



Republic of the Philippines
Supreme Court

Manila

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SUPREME COURT OF THE PHILIPPINES
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BELINDA ALEXANDER,
Petitioner,

G.R. No. 256141

Present:

— versus —

**SPOUSES JORGE and
HILARIA ESCALONA, and
REYGAN ESCALONA,**
Respondents.

**GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.**

Promulgated:

July 19, 2022

[Signature]

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DECISION

LOPEZ, M., J.:

What rules shall govern the status of a contract and the prescriptive period of an action when the husband and wife were married during the effectivity of the Civil Code¹ but the alienation or encumbrance of the conjugal property, without the other spouse's consent, transpired after the

¹ Republic Act No. 386, entitled "AN ACT TO ORDAIN AND INSTITUTE THE CIVIL CODE OF THE PHILIPPINES," approved on June 18, 1949.

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effectivity of the Family Code?² Will the applicable law be reckoned from the date of marriage or the time of the transaction? These are the core issues in this Petition for Review on *Certiorari*³ assailing the Decision⁴ dated October 26, 2020 and the Resolution⁵ dated March 5, 2021 of the Court of Appeals (CA) in CA-G.R. CV No. 110958.

ANTECEDENTS

Respondents Spouses Jorge Escalona (Jorge) and Hilaria Escalona (Hilaria; collectively, Spouses Escalona) were married on November 14, 1960. Thereafter, Spouses Escalona acquired unregistered parcels of land identified as Lot Nos. 1 and 2 with a combined area of 100,375 square meters in Barangay Sta. Rita, Olongapo City. On June 16, 1998, Jorge waived his right over Lot No. 1 in favor of his illegitimate son, respondent Reygan Escalona (Reygan). On July 28, 2005, Reygan relinquished his right over Lot No. 1 to petitioner Belinda Alexander (Belinda). On August 8, 2005, Reygan likewise transferred Lot No. 2 to Belinda through a Deed of Renunciation and Quitclaim.⁶ On August 10, 2005, Reygan and Belinda entered into a Deed of Absolute Sale⁷ covering Lot Nos. 1 and 2 for ₱1,600,000.00.⁸

Spouses Escalona confronted Belinda and explained that Reygan cannot validly sell the lots. However, Belinda invoked the legitimacy of her contracts with Reygan. Aggrieved, Spouses Escalona filed on September 5, 2005 a Complaint⁹ for annulment of documents with damages against Belinda and Reygan before the Regional Trial Court of Olongapo City, Branch 72 (RTC) docketed as Civil Case No. 342-0-2005. Spouses Escalona averred that they never transferred Lot No. 2 to a third person, but Reygan fraudulently sold the lot to Belinda. Also, Hilaria did not consent to the waiver of rights over Lot No. 1 and that such transaction was not meant to convey ownership to Reygan. Moreover, Spouses Escalona referred the controversy to the barangay on August 5, 2005 where they informed Belinda that Reygan had no authority to sell Lot Nos. 1 and 2, but she still pushed through with the sale.¹⁰

Belinda sought to dismiss the case on the grounds of laches and prescription. Belinda likewise argued that she was a buyer in good faith and that Jorge's waiver of rights in favor of Reygan was unconditional. In any event, Reygan may have committed fraud in conspiracy with Spouses

² Executive Order No. 209, entitled "THE FAMILY CODE OF THE PHILIPPINES," effective on August 3, 1988.

³ *Rollo*, pp. 3-40.

⁴ *Id.* at 41-51. Penned by Associate Justice Ronaldo Roberto B. Martin, with the concurrence of Associate Justices Manuel M. Barrios and Alfredo D. Ampuan.

⁵ *Id.* at 52-53.

⁶ *Id.* at 88-89.

⁷ *Id.* at 90.

⁸ *Id.* at 41-42, 124-127, and 136.

⁹ *Id.* at 91-94.

¹⁰ *Id.* at 42-43, 92-93, and 125-127.

Escalona. Belinda also filed a cross-claim¹¹ against Reygan and Third-Party Complaint¹² against his mother Teodora Bognot. On the other hand, Reygan denied any deception and asserted that he is already the owner of Lot No. 1 when he transferred it to Belinda. Reygan countered that Belinda was in bad faith after she induced him to sell Lot Nos. 1 and 2 despite prior knowledge as to the nature and ownership of the properties.¹³

In a Decision¹⁴ dated February 20, 2017, the RTC upheld the transactions between Belinda and Reygan and dismissed Spouses Escalona's complaint for being time-barred. The RTC ordered Spouses Escalona to vacate the premises and pay damages,¹⁵ thus:

It is well-settled that contracts are presumed to be valid until annulled by a court of competent jurisdiction. In the present case, the plaintiffs essentially claimed that the subject deed of waiver is null and void because of the ground stated above. However, plaintiffs not (sic) filed any action seeking the cancellation or annulment of the questioned deed of waiver after its execution. **The plaintiffs come to court to annul the same more than seven (7) years after its execution and after the properties subject of the said deed of waiver were sold by Reygan Escalona to Belinda Alexander.** Defendant Reygan Escalona also failed to support such claim of the plaintiffs. As such, the validity and regularity of the Waiver and Quitclaim dated June 16, 1998 (Exhibit "E") remains and should be upheld.

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The claim of the plaintiffs, particularly Jorge Escalona, that he had (sic) different intention other than that provided in the subject Waiver and Quitclaim dated June 16, 1998 (Exhibit "E") cannot prosper. **The allegation of the said plaintiff cannot change or alter the clear provision in the said deed. Unsubstantiated testimony, offered as proof of verbal agreements which tends to vary the terms of a written agreement, is inadmissible under the parole evidence rule** x x x

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The action to annul said document is also barred by the statute of limitations since this case was filed more than seven (7) years from 1998, the year when the plaintiff Jorge Escalona caused the transfer of ownership of the subject properties in the name of his illegitimate son Reygan. Article 1391 of the Civil Code provides:

[Article] 1391. The action for annulment shall be brought within four years.

This period shall begin:

¹¹ See Answer with Crossclaim and Motion to Dismiss dated October 3, 2005; id. at 95-105.

¹² Id. at 106-110.

¹³ Id. at 43-44 and 126-127.

¹⁴ Id. at 124-141. Penned by Judge Richard A. Paradeza.

¹⁵ Id. at 141.

To reiterate, the Waiver and Quitclaim dated 16 June 1998 executed by Jorge in favor of Reygan is void. Under Article 1410 of the Civil Code, an action or defense for the declaration of the inexistence of a contract does not prescribe.

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Here, Belinda insists that she is a buyer in good faith and for value. The Supreme Court has held that “the rule in land registration law that the issue of whether the buyer of realty is in good or bad faith is relevant only where the subject of the sale is registered land and the purchase was made from the registered owner whose title to the land is clean.” This good faith argument cannot be considered as this case undisputedly involves lots 1 and 2 which are both unregistered lands.

Further, there existed a circumstance that should have placed Belinda on guard. This is so because the Waiver and Quitclaim dated 16 June 1998 described Jorge as “married” but the conformity of his wife to the said document did not appear in the deed. Thus, it was incumbent on Belinda to, at least, inquire whether Jorge was still married and if he still was, if Jorge’s wife had consented to the document Jorge had executed.

WHEREFORE, premises considered, the instant Appeal is GRANTED and the 20 February 2017 Decision of the Regional Trial Court, Olongapo City, Branch 72 in Civil Case No. 342-0-2005 is REVERSED and SET ASIDE.

A new judgment is hereby rendered declaring void the following: (a) Waiver and Quitclaim dated 16 June 1998; (b) Waiver and Quitclaim dated 28 July 2005; (c) Deed of Renunciation and Quitclaim dated 8 August 2005 and (d) Deed of Absolute Sale dated 10 August 2005. This is however without prejudice to any action that may be filed by Belinda Alexander against Reygan Escalona for the amounts she paid him for the purchase of lots 1 and 2.

SO ORDERED.²¹ (Emphases supplied and citations omitted)

Belinda moved for a reconsideration,²² but was denied in a Resolution²³ dated March 5, 2021. Hence, this recourse. Belinda maintains that Lot Nos. 1 and 2 belonged exclusively to Jorge and that the contracts over these lots are valid. She echoes that the action to annul the transactions had prescribed and that she is a buyer in good faith entitled to the ownership and possession of the lots. Lastly, she claims that she is allowed to reimburse the purchase price if the contracts are void.²⁴

²¹ Id. at 48-51.

²² See Motion for Reconsideration dated December 7, 2020; id. at 164-170.

²³ Id. at 52-53.

²⁴ Id. at 13-34.

RULING

The issue regarding the validity of the contracts over Lot Nos. 1 and 2 hinges mainly on whether the properties are conjugal in nature. In this case, Spouses Escalona were married on November 14, 1960, or during the effectivity of the Civil Code. Article 119 of the Civil Code provides that “[t]he future spouses may in the marriage settlements agree upon absolute or relative community of property, or upon complete separation of property, or upon any other regime. In the absence of marriage settlements, or when the same are void, the system of relative community or conjugal partnership of gains x x x shall govern the property relations between husband and wife.” The default property relations of Spouses Escalona is the conjugal partnership of gains absent any showing that they agreed on a particular regime.²⁵

Corollarily, Article 160 of the Civil Code is explicit that “[a]ll property of the marriage is presumed to belong to the conjugal partnership, unless it be proved that it pertains exclusively to the husband or to the wife.” The properties acquired during the lifetime of the husband and wife are presumed to be conjugal. The presumption may be rebutted only through clear and convincing evidence. The burden of proof rests upon the party asserting exclusive ownership of one spouse.²⁶ Here, the presumption applies absent proof that Lot Nos. 1 and 2 are excluded from Spouses Escalona’s conjugal partnership. Belinda did not substantiate her claim that Jorge exclusively owned the lots. Belinda failed to discharge her burden since bare assertion has no probative value and mere allegation is not evidence.

Considering the conjugal nature of Lot Nos. 1 and 2, the Court now resolves the applicable laws as to the status of the transactions over these properties and the prescriptive period of action.

The alienation of Lot No. 1 is void under Article 124 of the Family Code because it was made without Hilaria’s consent. However, the action to nullify the transaction is not imprescriptible under Article 1410 of the Civil Code.

Significantly, any alienation or encumbrance of the conjugal property concluded after the effectivity of the Family Code²⁷ requires the other spouse’s written consent or a court order allowing the transaction, otherwise,

²⁵ See *Philippine National Bank v. Garcia*, 734 Phil. 623, 631 (2014).

²⁶ *Dewara v. Spouses Lamela*, 663 Phil. 35, 44 (2011).

²⁷ The Family Code took effect on August 3, 1988. Chapter 4, Title IV on Conjugal Partnership of Gains expressly superseded Title VI, Book I of the Civil Code on Property Relations Between Husband and Wife. Further, the Family Code provisions were also made to apply to already existing conjugal partnerships without prejudice to vested rights.

the disposition is void.²⁸ This is because before the liquidation of the conjugal partnership, the interest of each spouse in the conjugal assets is inchoate, a mere expectancy, which constitutes neither a legal nor an equitable estate, and does not ripen into a title until it appears that there are assets in the community as a result of the liquidation and settlement. The interest of each spouse is limited to the net remainder resulting from the liquidation of the affairs of the partnership after its dissolution. Thus, the right of the husband or wife to one-half of the conjugal assets does not vest until the dissolution and liquidation of the conjugal partnership, or after dissolution of the marriage, when it is finally determined that, after settlement of conjugal obligations, there are net assets left which can be divided between the spouses or their respective heirs.²⁹ *Apropos* is Article 124 of the Family Code, thus:

Article 124. The administration and enjoyment of the conjugal partnership property shall belong to both spouses jointly. In case of disagreement, the husband's decision shall prevail, subject to recourse to the court by the wife for a proper remedy, which must be availed of within five years from the date of the contract implementing such decision.

In the event that one spouse is incapacitated or otherwise unable to participate in the administration of the conjugal properties, the other spouse may assume sole powers of administration. **These powers do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. In the absence of such authority or consent, the disposition or encumbrance shall be void.** However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors. (Emphasis supplied)

In this case, the contract is void notwithstanding the fact that Spouses Escalona were married during the effectivity of the Civil Code. The Family Code expressly repealed Title VI, Book I of the Civil Code on Property Relations Between Husband and Wife. The Family Code has retroactive effect to existing conjugal partnerships without prejudice to vested rights. Articles 105, 254, 255, and 256 of the Family Code are clear on these matters, to wit:

Article 105. In case the future spouses agree in the marriage settlements that the regime of conjugal partnership of gains shall govern their property relations during marriage, the provisions in this Chapter shall be of supplementary application.

The provisions of this Chapter shall also apply to conjugal partnerships of gains already established between spouses before the effectivity of this Code, without prejudice to vested rights already acquired in accordance with the Civil Code or other laws, as provided in Article 255.

²⁸ *Philippine National Bank v. Reyes*, 796 Phil. 736, 744 (2016); and *Spouses Aggabao v. Parulan, Jr.*, 644 Phil. 26, 36 (2010).

²⁹ *Spouses Tarrosa v. De Leon*, 611 Phil. 384, 397-398 (2009).

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Article 254. **Titles III, IV, V, VI, VII, VIII, IX, XI, and XV of Book I of Republic Act No. 386, otherwise known as the Civil Code of the Philippines**, as amended, and Articles 17, 18, 19, 27, 28, 29, 30, 31, 39, 40, 41 and 42 of Presidential Decree No. 603, otherwise known as the Child and Youth Welfare Code, as amended, and all laws, decrees, executive orders, proclamations, rules and regulations, or parts thereof, inconsistent herewith **are hereby repealed**.

Article 255. If any provision of this Code is held invalid, all the other provisions not affected thereby shall remain valid.

Article 256. **This Code shall have retroactive effect insofar as it does not prejudice or impair vested or acquired rights** in accordance with the Civil Code or other laws. (Emphases supplied)

In *Spouses Cueno v. Spouses Bautista*³⁰ (*Cueno*), the Court *En Banc* held that the sale of conjugal property without the consent of the wife is merely voidable. In that case, the marriage of the spouses and the alienations of their conjugal property transpired before the effectivity of the Family Code. The applicable laws are Articles 165 and 166 in relation to Article 173 of the Civil Code, *viz.*:

Article 165. The husband is the administrator of the conjugal partnership.

Article 166. Unless the wife has been declared a *non compos mentis* or a spendthrift, or is under civil interdiction, or is confined in a leprosarium, **the husband cannot alienate or encumber any real property of the conjugal partnership without the wife's consent**. If she refuses unreasonably to give her consent, the court may compel her to grant the same.

This article shall not apply to property acquired by the conjugal partnership before the effective date of this Code.

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Article 173. **The wife may, during the marriage, and within ten years from the transaction questioned, ask the courts for the annulment of any contract of the husband entered into without her consent**, when such consent is required, or any act or contract of the husband which tends to defraud her or impair her interest in the conjugal partnership property. Should the wife fail to exercise this right, she or her heirs, after the dissolution of the marriage, may demand the value of property fraudulently alienated by the husband. (Emphases supplied)

The Court in *Cueno* observed the conflict of characterizations as regards the status of **alienations or encumbrances that fail to comply with Article 166 of the Civil Code**, thus:

³⁰ G.R. No. 246445, March 2, 2021.

x x x The **first view** treats such contracts as void 1) on the basis of lack of consent of an indispensable party and/or 2) because such transactions contravene mandatory provisions of law. On the other hand, the **second view** holds that although Article 166 requires the consent of the wife, the absence of such consent does not render the entire transaction void but merely voidable in accordance with Article 173 of the Civil Code.³¹ (Emphases supplied)

To end the conflict on the proper characterization of the transaction, the Court in *Cueno* adopted the second view as the correct rule and abandoned all contrary cases. Thus, a sale that fails to comply with Article 166 is not “void” but merely “voidable” in accordance with Article 173 of the Civil Code. The ruling in *Cueno* cited the following cases which espoused the second view, namely, *Villocino v. Doyon*,³² *Roxas v. CA*,³³ *Heirs of Aguilar-Reyes v. Spouses Mijares*,³⁴ *Villaranda v. Spouses Villaranda*³⁵ (*Villaranda*), *Spouses Vera Cruz v. Calderon*,³⁶ *Vda. De Ramones v. Agbayani*³⁷ (*Vda. De Ramones*), *Bravo-Guerrero v. Bravo*,³⁸ *Heirs of Hernandez, Sr. v. Mingoa, Sr.*,³⁹ *Ros v. Philippine National Bank - Laoag Branch*,⁴⁰ and *Mendoza v. Fermin*.⁴¹ On the other hand, the Court overturned the following cases which

³¹ Id.

³² 125 Phil. 180 (1966). There is no specific date of marriage in the body of the Decision but the facts inferred that the spouses got married during the effectivity of the 1889 Spanish Civil Code and before the effectivity of the Civil Code. In this case, the husband sold conjugal lots on August 7, 1951 and December 20, 1951.

³³ 275 Phil. 589 (1991). There is no specific date of marriage in the body of the Decision but the facts inferred that the spouses got married during the effectivity of the Civil Code and before the effectivity of the Family Code. In this case, the husband leased the conjugal lot on March 30, 1987 without the consent of his wife. The Court held that the applicable laws are Articles 166 and 173 of the Civil Code, and that the transaction was voidable.

³⁴ 457 Phil. 120 (2003). The spouses got married in 1960. The husband sold the conjugal property without the consent of his wife on March 1, 1983. The Court held that the applicable laws are Articles 166 and 173 of the Civil Code, and that the transaction was voidable.

³⁵ 467 Phil. 1089 (2004). There is no specific date of marriage in the body of the Decision but the facts inferred that the spouses got married during the effectivity of the Civil Code and before the effectivity of the Family Code. In this case, the husband alienated the conjugal property on July 6, 1976 through a Deed of Exchange with his brother but without his wife's consent. The Court held that the applicable laws are Articles 166 and 173 of the Civil Code, and that the transaction was voidable. However, the Court sustained the validity of the transaction because the wife failed to seek the annulment of the voidable transaction with the 10-year prescriptive period.

³⁶ 478 Phil. 691 (2004). The spouses got married on January 31, 1967. The husband sold the conjugal property without his wife's consent on June 3, 1986. The Court held that the pertinent provisions of law are Articles 165, 166, and 173 of the Civil Code.

³⁷ 508 Phil. 299 (2005). There is no specific date of marriage in the body of the Decision but the facts inferred that the spouses got married during the effectivity of the Civil Code and before the effectivity of the Family Code. In this case, the husband sold the conjugal property on May 23, 1979 without his wife's consent. The Court held that the applicable laws are Articles 166 and 173 of the Civil Code, and that the transaction was voidable.

³⁸ 503 Phil. 220 (2005). The spouses got married before the Family Code. The husband sold the conjugal property on October 25, 1970 without his wife's consent.

³⁹ 623 Phil. 303 (2009). The spouses got married before the Family Code. The husband sold the conjugal property without his wife's consent on July 9, 1978.

⁴⁰ 662 Phil. 696 (2011). The spouses got married on January 16, 1954 while the conjugal property was acquired in 1968. On October 23, 1974, the husband mortgaged the conjugal property. The Court held that the applicable laws are Articles 166 and 173 of the Civil Code, and that the transaction was voidable.

⁴¹ 738 Phil. 429 (2014). The spouses got married before the Family Code. The husband sold the conjugal property without his wife's consent on September 22, 1986.

espoused the first view, namely, *Tolentino v. Cardenas*,⁴² *Bucoy v. Paulino*,⁴³ *Nicolas v. CA*,⁴⁴ *Garcia v. CA*,⁴⁵ *Malabanan v. Malabanan, Jr.*,⁴⁶ and *Spouses Tarrosa v. De Leon*,⁴⁷ wherein contracts that fail to comply with Article 166 of the Civil Code are void either for lack of consent of an indispensable party or for being executed against mandatory provisions of law.

However, a scrutiny of the above-mentioned cases both supporting the first and second views reveals an identical factual setting with that of *Cueno* where **both the marriage of the spouses and the date of the alienation transpired before the effectivity of the Family Code**. In the cases of *Villaranda* and *Vda. De Ramones*, which were cited in *Cueno*, the Court even categorically held that “[w]ithout the wife’s consent, the husband’s **alienation or encumbrance of conjugal property prior to the effectivity of the Family Code is not void, but merely voidable.**”⁴⁸ Also in *Pelayo v. Perez*,⁴⁹ the Court stated that “**under Article 173, in relation to Article 166, both of the New Civil Code, which was still in effect on January 11, 1988 when the deed in question was executed, the lack of marital consent to the disposition of conjugal property does not make the contract void ab initio but merely voidable.**”⁵⁰ In *Spouses Alfredo v. Spouses Borrás*,⁵¹ the Court explained that the “[t]he Family Code, which took effect on 3 August 1988, provides that any alienation or encumbrance made by the husband of the conjugal partnership property without the consent of the wife is void. **However, when the sale is made before the effectivity of the Family Code, the applicable law is the Civil Code. Article 173 of the Civil Code provides that the disposition of conjugal property without the wife’s consent is not void but merely voidable.**”⁵²

These cases evidently suggest that the date of alienation or encumbrance of the conjugal property is material in determining the applicable law. As intimated earlier, *Cueno* applied Article 173 of the Civil

⁴² 123 Phil. 517 (1966). The case was decided before August 3, 1988 which means that the marriage of the spouses and the alienation of the conjugal property both transpired before the effectivity of the Family Code.

⁴³ 131 Phil. 790 (1968). The case was decided before August 3, 1988 which means that the marriage of the spouses and the alienation of the conjugal property both transpired before the effectivity of the Family Code.

⁴⁴ 238 Phil. 622 (1987). The case was decided before August 3, 1988 which means that the marriage of the spouses and the alienation of the conjugal property both transpired before the effectivity of the Family Code.

⁴⁵ 215 Phil. 380 (1984). The case was decided before August 3, 1988 which means that the marriage of the spouses and the alienation of the conjugal property both transpired before the effectivity of the Family Code.

⁴⁶ 848 Phil. 439 (2019). The spouses got married before the Family Code. The alienations of the conjugal property occurred in 1985 without his wife’s consent.

⁴⁷ *Supra* note 29. The spouses got married on April 24, 1968 or before the Family Code. The alienation of the conjugal property occurred in 1974 without his wife’s consent.

⁴⁸ *Vda. De Ramones v. Agbayani*, *supra* note 37, at 303; and *Villaranda v. Spouses Villaranda*, *supra* note 35, at 1091.

⁴⁹ 498 Phil. 515 (2005). The spouses were married before the effectivity of the Family Code. On January 11, 1988, the husband executed a Deed of Absolute Sale in favor of the buyer.

⁵⁰ *Id.* at 524; emphasis supplied.

⁵¹ 452 Phil. 178 (2003). The spouses got married before Family Code. In 1970, the wife sold the conjugal property without the husband’s consent.

⁵² *Id.* at 198; emphasis supplied.

Code because the marriage of the spouses and the alienations of their conjugal property transpired before the effectivity of the Family Code. Likewise, *Cueno* only settled the conflict of characterizations as regards the status of alienations or encumbrances that fail to comply with Article 166 of the Civil Code. **Relatively, *Cueno* is inapplicable when the facts of the case do not call for the operation of Articles 166 and 173 of the Civil Code.** Differently stated, *Cueno* did not abandon previous rulings that presented a different factual *milieu* calling for the application of Article 124 of the Family Code.

For instance, in *Spouses Aggabao v. Parulan, Jr.*⁵³ (*Aggabao*), the Court declared the transaction void and held that the applicable law is Article 124 of the Family Code, not Article 173 of the Civil Code, because the alienation of the conjugal property transpired after the effectivity of the Family Code even if the spouses were married under the Civil Code, thus:

Article 124, Family Code, applies to sale of conjugal properties made after the effectivity of the Family Code

The petitioners submit that Article 173 of the *Civil Code*, not Article 124 of the *Family Code*, governed the property relations of the respondents because they had been married prior to the effectivity of the *Family Code*; and that the second paragraph of Article 124 of the *Family Code* should not apply because the other spouse held the administration over the conjugal property. They argue that notwithstanding his absence from the country Dionisio still held the administration of the conjugal property by virtue of his execution of the SPA in favor of his brother; and that even assuming that Article 124 of the *Family Code* properly applied, Dionisio ratified the sale through Atty. Parulan's counter-offer during the March 25, 1991 meeting.

We do not subscribe to the petitioners' submissions.

To start with, Article 254 of the *Family Code* has expressly repealed several titles under the *Civil Code*, among them the entire Title VI in which the provisions on the property relations between husband and wife, Article 173 included, are found.

Secondly, the sale was made on March 18, 1991, or after August 3, 1988, the effectivity of the *Family Code*. The proper law to apply is, therefore, Article 124 of the *Family Code*, for it is settled that any alienation or encumbrance of conjugal property made during the effectivity of the *Family Code* is governed by Article 124 of the *Family Code*.

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Thirdly, according to Article 256 of the *Family Code*, the provisions of the *Family Code* may apply retroactively provided no vested rights are impaired. In *Tumlos v. Fernandez*, the Court rejected the petitioner's argument that the *Family Code* did not apply because the acquisition of the contested property had occurred prior to the effectivity of the *Family Code*,

⁵³ *Supra* note 28. The spouses got married before the effectivity of the Family Code. The wife sold the conjugal property on March 18, 1991 without the husband's consent.

and pointed out that Article 256 provided that the *Family Code* could apply retroactively if the application would not prejudice vested or acquired rights existing before the effectivity of the *Family Code*. **Herein, however, the petitioners did not show any vested right in the property acquired prior to August 3, 1988 that exempted their situation from the retroactive application of the *Family Code*.**⁵⁴ (Emphases supplied and citations omitted)

Hence, *Aggabao* can hardly fall within the statement in *Cueno* where the Court “adopts the second view x x x as the prevailing and correct rule” and “abandons all cases contrary thereto.”⁵⁵ The ruling in *Aggabao* is not inconsistent with the pronouncement in *Cueno* where a sale that fails to comply with Article 166 is not “void” but merely “voidable” in accordance with Article 173 of the Civil Code. The *Aggabao* case happened in a diverse factual background where the applicable law is Article 124 of the Family Code, and not Article 173 of the Civil Code. More telling is that *Aggabao* and the analogous cases of *Philippine National Bank v. Reyes*⁵⁶ (*PNB*), *Boston Equity Resources, Inc. v. Del Rosario*⁵⁷ (*Boston Equity*), *Homeowners Savings & Loan Bank v. Dailo*⁵⁸ (*Homeowners Savings*), *Spouses Alinas v. Spouses Alinas*⁵⁹ (*Alinas*), *Titan Construction Corporation v. Spouses David*⁶⁰ (*Titan Construction*), and *Strong Fort Warehousing Corporation v. Banta*⁶¹ (*Strong Fort*), were never discussed or mentioned in *Cueno*. **Notably, these cases declared void the alienations of conjugal properties made after the effectivity of the Family Code notwithstanding that the spouses were married under the Civil Code.**

Cueno cited the *En Banc* case of *Spouses Fuentes v. Roca*⁶² (*Fuentes*) and the ruling in *Spouses Guiang v. CA*⁶³ (*Guiang*) wherein the alienation or

⁵⁴ Id. at 35-37.

⁵⁵ *Spouses Cueno v. Spouses Bautista*, supra note 30.

⁵⁶ Supra note 28. The spouses were married in 1973. The wife mortgaged the conjugal property on August 25, 1994 without the consent of the husband. The Court held that the applicable law is Article 124 of the Family Code, and that the transaction was void.

⁵⁷ 821 Phil. 701 (2017). The spouses were married on March 9, 1968. The husband mortgaged the conjugal properties on April 12, 1999 without the consent of the wife. The Court held that the applicable law is Article 124 of the Family Code, and that the transaction was void.

⁵⁸ 493 Phil. 436 (2005). The spouses were married on August 8, 1967. The husband mortgaged the conjugal properties in 1993 without the consent of the wife. The Court held that the applicable law is Article 124 of the Family Code and that the transaction was void.

⁵⁹ 574 Phil. 311 (2008). In this case, the Court held that although the spouses were married before the enactment of the Family Code on August 3, 1988, the sale in question occurred in 1989. Thus, their property relations are governed by Chapter IV on Conjugal Partnership of Gains of the Family Code. The Court did not see how applying Article 124 of the Family Code would lead to injustice or absurdity.

⁶⁰ 629 Phil. 346 (2010). The spouses were married on March 25, 1957. The wife sold the conjugal property to the petitioner through a Deed of Sale dated April 24, 1995 without the consent of husband. The Court declared the transaction void under Article 124 of Family Code.

⁶¹ G.R. Nos. 222369 and 222502, November 16, 2020. The spouses were married on April 5, 1975. The husband mortgaged the conjugal properties on November 23, 1995 without his wife’s consent. The Court held that any alienation or encumbrance of conjugal property made during the effectivity of the Family Code is governed by Article 124 of the same Code.

⁶² 633 Phil. 9 (2010). The spouses were married in 1950. The husband sold the conjugal property on January 11, 1989 without the consent of his wife. The Court held that the applicable law is Article 124 of the Family Code, and that the transaction was void.

⁶³ 353 Phil. 578 (1998). The spouses were married on December 24, 1968. The husband sold the conjugal property on March 1, 1990 without the consent of wife. The Court ruled that the alienation was void pursuant to Article 124 of the Family Code.

encumbrance of conjugal properties transpired after the effectivity of the Family Code even if the spouses were married under the Civil Code. Yet, there is nothing in *Cueno* that would suggest the intention to overturn these cases. At most, the Court cited *Guiang* to stress that the “*remedies afforded by Article 173 were not carried over to the Family Code, which thus signified the change in status of such transactions from the Civil Code to the Family Code.*”⁶⁴ Moreover, the Court in *Cueno* simply expressed its agreement with the rationale in *Guiang* “*that the evident revisions under the Family Code are deliberate and confirm the legislative intent to change the status of such transactions from voidable under Civil Code to void under the Family Code.*”⁶⁵ Similarly, *Cueno* merely discussed the *obiter dictum* in *Fuentes* that a sale made in violation of Article 166 of the Civil Code “*is not void but merely voidable [under Article 173 and gave the wife] the right to have the sale annulled during the marriage within ten years from the date of the sale.*”⁶⁶ The *ratio decidendi* in *Fuentes* remains that any alienation of the conjugal property made after the effectivity of the Family Code is void although the spouses were married under the Civil Code, thus:

Second. Contrary to the ruling of the Court of Appeals, **the law that applies to this case is the Family Code, not the Civil Code. Although Tarciano and Rosario got married in 1950, Tarciano sold the conjugal property to the Fuentes spouses on January 11, 1989, a few months after the Family Code took effect on August 3, 1988.**

x x x x

But, as already stated, the Family Code took effect on August 3, 1988. Its Chapter 4 on *Conjugal Partnership of Gains* expressly superseded Title VI, Book I of the Civil Code on *Property Relations Between Husband and Wife*. Further, the Family Code provisions were also made to apply to already existing conjugal partnerships without prejudice to vested rights. x x x

x x x x

In contrast to Article 173 of the Civil Code, Article 124 of the Family Code does not provide a period within which the wife who gave no consent may assail her husband’s sale of the real property. **It simply provides that without the other spouse’s written consent or a court order allowing the sale, the same would be void.** x x x

x x x x

Under the provisions of the Civil Code governing contracts, a void or in-existent contract has no force and effect from the very beginning. And this rule applies to contracts that are declared void by positive provision of law, as in the case of a sale of conjugal property without the other spouse’s written consent. A void contract is equivalent to nothing and is absolutely

⁶⁴ *Spouses Cueno v. Spouses Bautista*, supra note 30.

⁶⁵ *Id.*

⁶⁶ *Spouses Fuentes v. Roca*, supra note 62, at 18.

wanting in civil effects. It cannot be validated either by ratification or prescription.⁶⁷ (Emphases supplied and citations omitted)

In the subsequent case of *Esteban v. Campano*⁶⁸ (*Esteban*), the Court observed that the provisions of the Civil Code govern the couple's property relations because they were married before the effectivity of the Family Code. The Court discussed *Cueno* although the alienations of conjugal properties were made after the effectivity of the Family Code. Yet, *Esteban* explicitly held that Articles 166 and 173 of the Civil Code do not apply so as to characterize the transactions as voidable. In that case, the Court held that the transactions lack considerations and are void for being sham transfers, *viz.*:

Elpidio and Maryline were married on January 30, 1988, hence, the provisions of the Civil Code govern the couple's property relations. Under Article 119 thereof, the property relations of Elpidio and Maryline is conjugal partnership of gains. Considering that the properties were acquired during the subsistence of their marriage, these are conjugal in nature.

Maryline asserts that the three agreements are void for the transfers were executed without her consent, citing Articles 96 and 124 of the Family Code and Article 1409 of the Civil Code.

Since the Civil Code provisions govern the property relations of Elpidio and Maryline, Articles 166 and 173 should be applied to determine whether the transfer of the properties without the consent of the wife is void, and not the Family Code provisions.

In the very recent case of [*Cueno*], decided by the Court *En Banc* under the *ponencia* of Justice [Alfredo Benjamin S. Caguioa (Justice Caguioa)], the Court settled the recurring conflict on the proper characterization of a transfer of conjugal property entered into without a wife's consent as merely voidable and not void. The Court abandoned all cases contrary thereto and held that the prevailing and correct rule is that "a sale that fails to comply with Article 166 is not [']void['] but merely [']voidable['] in accordance with Article 173 of the Civil Code." Unlike void contracts, voidable or annulable contracts, before they are set aside, are existent, valid, binding and are effective and are obligatory between the parties. They may be ratified and the action to annul the same may be barred by prescription.

The Court further explained in [*Cueno*] that Article 173 is explicit that the action for the annulment of a contract involving conjugal real property entered into by a husband without the wife's consent must be brought (1) by the wife, (2) during the marriage, and (3) within ten years from the questioned transaction.

After a judicious examination of three *Kasulatan* dated December 4, 2004, March 30, 2005, and April 10, 2005, the Court finds that **Articles 166 and 173 of the Civil Code do not apply so as to characterize these three (3) *Kasulatan* as voidable. From the cases cited in [*Cueno*], it can be inferred that the conveyances executed without the consent of the wife were "real transfers of properties with consideration," such that**

⁶⁷ Id. at 18-20.

⁶⁸ G.R. No. 235364, April 26, 2021.

without the consent of the wife, these transfers are only voidable consistent with Article 173 of the Civil Code.

In this case, the Court holds that the three *Kasulatan* are null and void for being sham transfers done by Elpidio in anticipation of the annulment of his marriage with Maryline. A notarized *Kasunduan* dated December 9, 2004 (Exh. "K") between Elpidio and Campano was offered by Maryline to prove that Campano is receiving a monthly compensation as caretaker of the properties in the meantime that Elpidio and Maryline have disagreements as to the settlement of their conjugal properties. It was also stated in the *Kasunduan* that Campano agreed not to adjudicate the properties to himself considering that the intended beneficiaries are the children of Elpidio and Maryline. Campano did not even refute his signature therein. Regardless of the date when this *Kasunduan* was executed, whether before or after the filing of the annulment case, as assailed by Campano, the *Kasunduan* established the nature of Campano's possession of the properties. This shows that the three *Kasulatan* were not intended to transfer the properties in favor of Campano.

In addition, these agreements to transfer the properties in favor of Campano were without any consideration. The three *Kasulatan* stated no consideration at all. When a contract of conveyance lacks consideration, it is null and void *ab initio*.⁶⁹ (Emphases supplied and citations omitted)

However, *Esteban*'s sheer discussion of *Cueno* cannot be construed as an abandonment of the *En Banc* decision in *Fuentes* and the allied cases of *Guiang*, *Aggabao*, *PNB*, *Boston Equity*, *Homeowners Savings*, *Alinas*, *Titan Construction*, and *Strong Fort*. This holds even if the facts in *Esteban* show that the spouses were married under the Civil Code but the alienation of the conjugal property transpired after the effectivity of the Family Code.

To avoid confusion, *Cueno* and *Esteban* must be harmonized with existing jurisprudence and be given proper interpretation in light of the material facts of the cases with cautious attention on the date of marriage of the spouses and the time of alienation of the conjugal property. Admittedly, *Cueno* is silent on whether Article 173 is applicable in instances where the marriage was celebrated under the Civil Code, but the alienation of the conjugal property was made during the Family Code. Hence, it is quite a stretch to insist that *Cueno* abandoned all previous cases which declared void the alienation of the conjugal property without the consent of the other spouse. This is especially true if the facts of the case call for the application of Article 124 of the Family Code, and not Article 173 of the Civil Code. The supposed wholesale abandonment of all previous cases is contrary to the tenor of *Cueno* which overturned only the rulings supporting the first view as regards the status of alienations or encumbrances that fail to comply with Article 166 of the Civil Code. Otherwise, such approach will do more injustice and jeopardize the property rights of the concerned parties. Also, the Court takes exception with regard to the import of *Esteban* that the Civil Code governs the spouses' property relations simply because they were married

⁶⁹ *Id.*

before the effectivity of the Family Code. This stance undermines the retroactive effect of the Family Code to existing conjugal partnerships subject to the principles on vested rights.

More importantly, the action to nullify the void alienation or encumbrance of the conjugal property, without authority of the court or the written consent of the other spouse, is not imprescriptible. The nature, effect, and availability of the remedy in transactions under Article 124 of the Family Code are distinct from void and inexistent contracts under Article 1409 in relation to Article 1410 of the Civil Code.⁷⁰ The transaction in Article 124 of the Family Code, while also dubbed “void,” shall “*be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors.*” In *Spouses Anastacio, Sr. v. Heirs of Coloma*,⁷¹ the Court rendered the continuing offer impossible due to the death of the non-consenting spouse, to wit:

Since petitioners have not presented strong, clear, convincing evidence that the subject property was exclusive property of Juan, its alienation to them required the consent of Juliana to be valid pursuant to Article 124 of the Family Code, which provides in part:

[Article] 124. x x x

x x x These powers [of administration] do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. **In the absence of such authority or consent, the disposition or encumbrance shall be void.** However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors. x x x

Under Article 1323 of the Civil Code, an offer becomes ineffective upon the death, civil interdiction, insanity, or insolvency of either party before acceptance is conveyed. **When Juan died on August 26, 2006, the continuing offer contemplated under Article 124 of the Family Code became ineffective and could not have materialized into a binding contract.** It must be remembered that Juliana even died earlier on August 17, 2006 and there is no evidence that she consented to the sale of the subject property by Juan in favor of petitioners.⁷² (Emphases supplied)

Thus, it is an opportune time for the Court to clarify any confusion besetting the applicable laws and jurisprudence in transactions involving alienation or encumbrance of conjugal properties, without consent of the other

⁷⁰ See Opinion of Justice Caguioa, p. 9.

⁷¹ G.R. No. 224572, August 27, 2020.

⁷² Id.

spouse, which is determinative of the remedies available to the aggrieved parties and the prescriptive period of actions. At this juncture, the Court holds that more than the date of the marriage of the spouses, **the applicable law must be reckoned on the date of the alienation or encumbrance of the conjugal property made without the consent of the other spouse**, to wit:

1. The alienation or encumbrance of the conjugal property, without the wife's consent, made before the effectivity of the Family Code, is not void but merely voidable. The applicable laws are Articles 166 and 173 of the Civil Code. The wife may file an action for annulment of contract within 10 years from the transaction; and
2. The alienation or encumbrance of the conjugal property, without the authority of the court or the written consent of the other spouse, made after the effectivity of the Family Code is void. The applicable law is Article 124 of the Family Code without prejudice to vested rights in the property acquired before August 3, 1988. Unless the transaction is accepted by the non-consenting spouse or is authorized by the court, an action for declaration of nullity of the contract may be filed before the continuing offer on the part of the consenting spouse and the third person becomes ineffective.

Reygan and Belinda did not acquire a vested right over Lot No. 1 before the Family Code took effect on August 3, 1988. Moreover, Belinda is not a buyer in good faith.

As mentioned earlier, the retroactive effect of Article 124 of the Family Code to existing conjugal partnerships is without prejudice to vested rights in the property acquired before August 3, 1988. A vested right refers to a present fixed interest that is immediate, absolute, and unconditional, to wit:

A vested right is one whose existence, effectivity and extent do not depend upon events foreign to the will of the holder, or to the exercise of which no obstacle exists, and which is **immediate and perfect in itself and not dependent upon a contingency**. The term "vested right" expresses the concept of **present fixed interest** which, in right reason and natural justice, should be protected against arbitrary State action, or an innately just and imperative right which enlightened free society, sensitive to inherent and irrefragable individual rights, cannot deny.⁷³ (Emphases supplied)

Significantly, a vested right is exempted from new obligations created

⁷³ *Go, Jr. v. CA*, 640 Phil. 238, 259 (2010).

after it is acquired. A new law cannot be invoked to prejudice or affect a right which has become vested or accrued while the old law was still in force,⁷⁴ thus:

The concept of “vested right” is a consequence of the constitutional guaranty of due process that expresses a *present fixed interest* which in right reason and natural justice is protected against arbitrary state action; **it includes not only legal or equitable title to the enforcement of a demand but also exemptions from new obligations created after the right has become vested.** Rights are considered vested when the right to enjoyment is a present interest, absolute, unconditional, and perfect or fixed and irrefutable.⁷⁵ (Emphasis supplied and citations omitted)

Here, Reygan and Belinda did not show any vested right over Lot No. 1 acquired before August 3, 1988 that exempted their situation from the retroactive application of the Family Code. The transactions over Lot No. 1 in favor of Reygan and Belinda happened in 1998 and 2005, respectively, or after the effectivity of the Family Code. It is also undisputed that Hilaria did not give her written consent to these contracts. Hence, the applicable law is Article 124 of the Family Code, not the Civil Code, which renders void any alienation or encumbrance of the conjugal property without the consent of the other spouse.

Even supposing that Hilaria knew the contracts, her being merely aware of these transactions is insufficient.⁷⁶ The Court reiterates that the congruence of the wills of the spouses is essential for the valid disposition of conjugal properties. The absence of the written consent of one spouse renders the alienation void.⁷⁷ Consequently, Spouses Escalona remained the lawful owners of Lot No. 1. Assuming that Jorge transferred only his portion of the conjugal partnership, the contracts are still void because the right of the husband or the wife to one-half of the conjugal assets does not vest until the liquidation of the conjugal partnership. When Jorge waived his rights over Lot No. 1 in 1998, his marriage with Hilaria was still existing and the conjugal partnership was not yet dissolved. Hence, it could not be determined yet which of the conjugal assets belonged to Jorge that he can validly alienate. Again, the interest of each spouse in the conjugal assets is inchoate, a mere expectancy, which constitutes neither a legal nor an equitable estate, and does not ripen into a title until it appears that there are assets in the community as a result of the liquidation and settlement.⁷⁸ The inchoate interest of either spouse before the dissolution of the conjugal partnership is incompatible to the concept of vested rights.

The Court likewise agrees with the findings that Belinda can hardly qualify as a buyer in good faith as she merely stepped into the shoes of

⁷⁴ *Francisco v. CA*, 359 Phil. 519, 525 (1998).

⁷⁵ *Lahom v. Sibulo*, 453 Phil. 987, 996 (2003).

⁷⁶ See *Tinitigan v. Tinitigan, Sr.*, 188 Phil. 597, 613-614 (1980).

⁷⁷ *Guiang v. CA*, supra note 63, at 588.

⁷⁸ *Spouses Tarrosa v. De Leon*, supra note 29, at 397.

Reygan whose rights were anchored on ineffective instruments. Similarly, Belinda was negligent when she failed to investigate as to the required consent of Jorge's wife despite notice that he was married as indicated in the waiver of rights over Lot No. 1 in favor of Reygan. Belinda pushed through with the sale of Lot No. 1 notwithstanding prior knowledge of Spouses Escalona's adverse claim. Lastly, there is no reason for laches to apply since Spouses Escalona never slept on their rights as lawful owners of the lots. As an equitable doctrine, laches cannot work to defeat justice or to perpetrate fraud.⁷⁹

The alienation of Lot No. 2 is inexistent under Article 1318 of the Civil Code because it was made without Spouses Escalona's consent. The action to nullify the transaction is imprescriptible pursuant to Article 1410 of the Civil Code.

There is no contract unless the following requisites concur: (1) consent of the contracting parties; (2) object certain which is the subject matter of the contract; and (3) cause of the obligation which is established.⁸⁰ All these elements must be present to constitute a valid contract. In a contract of sale, its perfection is consummated at the moment there is a meeting of the minds upon the thing that is the object of the contract and upon the price. Consent is manifested by the meeting of the offer and the acceptance of the thing and the cause, which are to constitute the contract. The absence of consent renders the contract void and inexistent.⁸¹

Here, it is undisputed that Spouses Escalona did not transfer Lot No. 2 to Reygan. There is no document purporting to convey Lot No. 2 from Spouses Escalona to Reygan. As discussed earlier, the waiver that Jorge executed pertained only to Lot No. 1. Neither Jorge or Hilaria consented to the transfer of Lot No. 2 from Reygan to Belinda. Consequently, the transactions over Lot No. 2 is void because Reygan never acquired ownership which he can validly convey to Belinda. It is settled that contracts involving the sale or mortgage of unregistered property by a person who was not the owner or by an unauthorized person are void.⁸² Reygan and Belinda cannot acquire any right from a void contract that has no force and effect from the very beginning. This contract cannot be validated either by ratification or prescription. The action to nullify the transaction is imprescriptible.⁸³

⁷⁹ See *De Vera-Cruz v. Miguel*, 505 Phil. 591, 604 (2005).

⁸⁰ See Article 1318 of the Civil Code.

⁸¹ *Heirs of Spouses Intac v. CA*, 697 Phil. 373, 383 (2012).

⁸² *Heirs of Lopez v. Development Bank of the Philippines*, 747 Phil. 427, 444 (2014).

⁸³ *Spouses Fuentes v. Roca*, supra note 62, at 20.

On this point, it bears emphasis that there is no need to consider the date of marriage of Spouses Escalona or the time of alienation of Lot No. 2. The circumstances surrounding the sale of the conjugal property do not call for the application of either Articles 166 and 173 of the Civil Code or Article 124 of the Family Code because the transfer was made without the consent of both spouses.

Belinda is entitled to reimburse from Reygan the purchase price for the sale of Lot Nos. 1 and 2.

At most, Belinda and Reygan, as parties to the void transactions, must be restored to their original situation. The duty of restitution arises if the ground justifying the retention of payment ceases.⁸⁴ The objective is to prevent one from enriching himself at the expense of another. Accordingly, the CA correctly ruled that Belinda may reimburse from Reygan the purchase price of the lots. It would be the height of inequity tantamount to judicial acquiescence of unjust enrichment if Reygan retains the amount received from Belinda. However, instead of requiring Belinda to file a separate suit, the CA should have ordered the reimbursement in view of Reygan's admission as to the receipt of the ₱1,600,000.00 purchase price. This approach is consistent with judicial economy to avoid further delay and circuitous litigation.⁸⁵

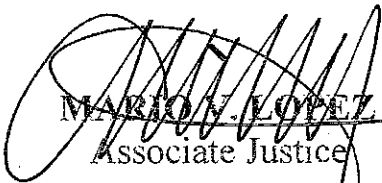
To end, it is the duty of the Court to rationalize various rulings interpreting a statute in the interest of harmony of laws and stability of jurisprudence. This case did not abandon but clarified *Cueno* with the current state of case law. The discussions serve to guide the Bench and the Bar as to the status of a contract and the prescriptive period of an action in transactions involving the alienation or encumbrance of the conjugal property made without consent of the other spouse.

FOR THESE REASONS, the petition is **PARTLY GRANTED**. The Decision dated October 26, 2020 and the Resolution dated March 5, 2021 of the Court of Appeals in CA-G.R. CV No. 110958 are **AFFIRMED** with **MODIFICATION** in that respondent Reygan Escalona is **ORDERED** to reimburse petitioner Belinda Alexander the amount of ₱1,600,000.00 representing the purchase price of Lot Nos. 1 and 2.

⁸⁴ Article 22 of the Civil Code provides that "[e]very person who, through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him."

⁸⁵ *Spouses Alinas v. Spouses Alinas*, supra note 59, at 324 (2008); and *Heirs of Aguilar-Reyes v. Spouses Mijares*, supra note 34, at 139.

SO ORDERED.

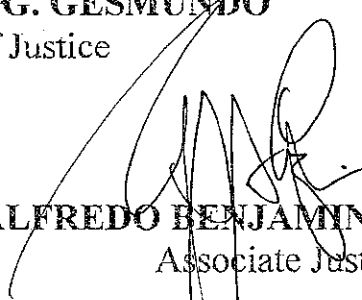

MARIO V. LOPEZ
 Associate Justice

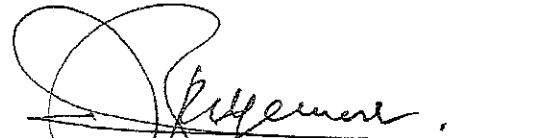
WE CONCUR:


ALEXANDER G. GESMUNDO
 Chief Justice

*See
Concurring
Opin*

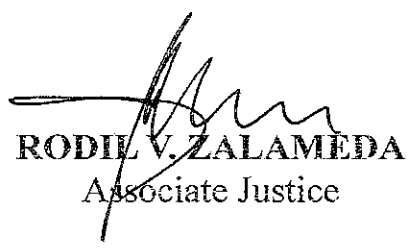

MARVIC M.V.F. LEONEN
 Associate Justice

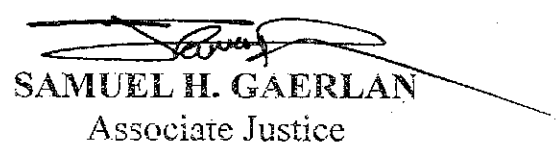

ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice


RAMON PAUL L. HERNANDO
 Associate Justice

*with concurrence -
by*
AMY C. LAZARO-JAVIER
 Associate Justice

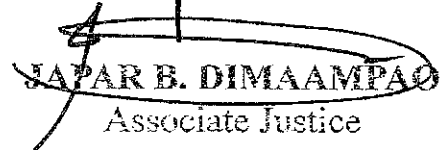

HENRI JEAN PAUL B. INTING
 Associate Justice


RODIL V. ZALAMEDA
 Associate Justice

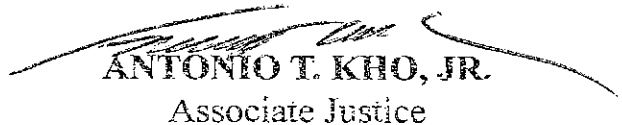

SAMUEL H. GAERLAN
 Associate Justice



RICARDO R. ROSARIO
 Associate Justice


JHOSEP Y. LOPEZ
 Associate Justice


JAPAR B. DIMAAMPAO
 Associate Justice


JOSE MIDAS P. MARQUEZ
 Associate Justice


ANTONIO T. KHO, JR.
 Associate Justice



MARIA FILOMENA D. SINGH
 Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.


ALEXANDER G. GESMUNDO
Chief Justice

CERTIFIED TRUE COPY


MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Executive Officer
OCC-En Banc, Supreme Court