

Real property acquisition and Aliens

By Judge Gabriel T. Ingles
Cebu Daily News

Hulst vs. PR Builders, Inc., G.R. No. 156364, September 3, 2007

Section 7 of Article XII of the 1987 Constitution provides:

Sec. 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.

The capacity to acquire private land is made dependent upon the capacity to acquire or hold lands of the public domain. Private land may be transferred or conveyed only to individuals or entities "qualified to acquire lands of the public domain." The 1987 Constitution reserved the right to participate in the disposition, exploitation, development and utilization of lands of the public domain for Filipino citizens or corporations at least 60 percent of the capital of which is owned by Filipinos. Aliens, whether individuals or corporations, have been disqualified from acquiring public lands; hence, they have also been disqualified from acquiring private lands.

Since petitioner and his wife, being Dutch nationals, are proscribed under the Constitution from acquiring and owning real property, it is unequivocal that the Contract to Sell entered into by petitioner together with his wife and respondent is void. Under Article 1409 (1) and (7) of the Civil Code, all contracts whose cause, object or purpose is contrary to law or public policy and those expressly prohibited or declared void by law are inexistent and void from the beginning. Article 1410 of the same Code provides that the action or defense for the declaration of the inexistence of a contract does not prescribe. A void contract is equivalent to nothing; it produces no civil effect. It does not create, modify or extinguish a juridical relation.

Generally, parties to a void agreement cannot expect the aid of the law; the courts leave them as they are, because they are deemed in *pari delicto* or "in equal fault." *In pari delicto* is "a universal doctrine which holds that no action arises, in equity or at law, from an illegal contract; no suit can be maintained for its specific performance, or to recover the property agreed to be sold or delivered, or the money agreed to be paid, or damages for its violation; and where the parties are in *pari delicto*, no affirmative relief of any kind will be given to one against the other." This rule, however, is subject to exceptions that permit the return of that which may have been given under a void contract to: (a) the innocent party (Arts. 1411-1412, Civil Code); (b) the debtor who pays usurious interest (Art. 1413, Civil Code); (c) the party repudiating the void contract before the illegal purpose is accomplished or before damage is caused to a third person and if public interest is subserved by allowing recovery (Art. 1414, Civil Code); (d) the incapacitated party if the interest of justice so demands (Art. 1415, Civil Code); (e) the party for whose protection the prohibition by law is intended if the agreement is not illegal *per se* but merely prohibited and if public policy would be enhanced by permitting recovery (Art. 1416, Civil Code); and (f) the party for whose benefit the law has been intended such as in price ceiling laws (Art. 1417, Civil Code) and labor laws (Arts. 1418-1419, Civil Code).