

SPECIAL SECOND DIVISION

[G.R. No. 198127, October 05, 2016]

**CO IT a.k.a. GONZALO CO IT, PETITIONER, VS. ANTHONY CO,
MARY CO CHO, PETER CO AND LUCY SO HUA TAN CO,
RESPONDENTS.**

R E S O L U T I O N

PEREZ, J.:

We here have a case between members of the Co family, incorporating stockholders of Green Cross, Inc., manufacturer of the ubiquitous Green Cross alcohol.

We resolve the Respectful Motion to Reinstate Petition filed by petitioner Gonzalo Co It (Gonzalo) which we had allowed to be withdrawn, upon motion of Gonzalo, by Minute Resolution^[1] dated 30 January 2012.

Previously,. Gonzalo filed a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision^[2] of the Court of Appeals in CA-G.R. CV No. 95095 which, in turn, affirmed the Regional Trial Court, Branch 114, Pasay City's dismissal of Gonzalo's complaint for Reconveyance with Damages against respondents Anthony Co (Anthony), Mary Co Cho (Mary), Peter Co (Peter), Gonzalo's siblings, and Lucy So Hua Tan Co, wife of Gonzalo's deceased brother Joseph Co (Joseph), involving shares of stock in the family-owned Green Cross, Inc.
^[3]

We have to consult the facts antecedent to the current events.

On 29 June 2009, Gonzalo filed the aforementioned complaint^[4] for Reconveyance with Damages against respondents alleging that:

1. In 1952, he established Gonzalo Laboratories, a sole proprietorship, formulator and maker of Green Cross alcohol, with the trade mark and name registered in his name with the Philippine Patent Office (PP0).^[5]
2. He is the legitimate son and the eldest among the five children of the deceased spouses Co Ay Tian and Ang Si. The other legitimate children of said spouses are respondents Anthony, Mary and Peter.
3. In 1971, he incorporated the business as Gonzalo Laboratories, Inc. (GLI), subscribing to 20% of the authorized capital stock. To honor his parents, Gonzalo caused the registration of some GLI shares in the name of his mother, Ang Si.
4. Moreover, to comply with the five-incorporator requirement set by law, Gonzalo caused the registration of some GLI shares in the names of his siblings, herein respondents: 400 shares were registered in the name of Anthony; while Ang Si,

Joseph and Mary each had 200 shares. Eventually, Gonzalo caused some shares to be registered in respondent Peter's name.

5. He paid for all the shares of his mother and respondent-siblings, who all simply held the shares in trust for him without payment of consideration therefor.

6. In 1977, he caused the registration of some of his shares in the name of his father, Co Ay Tian. By 1978, Gonzalo held 500 shares; Anthony, 300 shares; Joseph, 300 shares; Peter, 300 shares; Mary, 100 shares, Co Ay Tian, 250 shares; and Ang Si, 250 shares. At that time, Gonzalo was led to believe that this additional transfer of shares to his siblings did not affect the initial "trust" character thereof.

7. Through Gonzalo's efforts, GLI flourished and became very profitable. However, upon the increase in capital stock of GLI, respondents, taking advantage of their relationship as siblings, deceived Gonzalo into waiving his pre-emptive rights over the additional subscription thereby reducing his shareholdings to a lone stock. Correspondingly, respondents increased their shareholdings in GLI, to wit: Co Ay Tian held 759 shares; Ang Si, 910 shares; Anthony, 908 shares; Joseph, 1060 shares; Peter, 1060 shares; and Mary, 302 shares.

8. Respondents machinated the increase in GLI's capital stock from 5,000 to 25,000 which issuance of 20,000 additional stocks was subscribed to by respondents in total of 15,000 stocks, further diluting Gonzalo's share in GLI. The additional shares were distributed among respondents, thus: Joseph and Peter for 3,180 shares, respectively; Anthony for 2,725; Ang Si for 2,730; Mary, 910; and Co Ay Tian received 2,275 shares. These subscriptions were paid for by respondents through the unlawful distribution of dividends from transactions unknown to Gonzalo.

9. In August 1989, the corporate name of GLI was changed to its present name Green Cross, Inc. Within the same month, Ang Si died intestate. At the time of her death, she was the registered owner of 3,640 shares in Green Cross with a par value of P100.00 per share or an aggregate of P364,000.00.

10. At the time of Co Ay Tian's death in 1991, he held 3,034 Green Cross shares in his name, excluding his inchoate share in the stocks ostensibly owned by Ang Si at the time of her death. As of date of filing of the complaint, both Ang Si's and Co Ay Tian's estates have yet to be settled.

11. In 1992, another family member, Joseph, died. By the year 1994, respondent Lucy transferred all of Joseph's shares in Green Cross in her name without proper documentation of the transfer and without payment of taxes and fees.

12. In the same narrative of deception, respondents appropriated for themselves alone their parents' shares in Green Cross, to the exclusion of their sibling, Gonzalo.

13. In any event, Gonzalo is a compulsory heir (as legitimate child) of his parents, entitling him to a share equal that of other legitimate children in Green Cross stocks registered in Co Ay Tian's and Ang Si's names.

Gonzalo, upon motion of respondents to the trial court, filed a Bill of Particulars. The RTC found it sufficient and admitted it as part of Gonzalo's complaint.

Thereafter, respondents filed a Motion to Dismiss the complaint on the following grounds: (1) the RTC has no jurisdiction over the subject matter of the complaint; (2) the causes of action are barred by the Statute of Limitations. In their motion to dismiss, respondents averred that: (1) only a probate court can settle the estates of the decedents Co Ay Tian and Ang Si which cannot be settled through the filing of an ordinary civil action; and (2) Gonzalo's cause of action is barred by prescription, respondents having acquired ownership of the shares of stock through eight years of uninterrupted possession, reckoned from the registration of the shares of stock in their name upon the death of the decedents in 1989 and 1991, respectively.

Gonzalo filed an Opposition to the Motion to Dismiss, contending that: (1) the motion is patently dilatory; (2) jurisdiction depends on the allegations of the complaint; (3) prescription does not run against a co owner; (4) and movable possessed through a crime can never be acquired through prescription.

On 11 January 2010, the RTC granted respondents' Motion to Dismiss on the ground that the causes of action in the Complaint are barred by the Statute of Limitations. On the issue of whether it has jurisdiction, the RTC ruled that the complaint properly pleaded a cause of action for reconveyance and thus it had jurisdiction over the subject matter of the case. Subsequently, the RTC denied Gonzalo's Motion for Reconsideration thereof.

On appeal by Gonzalo, the Court of Appeals affirmed the RTC's dismissal of Gonzalo's complaint.

As previously adverted to, Gonzalo appealed to us by *certiorari* on the lower courts' uniform dismissal of his complaint, positing the following Issues:

I.

THE COURT OF APPEALS ACTED NOT IN ACCORD WITH LAW AND APPLICABLE JURISPRUDENCE OF THE HONORABLE COURT WHEN IT ISSUED A *DECISION* WHICH DID NOT, AND STILL DOES NOT, CONFORM, WITH EXISTING LEGAL AND JURISPRUDENTIAL REQUIREMENTS IN ISSUING DECISIONS.

II.

THE COURT OF APPEALS ACTED NOT IN ACCORD WITH LAW AND APPLICABLE JURISPRUDENCE OF THE HONORABLE COURT WHEN IT RULED THAT THE COURT A *QUO* CORRECTLY ACQUIRED AND EXERCISED JURISDICTION OVER PETITIONER'S *COMPLAINT* WHETHER IT BE FOR RECONVEYANCE WITH DAMAGES OR FOR SETTLEMENT OF THE ESTATE OF A DECEASED PERSON.

III.

THE COURT OF APPEALS ACTED NOT IN ACCORD WITH LAW AND APPLICABLE JURISPRUDENCE OF THE HONORABLE COURT WHEN IT RULED THAT PETITIONER IS ESTOPPED FROM ASSAILING THE

JURISDICTION OF THE COURT A QUO.

IV.

THE COURT OF APPEALS ACTED NOT IN ACCORD WITH LAW AND APPLICABLE JURISPRUDENCE OF THE HONORABLE COURT WHEN IT RULED THAT PETITIONER IS BARRED BY PRESCRIPTION FROM DEMANDING THE RECONVEYANCE OF THE "TRUST SHARES".

V.

THE COURT OF APPEALS ACTED NOT IN ACCORD WITH LAW AND APPLICABLE JURISPRUDENCE OF THE HONORABLE COURT WHEN IT RULED THAT PETITIONER IS BARRED BY PRESCRIPTION TO DEMAND THE SETTLEMENT OF THE ESTATES OF HIS DECEASED PARENTS, CO AY TIAN ANDANGSI.

VI.

THE COURT OF APPEALS ACTED NOT IN ACCORD WITH LAW AND APPLICABLE JURISPRUDENCE OF THE HONORABLE COURT WHEN IT RULED THAT THE CERTIFICATE OF INCREASE OF CAPITAL STOCK OF GREEN CROSS DATED 28 OCTOBER 1996, AND/OR THE EXECUTION THEREOF, WAS A VALID AND SUFFICIENT REPUDIATION OF THE TRUST FOR PURPOSES OF APPLYING THE RULES ON ACQUISITIVE PRESCRIPTION.^[6]

In a Minute Resolution⁷ dated 23 November 2011, we required respondents to file their Comment on the Petition.

On 28 November 2011, Gonzalo filed the aforementioned Motion to Withdraw consisting of two pages:

1.1 The *Petition* is a case among relatives, to wit:

(a) Respondents Anthony Co, Mary Co Cho and Peter Co are the siblings of [Gonzalo]; and

(b) Lucy So Hua Tan Co is the sister-in-law of [Gonzalo], the former being the wife of [Gonzalo's deceased' brother], Joseph Co.

2. However, in light of the upcoming yuletide season, not to mention [Gonzalo's] own failing health and advanced age, he honestly believes that it would be to his, his family and his relatives' best interest that the instant appeal be withdrawn to pave the way for a long-delayed reconciliation by and among blood relatives.

3. Thus, [Gonzalo], with utmost respect, most humbly moves for the withdrawal of his *Petition* and the dismissal of the above-captioned case.

4. This motion is being filed due solely to the foregoing reasons.^[8]

On 16 January 2012, respondents filed a Manifestation (In Lieu of Comment on the Petition) stating their receipt of: (1) our 23 November 2011 Resolution requiring them to file Comment on the Petition and (2) Gonzalo's Motion to Withdraw Petition. In view of the latter Motion, respondents manifested their lack of objection thereto and asked to be excused from the filing of further Comment on the Petition, thus:

4. Respondents do not object to, in fact greatly appreciate, the "Motion to Withdraw" of Co It [Gonzalo] as it will finally put to rest any misunderstanding among the parties.^[9]

Consequently, we issued a Resolution dated 30 January 2012 resolving to:

1. **GRANT** [Gonzalo's] motion to withdraw (re: the petition for review on certiorari dated 30 September 2011) with conformity of [Gonzalo], dated 28 November 2011, praying for the withdrawal of the petition and the dismissal of the case to pave the way for a long-delayed reconciliation by and among blood relatives; and

2. **INFORM** the Court of Appeals and the parties that the judgment sought to be reviewed has now become final and executory, and to **DECLARE** this case **CLOSED** and **TERMINATED**.

Accordingly, respondents' manifestation (in lieu of comment to the petition) dated 16 January 2012 that they do not object to, in fact greatly appreciate, [Gonzalo's] "Motion to Withdraw" as it will finally put to rest any misunderstanding among the parties and that respondents be excused from filing comment on the petition is **NOTED WITHOUT ACTION**.^[10]

On 8 March 2012, our 30 January 2012 Resolution became final and executory and accordingly recorded in the Book of Entries of Judgments.^[11] Corollary thereto, the Decision of the appellate court in CA-G.R. CV No. 95095 affirming the trial court's dismissal of Gonzalo's complaint likewise became final and executory, ostensibly settling the issue of ownership of the subject shares of stock in Green Cross, Inc.

Unexpectedly, in May 2014, we received several pleadings from Gonzalo's front:

1. Notice of Withdrawal of Appearance dated 15 May 2014 stating that:

Please be notified that, upon the demand of Petitioner Co It a.k.a. Gonzalo Co It, the undersigned is hereby formally withdrawing as counsel of record in the above-captioned case. Petitioner's express conformity and consent is evidenced by Petitioner's *letters* dated 22 April 2014 and 6 May 2014, attached hereto as ANNEX "A-SERIES" and made integral parts hereof.^[12]