

**HEIRS OF SATRAMDAS V. SADHWANI AND KISHNIBAI S. SADHWANI,  
REPRESENTED BY RAMCHAND S. SADHWANI AND RAJAN S.  
SADHWANI, PETITIONERS, VS. GOP S. SADHWANI AND KANTA G.  
SADHWANI, UNIO...**

*G.R. No. 217365. August 14, 2019*

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**CAGUIOA, J.:[\*]**

This is a petition for review on certiorari[1] (Petition) under Rule 45 of the Rules of Court assailing the January 6, 2015[2] (Assailed Resolution) and March 18, 2015[3] Resolutions of the Regional Trial Court (RTC) of Makati City, Branch 59, which granted respondents' motions to dismiss on the grounds of lack of legal capacity to sue, failure to plead a cause of action, and lack of cause of action.[4]

**The Facts and Antecedent Proceedings**

The instant dispute involves conflicting claims of ownership over: 1) a parcel of land located at 58 Aries St., Bel Air, Makati (Bel Air Property), and 2) condominium unit 602-A at the Ritz Tower, Ayala Avenue, Makati City (Ritz Condominium Unit) (together, subject properties).[5] The subject properties were allegedly purchased by the Spouses Satramdas and Kishnibai Sadhwani[6] (Sps. Sadhwani) and the titles thereof were allegedly placed in the name of their son, herein respondent *Gop S. Sadhwani* (respondent *Gop*), in trust for his parents and siblings.[7]

On November 13, 2013, the other legitimate children of the Sps. Sadhwani (petitioners) filed a Complaint for Reconveyance, Partition, Accounting, Declaration of Nullity of Documents, Injunction and Damages with Prayer for Issuance of Writ of Preliminary Injunction & Temporary Restraining Order[8] (Complaint) against their brother *Gop*, his wife *Kanta* (respondent *Kanta*), Union Bank of the Philippines (respondent Union Bank), Philippine Savings Bank (respondent PSB), and the Register of Deeds of Makati City, praying that they likewise be declared lawful owners of the subject properties as heirs and legitimate children of the Sps. Sadhwani,[9] in accordance with a purported express trust[10] agreement and the provisions of the Civil Code on succession.[11] Respondents Union Bank and PSB were impleaded because respondent *Gop* purportedly obtained various loans secured by real estate mortgages over the subject property.[12]

On November 27, 2013, respondents *Gop* and *Kanta*, filed a motion to dismiss,[13] alleging, among others, that: 1) the action had prescribed and was unenforceable;[14] 2) that petitioners had no capacity to sue;[15] and that 3) the complaint failed to state a cause of action.[16] Respondent Union Bank likewise filed a motion to dismiss while respondent PSB filed an answer.[17]

On March 11, 2014, petitioners filed an amended complaint in view of the sale of the Bel Air Property to *Sefuel Siy Yap*. [18]

In the Assailed Resolution, the RTC granted respondents' motions to dismiss on the grounds of lack of legal capacity to sue, failure to state a cause of action, and lack of cause of action.[19]

The RTC held, among others, that based on the death certificates attached to the Complaint, the Sps. Sadhwani were Indian nationals.[20] Hence, the Sps. Sadhwani were prohibited under Article XII, Section 7[21] of the 1987 Constitution from owning the subject properties or transmitting any rights over the same to their children upon their deaths.[22] A perusal of the Assailed Resolution suggests that the Complaint was dismissed for failure to state a cause of action as petitioners premised their action for reconveyance on their purported rights as heirs of their parents.[23]

Petitioners filed a motion for reconsideration, which was denied by the RTC in its March 18, 2015 Order.[24]

Petitioners thus filed the instant Petition[25] under Rule 45 of the Rules of Court (Rules), alleging, among others, that the RTC erred in holding: 1) that petitioners failed to plead a cause of action;[26] 2) that petitioners had no personality to sue;[27] and 3) that petitioners lacked a cause of action.[28] Contrary to the findings of the RTC, petitioners now claim that they are asserting rights as beneficiaries of the resulting trust to the proceeds from the sale of the subject properties.[29]

In their Comment,[30] respondents Gop and Kanta argue that: 1) the Petition should be dismissed for being the wrong mode of appeal considering that questions of fact were raised;[31] 2) the Complaint failed to state a cause of action;[32] 3) petitioners have no personality to sue; 4) petitioners cannot deviate from their theory of the case in the Complaint; and 5) Republic Act No. (RA) 4726 prohibits aliens from owning condominium units.[33]

Respondent Union Bank likewise claims[34] that: 1) the Petition failed to conform to the requirements of Rule 45 for it was not based on questions of law;[35] 2) in resolving a Motion to Dismiss based on failure to state a cause of action, the RTC may consider the documents attached to the complaint;[36] 3) petitioners have no personality to sue;[37] 4) the implied trust was a circumvention of the constitutional prohibition on acquisition by foreigners of private land;[38] and 5) it should be dropped as a respondent as the real estate mortgage constituted in its favor has been extinguished.[39]

Respondent PSB similarly argues[40] that petitioners have no personality and legal capacity to sue.[41] As the Sps. Sadhwani were forbidden to own the subject properties, petitioners may not invoke any interest over the same as heirs of said spouses.[42]

#### Issue

The issues pending before the Court may be summarized as follows: 1) whether petitioners availed of the correct remedy to challenge the dismissal of the Complaint; and 2) whether the Complaint was correctly dismissed.

#### The Court's Ruling

The Petition lacks merit.

Petitioners availed of the wrong remedy and disregarded the hierarchy of courts

Rule 41, Section 1 expressly states that no appeal may be taken from an order dismissing an action without prejudice.[43] In such cases, the remedy available to the aggrieved party is to file an appropriate special civil action under Rule 65 of the Rules of Court.[44] In *Strongworld Construction Corp. v. Perello*,[45] the Court explained:

[W]ith the advent of the 1997 Revised Rules of Civil Procedure, an order of dismissal without prejudice is no longer appealable, as expressly provided by Section 1(h), Rule 41 thereof. In *Philippine Export and Foreign Loan Guarantee Corporation v. Philippine Infrastructures, Inc.*, this Court had the opportunity to resolve whether an order dismissing a petition without prejudice should be appealed by way of ordinary appeal, petition for review on certiorari or a petition for certiorari. The Court said that, indeed, prior to the 1997

Revised Rules of Civil Procedure, an order dismissing an action may be appealed by ordinary appeal. Verily, Section 1, Rule 41 of the 1997 Revised Rules of Civil Procedure recites the instances when appeal may not be taken, specifically, in case of an order dismissing an action without prejudice, in which case, the remedy available to the aggrieved party is Rule 65.

x x x x

We distinguish a dismissal with prejudice from a dismissal without prejudice. The former disallows and bars the refiling of the complaint; whereas, the same cannot be said of a dismissal without prejudice. Likewise, where the law permits, a dismissal with prejudice is subject to the right of appeal.

x x x x

Section 1, Rule 16 of the 1997 Revised Rules of Civil Procedure enumerates the grounds for which a Motion to Dismiss may be filed, viz.:

SECTION 1. Grounds. — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

(a)

That the court has no jurisdiction over the person of the defending party;

(b)

That the court has no jurisdiction over the subject matter of the claim;

(c)

That venue is improperly laid;

(d)

That the plaintiff has no legal capacity to sue;

(e)

That there is another action pending between the same parties for the same cause;

(f)

That the cause of action is barred by a prior judgment or by the statute of limitations;

(g)

That the pleading asserting the claim states no cause of action;

(h)

That the claim or demand set forth in the plaintiffs pleading has been paid, waived, abandoned, or otherwise extinguished;

(i)

That the claim on which the action is founded is unenforceable under the provisions of the statute of frauds; and

(j)

That a condition precedent for filing the claim has not been complied with.

Section 5 of the same Rule, recites the effect of a dismissal under Sections 1(f), (h), and (i), thereof, thus:

SEC. 5. Effect of dismissal. — Subject to the right of appeal, an order granting a motion to dismiss based on paragraphs (f), (h), and (i) of section 1 hereof shall bar the refiling of the same action or claim.

Briefly stated, dismissals that are based on the following grounds, to wit: (1) that the cause of action is barred by a prior judgment or by the statute of limitations; (2) that the claim or demand set forth in the plaintiffs pleading has been paid, waived, abandoned or otherwise extinguished; and (3) that the claim on which the action is founded is unenforceable under the provisions of the statute of frauds, bar the refiling of the same action or claim. Logically, the nature of the dismissal founded on any of the preceding grounds is "with prejudice" because the dismissal prevents the refiling of the same action or claim. Ergo, dismissals based on the rest of the grounds enumerated are without prejudice because they do not preclude the refiling of the same action.

Verily, the dismissal of petitioners' Complaint by the court a quo was not based on any of the grounds specified in Section 5, Rule 16 of the 1997 Revised Rules of Civil Procedure; rather, it was grounded on what was encapsulated in Section 1(g), Rule 16 of the 1997 Revised Rules of Civil Procedure. As the trial court ratiocinated in its 9 January 1998 Order, the Complaint is not prosecuted by the proper party in interest. Considering the heretofore discussion, we can say that the order of dismissal was based on the ground that the Complaint states no cause of action. For this reason, the dismissal of petitioners' Complaint cannot be said to be a dismissal with prejudice which bars the refiling of the same action.[46] (Underscoring supplied)

A perusal of the Assailed Resolution unequivocally shows that the action was dismissed without prejudice. Although respondents claimed in their motions to dismiss that the action had prescribed and was unenforceable[47] under Rule 16, Sections 1(f) and 1(i) respectively, the RTC's dismissal was premised on the finding that petitioners were suing as heirs of the Sps. Sadhwani who, being Indian nationals, were prohibited from owning the subject properties and therefore could not transmit rights over the same through succession.[48] In other words, the dismissal was based on Rule 16, Section 1(g), i.e., that the Complaint states no cause of action.

As the dismissal was without prejudice (not having been premised on Sections 1(f), (h) or (i) of Rule 16), the remedy of appeal was not available. Instead, petitioners should have simply refiled the complaint.

Notably, the RTC also grounded the dismissal on petitioners' alleged lack of cause of action.[49] In *Westmont Bank v. Funai Phils., Corp.*,[50] the Court distinguished failure to state a cause of action and lack of cause of action in this wise:

"Failure to state a cause of action and lack of cause of action are distinct grounds to dismiss a particular action. The former refers to the insufficiency of the allegations in the pleading, while the latter to the insufficiency of the factual basis for the action. Dismissal for failure to state a cause of action may be raised at the earliest stages of the proceedings through a motion to dismiss under Rule 16 of the Rules of Court, while dismissal for lack of cause of action may be raised any time after the questions of fact have been resolved on the basis of stipulations, admissions or evidence presented by the plaintiff."

Considering that, in this case, no stipulations, admissions, or evidence have yet been presented, it is perceptibly impossible to assess the insufficiency of the factual basis on which Sheriff Cachero asserts his cause of action. Hence, the ground of lack of cause of action could not have been the basis for the dismissal of this action.[51]

As applied to the instant case, lack of cause of action could not have been the basis for the dismissal of the instant action considering that no stipulations, admissions or evidence have yet been presented. The RTC's inaccurate pronouncement, however, should have been challenged through a Rule 65 petition for certiorari and not through an appeal, as expressly provided in Rule 41, Section 1. Moreover, the challenge should have been brought to the Court of Appeals instead of filing the same directly with the Court, in accordance with the rule on hierarchy of

courts.[52]

In view of the foregoing, the instant Petition must be dismissed as petitioners availed themselves of the wrong remedy and violated the hierarchy of courts.

The complaint failed to state a cause of action.

In *Philippine National Bank v. Spouses Rivera*,[53] the Court explained:

Section 2, Rule 2 of the Revised Rules of Civil Procedure defines a cause of action as the act or omission by which a party violates a right of another. Its elements are as follows:

1)

A right in favor of the plaintiff by whatever means and under whatever law it arises or is created;

2)

An obligation on the part of the named defendant to respect or not to violate such right; and

3)

Act or omission on the part of such defendant in violation of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff for which the latter may maintain an action for recovery of damages or other appropriate relief.

x x x x

If the allegations of the complaint do not state the concurrence of the above elements, the complaint becomes vulnerable to a motion to dismiss on the ground of failure to state a cause of action which is the proper remedy under Section 1 (g) of Rule 16 of the Revised Rules of Civil Procedure, which provides:

Section 1. Grounds. — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

x x x x

(g) That the pleading asserting the claim states no cause of action; x x x

The case of *Hongkong and Shanghai Banking Corporation Limited v. Catalan* laid down the test to determine the sufficiency of the facts alleged in the complaint, to wit:

The elementary test for failure to state a cause of action is whether the complaint alleges facts which if true would justify the relief demanded. Stated otherwise, may the court render a valid judgment upon the facts alleged therein? The inquiry is into the sufficiency, not the veracity of the material allegations. If the allegations in the complaint furnish sufficient basis on which it can be maintained, it should not be dismissed regardless of the defense that may be presented by the defendants.

By filing a Motion to Dismiss, a defendant hypothetically admits the truth of the material allegations of the ultimate facts contained in the plaintiffs complaint. When a motion to dismiss is grounded on the failure to state a cause of action, a ruling thereon should, as a rule, be based only on the facts alleged in the complaint.[54] (Underscoring supplied)

Based on the foregoing, the Court agrees with the RTC that petitioners failed to state a cause of action because they premised their claim of ownership over the subject properties as heirs of the Sps. Sadhwani who were unquestionably Indian nationals.[55]

In *Matthews v. Taylor*[56] (*Matthews*) the Court exhaustively explained the constitutional prohibition against foreign ownership of public and private lands, viz.:

Section 7, Article XII of the 1987 Constitution states:

Section 7. 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, have been disqualified from acquiring lands of the public domain. Hence, by virtue of the aforecited constitutional provision, they are also disqualified from acquiring private lands. The primary purpose of this constitutional provision is the conservation of the national patrimony. Our fundamental law cannot be any clearer. The right to acquire lands of the public domain is reserved only to Filipino citizens or corporations at least sixty percent of the capital of which is owned by Filipinos.

In *Krivenko v. Register of Deeds*, cited in *Muller v. Muller*, we had the occasion to explain the constitutional prohibition:

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:

Section 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.

The rule is clear and inflexible: aliens are absolutely not allowed to acquire public or private lands in the Philippines, save only in constitutionally recognized exceptions. There is no rule more settled than this constitutional prohibition, as more and more aliens attempt to circumvent the provision by trying to own lands through another. In a long line of cases, we have settled issues that directly or indirectly involve the above constitutional provision. We had cases where aliens wanted that a particular property be declared as part of their

father's estate; that they be reimbursed the funds used in purchasing a property titled in the name of another; that an implied trust be declared in their (aliens') favor; and that a contract of sale be nullified for their lack of consent.

In *Ting Ho, Jr. v. Teng Gui, Felix Ting Ho*, a Chinese citizen, acquired a parcel of land, together with the improvements thereon. Upon his death, his heirs (the petitioners therein) claimed the properties as part of the estate of their deceased father, and sought the partition of said properties among themselves. We, however, excluded the land and improvements thereon from the estate of Felix Ting Ho, precisely because he never became the owner thereof in light of the above-mentioned constitutional prohibition.

In *Muller v. Muller*, petitioner Elena Buenaventura Muller and respondent Helmut Muller were married in Germany. During the subsistence of their marriage, respondent purchased a parcel of land in Antipolo City and constructed a house thereon. The Antipolo property was registered in the name of the petitioner. They eventually separated, prompting the respondent to file a petition for separation of property. Specifically, respondent prayed for reimbursement of the funds he paid for the acquisition of said property. In deciding the case in favor of the petitioner, the Court held that respondent was aware that as an alien, he was prohibited from owning a parcel of land situated in the Philippines. He had, in fact, declared that when the spouses acquired the Antipolo property, he had it titled in the name of the petitioner because of said prohibition. Hence, we denied his attempt at subsequently asserting a right to the said property in the form of a claim for reimbursement. Neither did the Court declare that an implied trust was created by operation of law in view of petitioner's marriage to respondent. We said that to rule otherwise would permit circumvention of the constitutional prohibition.

In *Frenzel v. Catito*, petitioner, an Australian citizen, was married to Teresita Santos; while respondent, a Filipina, was married to Klaus Muller. Petitioner and respondent met and later cohabited in a common-law relationship, during which petitioner acquired real properties; and since he was disqualified from owning lands in the Philippines, respondent's name appeared as the vendee in the deeds of sale. When their relationship turned sour, petitioner filed an action for the recovery of the real properties registered in the name of respondent, claiming that he was the real owner. Again, as in the other cases, the Court refused to declare petitioner as the owner mainly because of the constitutional prohibition. The Court added that being a party to an illegal contract, he could not come to court and ask to have his illegal objective carried out. One who loses his money or property by knowingly engaging in an illegal contract may not maintain an action for his losses.

Finally, in *Cheesman v. Intermediate Appellate Court*, petitioner (an American citizen) and Criselda Cheesman acquired a parcel of land that was later registered in the latter's name. Criselda subsequently sold the land to a third person without the knowledge of the petitioner. The petitioner then sought the nullification of the sale as he did not give his consent thereto. The Court held that assuming that it was his (petitioner's) 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; thus, the sale as to him was null and void.

In light of the foregoing jurisprudence, we find and so hold that Benjamin has no right to nullify the Agreement of Lease between Joselyn and petitioner. Benjamin, being an alien, is absolutely prohibited from acquiring private and public lands in the Philippines. Considering that Joselyn appeared to be the designated "vendee" in the Deed of Sale of said property, she acquired sole ownership thereto. This is true even if we sustain Benjamin's claim that he provided the funds for such acquisition. By entering into such contract knowing that it was illegal no implied trust was created in his favor; no reimbursement for his expenses can be allowed; and no declaration can be made that the subject property was part of the conjugal/community property of the spouses. In any event, he had and has no capacity or personality to question the subsequent lease of the Boracay property by his wife on the theory that in so doing, he was merely exercising the prerogative of a husband in respect of conjugal property. To sustain

such a theory would countenance indirect controversion of the constitutional prohibition. If the property were to be declared conjugal, this would accord the alien husband a substantial interest and right over the 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.[57] (Underscoring supplied)

In sum, aliens are absolutely prohibited from acquiring public or private lands in the Philippines, save only in constitutionally recognized exceptions[58] In *Ang v. So.*,[59] the Court further stated that "[t]he prohibition against aliens owning lands in the Philippines is subject only to limited constitutional exceptions, and not even an implied trust can be permitted on equity considerations." [60]

After a judicious examination of the allegations in the complaint, the Court finds that petitioners failed to sufficiently allege the basis for their purported right over the subject properties. Since the Sps. Sadhwani were prohibited from owning land in the instant case, they were likewise prohibited from transmitting any right over the same through succession. The complaint, however, was replete with allegations that the Sps. Sadhwani were the true owners of the subject properties and that petitioners were suing respondent *Gop*, as heirs of their parents. Relevant portions of the complaint stated:

5. Plaintiffs and Defendant *Gop* upon the death of their parents inherited and became the lawful and absolute owners of [the subject properties] x x x.

x x x x

10. Before the purchase of the said properties, Plaintiffs and Defendant with their parents [the Sps. Sadhwani,] agreed that the house and lot located at #58 Aries St., Bel Air II Village, Makati City shall be devoted solely as [the Sps. Sadhwani's] residence while the condominium unit shall be rented and the monthly rentals collected for their benefits during their [lifetime]. However, the titles shall be [registered] in the name of Defendant *Gop* in trust, with the understanding that upon their death, said properties shall be sold and the proceeds thereof distributed among all their siblings in equal parts.

11. Defendant *Gop* obligated himself that even if the titles of properties are [registered] in his name, he hold[s] them in trust for his parents and his brothers and sisters benefits (sic) during his parents lifetime until their death where it will be sold and the proceeds thereof divided equally among all the siblings.

x x x x

13. Defendant *Gop* after the sale of said properties never exercised any attributes of ownership over the same, for he recognized that he is holding the properties only in name for the benefit of his trustors who since 1983 until their deaths were in actual and physical possession of the properties in the concept of owners. x x x

x x x x

18. Defendant *Gop*, sometime in November 2006, without the knowledge and consent of his parents' (trustors', true owner of the properties) and in bad faith, maliciously and fraudulently filed a petition for replacement of a los[t] duplicate owner certificate of title x x x and los[t] certificate of Condominium title x x x.

x x x x

30. Plaintiffs have acquired legal and equitable titles or interest in the two real properties subject of this complaint on account that as heirs they are entitled to equal share to the properties of their parents.[61] (Underscoring supplied)

Although petitioners inconsistently claimed that the supposed express trust was likewise constituted for their benefit, the relief prayed for unmistakably showed that petitioners anchored their purported rights over the subject

properties on the laws of succession, viz.:

### PRAYER

WHEREFORE, it is most respectfully prayed of this Honorable Court that after due hearing judgment be rendered in favor of the plaintiffs and against the defendants, as follows:

a) Declaring Plaintiffs as lawful and true owners of the [subject properties], and approving the distribution in equal shares of the shares of the heirs on the properties abovementioned in accordance with the trust agreement and the provision of the Civil Code on succession in favor of: RAMCHAND S. SADHWANI, DRUPATI P. SADHWANI-MIRPURI, HARESH S. SADHWANI, GOP S. SADHWANI, RAJAN S. SADHWANI, as heir[s] being the legitimate children of deceased SATRAMDAS V. SADHWANI AND KISHNIBAI SADHWANI.[62] (Underscoring supplied)

The allegations in petitioners' amended complaint are even more telling:

7. The subject properties x x x were merely placed in trust in the name of Gop Sadhwani. Upon the death of Satramdas and Kishnibai S. Sadhwani, ownership of these properties was automatically transmitted to the Heirs of Spouses Sadhwani.

x x x x

37. Worse, Defendants Gop and Kanta Sadhwani illegally sold the Bel Air Property (TCT No. 120446) to defendant Sefuel T. Siy Yap for the outrageous amount of Php20,000,000.00. The sale is void ab initio because the Bel Air Property was titled in the name of Gop married to Kanta Sadhwani by virtue of a legal trust reposed unto them by the late ["Sps. Sadhwani] who were the actual and beneficial owners of the subject properties as it was they who funded the purchase of said properties.[63] (Underscoring supplied)

It is undisputed that the Sps. Sadhwani were Indian nationals. Hence, they were absolutely disqualified: 1) from owning lands in the Philippines, whether actually or beneficially, or 2) from transmitting any right[64] over the same to herein petitioners by succession. As petitioners claim ownership over the Bel Air Property as purported heirs of their parents, they failed to sufficiently allege the first element of a cause of action, i.e., a "right in favor of the plaintiff by whatever means and under whatever law it arises or is created." [65] Even assuming therefore that respondent Gop committed the acts or omissions complained of, said acts could not be considered a violation of a right which, as alleged in the complaint, did not exist.

Although the absolute prohibition against foreign ownership of lands does not necessarily apply to foreign ownership of condominium units, the Court finds that petitioners likewise failed to state a cause of action over the Ritz Condominium Unit.

As already discussed, petitioners premised their alleged right over the subject properties as heirs of the Sps. Sadhwani under the Civil Code. Under Philippine law, however, successional rights are governed by the national law of the decedent. Article 16 of the Civil Code pertinently provides:

Article 16. Real property as well as personal property is subject to the law of the country where it is stipulated.

However, intestate and testamentary successions, both with respect to the order of succession and to the amount of successional rights and to the intrinsic validity of testamentary provisions, shall be regulated by the national law of the person whose succession is under consideration, whatever may be the nature of the property and regardless of the country wherein said property may be found. (Underscoring supplied)

As the Sps. Sadhwani were Indian nationals, the laws of succession under the Civil Code do not apply. Therefore, the complaint should have alleged, at the very least, that petitioners were legal heirs of their parents and were

entitled to inherit the Ritz Condominium Unit under the laws of the Republic of India. In view of the foregoing provision, the Court holds that petitioner cannot sidestep their burden of sufficiently pleading and eventually proving a cause of action under foreign law even when claiming under Philippine law may be more favorable or expedient. As they failed to sufficiently allege the basis for their right under the national law of their parents, petitioners failed to state a cause of action over the condominium unit.

To reiterate, "[t]he elementary test for failure to state a cause of action is whether the complaint alleges facts which if true would justify the relief demanded." [66] The complaint miserably failed this test. Even assuming that the facts alleged in the complaint (and amended complaint) were true, petitioners would not be entitled to the reliefs demanded because: 1) petitioners premised their right over the subject properties as heirs of aliens who may not own land or transmit rights over the same by succession, and 2) petitioners failed to allege that they were in fact heirs of the Sps. Sadhwani under the laws of the Republic of India. In other words, the allegations of the complaint failed to sufficiently state the concurrence of the three elements for a cause of action, particularly, the legal right to the relief demanded. In view of the foregoing, the complaint must be dismissed for failure to state a cause of action.

In any event, the dismissal of the complaint for failure to state a cause of action under Rule 16, Section 1(g) is a dismissal without prejudice. Hence, petitioners are not barred from refiling the same. Having passed upon the propriety of the dismissal, the Court finds no more reason to rule upon the other issues raised in the Petition.

WHEREFORE, the Petition is DISMISSED. The Resolutions dated January 6, 2015 and March 18, 2015 of the Regional Trial Court of Makati City, Branch 59 in Civil Case No. 13-1320 are hereby AFFIRMED.

**SO ORDERED.**

J. Reyes, Jr., Lazaro-Javier, and Zalameda, JJ., concur.  
Carpio (Chairperson), J., on official leave.

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[\*] Designated Acting Chairperson per Special Order No. 2688 dated July 30, 2019.

[1] Rollo, pp. 8-43.

[2] Id. at 44-53. Penned by Judge Winlove M. Dumayas.

[3] Id. at 54-55.

[4] Id. at 53.

[5] Id. at 130.

[6] Id.

[7] Id. at 131.

[8] Id. at 128-143.

[9] Id. at 140-141.

[10] Id. at 136.

[11] Id. at 141.

[12] Id. at 136.

[13] Id. at 148-175.

[14] Id. at 148-153.

[15] Id. at 153.

[16] Id. at 161-162.

[17] Id. at 19.

[18] Id.

[19] Id. at 53.

[20] Id. at 46.

[21] Id. at 46-47, citing CONSTITUTION, Art. XII, Sec. 7, which 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."

[22] Id. at 46.

[23] Id. at 52-53.

[24] Id. at 55.

[25] Id. at 8-43.

[26] Id. at 25.

[27] Id. at 36.

[28] Id. at 37.

[29] Id. at 32.

[30] Id. at 560-593.

[31] Id. at 561-566.

[32] Id. at 566- 575.

[33] Id. at 575-584.

[34] Id. at 639-654.

[35] Id. at 640-643.

[36] Id. at 643-644.

[37] Id. at 645.

[38] Id. at 646.

[39] Id. at 647.

[40] Id. at 655-662.

[41] Id. at 655.

[42] Id. at 658.

[43] Section 1. Subject of appeal. — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

- (a) An order denying a motion for new trial or reconsideration;
- (b) An order denying a petition for relief or any similar motion seeking relief from judgment;
- (c) An interlocutory order;
- (d) An order disallowing or dismissing an appeal;
- (e) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent;
- (f) An order of execution;
- (g) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and
- (h) An order dismissing an action without prejudice.

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65. (Underscoring supplied)

[44] Id.

[45] 528 Phil. 1080 (2006).

[46] Id. at 1093-1097.

[47] Rollo, pp. 148-183.

[48] Id. at 46-47.

[49] Id. at 53.

[50] 763 Phil. 245 (2015).

[51] Id. at 259. Citations omitted.

[52] See *Kalipunan ng Damayang Mahihirap, Inc. v. Robredo*, 739 Phil. 283, 291-292 (2014).

[53] 785 Phil. 450 (2016).

[54] Id. at 457-459.

[55] Rollo, p. 46.

[56] 608 Phil. 193 (2009).

[57] Id. at 200-205.

[58] Id. at 202.

[59] 792 Phil. 264 (2016).

[60] Id. at 275.

[61] Rollo, pp. 130-137.

[62] Id. at 140-142.

[63] Id. at 229-235.

[64] See *Matthews v. Taylor*, supra note 56 and *Strategic Alliance Development Corp. v. Radstock Securities Ltd.*, 622 Phil. 431 (2009).

[65] Supra note 53 at 457.

[66] Id. at 458.

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