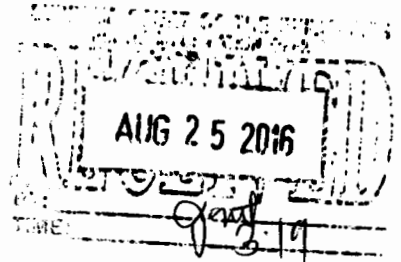




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION



JOSE NORBERTO ANG,  
Petitioner,

G.R. No. 182252

Present:

- versus -

SERENO, *CJ*, Chairperson,  
LEONARDO-DECASTRO,  
BERSAMIN,  
PERLAS-BERNABE, and  
CAGUIOA, *JJ*.

Promulgated:

THE ESTATE OF SY SO,  
Respondent.

**AUG 03 2016**

X ----- X

**DECISION**

**SERENO, *CJ*:**

This is a Petition filed pursuant to Rule 45 assailing the Decision<sup>1</sup> and Resolution<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 85444, which partially granted respondent Sy So's appeal from the Decision<sup>3</sup> of the Regional Trial Court (RTC), Branch 130, Caloocan City, in Civil Case No. C-15945.

**THE ANTECEDENT FACTS**

Sometime in the late 1930s, respondent Sy So, a Chinese citizen, was married to a certain Jose Ang.<sup>4</sup> Sy So maintained a *sari-sari* store, while her husband maintained a foundry shop. Testimonial evidence showed that, by virtue of her business, she was financially well-off on her own.<sup>5</sup>

The couple was childless. In 1941, when a woman approached respondent Sy So and offered a seven- or eight-month-old infant for

<sup>1</sup> Rollo, pp. 50-65; CA Decision dated 25 July 2007, penned by Associate Justice Myrna Dimaranan-Vidal and concurred in by Associate Justices Jose L. Sabio, Jr. and Jose C. Reyes, Jr.

<sup>2</sup> Id. at 68; CA Resolution dated 27 March 2008.

<sup>3</sup> Id. at 73-108; RTC Decision dated 23 May 2005, penned by Acting Judge-Designate Luisito C. Sargillo.

<sup>4</sup> Id. at 50.

<sup>5</sup> Id. at 87-88.

adoption, respondent immediately accepted the offer.<sup>6</sup> No formal adoption papers were processed, but the child was christened as Jose Norberto Ang (Jose Norberto), the present petitioner.<sup>7</sup> Respondent subsequently “adopted” three other wards: Mary Ang, Tony Ang, and Teresita Tan.<sup>8</sup>

Jose Ang died in 1943 during the Pacific War.<sup>9</sup> After his death, respondent Sy So maintained her store and engaged in cigarette trading.<sup>10</sup>

Later, respondent Sy So acquired a property described as a 682.5 square meter lot located at 10<sup>th</sup> Avenue, Grace Park, Caloocan City. She registered it under TCT No. 73396 (the 10<sup>th</sup> Avenue lot) in the name of petitioner Jose Norberto, who was then three years old, in keeping with the Chinese tradition of registering properties in the name of the eldest male son or ward. Respondent Sy So subsequently acquired the other subject property with an area of 1,977 square meters, located at 11<sup>th</sup> Avenue, Grace Park, Caloocan City and registered under TCT No. 10425 (the 11<sup>th</sup> Avenue lot) on 24 July 1944, likewise under Jose Norberto’s name.<sup>11</sup>

Between 1940 and 1950, a six-door apartment building on the 10<sup>th</sup> Avenue lot was constructed at respondent Sy So’s expense.<sup>12</sup> Later on, two more apartment doors were built on the property, bringing the total to eight apartment doors. For over 30 years, respondent Sy So, along with petitioner and her other wards, lived there.<sup>13</sup>

Respondent Sy So alleged that she kept the titles to the two properties under lock and key and never showed them to anyone.<sup>14</sup> However, she gave Jose Norberto a photocopy of TCT No. 10425, so that he could show it to prospective tenants.<sup>15</sup>

Unbeknownst to respondent Sy So, Jose Norberto filed Petitions for the Issuance of Second Owner’s Duplicate Certificate of Title for TCT Nos. 73396 and 10425.<sup>16</sup> In 1971, he sold the 11<sup>th</sup> Avenue lot, which was covered by TCT No. 10425.<sup>17</sup>

On 5 April 1974, Jose Norberto’s counsel wrote respondent Sy So, demanding a monthly payment of ₱500 as her contribution for real estate taxes on the 10<sup>th</sup> Avenue lot.<sup>18</sup>

---

<sup>6</sup> Id. at 73.

<sup>7</sup> Id. at 51.

<sup>8</sup> Id. at 73.

<sup>9</sup> Id. at 51.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id. at 74.

<sup>13</sup> Id.

<sup>14</sup> Records, p. 56.

<sup>15</sup> Id.

<sup>16</sup> *Rollo*, p. 52.

<sup>17</sup> Id. at 74.

<sup>18</sup> Records, pp. 205-206.

On 14 March 1989, said counsel wrote another letter to respondent Sy So, formally demanding that she vacate the 10<sup>th</sup> Avenue lot within a period of three months, and informing her that she would be charged ₱5,000 as monthly rent.<sup>19</sup>

On 25 July 1989, Jose Norberto filed an ejectment suit against respondent Sy So on the ground of nonpayment of rentals on the 10<sup>th</sup> Avenue lot.<sup>20</sup> The ejectment case was dismissed on 30 October 1989 by the Metropolitan Trial Court.<sup>21</sup>

On 14 November 1996, Jose Norberto filed a second ejectment case against respondent Sy So, but the case was dismissed by the MTC on 30 October 1997. The dismissal was affirmed by this Court on 4 June 2001.<sup>22</sup>

Meanwhile, on 9 June 1993, respondent Sy So filed with the RTC a case for “Transfer of Trusteeship from the Defendant Jose Norberto Ang to the New Trustee, Tony Ang, with Damages.”<sup>23</sup> Citing Jose Norberto’s gross ingratitude, disrespectfulness, dishonesty and breach of trust, respondent Sy So argued that she had bought the two parcels of land and constructed the apartment doors thereon at her own expense. Thus, she alleged that there was an implied trust over the properties in question.<sup>24</sup> She thereafter prayed for the following reliefs:

1. [Orders be] issued to the Register of Deeds of Caloocan City, ordering the removal or cancellation of the name of Jose Norberto Ang as owner in TCT No. 73396 in the value of ₱375,000.00 more or less which includes improvements, and placing, instead, the name of Tony Ang as the owner and trustee;
2. To declare null and void the fraudulent sale made to Benjamin Lee as per Annex “C” of the complaint;
3. Ordering the defendant to pay moral damages in the amount of at least ₱50,000.00;
4. Plaintiff prays for such other relief or reliefs as may be just, proper and equitable under the premises.<sup>25</sup>

In his Answer, Jose Norberto countered that respondent Sy So was a plain housewife; that the two subject parcels of land were acquired through the money given to him by his foster father, Jose Ang; and that the apartments were built using funds derived from the sale of the latter’s other properties. Jose Norberto further alleged that when he came of age, he took possession of the properties and allowed respondent Sy So to stay thereon

---

<sup>19</sup> Id. at 216.

<sup>20</sup> *Rollo*, p. 74.

<sup>21</sup> Id. at 52.

<sup>22</sup> Id.

<sup>23</sup> Id. at 73.

<sup>24</sup> Records, pp. 3-5.

<sup>25</sup> Id. at 5.

without paying rent. However, he shouldered the real estate taxes on the land.<sup>26</sup>

### THE RULING OF THE RTC

After trial, the RTC rendered a Decision on 23 May 2005 dismissing respondent Sy So's Complaint. The dispositive portion reads:

WHEREFORE, above premises considered, this Court hereby deems it proper to dismiss Plaintiff's Complaint, as well as Defendant's counterclaim, as the same are hereby DISMISSED for failure of the parties to prove their respective claims by preponderance of evidence.

Likewise, the titles under the name of the Defendants are hereby confirmed and affirmed with all the attributes of ownership.

SO ORDERED.<sup>27</sup>

In so ruling, the trial court found that there was no implied trust because, under Art. 1448 of the New Civil Code, "[t]here is an implied trust when property is sold, and the legal estate is granted to one party but the price is paid by another for the purpose of having the beneficial interest of the property." In this case, the trial court reasoned that respondent Sy So did not intend to have the beneficial interest of the properties, but to make her wards the beneficiaries thereof.<sup>28</sup>

Moreover, the RTC cited Article 1448 of the New Civil Code which states: "[i]f the person to whom the title is conveyed is a child, legitimate or illegitimate, of the one paying the price of the sale, no trust is implied by law, it being disputably presumed that there is a gift in favor of the child." Applying this provision to the present case, the trial court ruled that when Sy So gave the subject properties to Jose Norberto – who was her child, though not legally adopted – no implied trust was created pursuant to law.<sup>29</sup>

Finally, the RTC ruled that the action was a collateral attack on Jose Norberto's Torrens title; and that, in any event, respondent Sy So's cause of action was barred by laches, having been instituted 49 years after the titles had been issued in petitioner's name.<sup>30</sup>

### THE RULING OF THE CA

Aggrieved by the trial court's Decision, respondent Sy So appealed to the CA.

In her Plaintiff-Appellant's Brief, Sy So argued that Jose Norberto could not be considered as her child in the absence of any formal adoption

<sup>26</sup> Id. at 46-47.

<sup>27</sup> *Rollo*, p. 105.

<sup>28</sup> Id. at 99-100.

<sup>29</sup> Id. at 100.

<sup>30</sup> Id. at 100-105.

proceedings.<sup>31</sup> This being so, under Article 1448 of the New Civil Code, there could be no disputable presumption that the properties had been given to him as gifts.<sup>32</sup> She also argued that laches had not set in, because there is no prescriptive period for an action to compel a trustee to convey the property registered in the latter's name for the benefit of the *cestui que trust*.<sup>33</sup> Furthermore, she alleged that the trust was repudiated on 25 July 1989 when the first ejectment suit was filed by petitioner, and that when the present case was instituted against him, only three years, 10 months and 14 days had elapsed.<sup>34</sup>

For his part, petitioner argued in his Appellee's Brief that Sy So had acknowledged that Jose Norberto was one of her wards or adopted children; hence, Sy So could no longer claim that he was not her child.<sup>35</sup> He further argued that the instant case should have been dismissed outright because respondent, being a Chinese citizen, could not own real property in the Philippines under the 1987 Constitution which prohibits aliens from owning private lands save in cases of hereditary succession.<sup>36</sup> He alleged that the present case involved a prohibited collateral attack against his title and claimed that, as the Complaint was filed almost 50 years after the issuance of the title in his name, the action was already barred by laches.<sup>37</sup>

The appellate court partially granted respondent Sy So's appeal in a Decision dated 25 July 2007, the decretal portion of which reads:

WHEREFORE, premises considered, the Appeal is PARTIALLY GRANTED in the sense that Appellant's claim for reimbursement of the purchase price over the lot covered by TCT No. 10425 is DENIED on the ground of prescription whereas with respect to Appellant's action re the subject property covered by TCT No. 73396, the Appellant is declared as the true, absolute and lawful owner of the property under TCT No. 73396 and ordering the Appellee to RECONVEY said property to the Appellant within ten (10) days from notice and to pay the costs of the suit.

SO ORDERED.<sup>38</sup>

The CA upheld the applicability of Article 1448<sup>39</sup> of the New Civil Code and the existence of an implied trust.<sup>40</sup> Moreover, it found that petitioner had not been legally adopted by respondent<sup>41</sup> and thus, there being

---

<sup>31</sup> *CA rollo*, pp. 65-68.

<sup>32</sup> *Id.* at 68-70.

<sup>33</sup> *Id.* at 74.

<sup>34</sup> *Id.* at 73-74.

<sup>35</sup> *Id.* at 129-130.

<sup>36</sup> *Id.* at 136-138.


<sup>37</sup> *Id.* at 138-140.

<sup>38</sup> *Rollo*, pp. 64-65.

<sup>39</sup> Art. 1448. There is an implied trust when property is sold, and the legal estate is granted to one party but the price is paid by another for the purpose of having the beneficial interest of the property. The former is the trustee, while the latter is the beneficiary. However, if the person to whom the title is conveyed is a child, legitimate or illegitimate, of the one paying the price of the sale, no trust is implied by law, it being disputably presumed that there is a gift in favor of the child.

<sup>40</sup> *Rollo*, pp. 54-62.

<sup>41</sup> *Id.* at 56-57.



no legal relationship between the parties, the disputable presumption under Article 1448 did not arise.<sup>42</sup>

As to the issue of whether there was a collateral attack on Jose Norberto's title, the CA ruled that the legal doctrine of indefeasibility of a Torrens title was inapplicable. It explained that respondent did not question the validity of petitioner's title, but merely prayed for the transfer thereof, as the instant action was actually one of reconveyance.<sup>43</sup>

Finally, the CA found that laches had set in as regards the 11<sup>th</sup> Avenue lot covered by TCT No. 10425, but not with respect to the 10<sup>th</sup> Avenue lot covered by TCT No. 73396. Since respondent Sy So was in possession of the 10<sup>th</sup> Avenue lot, the CA reasoned that the action for reconveyance was imprescriptible.<sup>44</sup>

**However, the CA did not pass upon petitioner's contention that under the Constitution, respondent Sy So was disqualified from owning private lands in the Philippines.**

After unsuccessfully praying for a reconsideration of the CA Decision,<sup>45</sup> Jose Norberto filed the instant Rule 45 petition for review before this Court.

On 9 October 2008, We received notice of the death of Sy So pending the resolution of the instant case.<sup>46</sup> Counsel for respondent likewise notified this Court that Tony Ang, one of the foster sons and allegedly the trustee-designate of the deceased, should substitute in her stead.<sup>47</sup>

In a Reply dated 17 December 2008, petitioner Jose Norberto vehemently opposed the substitution. He argued that the original action for transfer of trusteeship was an action *in personam*; thus, it was extinguished by the death of respondent.<sup>48</sup> Moreover, he contended that Tony Ang had no legal personality to represent Sy So as her alleged trustee, because there was as yet no final judgment validating the change of trusteeship between the parties.<sup>49</sup>

### OUR RULING

We grant the Petition.

---

<sup>42</sup> *Id.* at 57.

<sup>43</sup> *Id.* at 62-63.

<sup>44</sup> *Id.* at 63-64.

<sup>45</sup> *Id.* at 68.

<sup>46</sup> *Id.* at 145.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* at 150-151.

<sup>49</sup> *Id.* at 151.

Respondent Sy So would have this Court declare that she is the true owner of the real properties in question and that as owner, she has the right to have the land titles transferred from the name of Jose Norberto to that of Tony Ang, Sy So's trustee-designate. On the other hand, petitioner Jose Norberto counters that reconveyance does not lie, because respondent Sy So is a Chinese citizen.

Sy So's Chinese citizenship is undisputedly shown by the records, and even supported by documentary evidence presented by the representative of respondent Sy So herself.

The purchase of the subject parcels of land was made sometime in 1944,<sup>50</sup> during the effectivity of the 1935 Constitution. The relevant sections of Article XIII thereof provide:

SECTION 1. All agricultural timber, and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy and other natural resources of the Philippines belong to the State, and their disposition, exploitation, development, or utilization shall be limited to citizens of the Philippines or to corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens, subject to any existing right, grant, lease, or concession at the time of the inauguration of the Government established under this Constitution. Natural resources, with the exception of public agricultural land, shall not be alienated, and no license, concession, or lease for the exploitation, development, or utilization of any of the natural resources shall be granted for a period exceeding twenty-five years, renewable for another twenty-five years, except as to water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, in which cases beneficial use may be the measure and limit of the grant.

x x x x

SECTION 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.

As early as *Krivenko v. Register of Deeds*,<sup>51</sup> We have interpreted the foregoing to mean that, under the Constitution then in force, aliens may not acquire residential lands: "One of the fundamental principles underlying the provision of Article XIII of the Constitution x x x is 'that lands, minerals, forests, and other natural resources constitute the exclusive heritage of the Filipino nation. They should, therefore, be preserved for those under the sovereign authority of that nation and for their posterity.'"

---

<sup>50</sup> Id. at 51.

<sup>51</sup> 79 Phil. 461 (1947), as cited in *Ting Ho, Jr. v. Teng Gui*, 580 Phil. 378 (2008).

These provisions have been substantially carried over to the present Constitution, and jurisprudence confirms that aliens are disqualified from acquiring lands of the public domain. In *Ting Ho v. Teng Gui*,<sup>52</sup> *Muller v. Muller*,<sup>53</sup> *Frenzel v. Catito*,<sup>54</sup> and *Cheesman v. Intermediate Appellate Court*,<sup>55</sup> all cited in *Matthews v. Sps. Taylor*,<sup>56</sup> We upheld the constitutional prohibition on aliens acquiring land in the Philippines. We have consistently ruled thus in line with constitutional intent to preserve and conserve the national patrimony. Our Constitution clearly reserves for Filipino citizens or corporations at least sixty percent of the capital of which is owned by Filipinos the right to acquire lands of the public domain.<sup>57</sup> The 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.<sup>58</sup>

Much as We sympathize with the plight of a mother who adopted an infant son, only to have her ungrateful ward eject her from her property during her twilight years, We cannot grant her prayer. Applying the above rules to the present case, We find that she acquired the subject parcels of land in violation of the constitutional prohibition against aliens owning real property in the Philippines. Axiomatically, the properties in question cannot be legally reconveyed to one who had no right to own them in the first place. This being the case, We no longer find it necessary to pass upon the question of respondent Sy So's substitution in these proceedings.

The Solicitor General, however, may initiate an action for reversion or escheat of the land to the State.<sup>59</sup> In sales of real estate to aliens incapable of holding title thereto by virtue of the provisions of the Constitution, both the vendor and the vendee are deemed to have committed the constitutional violation. Being in *pari delicto* the courts will not afford protection to either party. The proper party who could assail the sale is the Solicitor General.<sup>60</sup>

**WHEREFORE**, the instant petition for review is **GRANTED**. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 85444 dated 25 July 2007 and 27 March 2008, respectively, insofar as petitioner was ordered to reconvey the property covered by TCT No. 73396 to respondent and to pay the costs of suit, are hereby **REVERSED**.

The Office of the Solicitor General is **DIRECTED** to initiate the appropriate proceedings for the reversion of the subject property to the State.

---

<sup>52</sup> 580 Phil. 378 (2008).

<sup>53</sup> 531 Phil. 460 (2006).

<sup>54</sup> 453 Phil. 885 (2003).

<sup>55</sup> 271 Phil. 89 (1991).

<sup>56</sup> 608 Phil. 193 (2009).

<sup>57</sup> *Ting Ho v. Teng Gui*, supra note 51 at 388.

<sup>58</sup> *Id.* at 390.

<sup>59</sup> *Rellosa v. Gaw Chee Hun*, 93 Phil. 827 (1953).

<sup>60</sup> *Lee v. Republic*, 418 Phil. 793 (2001) citing *Vasquez v. Li Seng Giap*, 96 Phil. 447, 451 [1955].



**SO ORDERED.**



**MARIA LOURDES P. A. SERENO**  
Chief Justice, Chairperson

WE CONCUR:

*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

*Lucas P. Bersamin*  
**LUCAS P. BERSAMIN**  
Associate Justice

*Estela M. Perlas-Bernabe*  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

*Alfredo Benjamin S. Caguioa*  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice