTIFF-APPELLEE, VS. FELICIANA QUINTO, DEFENDANT-APPELLANT.

DECISION

DIMAAMPAO, J.:

Assailed in this *Appeal* is the *Decision*¹ dated 11 September 2000 of the Regional Trial Court, Third Judicial Region, Malolos, Bulacan, Branch 80, in Civil Case No. 330-M-95 for *Reconveyance and Damages*, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered ordering the defendant to reconvey the lot in question in the name of the original owner, Mr. Urbano Quinto. Now, considering that Urbano Quinto is already dead, let the title of the property be reconveyed and named to the legal heirs.

Ordering further the defendant to pay the following:

- a) P17,000.00 as actual damages;
- b) P30,000.00 as moral damages;
- c) P20,000.00 as exemplary damages;
- d) P20,000.00 as attorney's fees; and
- e) Costs of suits.

SO ORDERED."²

The pertinent facts of the case are as follows.

Urbano Quinto ("Urbano") was the registered owner of a parcel of land described as Lot No. 1684 with an area of 218 square meters located in Malolos, Bulacan, covered by Decree No. 232809³ and Original Certificate of Title (OCT) No. 2064.⁴ On 29 March 1929,⁵ Urbano died single and intestate.⁶ At the time of his death, Urbano was survived by his full blood brother, Aureo Quinto ("Aureo"), half blood brother, Guillermo dela Cruz and half blood sisters, Apolonia and Ana ("Ana"), also surnamed Dela Cruz.⁷ Ana died intestate on 22 October 1961⁸ and was survived by her only daughter Pacita Enriquez ("Pacita") who got married to Nicanor Tengco.⁹ On 14 February 1984,¹⁰ Pacita died intestate and was survived by her three legitimate children, namely: Efren, Perlito and plaintiff Renato Tengco ("Renato").¹¹ Efren and Perlito¹² predeceased Renato.

Upon the other hand, Aureo died in 1930 and was survived by his three children, namely: Vicenta, Pedro and defendant Feliciana Quinto ("Feliciana").¹³ Pedro died single and without any issue.¹⁴

On 29 April 1985, the title of the said land was transferred to Feliciana who was correspondingly issued Transfer Certificate of Title (TCT) No. RT-43746.¹⁵

On 22 May 1995, Renato filed a *Complaint*¹⁶ seeking for the cancellation of TCT No. RT-43746 and recovery of the property in question alleging, among others, that the ownership of the said land was conveyed by Urbano to Ana, Renato's grandmother, in consideration of the services she rendered during the two-year period of Urbano's illness. In fact, Urbano gave Ana the owner's copy of OCT No. 2064. The said conveyance was known to and not objected by Aureo. Ana immediately took possession of the land in question peacefully, continuously and publicly. After she died, Renato's mother, Pacita, likewise immediately took possession of the property. Thereafter, upon the death of Pacita, Renato inherited the said property and possessed the same continuously and publicly. Over the years, he and his predecessors-in-interest were the ones paying the real property taxes. During the lifetime of Pacita, she entrusted to Feliciana the owner's copy of OCT No. 2064. For her part, Feliciana promised to cause the transfer of the title of the property in question in Pacita's name. However, sometime in June 1994, Renato discovered that Feliciana fraudulently transferred the title of the subject property in her own name, thus violating the trust and confidence reposed upon her by Pacita. Thereafter, Feliciana filed a complaint for unlawful detainer against Renato which led to his eviction on 8 December 1997, pursuant to a decision of the Municipal Trial Court (MTC) of Malolos, Bulacan in Civil Case No. 94-100.

In her *Answer*,¹⁷ Feliciana denied the material allegations of the complaint and averred as an affirmative defense that she inherited the subject property for being the sole legitimate heir of Urbano. Renato was not a legal heir as he was merely a grandson of Ana, the half blood sister of Urbano. The subject land was originally a portion of a bigger lot owned by Dominga San Pedro, who, in her lifetime, partitioned said land into two. One half ($\frac{1}{2}$) portion was given to her children by first marriage, namely: Guillermo, Apolonia and Ana, all surnamed Dela Cruz. The other half was given to her children by second marriage, namely: Urbano and Aureo. This latter half portion was decreed and titled in Urbano's name alone, he being the older of two siblings. Upon the death of both Urbano and Aureo, it was the latter's children, Feliciana, Pedro, and Vicenta, who were left as the only surviving heirs. Feliciana also alleged that she acquired sole ownership over the subject parcel of land because her brother Pedro and sister Vicenta sold their respective shares in her favor. Moreover, it was her daughter who worked for the transfer of the title in her (Feliciana) name while she paid all the real estate taxes of the property in question. She merely allowed Renato to temporarily stay on the premises.

After trial on the merits, the court *a quo* rendered the assailed Decision. Renato moved for partial execution of the judgment pending appeal.¹⁸ However, the court *a quo* denied the same in its Order dated 19 January 2001.¹⁹

Aggrieved, Feliciano (now appellant) interposed this appeal ascribing to the court *a quo* the following errors:

I

THE TRIAL COURT ERRED IN NOT DISMISSING THE CASE FOR LACK OF CAUSE OF ACTION AS IT WAS FILED WITHOUT COMPLYING WITH THE LAW ON KATARUNGANG PAMBARANGAY.

II

THE TRIAL COURT ERRED IN NOT DISMISSING THE CASE ON GROUND OF PRESCRIPTION AND LACHES.

III

THE TRIAL COURT ERRED IN NOT FINDING THAT DEFENDANT-APPELLANT IS THE RIGHTFUL OWNER OF THE SUBJECT LOT.

IV

THE TRIAL COURT ERRED IN ADJUDGING DEFENDANT-APPELLANT TO PAY DAMAGES AND ATTORNEY'S FEES TO PLAINTIFF-APPELLEE.

V

THE TRIAL COURT ERRED IN NOT DISMISSING THE COMPLAINT AND AWARDING TO DEFENDANT-APPELLANT HER COUNTERCLAIM.

The *Appeal* is devoid of merit.

On the first assigned error, appellant avers that since the matter was not brought before the barangay for conciliation, appellee has no cause of action against her.

We do not agree.

It is now settled that the absence of the conciliation process at the barangay level is not a jurisdictional defect and that failure to seasonably question the lack of conciliation is a waiver, as when the party invoking it submitted himself to the jurisdiction of the court by participating in the trial of the case and presenting his own evidence and cross-examining the witness of the adverse party.²⁰ Having actively participated in the trial of the case and presented her own evidence, appellant waived her right to assail the absence of conciliation.

Anent the second assigned error, appellant posits that appellee's action for reconveyance had already prescribed on the ground that the same was filed after a period of ten years from the time the title was issued in her name.

The point of the appellant is unconvincing.

The fraudulent registration of a parcel of land holds the person in whose name the land is registered as a mere trustee of an implied trust for the benefit of the person from whom the property comes. An action for reconveyance of registered land based on implied trust prescribes in ten years even if the decree of registration is no longer open to review. However, when the adverse claimants are still in possession of the