

SECOND DIVISION

[G.R. NO. 153476, September 27, 2006]

**HKO AH PAO, HENRY TENG AND ANNA TENG, PETITIONERS, VS.
LAURENCE TING, ANTHONY TING AND EDMUND TING,
RESPONDENTS.**

D E C I S I O N

AZCUNA, J.:

This is a petition for review^[1] of the decision and resolution of the Court of Appeals (CA), dated January 31, 2002 and May 7, 2002, respectively, in CA-G.R. CV No. 47804, entitled "Hko Ah Pao, et al., v. Laurence Chua Ting, et al."

The controversy involves two feuding families of the same clan battling over a piece of property registered in the name of respondents. Petitioners claim that the property was bought by their patriarch, the late Teng Ching Lay, who allegedly entrusted the same to his son from a previous marriage, Arsenio Ting, the deceased father of herein respondents.

The antecedents^[2] are as follows:

On June 12, 1961, the spouses Aristeo Mayo and Salud Masangkay sold for P70,000 the property subject of this case which is located at 1723 Vasquez St., Malate, Manila to Arsenio Ting. Transfer Certificate of Title (TCT) No. 63991 was subsequently issued in the name of Arsenio Ting on June 14, 1961.

Arsenio Ting was the son of Teng Ching Lay by his first marriage. At the time of the sale, Arsenio was a practicing lawyer and, being a Filipino, was qualified to acquire and own real property in the Philippines. Arsenio was likewise the manager and controlling stockholder of Triumph Timber, Inc. in Butuan City. Teng Ching Lay, on the other hand, was a Chinese citizen, and although his name did not appear in the corporate records of Triumph Timber, Inc., he was the one making business decisions for the company.^[3] He became a naturalized Filipino citizen on January 18, 1966.

A colonial-style house was standing on the disputed lot when it was bought. Teng Ching Lay occupied the same, together with his second wife, petitioner Hko Ah Pao, and their children, petitioners Henry and Anna Teng. Arsenio also stayed in the same house.

Several years later, Arsenio married Germana Chua. They moved to a new house that was erected on the same lot behind the old colonial house. Germana bore three sons, respondents herein, namely, Laurence, Anthony and Edmund, all surnamed Ting.

Later, Arsenio and his family relocated to Butuan City but they would stay in their old house in Malate whenever they came to Manila. A caretaker was hired to oversee it. Teng Ching Lay also transferred to Butuan City. Petitioners remained in the colonial house, and Teng Ching Lay would join them each time he went to Manila.

Arsenio died in 1972, predeceasing his father, Teng Ching Lay, and leaving as compulsory heirs, the surviving spouse, Germana, and respondents who were all minors at that time.

In the intestate proceedings for the settlement of Arsenio's estate before the Court of First Instance (CFI) of Agusan del Norte and Butuan City, the court issued an Order on October 23, 1975 approving the project of partition which included, among others, the property in question which was adjudicated in favor of respondents.

On February 4, 1976, Germana filed a petition for guardianship with the City Court of Butuan over the persons and properties of her minor children. The court appointed her as guardian on November 21, 1978.

In view of the Order of the CFI adjudicating the disputed property in favor of respondents, TCT No. 63991 was cancelled and in lieu thereof, TCT No. 134412 was issued in the name of respondents on July 3, 1979.

Two years later, trouble brewed between Teng Ching Lay and his daughter-in-law, Germana, concerning the properties in Manila and Butuan City, as well as the stocks of Triumph Timber, Inc. which involved millions of pesos. On April 28, 1981, Teng Ching Lay filed before the City Court of Butuan a motion to recall Germana's guardianship over her minor children for her failure to give him, as the paternal grandfather of the minors, notice of the guardianship proceedings pursuant to Articles 344 and 355 of the Civil Code.^[4] He added that Germana sought the guardianship merely to seek authority to sell the properties of the wards. On her part, Germana averred that Teng Ching Lay had raised this issue only as a leverage against her in their case before the Securities and Exchange Commission (SEC) pertaining to the liquidation of the assets of Timber Triumph, Inc.

On July 21, 1987, the court rendered a decision revoking the letters of guardianship of Germana, from which she appealed. On January 30, 1989, Teng Ching Lay died. His surviving heirs, however, decided not to contest any further the letters of guardianship previously granted to Germana. Hence, on November 3, 1989, the case was ordered terminated.^[5]

An estate tax return signed by petitioner Anna Teng was filed for the estate of Teng Ching Lay whose given address when he was alive was in Buhangin, Butuan City. The residence of petitioners who were listed as heirs was stated to be on A. Vasquez Street, Ermita, Manila, which is the property in question. Appearing on the dorsal side of the estate tax return was a list of properties belonging to Teng Ching Lay. The only properties that were listed, however, were those located in Cavite and Butuan City.

On May 27, 1991, respondents, through counsel, sent a demand letter to petitioners to vacate the property in question. When the latter refused, respondents instituted an ejectment case against them in the Metropolitan Trial Court (MeTC) of Manila.

Petitioners, in turn, on January 21, 1992, filed a complaint for the cancellation of title and partition with damages and prayer for a restraining order and/or preliminary injunction against respondents before the Regional Trial Court (RTC) of Manila. Petitioners, who have been residing in the property since 1961, demanded the reconveyance of its title in their favor on the ground that Arsenio merely held the property in trust for Teng Ching Lay.

According to petitioners, Teng Ching Lay purchased the property from the spouses Aristeo Mayo and Salud Masangkay but it was made to appear in the contract of sale that Arsenio was the vendee because of the constitutional prohibition against aliens owning land in the Philippines. They claim that they became aware of the TCT in the name of respondents only when the latter instituted an ejectment suit against them, and notwithstanding the efforts on their part to settle the dispute, respondents refused to recognize their ownership of the property.

Petitioners' principal witness was Angel Sembrano, corporate accountant of Triumph Timber, Inc., and Teng Ching Lay's personal accountant. According to Sembrano, he met Arsenio when he was hired as an accountant of Triumph Timber, Inc. in 1959. As Teng Ching Lay's personal accountant from 1960 to 1989, he prepared the latter's income tax returns and purchases. In June of 1961, Arsenio allegedly told him that his father was going to buy a house in Manila, and directed him to prepare a voucher and a check of the corporation for P200,000 payable to Teng Ching Lay. Said voucher and check, however, along with the other records of the corporation, were allegedly lost during the flood that hit Butuan City in 1981.

Sembrano likewise stated that when he went to Manila in November of 1961, Teng Ching Lay brought him to the house that he purportedly bought but since he was a Chinese national at that time, the title to the property was placed in the name of Arsenio.^[6]

On cross-examination, Sembrano mentioned that he did not know who the vendor of the property was but the purchase price, as he was supposedly told by Arsenio, was P150,000; that not all the documents of the corporation were presented in the proceedings at the SEC; that he did not know where the proceeds of the check went; and, that Teng Ching Lay filed income tax returns for 1961 and 1962. He insisted that Arsenio informed him that the check was intended for the purchase price of the house and lot in Manila, and that he even saw the unsigned deed of conveyance.^[7]

Respondents, on the other hand, contended that the property was paid for and legally acquired by their father, Arsenio, and that it was among those adjudicated to them by virtue of a special proceedings before the CFI of Agusan del Norte and Butuan City. They asked for the dismissal of the complaint, and filed a counterclaim that prayed for damages as well as compensation for the use of a portion of the property by petitioners.

Meanwhile, on February 24, 1993, the MeTC rendered a decision in the ejectment case ordering petitioners to vacate the premises. Petitioners appealed to the RTC of Manila but the RTC affirmed the decision of the MeTC, stating that petitioners failed to take earnest efforts to reach a compromise agreement with respondents prior to

the filing of the ejectment case.

On September 30, 1994, the RTC, in the aforestated civil case, rendered its decision dismissing the complaint filed by petitioners on the

ground that petitioners failed to prove that Arsenio was merely holding the subject property in trust for his father, Teng Ching Lay, thus:

WHEREFORE, judgment is rendered dismissing the complaint, with costs against plaintiffs.

SO ORDERED.^[8]

On appeal, the CA affirmed the decision of the RTC on January 31, 2002, thus:

WHEREFORE, premises considered, the appealed Decision of the lower court in Civil Case No. 92-60333 is hereby AFFIRMED in toto by this Court.

SO ORDERED.^[9]

Petitioners filed a motion for reconsideration but the same was denied by the CA.

Hence, this petition raising the following issues:

I

WHETHER THE RULE ON LACHES MAY BE APPLIED TO THIS CASE.

II

WHETHER SECTION 42 (2ND SENTENCE), RULE 130 OF THE REVISED RULES OF EVIDENCE AND THE HOLDINGS IN SEVERAL CASES MAY BE APPLICABLE TO THE TESTIMONY OF ANGEL SEMBRANO RELATIVE TO THE DECLARATION, AS WELL AS ACTION, OF THE LATE TENG CHING LAY THAT THE LATTER OWNED THE PROPERTY IN QUESTION.

III

WHETHER SECTION 38, RULE 130, OF THE REVISED RULES OF EVIDENCE MAY BE APPLICABLE TO THE TESTIMONY OF ANGEL SEMBRANO AFFECTING THE DECLARATION TO HIM OF ARSENIO TING, I.E. "BIBILI SI TATAY NG BAHAY SA MAYNILA" AS AN EXCEPTION TO THE HEARSAY RULE.

IV

WHETHER THE HOLDING IN PEOPLE V. ULPINDO, 256 SCRA 201 AND PEOPLE V. LIAN, 255 SCRA 532 MAY BE APPLIED TO ANGEL SEMBRANO'S TESTIMONY AS CONTAINED IN THE TSN.

V