

IN RE: PETITION FOR SEPARATION OF PROPERTY

G.R. NO. 149615. August 29, 2006

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-149615/>

YNARES-SANTIAGO, J.:

This petition for review on certiorari[1] assails the February 26, 2001 Decision[2] of the Court of Appeals in CA-G.R. CV No. 59321 affirming with modification the August 12, 1996 Decision[3] of the Regional Trial Court of Quezon City, Branch 86 in Civil Case No. Q-94-21862, which terminated the regime of absolute community of property between petitioner and respondent, as well as the Resolution[4] dated August 13, 2001 denying the motion for reconsideration.

The facts are as follows:

Petitioner Elena Buenaventura Muller and respondent Helmut Muller were married in Hamburg, Germany on September 22, 1989. The couple resided in Germany at a house owned by respondent's parents but decided to move and reside permanently in the Philippines in 1992. By this time, respondent had inherited the house in Germany from his parents which he sold and used the proceeds for the purchase of a parcel of land in Antipolo, Rizal at the cost of P528,000.00 and the construction of a house amounting to P2,300,000.00. The Antipolo property was registered in the name of petitioner under Transfer Certificate of Title No. 219438[5] of the Register of Deeds of Marikina, Metro Manila.

Due to incompatibilities and respondent's alleged womanizing, drinking, and maltreatment, the spouses eventually separated. On September 26, 1994, respondent filed a petition[6] for separation of properties before the Regional Trial Court of Quezon City.

On August 12, 1996, the trial court rendered a decision which terminated the regime of absolute community of property between the petitioner and respondent. It also decreed the separation of properties between them and ordered the equal partition of personal properties located within the country, excluding those acquired by gratuitous title during the marriage. With regard to the Antipolo property, the court held that it was acquired using paraphernal funds of the respondent. However, it ruled that respondent cannot recover his funds because the property was purchased in violation of Section 7, Article XII of the Constitution. Thus –

However, pursuant to Article 92 of the Family Code, properties acquired by gratuitous title by either spouse during the marriage shall be excluded from the community property. The real property, therefore, inherited by petitioner in Germany is excluded from the absolute community of property of the herein spouses. Necessarily, the proceeds of the sale of said real property as well as the personal properties purchased thereby, belong exclusively to the petitioner. However, the part of that inheritance used by the petitioner for acquiring the house and lot in this country cannot be recovered by the petitioner, its acquisition being a violation of Section 7, Article XII of the Constitution which provides that "save in cases of hereditary succession, no private lands shall be transferred or conveyed except to individuals, corporations or associations qualified to acquire or hold lands of the public domain." The law will leave the parties in the situation where they are in without prejudice to a voluntary partition by the parties of the said real property. x x x

x x x x

As regards the property covered by Transfer Certificate of Title No. 219438 of the Registry of Deeds of Marikina, Metro Manila, situated in Antipolo, Rizal and the improvements thereon, the Court shall not make any pronouncement on constitutional grounds.[7]

Respondent appealed to the Court of Appeals which rendered the assailed decision modifying the trial court's Decision. It held that respondent merely prayed for reimbursement for the purchase of the Antipolo property, and not acquisition or transfer of ownership to him. It also considered petitioner's ownership over the property in trust for the respondent. As regards the house, the Court of Appeals ruled that there is nothing in the Constitution which prohibits respondent from acquiring the same. The dispositive portion of the assailed decision reads:

WHEREFORE, in view of the foregoing, the Decision of the lower court dated August 12, 1996 is hereby MODIFIED. Respondent Elena Buenaventura Muller is hereby ordered to REIMBURSE the petitioner the amount of P528,000.00 for the acquisition of the land and the amount of P2,300,000.00 for the construction of the house situated in Atnipolo, Rizal, deducting therefrom the amount respondent spent for the preservation, maintenance and development of the aforesaid real property including the depreciation cost of the house or in the alternative to SELL the house and lot in the event respondent does not have the means to reimburse the petitioner out of her own money and from the proceeds thereof, reimburse the petitioner of the cost of the land and the house deducting the expenses for its maintenance and preservation spent by the respondent. Should there be profit, the same shall be divided in proportion to the equity each has over the property. The case is REMANDED to the lower court for reception of evidence as to the amount claimed by the respondents for the preservation and maintenance of the property.

SO ORDERED.[8]

Hence, the instant petition for review raising the following issues:

I

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT THE RESPONDENT HEREIN IS ENTITLED TO REIMBURSEMENT OF THE AMOUNT USED TO PURCHASE THE LAND AS WELL AS THE COSTS FOR THE CONSTRUCTION OF THE HOUSE, FOR IN SO RULING, IT INDIRECTLY ALLOWED AN ACT DONE WHICH OTHERWISE COULD NOT BE DIRECTLY x x x DONE, WITHOUT DOING VIOLENCE TO THE CONSTITUTIONAL PROSCRIPTION THAT AN ALIEN IS PROHIBITED FROM ACQUIRING OWNERSHIP OF REAL PROPERTIES LOCATED IN THE PHILIPPINES.

II

THE COURT OF APPEALS GRAVELY ERRED IN SUSTAINING RESPONDENT'S CAUSE OF ACTION WHICH IS ACTUALLY A DESPERATE ATTEMPT TO OBTAIN OWNERSHIP OVER THE LOT IN QUESTION, CLOTHED UNDER THE GUISE OF CLAIMING REIMBURSEMENT.

Petitioner contends that respondent, being an alien, is disqualified to own private lands in the Philippines; that respondent was aware of the constitutional prohibition but circumvented the same; and that respondent's purpose for filing an action for separation of property is to obtain exclusive possession, control and disposition of the Antipolo property.

Respondent claims that he is not praying for transfer of ownership of the Antipolo property but merely reimbursement; that the funds paid by him for the said property were in consideration of his marriage to petitioner; that the funds were given to petitioner in trust; and that equity demands that respondent should be reimbursed of his personal funds.

The issue for resolution is whether respondent is entitled to reimbursement of the funds used for the acquisition of the Antipolo property.

The petition has merit.

Section 7, Article XII of the 1987 Constitution states:

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

Aliens, whether individuals or corporations, are disqualified from acquiring lands of the public domain. Hence, they are also disqualified from acquiring private lands.[9] The primary purpose of the constitutional provision is the conservation of the national patrimony. In the case of *Krivenko v. Register of Deeds*,[10] the Court held:

Under section 1 of Article XIII of the Constitution, "natural resources, with the exception of public agricultural land, shall not be alienated," and with respect to public agricultural lands, their alienation is limited to Filipino citizens. But this constitutional purpose conserving agricultural resources in the hands of Filipino citizens may easily be defeated by the Filipino citizens themselves who may alienate their agricultural lands in favor of aliens. It is partly to prevent this result that section 5 is included in Article XIII, and it reads as follows:

"Sec. 5. Save in cases of hereditary succession, no private agricultural land will be transferred or assigned except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain in the Philippines."

This constitutional provision closes the only remaining avenue through which agricultural resources may leak into aliens' hands. It would certainly be futile to prohibit the alienation of public agricultural lands to aliens if, after all, they may be freely so alienated upon their becoming private agricultural lands in the hands of Filipino citizens. x x x

x x x x

If the term "private agricultural lands" is to be construed as not including residential lots or lands not strictly agricultural, the result would be that "aliens may freely acquire and possess not only residential lots and houses for themselves but entire subdivisions, and whole towns and cities," and that "they may validly buy and hold in their names lands of any area for building homes, factories, industrial plants, fisheries, hatcheries, schools, health and vacation resorts, markets, golf courses, playgrounds, airfields, and a host of other uses and purposes that are not, in appellant's words, strictly agricultural." (Solicitor General's Brief, p. 6.) That this is obnoxious to the conservative spirit of the Constitution is beyond question.

Respondent was aware of the constitutional prohibition and expressly admitted his knowledge thereof to this Court.[11] He declared that he had the Antipolo property titled in the name of petitioner because of the said prohibition.[12] His attempt at subsequently asserting or claiming a right on the said property cannot be sustained.

The Court of Appeals erred in holding that an implied trust was created and resulted by operation of law in view of petitioner's marriage to respondent. Save for the exception provided in cases of hereditary succession, respondent's disqualification from owning lands in the Philippines is absolute. Not even an ownership in trust is allowed. Besides, where the purchase is made in violation of an existing statute and in evasion of its express provision, no trust can result in favor of the party who is guilty of the fraud.[13] To hold otherwise would allow circumvention of the constitutional prohibition.

Invoking the principle that a court is not only a court of law but also a court of equity, is likewise misplaced. It has been held that equity as a rule will follow the law and will not permit that to be done indirectly which, because of public policy, cannot be done directly.[14] He who seeks equity must do equity, and he who comes

into equity must come with clean hands. The latter is a frequently stated maxim which is also expressed in the principle that he who has done inequity shall not have equity. It signifies that a litigant may be denied relief by a court of equity on the ground that his conduct has been inequitable, unfair and dishonest, or fraudulent, or deceitful as to the controversy in issue.[15]

Thus, in the instant case, respondent cannot seek reimbursement on the ground of equity where it is clear that he willingly and knowingly bought the property despite the constitutional prohibition.

Further, the distinction made between transfer of ownership as opposed to recovery of funds is a futile exercise on respondent's part. To allow reimbursement would in effect permit respondent to enjoy the fruits of a property which he is not allowed to own. Thus, it is likewise proscribed by law. As expressly held in *Cheesman v. Intermediate Appellate Court*: [16]

Finally, the fundamental law prohibits the sale to aliens of residential land. Section 14, Article XIV of the 1973 Constitution ordains that, "Save in cases of hereditary succession, no private land shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain." Petitioner Thomas Cheesman was, of course, charged with knowledge of this prohibition. Thus, assuming that it was his intention that the lot in question be purchased by him and his wife, he acquired no right whatever over the property by virtue of that purchase; and in attempting to acquire a right or interest in land, vicariously and clandestinely, he knowingly violated the Constitution; the sale as to him was null and void. In any event, he had and has no capacity or personality to question the subsequent sale of the same property by his wife on the theory that in so doing he is merely exercising the prerogative of a husband in respect of conjugal property. To sustain such a theory would permit indirect controversion of the constitutional prohibition. If the property were to be declared conjugal, this would accord to the alien husband a not insubstantial interest and right over land, as he would then have a decisive vote as to its transfer or disposition. This is a right that the Constitution does not permit him to have.

As already observed, the finding that his wife had used her own money to purchase the property cannot, and will not, at this stage of the proceedings be reviewed and overturned. But even if it were a fact that said wife had used conjugal funds to make the acquisition, the considerations just set out to militate, on high constitutional grounds, against his recovering and holding the property so acquired, or any part thereof. And whether in such an event, he may recover from his wife any share of the money used for the purchase or charge her with unauthorized disposition or expenditure of conjugal funds is not now inquired into; that would be, in the premises, a purely academic exercise. (Emphasis added)

WHEREFORE, in view of the foregoing, the instant petition is GRANTED. The Decision dated February 26, 2001 of the Court of Appeals in CA-G.R. CV No. 59321 ordering petitioner Elena Buenaventura Muller to reimburse respondent Helmut Muller the amount of P528,000 for the acquisition of the land and the amount of P2,300,000 for the construction of the house in Antipolo City, and the Resolution dated August 13, 2001 denying reconsideration thereof, are REVERSED and SET ASIDE. The August 12, 1996 Decision of the Regional Trial Court of Quezon City, Branch 86 in Civil Case No. Q-94-21862 terminating the regime of absolute community between the petitioner and respondent, decreeing a separation of property between them and ordering the partition of the personal properties located in the Philippines equally, is REINSTATED. SO ORDERED.

Panganiban, C.J., (Chairperson), Austria-Martinez, Callejo, Sr. and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 31-50.

[2] Id. at 8-13. Penned by Associate Justice Juan Q. Enriquez, Jr. and concurred in by Associate Justices Ruben T.

Reyes and Presbitero J. Velasco, Jr. (who is now a Member of this Court).

[3] Id. at 98-101. Penned by Judge Teodoro A. Bay.

[4] Id. at 22.

[5] Id. at 58.

[6] Id. at 52-57.

[7] Id. at 100-101.

[8] Id. at 12.

[9] Ong Ching Po v. Court of Appeals, G.R. Nos. 113472-73, December 20, 1994, 239 SCRA 341, 346.

[10] 79 Phil. 461, 473, 476 (1947).

[11] Rollo, p. 114.

[12] TSN, April 18, 1995, p. 12.

[13] Morales v. Court of Appeals, G.R. No. 117228, June 19, 1997, 274 SCRA 282, 299.

[14] Frenzel v. Catito, 453 Phil. 885, 905 (2003).

[15] University of the Philippines v. Catungal, Jr., 338 Phil. 728, 743-744 (1997).

[16] G.R. No. 74833, January 21, 1991, 193 SCRA 93, 103-104.

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.