

BENITO ARAMBULO, PLAINTIFF AND APPELLANT, VS. CUA SO AND CUA PO CHOOH, DEFENDANTS AND APPELLEES.

G.R. No. L-7196. August 31, 1954

Ponente: BENGZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f1477be222fc/>

BENGZON, J.:

Aftermath of our Krivenko decision[1] is this action whereby plaintiff seeks to recover landed property he sold to the alien defendants. The facts are simple:

Before the Pacific War, plaintiff, a Filipino, was the owner of two parcels of land at Narra Street, Manila, his title thereto being Transfer Certificate No. 59259 of the Manila Register of Deeds. On February 23, 1948 he sold the said parcels to the defendants, who are Chinese citizens. On January 28, 1948 he started these proceedings to revoke the sale and recover the properties, invoking the aforesaid Krivenko decision, the relevant portion of which declares that the Constitution forbids the sale of urban lands to foreigners.

The Manila court of first instance dismissed the complaint, applying our ruling on *Cabauatan vs. Uy Hoo*, 88 Phil., 103 that refused to annul a similar conveyance in March 1943 by Filipino citizens to Chinese aliens on two grounds, namely: (1) during the Japanese occupation the Constitutional prohibition was not in force; (2) even if it was binding then, the seller could not now recover, because the law should not help either party to an illegal transaction this appeal is planted mainly on the proposition that the *Oabauatan* ruling should be revised, it being erroneous because upon principle and authority, the violation of the Constitution requires reconveyance to the vendor. Appellant insists that the Constitution was obligatory even during the Japanese regime, that it prohibits alien-vendees from owning and holding the property in question, thereby compelling recognition of the Filipino-vendor's previous ownership.

There is much to be said in favor of appellant's propositions. Indeed the *Cabauatan* opinion was not unanimous.

However the present issue is now settled. The *Cabauatan* doctrine denying recovery has subsequently been affirmed and re-affirmed in *Ricamara vs. Ngo Ki*, 92 Phil., 1084; *Relloso vs. Gaw Chee Hun*, 49 Off. Gaz., (10) 4321, 93 Phil., 827; *Caoile vs. Yu Chiao*, 49 Off. Gaz., (10) 4345, 93 Phil., 861; *Cortes vs. O. Po Poe L-2943*, October 30, 1953; *Talento and Talento vs. Makiki, et al.*, 93 Phil., 856.

Paras C. J., Montemayor, Jugo, Bautista Angelo and Labrador, JJ., concur.

[1] *Krivenko vs. Register of Deeds*, 44 Off. Gaz., 471; 79 Phil., 4W.

REYES, A., J.:

For the reasons stated in my dissent in the case of Dionisio Rellosa vs. Gan Chu Hun, G. R. L-1411, September 29, 1953, I concur only in the result.

DISIDENTE**PABLO, M.:**

La venta de las dos parcelas a los demandados en 23 de febrero de 1943 es nula porque la venta de terrenos a extranjeros esta prohibida por la Constitucion de Filipinas (art. XIII, section 5, Constitucion; Krivenko contra Registrador de Titulos, 44 Off. Gaz., 471, 79 Phil, 461).

Dicho contrato de venta es nulo ab initio; no tiene existencia legal, nulo de pleno derecho (4 Sanchez Roman, 207; 8 Manresa, 619; 2 Castan, 641) y porque la venta es nula los compradores deben devolver el terreno comprado, y el vendedor el precio de venta o "las partes contratantes deben restituirse reciprocamente las cosas que hubiesen sido materia del contrato" (Art. 1303 Cod. Civ.). El demandante, que es la parte interesada,—y no el Estado—"puede reclamar" la devolucion del terreno vendido en contravencion de la Constitucion (2 Castan, 144). Tal "action tiene que se ejercitada a instancia de parte" (3 Valverde, 299). El demandante tiene derecho a pedir que se declare nula la venta y que se le devuelva el terreno "para restablecer la virtualidad de la prohibicion" (Sentencia del Tribunal Supremo de Espana de 11 de Abril de 1949; 25 Jur. Civ., 503).

La contention de los demandados de que la prohibicion constitucional no estaba en vigor durante el regimen japonés carece de base: la parte de la Constitucion que quiere conservar en manos filipinas la propiedad inmueble—prohibiendo su venta a extranjeros—continuaba en vigor, como continuaban en vigor las leyes que estan consideradas en derecho Internacional como leyes municipales. Solamente estaba suspendida la parte de la Constitucion de caracter politico que se consideraba incompatible con los principios que informan el gobierno imperial del Japon de la misma manera como las disposiciones del Código Penal, que tratan de materia como la de lesa majestad y desacato contra los ministros de la Corona, dejaron de regir en Filipinas al implantarse el gobierno de tipo democratico presidencial (Pueblo contra Perfecto, 43 Jur. Fil., 929).

"Military government—that is, the administration of the affairs of civil government exercised by a belligerent in territory of an enemy occupied by him—is not considered in modern times as doing away with all laws and substituting therefor the will of a military commander. Such government is considered as a new means or instrument for the execution of such laws, natural and enacted international and domestic, as are necessary to preserve the peace and order of the community, protect rights, and promote the war to which it is an incident." (Magoon, *The Law of Civil Government under Military Occupation*, p. 14, cited in Wilson on International Law, p. 309.)

"The authority of the legitimate power having actually passed into the hands of the occupant, the latter shall take all steps in his power to reestablish and insure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country." (Art. 43, Hague Conventions of 1907.) " * * * in order that the ordinary pursuits and business of society may not be unnecessarily deranged the municipal laws, that is, such as affect private rights of persons and property, and provide for the punishment of crime, are generally allowed to continue in force, and to be administered by the ordinary tribunals as they were administered before the occupation. They are considered as continuing, unless suspended or superseded by the occupying belligerent" (Dow vs. Johnson, 25 Law ed., 632.)

Por eso, el Comandante en Jefe de las Fuerzas Imperiales Japonesas, en su Orden No. 3 de 20 febrero de 1942, dispuso lo siguiente;

"(1) Activities of the administrative organs and judicial courts in the Philippines shall be based upon the existing statutes, orders, ordinances and customs until further orders, provided that they are not inconsistent with the present circumstances under the Japanese Military Administration." (1 Off. Gaz., 29.)

Se podria arguir que la prohibicion de la venta a extranjeros no es una disposition legal sino constitutional. Esto no cambia la naturaleza del asunto. La prohibicion es mas bien materia de legislacion que de constitucion; pero no se extrano que la asamblea constituyente hubiese incluido en la Constitucion esa disposition prohibitoria para darla caracter permanente—pues trato de conservar el patrimonio nacional,—como se la establecido en la Constitucion de la Ciudad Libre de Dansig la concesion de los terrenos publicos por medio del homestead.

No existe en autos pruebas de que las partes, vendedor y compradores, hayan abrado de mala fe. La mala fe no se presume: debe probarse. A falta de prueba, la presuncion es que las partes obraron de buena fe. Por tanto, no es aplicable en el caso presente la doctrina de in pari delicto como se habia aplicado indebidamente en Cabatuan contra Uy Hoo.

Reitero mis argumentos en mis disidencias en las causas de Rellosa contra Gaw Chee Hun, 93 Phil., 827; Caoili contra Yu Chiao Peng, 93 Phil., 861; Cortes contra O Po Poe y otro, G. R. No. L-2943, (October 30, 1953), y Alberto contra Tan C. Sing y otra, G. R. No. L-6336, (November 27, 1953).

En mi opinion, decision debe ser revocado, ordenandose la restitution de las cosas que fueron objeto de venta anticonstitucional.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.