

**BERNARDA CH. OSMEÑA, PETITIONER, VS. NICASIO CH. OSMEÑA,
JOSE CH. OSMEÑA, TOMAS CH. OSMEÑA, HEIRS OF FRANCISCO CH.
OSMEÑA AND SIXTA CH. OSMEÑA, RESPONDENTS.**

G.R. No. 171911. January 26, 2010

Ponente: CORONA, J.

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CORONA, J.:

This is a petition for review on certiorari[1] of the April 14, 2005 decision[2] and March 2, 2006 resolution of the Court of Appeals (CA) in CA-G.R. CV No. 72407.

The parties to this case are descendants of spouses Quintin Chiong Osmeña and Chiong Tan Sy. Petitioner is the couple's daughter while respondents Nicasio and Jose Osmeña are their grandchildren. The dispute revolves around two parcels of land, Lots 4[3] and 5[4], and the ancestral house standing on Lot 4.

Before her death, Chiong Tan Sy executed a last will and testament in which she enumerated her properties. The ancestral house subject of the instant case was specifically mentioned in the said document; however, the litigated lots were not. The titles to the lots were in the name of respondents' father, Ignacio, petitioner's elder brother. Upon his demise, respondents transferred title to their own names.

Petitioner asserts that she is a co-owner of the three litigated properties. She argues that the two lots were her mother's properties and were part of the inheritance that she and her siblings received upon Chiong Tan Sy's death. She claims that the lots were placed in the name of her brother Ignacio merely because their mother, a Chinese national, was prohibited by law to own land in the Philippines.

With regard to the house, it is petitioner's position that ownership of her share in the ancestral home was transferred to her brother under the guise of a simulated contract to defeat any claims by her estranged husband. As proof of her co-ownership of the house, petitioner maintains that she has never been charged rent by her brother for her continued residence in the same.

Respondents, on the other hand, predicate their claim to the disputed properties on the transfer certificates of title covering the lots issued in their father's name and a deed of sale dated April 26, 1982 signed by petitioner herself, covering her share in the ancestral house. Both the trial court and the Court of Appeals (CA) recognized the validity of said documents and rendered judgment in favor of respondents. The trial court enjoined petitioner from utilizing the litigated land for her orchid business and ordered her to leave the house immediately. The CA modified the decision by declaring petitioner a co-owner of the litigated ancestral house to the extent of the shares she inherited from two of her siblings.

The core issue for our resolution is whether the CA erred in giving credence to the deed of sale dated April 26, 1982 and in holding that respondents are the owners of the disputed lots.

This Court is not bound to weigh all over again the evidence adduced by the parties, particularly where the findings of both the trial court and the appellate court coincide.[5] The resolution of factual issues is a function of

the trial court whose findings on these matters are, as a general rule, binding on this Court, more so where these have been affirmed by the CA.[6]

We have thoroughly reviewed the records of this case and agree that the deed of sale dated April 26, 1982 is a legal and binding document. The testimonies of the witnesses to the document attest to the parties freely signing the document and the occurrence of the transaction in a clear and definite manner. Moreover, it is a notarized document which renders it a prima facie evidence of the facts contained therein.[7] In the absence of documents or testimonies from disinterested persons proving petitioner's claim of a fictitious sale, there is no basis to set aside the deed of sale.

In petitions for review on certiorari, the jurisdiction of this Court is limited to the review and revision of errors of law allegedly committed by the appellate court inasmuch as the latter's findings of fact are deemed conclusive.[8] Given that the facts of this case, as gleaned from the records, fully support the decision of the trial court and the CA, we see no valid reason to overturn the findings of the courts below and therefore sustain the judgment of the appellate court.

Assuming arguendo that the litigated lots were actually the properties of Chiong Tan Sy and that the same were only put in the name of respondents' father because he was the only Filipino citizen in the family at the time the properties were purchased, this Court will not consent to any violation of the constitutional prohibition on foreign ownership of land.[9] Moreover, by signing the deed of sale dated April 26, 1982 (where petitioner transferred her share in the ancestral house to respondents' father), petitioner would have been a party to the alleged simulated document. This Court has oft repeated that he who comes to court must come with clean hands. Considering that the right over the litigated properties claimed by petitioner stems allegedly from illegal acts, no affirmative relief of any kind is available. This Court leaves the parties where they have placed themselves.

WHEREFORE, the petition is hereby DENIED.

Costs against petitioner.

SO ORDERED.

Velasco, Jr., Nachura, Peralta, and Mendoza, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Enrico A. Lanzas (retired) and concurred in by Associate Justices Arsenio J. Magpale (retired) and Sesinando E. Villon of the Nineteenth Division of the Court of Appeals. Rollo, pp. 47-56.

[3] Particularly described in Transfer Certificate of Title No. 115043 of the Registry of Deeds of the City of Cebu in the name of Nicasio Ch. Osmeña.

[4] Particularly described in Transfer Certificate of Title No. 115009 of the Registry of Deeds of the City of Cebu in the name of Jose Ch. Osmeña.

[5] *Lampesa v. De Vera*, G.R. No. 155111, 14 February 2008, 545 SCRA 290.

[6] *Yambao v. Zuñiga*, 463 Phil 650, 657-658 (2005).

[7] *Rufina Patis Factory v. Alusitain*, 478 Phil 544, 559 (2005).

[8] *Felsan Realty & Development Corporation v. Commonwealth of Australia*, G.R. No. 169656, 11 October 2007, 535 SCRA 618.

[9] Constitution (1935), Art. XIII, Sec. 5. 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 in the Philippines.

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