

ORION SAVINGS BANK, PETITIONER, VS. SHIGEKANE SUZUKI, RESPONDENT.

G.R. No. 205487. November 12, 2014

Ponente: BRION, J.

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BRION, J.:

Before us is the Petition for Review on Certiorari[1] filed by petitioner Orion Savings Bank (Orion) under Rule 45 of the Rules of Court, assailing the decision[2] dated August 23, 2012 and the resolution[3] dated January 25, 2013 of the Court of Appeals (CA) in CA-G.R. CV No. 94104.

The Factual Antecedents

In the first week of August 2003, respondent Shigekane Suzuki (Suzuki), a Japanese national, met with Ms. Helen Soneja (Soneja) to inquire about a condominium unit and a parking slot at Cityland Pioneer, Mandaluyong City, allegedly owned by Yung Sam Kang (Kang), a Korean national and a Special Resident Retiree's Visa (SRRV) holder.

At the meeting, Soneja informed Suzuki that Unit No. 536 [covered by Condominium Certificate of Title (CCT) No. 18186][4] and Parking Slot No. 42 [covered by CCT No. 9118][5] were for sale for P3,000,000.00. Soneja likewise assured Suzuki that the titles to the unit and the parking slot were clean. After a brief negotiation, the parties agreed to reduce the price to P2,800,000.00.

On August 5, 2003, Suzuki issued Kang a Bank of the Philippine Island (BPI) Check No. 83349[6] for One Hundred Thousand Pesos (P100,000.00) as reservation fee.[7] On August 21, 2003, Suzuki issued Kang another check, BPI Check No. 83350,[8] this time for P2,700,000.00 representing the remaining balance of the purchase price. Suzuki and Kang then executed a Deed of Absolute Sale dated August 26, 2003[9] covering Unit No. 536 and Parking Slot No. 42. Soon after, Suzuki took possession of the condominium unit and parking lot, and commenced the renovation of the interior of the condominium unit.

Kang thereafter made several representations with Suzuki to deliver the titles to the properties, which were then allegedly in possession of Alexander Perez (Perez, Orion's Loans Officer) for safekeeping. Despite several verbal demands, Kang failed to deliver the documents. Suzuki later on learned that Kang had left the country, prompting Suzuki to verify the status of the properties with the Mandaluyong City Registry of Deeds.

Before long, Suzuki learned that CCT No. 9118 representing the title to the Parking Slot No. 42 contained no annotations although it remained under the name of Cityland Pioneer. This notwithstanding, Cityland Pioneer, through Assistant Vice President Rosario D. Perez, certified that Kang had fully paid the purchase price of Unit. No. 536[10] and Parking Slot No. 42.[11]

CCT No. 18186 representing the title to the condominium unit had no existing encumbrance, except for an annotation under Entry No. 73321/C-10186 which provided that any conveyance or encumbrance of CCT No. 18186 shall be subject to approval by the Philippine Retirement Authority (PRA). Although CCT No. 18186

contained Entry No. 66432/C-10186 dated February 2, 1999 representing a mortgage in favor of Orion for a P1,000,000.00 loan, that annotation was subsequently cancelled on June 16, 2000 by Entry No. 73232/T. No. 10186. Despite the cancellation of the mortgage to Orion, the titles to the properties remained in possession of Perez.

To protect his interests, Suzuki then executed an Affidavit of Adverse Claim^[12] dated September 8, 2003, with the Registry of Deeds of Mandaluyong City, annotated as Entry No. 3292/C-No. 18186 in CCT No. 18186. Suzuki then demanded the delivery of the titles.^[13] Orion, (through Perez), however, refused to surrender the titles, and cited the need to consult Orion's legal counsel as its reason.

On October 14, 2003, Suzuki received a letter from Orion's counsel dated October 9, 2003, stating that Kang obtained another loan in the amount of P1,800,000.00. When Kang failed to pay, he executed a Dacion en Pago dated February 2, 2003, in favor of Orion covering Unit No. 536. Orion, however, did not register the Dacion en Pago, until October 15, 2003.

On October 28, 2003, Suzuki executed an Affidavit of Adverse Claim over Parking Slot No. 42 (covered by CCT No. 9118) and this was annotated as Entry No. 4712/C-No. 9118 in the parking lot's title.

On January 27, 2004, Suzuki filed a complaint for specific performance and damages against Kang and Orion. At the pre-trial, the parties made the following admissions and stipulations:

- That as of August 26, 2003, Kang was the registered owner of Unit No. 536 and Parking Slot No. 42;
- That the mortgage in favor of Orion supposedly executed by Kang, with Entry No. 66432/C-10186 dated February 2, 1999, was subsequently cancelled by Entry No. 73232/T No. 10186 dated June 16, 2000;
- That the alleged Dacion en Pago was never annotated in CCT Nos. 18186 and 9118;
- That Orion only paid the appropriate capital gains tax and the documentary stamp tax for the alleged Dacion en Pago on October 15, 2003;
- That Parking Slot No. 42, covered by CCT No. 9118, was never mortgaged to Orion; and
- That when Suzuki bought the properties, he went to Orion to obtain possession of the titles.

The RTC Ruling

In its decision^[14] dated June 29, 2009, the Regional Trial Court (RTC), Branch 213, Mandaluyong City ruled in favor of Suzuki and ordered Orion to deliver the CCT Nos. 18186 and 9118 to Suzuki.

The court found that Suzuki was an innocent purchaser for value whose rights over the properties prevailed over Orion's. The RTC further noted that Suzuki exerted efforts to verify the status of the properties but he did not find any existing encumbrance in the titles. Although Orion claims to have purchased the property by way of a Dacion en Pago, Suzuki only learned about it two (2) months after he bought the properties because Orion never bothered to register or annotate the Dacion en Pago in CCT Nos. 18186 and 9116.

The RTC further ordered Orion and Kang to jointly and severally pay Suzuki moral damages, exemplary damages, attorney's fees, appearance fees, expenses for litigation and cost of suit. Orion timely appealed the RTC decision with the CA.

The CA Ruling

On August 23, 2012, the CA partially granted Orion's appeal and sustained the RTC insofar as it upheld Suzuki's right over the properties. The CA further noted that Entry No. 73321/C-10186 pertaining to the withdrawal of

investment of an SRRV only serves as a warning to an SRRV holder about the implications of a conveyance of a property investment. It deviated from the RTC ruling, however, by deleting the award for moral damages, exemplary damages, attorney's fees, expenses for litigation and cost of suit.

Orion sought a reconsideration of the CA decision but the CA denied the motion in its January 25, 2013 resolution. Orion then filed a petition for review on certiorari under Rule 45 with this Court.

The Petition and Comment

Orion's petition is based on the following grounds/arguments:[15]

- The Deed of Sale executed by Kang in favor of Suzuki is null and void. Under Korean law, any conveyance of a conjugal property should be made with the consent of both spouses;
- Suzuki is not a buyer in good faith for he failed to check the owner's duplicate copies of the CCTs;
- Knowledge of the PRA restriction under Entry No. 73321/C-10186, which prohibits any conveyance or encumbrance of the property investment, defeats the alleged claim of good faith by Suzuki; and
- Orion should not be faulted for exercising due diligence.

In his Comment,[16] Suzuki asserts that the issue on spousal consent was belatedly raised on appeal. Moreover, proof of acquisition during the marital coverture is a condition sine qua non for the operation of the presumption of conjugal ownership.[17] Suzuki additionally maintains that he is a purchaser in good faith, and is thus entitled to the protection of the law.

The Court's Ruling

We deny the petition for lack of merit.

The Court may inquire into
conclusions of fact when the
inference made is manifestly
mistaken

In a Rule 45 petition, the latitude of judicial review generally excludes a factual and evidentiary re-evaluation, and the Court ordinarily abides by the uniform factual conclusions of the trial court and the appellate court.[18] In the present case, while the courts below both arrived at the same conclusion, there appears to be an incongruence in their factual findings and the legal principle they applied to the attendant factual circumstances. Thus, we are compelled to examine certain factual issues in the exercise of our sound discretion to correct any mistaken inference that may have been made.[19]

Philippine Law governs the
transfer of real property

Orion believes that the CA erred in not ruling on the issue of spousal consent. We cannot uphold this position, however, because the issue of spousal consent was only raised on appeal to the CA. It is a well-settled principle that points of law, theories, issues, and arguments not brought to the attention of the trial court cannot be raised for the first time on appeal and considered by a reviewing court.[20] To consider these belated arguments would violate basic principles of fair play, justice, and due process.

Having said these, we shall nonetheless discuss the issues Orion belatedly raised, if only to put an end to lingering doubts on the correctness of the denial of the present petition.

It is a universal principle that real or immovable property is exclusively subject to the laws of the country or state where it is located.[21] The reason is found in the very nature of immovable property — its immobility. Immovables are part of the country and so closely connected to it that all rights over them have their natural center of gravity there.[22]

Thus, all matters concerning the title and disposition of real property are determined by what is known as the *lex loci rei sitae*, which can alone prescribe the mode by which a title can pass from one person to another, or by which an interest therein can be gained or lost.[23] This general principle includes all rules governing the descent, alienation and transfer of immovable property and the validity, effect and construction of wills and other conveyances.[24]

This principle even governs the capacity of the person making a deed relating to immovable property, no matter what its nature may be. Thus, an instrument will be ineffective to transfer title to land if the person making it is incapacitated by the *lex loci rei sitae*, even though under the law of his domicile and by the law of the place where the instrument is actually made, his capacity is undoubted.[25]

On the other hand, property relations between spouses are governed principally by the national law of the spouses.[26] However, the party invoking the application of a foreign law has the burden of proving the foreign law. The foreign law is a question of fact to be properly pleaded and proved as the judge cannot take judicial notice of a foreign law. [27] He is presumed to know only domestic or the law of the forum.[28]

To prove a foreign law, the party invoking it must present a copy thereof and comply with Sections 24 and 25 of Rule 132 of the Revised Rules of Court which reads:

SEC. 24. Proof of official record. — The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in a foreign country, the certificate may be made by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office. (Emphasis supplied)

SEC. 25. What attestation of copy must state. — Whenever a copy of a document or record is attested for the purpose of the evidence, the attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be. The attestation must be under the official seal of the attesting officer, if there be any, or if he be the clerk of a court having a seal, under the seal of such court.

Accordingly, matters concerning the title and disposition of real property shall be governed by Philippine law while issues pertaining to the conjugal nature of the property shall be governed by South Korean law, provided it is proven as a fact.

In the present case, Orion, unfortunately failed to prove the South Korean law on the conjugal ownership of property. It merely attached a “Certification from the Embassy of the Republic of Korea”[29] to prove the existence of Korean Law. This certification, does not qualify as sufficient proof of the conjugal nature of the property for there is no showing that it was properly authenticated by the seal of his office, as required under Section 24 of Rule 132.[30]

Accordingly, the International Law doctrine of presumed-identity approach or processual presumption comes into play, i.e., where a foreign law is not pleaded or, even if pleaded, is not proven, the presumption is that foreign law is the same as Philippine Law.[31]

Under Philippine Law, the phrase "Yung Sam Kang 'married to' Hyun Sook Jung" is merely descriptive of the civil status of Kang.[32] In other words, the import from the certificates of title is that Kang is the owner of the properties as they are registered in his name alone, and that he is married to Hyun Sook Jung.

We are not unmindful that in numerous cases we have held that registration of the property in the name of only one spouse does not negate the possibility of it being conjugal or community property.[33] In those cases, however, there was proof that the properties, though registered in the name of only one spouse, were indeed either conjugal or community properties.[34] Accordingly, we see no reason to declare as invalid Kang's conveyance in favor of Suzuki for the supposed lack of spousal consent.

The petitioner failed to adduce sufficient evidence to prove the due execution of the Dacion en Pago

Article 1544 of the New Civil Code of the Philippines provides that:

ART. 1544. If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property.

Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith.

The application of Article 1544 of the New Civil Code presupposes the existence of two or more duly executed contracts of sale. In the present case, the Deed of Sale dated August 26, 2003[35] between Suzuki and Kang was admitted by Orion[36] and was properly identified by Suzuki's witness Ms. Mary Jane Samin (Samin).[37]

It is not disputed, too, that the Deed of Sale dated August 26, 2003 was consummated. In a contract of sale, the seller obligates himself to transfer the ownership of the determinate thing sold, and to deliver the same to the buyer, who obligates himself to pay a price certain to the seller.[38] The execution of the notarized deed of sale and the actual transfer of possession amounted to delivery that produced the legal effect of transferring ownership to Suzuki.[39]

On the other hand, although Orion claims priority in right under the principle of *prius tempore, potior jure* (i.e., first in time, stronger in right), it failed to prove the existence and due execution of the Dacion en Pago in its favor.

At the outset, Orion offered the Dacion en Pago as Exhibit "5" with submarkings "5-a" to "5-c" to prove the existence of the February 6, 2003 transaction in its Formal Offer dated July 20, 2008. Orion likewise offered in evidence the supposed promissory note dated September 4, 2002 as Exhibit "12" to prove the existence of the additional P800,000.00 loan. The RTC, however, denied the admission of Exhibits "5" and "12," among others, in its order dated August 19, 2008 "since the same [were] not identified in court by any witness."[40]

Despite the exclusion of its most critical documentary evidence, Orion failed to make a tender of excluded evidence, as provided under Section 40, Rule 132 of the Rules of Court. For this reason alone, we are prevented from seriously considering Exhibit "5" and its submarkings and Exhibit "12" in the present petition.

Moreover, even if we consider Exhibit "5" and its submarkings and Exhibit "12" in the present petition, the copious inconsistencies and contradictions in the testimonial and documentary evidence of Orion, militate against the conclusion that the Dacion en Pago was duly executed.

First, there appears to be no due and demandable obligation when the Dacion en Pago was executed, contrary to the allegations of Orion. Orion's witness Perez tried to impress upon the RTC that Kang was in default in his P1,800,000.00 loan. During his direct examination, he stated:

ATTY. CRUZAT:

Q:

Okay, so this loan of P1.8 million, what happened to this loan, Mr. Witness?

A:

Well it became past due, there has been delayed interest payment by Mr. Kang and...

Q:

So what did you do after there were defaults[?]

A:

We have to secure the money or the investment of the bank through loans and we have executed a dacion en pago because Mr. Kang said he has no money. So we just execute[d] the dacion en pago rather than going through the Foreclosure proceedings.

x x x x

Q:

Can you tell the court when was this executed?

A:

February 6, 2003, your Honor.[41]

A reading of the supposed promissory note, however, shows that there was no default to speak of when the supposed Dacion en Pago was executed.

Based on the promissory note, Kang's loan obligation would mature only on August 27, 2003. Neither can Orion claim that Kang had been in default in his installment payments because the wordings of the promissory note provide that "[t]he principal of this loan and its interest and other charges shall be paid by me/us in accordance hereunder: SINGLE PAYMENT LOANS.[42]" There was thus no due and demandable loan obligation when the alleged Dacion en Pago was executed.

Second, Perez, the supposed person who prepared the Dacion en Pago, appears to only have a vague idea of the transaction he supposedly prepared. During his cross-examination, he testified:

ATTY. DE CASTRO:

Q:

And were you the one who prepared this [dacion en pago] Mr. witness?

A:

Yes, sir. I personally prepared this.

x x x x

Q:

So this 1.8 million pesos is already inclusive of all the penalties, interest and surcharge due from Mr. Yung Sam Kang?

A:

It's just the principal, sir.

Q:

So you did not state the interest [and] penalties?

A:

In the [dacion en pago], we do not include interest, sir. We may actually include that but....

Q:

Can you read the Second Whereas Clause, Mr. Witness?

A:

Whereas the first party failed to pay the said loan to the second party and as of February 10, 2003, the outstanding obligation which is due and demandable principal and interest and other charges included amounts to P1,800,000.00 pesos, sir.

x x x x

Q:

You are now changing your answer[.] [I]t now includes interest and other charges, based on this document?

A:

Yes, based on that document, sir.[43]

Third, the Dacion en Pago, mentioned that the P1,800,000.00 loan was secured by a real estate mortgage. However, no document was ever presented to prove this real estate mortgage aside from it being mentioned in the Dacion en Pago itself.

ATTY. DE CASTRO:

Q:

Would you know if there is any other document like a supplement to that Credit Line Agreement referring to this 1.8 million peso loan by Mr. Yung Sam Kang which says that there was a subsequent collateralization or security given by Mr. Yung [Sam] Kang for the loan?

x x x x

A:

The [dacion en pago], sir.[44]

Fourth, the Dacion en Pago was first mentioned only two (2) months after Suzuki and Samin demanded the delivery of the titles sometime in August 2003, and after Suzuki caused the annotation of his affidavit of adverse claim. Records show that it was only on October 9, 2003, when Orion, through its counsel, Cristobal Balbin Mapile & Associates first spoke of the Dacion en Pago.[45] Not even Perez mentioned any Dacion en Pago on

October 1, 2003, when he personally received a letter demanding the delivery of the titles. Instead, Perez refused to accept the letter and opted to first consult with his lawyer.[46]

Notably, even the October 9, 2003 letter contained material inconsistencies in its recital of facts surrounding the execution of the Dacion en Pago. In particular, it mentioned that “on [September 4, 2002], after paying the original loan, [Kang] applied and was granted a new Credit Line Facility by [Orion] x x x for ONE MILLION EIGHT HUNDRED THOUSAND PESOS (P1,800,000.00).” Perez, however, testified that there was “no cash movement” in the original P1,000,000.00 loan. In his testimony, he said:

COURT:

x x x x

Q:

Would you remember what was the subject matter of that real estate mortgage for that first P1,000,000.00 loan?

A:

It’s a condominium Unit in Cityland, sir.

x x x x

Q:

Would you recall if there was any payment by Mr. Yung Sam Kang of this P1,000,000.00 loan?

A:

None sir.

Q:

No payments?

A:

None sir.

Q:

And from 1999 to 2002, there was no payment, either by way of payment to the principal, by way of payment of interest, there was no payment by Mr. Yung Sam Kang of this loan?

A:

Literally, there was no actual cash movement, sir.

Q:

There was no actual cash?

A:

Yes, sir.

Q:

And yet despite no payment, the bank Orion Savings Bank still extended an P800,000.00 additional right?

A:

Yes, sir.[47]

Fifth, it is undisputed that notwithstanding the supposed execution of the Dacion en Pago on February 2, 2003, Kang remained in possession of the condominium unit. In fact, nothing in the records shows that Orion even bothered to take possession of the property even six (6) months after the supposed date of execution of the Dacion en Pago. Kang was even able to transfer possession of the condominium unit to Suzuki, who then made immediate improvements thereon. If Orion really purchased the condominium unit on February 2, 2003 and claimed to be its true owner, why did it not assert its ownership immediately after the alleged sale took place? Why did it have to assert its ownership only after Suzuki demanded the delivery of the titles? These gaps have remained unanswered and unfilled.

In *Suntay v. CA*,^[48] we held that the most prominent index of simulation is the complete absence of an attempt on the part of the vendee to assert his rights of ownership over the property in question. After the sale, the vendee should have entered the land and occupied the premises. The absence of any attempt on the part of Orion to assert its right of dominion over the property allegedly sold to it is a clear badge of fraud. That notwithstanding the execution of the Dacion en Pago, Kang remained in possession of the disputed condominium unit – from the time of the execution of the Dacion en Pago until the property’s subsequent transfer to Suzuki – unmistakably strengthens the fictitious nature of the Dacion en Pago.

These circumstances, aside from the glaring inconsistencies in the documents and testimony of Orion’s witness, indubitably prove the spurious nature of the Dacion en Pago.

The fact that the Dacion en Pago is a notarized document does not support the conclusion that the sale it embodies is a true conveyance

Public instruments are evidence of the facts that gave rise to their execution and are to be considered as containing all the terms of the agreement.^[49] While a notarized document enjoys this presumption, “the fact that a deed is notarized is not a guarantee of the validity of its contents.”^[50] The presumption of regularity of notarized documents is not absolute and may be rebutted by clear and convincing evidence to the contrary.^[51]

In the present case, the presumption cannot apply because the regularity in the execution of the Dacion en Pago and the loan documents was challenged in the proceedings below where their prima facie validity was overthrown by the highly questionable circumstances surrounding their execution.^[52]

Effect of the PRA restriction on
the validity of Suzuki’s title to the
property

Orion argues that the PRA restriction in CCT No. 18186 affects the conveyance to Suzuki. In particular, Orion assails the status of Suzuki as a purchaser in good faith in view of the express PRA restriction contained in CCT No. 18186.^[53]

We reject this suggested approach outright because, to our mind, the PRA restriction cannot affect the conveyance in favor of Suzuki. On this particular point, we concur with the following findings of the CA:

x x x the annotation merely serves as a warning to the owner who holds a Special Resident Retiree’s Visa (SRRV) that he shall lose his visa if he disposes his property which serves as his investment in order to qualify for such status. Section 14 of the Implementing Investment Guidelines under Rule VIII-A of the Rules and

Regulations Implementing Executive Order No. 1037, Creating the Philippine Retirement Park System Providing Funds Therefor and For Other Purpose (otherwise known as the Philippine Retirement Authority) states:

Section 14. Should the retiree-investor withdraw his investment from the Philippines, or transfer the same to another domestic enterprise, or sell, convey or transfer his condominium unit or units to another person, natural or juridical without the prior approval of the Authority, the Special Resident Retiree's Visa issued to him, and/or unmarried minor child or children[,] may be cancelled or revoked by the Philippine Government, through the appropriate government department or agency, upon recommendation of the Authority.[54]

Moreover, Orion should not be allowed to successfully assail the good faith of Suzuki on the basis of the PRA restriction. Orion knew of the PRA restriction when it transacted with Kang. Incidentally, Orion admitted accommodating Kang's request to cancel the mortgage annotation despite the lack of payment to circumvent the PRA restriction. Orion, thus, is estopped from impugning the validity of the conveyance in favor of Suzuki on the basis of the PRA restriction that Orion itself ignored and "attempted" to circumvent.

With the conclusion that Orion failed to prove the authenticity of the Dacion en Pago, we see no reason for the application of the rules on double sale under Article 1544 of the New Civil Code. Suzuki, moreover, successfully adduced sufficient evidence to establish the validity of conveyance in his favor.

WHEREFORE, premises considered, we DENY the petition for lack of merit. Costs against petitioner Orion Savings Bank.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Mendoza, and Leonen, JJ., concur.

[1] Rollo, pp. 8-31.

[2] Id. at 35-51; penned by Associate Justice Agnes Reyes-Carpio, with Associate Justices Rosalinda Asuncion-Vicente and Priscilla J. Baltazar-Padilla, concurring.

[3] Id. at 53-55.

[4] Records, Vol. I, pp. 257-258.

[5] Id. at 259-260.

[6] Id. at 250.

[7] Id. at 251.

[8] Id. at 252.

[9] Id. at 253-254.

[10] Id. at 270

[11] Id. at 271.

[12] Id. at 262.

[13] Id. at 263-264.

[14] Id. at 92-135.

[15] Id. at 8-31.

[16] Id. at 65-89.

[17] Id.

[18] *Century Iron Works, Inc. v. Banas*, G.R. No. 184116, June 19, 2013, 699 SCRA 157, 166.

[19] *Luna v. Linatoc*, 74 Phil. 15 (1942). See also *New City Builders, Inc. v. NLRC*, 499 Phil. 207, 212-213 (2005), citing *Insular Life Assurance Company, Ltd. v. CA*, G.R. No. 126850, April 28, 2004, 401 SCRA 79, the Supreme Court recognized several exceptions to this rule, to wit: "(1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion."

[20] *Hubert Nuñez v. SLTEAS Phoenix Solutions, Inc.*, G.R. No. 180542, April 12, 2010, 368 SCRA 134, 145.

[21] Agpalo, Ruben E., *Conflict of Laws*, 2004 Ed., p. 182.

[22] Salonga, Jovito R., *Private International Law*, 1995 Ed., p. 132, citing Wolff 515.

[23] Agpalo, Ruben E., *Conflict of Laws*, 2004 Ed., p. 183.

[24] Id.

[25] Id.

[26] Family Code of the Philippines, Art. 80. In the absence of a contrary stipulation in a marriage settlement, the property relations of the spouses shall be governed by Philippine laws, regardless of the place of the celebration of the marriage and their residence.

This rule shall not apply:

(1) Where both spouses are aliens;

(2) With respect to the extrinsic validity of contracts affecting property not situated in the Philippines and executed in the country where the property is located; and

(3) With respect to the extrinsic validity of contracts entered into in the Philippines but affecting property situated in a foreign country whose laws require different formalities for its extrinsic validity.

[27] *ATCI Overseas Corporation v. Echin*, G.R. No. 178551, October 11, 2010, 632 SCRA 528, 534.

[28] Id.

[29] Rollo, pp. 57-58.

[30] Id.

[31] Supra note 26.

[32] *Stuart v. Yatco*, 114 Phil. 1083, 1084-1085 (1962); *Magallon v. Montejo*, 230 Phil. 366, 377 (1986).

[33] *Bucoy v. Paulino*, 131 Phil. 790 (1968).

[34] See *Mendoza v. Reyes*, 209 Phil. 120 (1983).

[35] Records, Vol. I, pp. 213-214.

[36] Id. at 291.

[37] TSN, February 28, 2005, pp. 29-36.

[38] NEW CIVIL CODE, Article 1458.

[39] Id., Article 1496 in relation to Article 1498.

[40] Records, Vol. II, p. 395.

[41] TSN, June 1, 2007, pp. 32-33, emphasis supplied.

[42] Records, Vol. II, p. 369. In fact, so important was the single payment arrangement that Orion only allowed installment payments upon additional payment of Two Percent (2.00%) per annum service fee and a written notice to Orion of not less than thirty (30) days prior to the proposed payment.

[43] TSN, December 17, 2007, pp. 29-32, emphasis supplied.

[44] Id. at 22.

[45] Records, Vol. II, pp. 371-372.

[46] Records, Vol. I, pp. 263-267.

[47] TSN, December 17, 2007, pp. 14-16, emphasis supplied.

[48] 321 Phil. 809, 831-832 (1995).

[49] *Bough v. Cantiveros*, 40 Phil. 209, 215 (1919).

[50] *Nazareno v. Court of Appeals*, 397 Phil. 707, 725 (2000); *San Juan v. Offril*, G.R. No. 154609, April 24, 2009, 586 SCRA 439, 445-446.

[51] *Lazaro v. Agustin*, G.R. No. 152364, April 15, 2010, 618 SCRA 298, 309; *Potenciano v. Reynoso*, 449 Phil. 396, 406 (2003).

[52] *San Juan v. Offril*, supra note 50.

[53] Entry No. 73321/C-10186-RESTRICTIONS: IN an instrument duly subscribed and sworn to, VERNETTE UMALI-PACO, CESO II, Phil. Retirement Authority, states that the property described herein is subject to the following restriction: "The sale, transfer, or encumbrance of this property is subject to the approval of the Philippine Retirement Authority, the owner-named herein being a holder of Special Resident Retiree's Visa (SRRV), and is therefore, subject to the provision of Executive Order No. 1037 and its implementing Rules and Regulations." (Doc. No. 68, p. 14, Bk. XIV, s. of 2000 of Not. Pub. For Mand. City, Eddie Fernandez, dated June 23, 2000.) Date of Inscription-June 23, 2000-1:33 p.m.

[54] Rollo, p. 47.

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