

**DONATO REYES YAP AND MELITONA MARAVILLAS, PETITIONERS,
VS. HON. EZEKIEL S. GRAGEDA, AS JUDGE OF THE COURT OF FIRST
INSTANCE OF ALBAY AND JOSE A. RICO, RESPONDENTS.**

G.R. No. L-31606. March 28, 1983

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

We are asked in this petition to review the amended decision of the respondent court which declared as absolutely null and void the sale of a residential lot in Guinobatan, Albay to a Chinese national and ordered its reconveyance to the vendors thirty years after the sale in spite of the fact that the vendee had been a naturalized Filipino citizen for fifteen years at the time.

We grant the petition. The questioned decision and the order amending it are reversed and set aside.

The facts are not disputed.

On April 12, 1939, Maximino Rico, for and in his own behalf and that of the minors Maria Rico, Filomeno Rico, Prisco Rico, and Lourdes Rico, executed a Deed of Absolute Sale (Annex, 'A' to the complaint) over Lot 339 and a portion of Lot 327 in favor of the petitioner Donato Reyes Yap who was then a Chinese national. Respondent Jose A. Rico is the eldest son of Maximino Rico, one of the vendors in Annex 'A'.

Subsequently, the petitioner as vendee caused the registration of the instrument of sale and the cancellation of Original Certificates of Title Nos. 29332 and 29410 and the consequent issuance in his favor of Transfer Certificate of Title No. T-2433 covering the two lots subject matter of the Contract of Sale.

After the lapse of nearly fifteen years from and after the execution of the deed of absolute sale, Donato Reyes Yap was admitted as a Filipino citizen and allowed to take his oath of allegiance to the Republic of the Philippines. He was, thereafter, issued Certificate of Naturalization No. 7, File No. 19 of the Court of First Instance of Albay.

On December 1, 1967, the petitioner ceded the major portion of Lot No. 327 consisting 1,078 square meters which he acquired by purchase under the deed of sale in favor of his engineer son, Felix Yap, who was also a Filipino citizen because of the Filipino citizenship of his mother and the naturalization of his father Donato Reyes Yap.

Subsequently, Lourdes Rico, aunt and co-heir of respondent Jose A. Rico, sold the remaining portion of Lot 327 to the petitioner who had his rights thereon duly registered under Act 496. Petitioner, Donato Reyes Yap, has been in possession of the lots in question since 1939, openly, publicly, continuously, and adversely in the concept of owner until the present time. The petitioner has one surviving son by his first marriage to a Filipino wife. He has five children by his second marriage also to a Filipina and has a total of 23 grandchildren all of whom are Filipino citizens.

The respondent court considered Section 5, Article XIII of the 1935 Constitution that "no private agricultural land

shall be transferred or assigned except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain in the Philippines" to be an absolute and unqualified prohibition and, therefore, ruled that a conveyance contrary to it would not be validated nor its void nature altered by the subsequent naturalization of the vendee.

The dispositive portion of the amended decision reads:

"WHEREFORE, in view of all the foregoing, the Contract of Sale embodied in the 'Escritura de Compra Venta' which is attached to the Complaint as Annex 'A', is hereby declared null and void ab initio and without any legal force and effect.

"The action to recover Lot 339 of the Cadastral Survey of Guinobatan, Albay, covered by Transfer Certificate of Title No. T-2433, and Lot 327 covered by the same Transfer Certificate of Title, is hereby granted to plaintiff, upon payment of the consideration price of P150.00 and declaring plaintiff as the lawful owner and entitled to the possession thereof.

"Defendant Donato Reyes Yap is hereby ordered to produce his Transfer Certificate of Title No. T-2433 to the Register of Deeds of Albay, so as to enable said office to make the due and proper annotations on said title as well as in the original of the declaration of nullity as herein adjudged. Let Transfer Certificate of Title issued to plaintiff, concerning said Lots 339 and 327 of the Cadastral Survey of Guinobatan, Albay.

"COSTS AGAINST DEFENDANTS."

The rulings in *Vasquez v. Li Seng Giap, et al.* (96 Phil. 447) and *Sarosa Vda. de Bersabia v. Cuenco* (113 SCRA 547) sustain the petitioner's contentions. We stated in *Sarosa Vda. de Bersabia*:

"There should be no question that the sale of the land in question in 1936 by Epifania to Ong King Po was inexistent and void from the beginning (Art. 1409 [7], Civil Code) because it was a contract executed against the mandatory provision of the 1935 Constitution, which is an expression of public policy to conserve lands for the Filipinos. Said provision reads:

"Save in cases of hereditary succession, no private agricultural land shall be transferred or assigned except to individuals, corporations, or associations, qualified to acquire or hold lands of the public domain."

"Had this been a suit between Epifania and Cog King Po, she could have been declared entitled to the litigated land on the basis, as claimed, of the ruling in *Philippine Banking Corporation vs. Lui She*, reading:

". . . For another thing, and this is not only cogent but also important. Article 1416 of the Civil Code provides as an exception to the rule on *pari delicto* that when the agreement is not illegal *per se* but is merely prohibited, and the prohibition by the law is designed for the protection of the plaintiff, he may, if public policy is thereby enhanced, recover what he has sold or delivered. . . ."

"But the factual set-up has changed. The litigated property is now in the hands of a naturalized Filipino. It is no longer owned by a disqualified vendee. Respondent, as a naturalized citizen, was constitutionally qualified to own the subject property. There would be no more public policy to be served in allowing petitioner Epifania to recover the land as it is already in the hands of a qualified person. Applying by analogy the ruling of this Court in *Vasquez vs. Giap and Li Seng Giap & Sons*:

". . . if the ban on aliens from acquiring not only agricultural but also urban lands, as construed by this Court in the *Krivenko* case, is to preserve the nation's lands for future generations of Filipinos, that aim or purpose would not be thwarted but achieved by making lawful the acquisition of real estate by aliens who became Filipino citizens by naturalization."

Only recently, we had occasion to reiterate the above rulings in *Vicente Godines v. Fong Pak Luen, et al.* (G.R.

No. L- 36731, January 27, 1983).

WHEREFORE, the amended judgment of the respondent court is hereby REVERSED and SET ASIDE. The complaint is DISMISSED.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, Vasquez and Relova, JJ., concur.

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