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FIRST DIVISION

[G.R. No. 165696. April 30, 2008]

ALEJANDRO B. TY, *petitioner, vs.* **SYLVIA S. TY, in her capacity as Administratrix of the Intestate Estate of Alexander Ty,** *respondent.*

SYLLABUS

CIVIL LAW; TRUSTS; IMPLIED TRUST; NOT PRESENT WHEN THE PERSON TO WHOM THE TITLE IS CONVEYED IS THE CHILD OF THE ONE PAYING THE PRICE OF THE SALE; CASE AT BAR.—Article 1448 of the Civil Code is clear. If the person to whom the title is conveyed is the child of the one paying the price of the sale, and in this case this is undisputed, NO TRUST IS IMPLIED BY LAW. The law, instead, disputably presumes a donation in favor of the child. On the question of whether or not petitioner intended a donation, the CA found that petitioner failed to prove the contrary. This is a factual finding which this Court sees no reason on the record to reverse. The net effect of all the foregoing is that respondent is obliged to collate into the mass of the estate of petitioner, in the event of his death, the EDSA property as an advance of Alexander's share in the estate of his father, to the extent that petitioner provided a part of its purchase price.

APPEARANCES OF COUNSEL

Angara Abello Concepcion Regala and Cruz for petitioner.
Ongkiko Kalaw Manhit & Acorda Law Offices for respondent.

D E C I S I O N

AZCUNA, *J.:*

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court against the Decision[1] of the Court of Appeals

[1] Penned by Justice Renato C. Dacudao and concurred in by Justices Lucas P. Bersamin and Celia C. Librea-Leagogo.

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(CA) in CA-G.R. No. 66053 dated July 27, 2004 and the Resolution therein dated October 18, 2004.

The facts are stated in the CA Decision:

On May 19, 1988, Alexander Ty, son of Alejandro B. Ty and Bella Torres, died of cancer at the age of 34. He was survived by his wife, Sylvia Ty, and his only daughter, Krizia Katrina Ty. A few months after his death, a petition for the settlement of his intestate estate was filed by Sylvia Ty in the Regional Trial Court of Quezon City.

Meanwhile, on July 20, 1989, upon petition of Sylvia Ty, as Administratrix, for settlement and distribution of the intestate estate of Alexander in the County of Los Angeles, the Superior Court of California ordered the distribution of the Hollywood condominium unit, the Montebello lot, and the 1986 Toyota pick-up truck to Sylvia Ty and Krizia Katrina Ty.

On November 23, 1990, Sylvia Ty submitted to the intestate Court in Quezon City an inventory of the assets of Alexander's estate, consisting of shares of stocks and a schedule of real estate properties, which included the following:

1. EDSA Property – a parcel of land with an area of 1,728 square meters situated in EDSA, Greenhills, Mandaluyong, Metro Manila, registered in the name of Alexander Ty when he was still single, and covered by TCT No. 0006585;

2. Meridien Condominium – A residential condominium with an area of 167.5 square meters situated in 29 Annapolis Street, Greenhills, Mandaluyong, Metro Manila, registered in the name of the spouses Alexander Ty and Sylvia Ty, and covered by Condominium Certificate of Title No. 3395;

3. Wack-Wack Property – A residential land with an area of 1,584 square meters situated in Notre Dame, Wack-Wack, Mandaluyong, Metro Manila, registered in the name of the spouses Alexander Ty and Sylvia Ty, and covered by TCT No. 62670.

On November 4, 1992, Sylvia Ty asked the intestate Court to sell or mortgage the properties of the estate in order to pay the additional estate tax of ₱4,714,560.02 assessed by the BIR.

Apparently, this action did not sit well with her father-in-law, the plaintiff-appellee, for on December 16, 1992, Alejandro Ty, father of

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the deceased Alexander Ty, filed a complaint for recovery of properties with prayer for preliminary injunction and/or temporary restraining order. Docketed as Civil Case No. 62714, of the Regional Trial Court of Pasig, Branch 166, the complaint named Sylvia Ty as defendant in her capacity as [Administratrix] of the Intestate Estate of Alexander Ty.

Forthwith, on December 28, 1992, defendant Sylvia Ty, as Administratrix of the Intestate Estate of Alexander Ty, tendered her opposition to the application for preliminary injunction. She claimed that plaintiff Alejandro Ty had no actual or existing right, which entitles him to the writ of preliminary injunction, for the reason that no express trust concerning an immovable maybe proved by parole evidence under the law. In addition, Sylvia Ty argued that the claim is barred by laches, and more than that, that irreparable injury will be suffered by the estate of Alexander Ty should the injunction be issued.

To the aforementioned opposition, plaintiff filed a reply, reiterating the arguments set forth in his complaint, and denying that his cause of action is barred by laches.

In an order dated February 26, 1993, the Regional Trial Court granted the application for a writ of preliminary injunction.

As to the complaint for recovery of properties, it is asserted by plaintiff Alejandro Ty that he owns the EDSA property, as well as the Meridien Condominium, and the Wack-Wack property, which were included in the inventory of the estate of Alexander Ty. Plaintiff alleged that on March 17, 1976, he bought the EDSA property from a certain Purificacion Z. Yujuico; and that he registered the said property in the name of his son, Alexander Ty, who was to hold said property in trust for his brothers and sisters in the event of his (plaintiffs) sudden demise. Plaintiff further alleged that at the time the EDSA property was purchased, his son and name-sake was still studying in the United States, and was financially dependent on him.

As to the two other properties, plaintiff averred that he bought the Meridien Condominium sometime in 1985 and the Wack-Wack property sometime in 1987; that titles to the aforementioned properties were also placed in the name of his son, Alexander Ty, who was also to hold these properties in trust for his brothers and sisters. Plaintiff asserted that at [the] time the subject properties were purchased, Alexander Ty and Sylvia Ty were earning minimal income,

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and were thus financially incapable of purchasing said properties. To bolster his claim, plaintiff presented the income tax returns of Alexander from 1980-1984, and the profit and loss statement of defendant's Joji San General Merchandising from 1981-1984.

Plaintiff added that defendant acted in bad faith in including the subject properties in the inventory of Alexander Ty's estate, for she was well aware that Alexander was simply holding the said properties in trust for his siblings.

In her answer, defendant denied that the subject properties were held in trust by Alexander Ty for his siblings. She contended that, contrary to plaintiff's allegations, Alexander purchased the EDSA property with his own money; that Alexander was financially capable of purchasing the EDSA property as he had been managing the family corporations ever since he was 18 years old, aside from the fact that he was personally into the business of importing luxury cars. As to the Meridien Condominium and Wack-Wack property, defendant likewise argued that she and Alexander Ty, having been engaged in various profitable business endeavors, they had the financial capacity to acquire said properties.

By way of affirmative defenses, defendant asserted that the alleged verbal trust agreement over the subject properties between the plaintiff and Alexander Ty is not enforceable under the Statute of Frauds; that plaintiff is barred from proving the alleged verbal trust under the Dead Man's Statute; that the claim is also barred by laches; that defendant's title over the subject properties cannot be the subject of a collateral attack; and that plaintiff and counsel are engaged in forum-shopping.

In her counterclaim, defendant prayed that plaintiff be sentenced to pay attorney's fees and costs of litigation.

On November 9, 1993, a motion for leave to intervene, and a complaint-in-intervention were filed by Angelina Piguing-Ty, legal wife of plaintiff Alejandro Ty. In this motion, plaintiff-intervenor prayed that she be allowed to intervene on the ground that the subject properties were acquired during the subsistence of her marriage with the plaintiff, hence said properties are conjugal. On April 27, 1994, the trial court issued an Order granting the aforementioned motion.

During the hearing, plaintiff presented in evidence the petition filed by defendant in Special Proceedings No. Q-88-648; the income tax returns and confirmation receipts of Alexander Ty from 1980-1984;

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the profit and loss statement of defendant's Joji San General Merchandising from 1981-1984; the deed of sale of the EDSA property dated March 17, 1976; the TCT's and CCT of the subject properties; petty cash vouchers, official receipts and checks to show the plaintiff paid for the security and renovation expenses of both the Meridien Condominium and the Wack-Wack property; checks issued by plaintiff to defendant between June 1988 – November 1991 to show that plaintiff provided financial support to defendant in the amount of ₱51,000.00; and the articles of incorporations of various corporations, to prove that he, plaintiff, had put up several corporations.

Defendant for her presented in evidence the petition dated September 6, 1988 in Special Proceedings No. Q-88-648; the TCTs and CCT of the subject properties; the deed of sale of stock dated July 27, 1988 between the ABT Enterprises, Incorporated, and plaintiff; the transcript of stenographic notes dated January 5, 1993 in SEC Case No. 4361; the minutes of the meetings, and the articles of incorporation of various corporations; the construction agreement between the defendant and the Home Construction, for the renovation of the Wack-Wack property; the letters of Home Construction to defendant requesting for payment of billings and official receipts of the same, to show that defendant paid for the renovation of the Wack-Wack property; the agreement between Drago Daic Development International, Incorporated, and the spouses Alexander Ty and Sylvia Ty, dated March, 1987, for the sale of the Wack-Wack property covered by TCT No. 55206 in favor of the late Alexander Ty and the defendant; a photograph of Krizia S. Ty; business cards of Alexander Ty; the Order and the Decree No. 10 of the Superior Court of California, dated July 20, 1989; the agreement between Gerry L. Contreras and the Spouses Alexander Ty and Sylvia Ty, dated January 26, 1988, for the Architectural Finishing and Interior Design of the Wack-Wack property; official receipts of the Gercon Enterprises; obituaries published in several newspapers; and a letter addressed to Drago Daic dated February 10, 1987.[2]

Furthermore, the following findings of facts of the court *a quo*, the Regional Trial Court of Pasig City, Branch 166 (RTC), in Civil Case No. 62714, were adopted by the CA, thus:

We adopt the findings of the trial court in respect to the testimonies of the witnesses who testified in this case, thus:

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[2] CA Decision, pp. 5-9, *rollo*, pp. 50-53.

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"The gist of the testimony of defendant as adverse witness for the plaintiff:

"Defendant and Alexander met in Los Angeles, USA in 1975. Alexander was then only 22 years old. They married in 1981. Alexander was born in 1954. He finished high school at the St. Stephen High School in 1973. Immediately after his graduation from high school, Alexander went to the USA to study. He was a full-time student at the Woodberry College where he took up a business administration course. Alexander graduated from the said college in 1977. He came back to the Philippines and started working in the Union Ajinomoto, Apha Electronics Marketing Corporation and ABT Enterprises. After their marriage in 1981, Alexander and defendant lived with plaintiff at the latter's residence at 118 Scout Alcaraz St.[,] Quezon City. Plaintiff has been engaged in manufacturing and trading business for almost 50 years. Plaintiff has established several corporations. While in the USA, Alexander stayed in his own house in Montebello, California, which he acquired during his college days. Alexander was a stockholder of companies owned by plaintiff's family and got yearly dividend therefrom. Alexander was an officer in the said companies and obtained benefits and bonuses therefrom. As stockholder of Ajinomoto, Royal Porcelain, Cartier and other companies, he obtained stock dividends. Alexander engaged in buy and sell of cars. Defendant cannot give the exact amount how much Alexander was getting from the corporation since 1981. In 1981, defendant engaged in retail merchandising *i.e.*, imported jewelry and clothes. Defendant leased two (2) units at the Greenhills Shoppesville. Defendant had dividends from the family business which is real estate and from another corporation which is Perway. During their marriage, defendant never received allowance from Alexander. The Wack-Wack property cost ₱5.5 million. A Car Care Center was established by Alexander and defendant was one of the stockholders. Defendant and Alexander spent for the improvement of the Wack-Wack property. Defendant and Alexander did not live in the condominium unit because they followed the Chinese tradition and lived with plaintiff up to the death of Alexander. Defendant and Alexander started putting improvements in the Wack-Wack property in 1988, or a few months before Alexander died.

"The gist of the testimony of Conchita Sarmiento:

"In 1966, Conchita Sarmiento was employed in the Union Chemicals as secretary of plaintiff who was the president. Sarmiento

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prepared the checks for the school expenses and allowances of plaintiff's children and their spouses. Sarmiento is familiar with the Wack-Wack property. Plaintiff bought the Wack-Wack property and paid the architect and spent for the materials and labor in connection with the construction of the Wack-Wack property (Exhs. 'M' to 'Z' inclusive; Exhs. 'AA' to 'ZZ', inclusive; Exhs. 'AAA' to 'ZZZ', inclusive; Exhs. 'AAAA' to 'FFFF,' inclusive). Plaintiff entrusted to Alexander the supervision of the construction of the Wack-Wack property, so that Exhibit 'M' shows that the payment was received from Alexander. Plaintiff visited the Wack-Wack property several times and even pointed the room which he intended to occupy. Sarmiento was told by plaintiff that it was very expensive to maintain the house. The documents, referring to the numerous exhibits, were in the possession of plaintiff because they were forwarded to him for payment. Sarmiento knows the residential condominium unit because in 1987 plaintiff purchased the materials and equipments for its renovation, as shown by Exhs. 'GGGG' to 'QQQQ' inclusive. Plaintiff supported defendant after the death of Alexander, as shown by Exhs. 'RRRR' to 'TTTT' inclusive. Sarmiento was plaintiff's secretary and assisted him in his official and personal affairs. Sarmiento knew that Alexander was receiving a monthly allowance in the amount of ₱5,000.00 from Alpha.

"The gist of the testimony of the plaintiff:

Plaintiff is 77 years old and has been engaged in business for about 50 years. Plaintiff established several trading companies and manufacturing firms. The articles of incorporation of the companies are shown in Exhs. 'UUUUU' (Manila Paper Mills, Inc.); 'UUUUU-1' (Union Chemicals Inc.); 'UUUUU-2' (Starlight Industrial Company Inc.); 'UUUUU-3' (Hitachi Union, Inc.); 'UUUUU-4' (Philippine Crystal Manufacturing Corp.). Alexander completed his elementary education in 1969 at the age of 15 years and finished high school education in 1973. Alexander left in 1973 for the USA to study in the Woodberry College in Los Angeles. Alexander returned to the Philippines in 1977. When Alexander was 18 years old, he was still in high school, a full-time student. Alexander did not participate in the business operation. While in High School Alexander, during his free time attended to his hobby about cars – Mustang, Thunderbird and Corvette. Alexander was not employed. Plaintiff took care of Alexander's financial needs. Alexander was plaintiff's trusted son because he lived with him from childhood until his death. In 1977 when Alexander returned to the Philippines from the USA, he did

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not seek employment. Alexander relied on plaintiff for support. After Alexander married defendant, he put up a Beer Garden and a Car Care Center. Plaintiff provided the capital. The Beer Garden did not make money and was closed after Alexander's death. Defendant and Alexander lived with plaintiff in Quezon City and he spent for their needs. Plaintiff purchased with his own money the subject properties. The EDSA property was for investment purposes. When plaintiff accompanied Alexander to the USA in 1973, he told Alexander that he will buy some properties in Alexander's name, so that if something happens to him, Alexander will distribute the proceeds to his siblings. When the EDSA property was bought, Alexander was in the USA. Plaintiff paid the real estate taxes. With plaintiff's permission, Alexander put up his Beer Garden and Car Care Center in the EDSA property. It was Alexander who encouraged plaintiff to buy the condominium unit because Alexander knew the developer. The condominium unit was also for investment purposes. Plaintiff gave Alexander the money to buy the condominium unit. After sometime, Alexander and defendant asked plaintiff's permission for them to occupy the condominium unit. Plaintiff spent for the renovation of the condominium unit. It was Alexander who encouraged plaintiff to buy the Wack-Wack property. Plaintiff spent for the renovation of the condominium unit. It was Alexander who encouraged plaintiff to buy the Wack-Wack property. Plaintiff paid the price and the realty taxes. Plaintiff spent for the completion of the unfinished house on the Wack-Wack property. Plaintiff bought the Wack-Wack property because he intended to transfer his residence from Quezon City to Mandaluyong. During the construction of the house on the Wack-Wack property plaintiff together with Conchita Sarmiento, used to go to the site. Plaintiff even told Sarmiento the room which he wanted to occupy. Alexander and defendant were not in a financial position to buy the subject properties because Alexander was receiving only minimal allowance and defendant was only earning some money from her small stall in Greenhills. Plaintiff paid for defendant's and Alexander income taxes (Exhs. 'B', 'C', 'D', 'E', and 'F'). Plaintiff kept the Income Tax Returns of defendant and Alexander in his files. It was one of plaintiff's lawyers who told him that the subject properties were included in the estate of Alexander. Plaintiff called up defendant and told her about the subject properties but she ignored him so that plaintiff was saddened and shocked. Plaintiff gave defendant monthly support of ₱ 51, 000.00 (Exhs. 'RRRR' to 'TTTTT", inclusive) ₱ 50,000.00 for defendant and ₱1,000.00 for the yaya. The Wack-Wack property cost about ₱5.5 million.

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"The gist of the testimony of Robert Bassig:

"He is 73 years old and a real estate broker. Bassig acted as broker in the sale of the EDSA property from Purificacion Yujuico to plaintiff. In the Deed of Sale (Exh. 'G') it was the name of Alexander that was placed as the vendee, as desired by plaintiff. The price was paid by plaintiff. Bassig never talked with Alexander. He does not know Alexander.

"The gist of the testimony of Tom Adarne as witness for defendant:

Adarne is 45 years old and an architect. He was a friend of Alexander. Adarne was engaged by defendant for the preparation of the plans of the Wack-Wack property. The contractor who won the bidding was Home Construction, Inc. The Agreement (Exh. '26') was entered into by defendant and Home Construction Inc. The amount of ₱955,555.00 (Exh. '26-A') was for the initial scope of the work. There were several letter-proposals made by Home Construction (Exhs. '27-34-A', inclusive). There were receipts issued by Home Construction Inc. (Exhs. '35', '36' and '37'). The proposal were accepted and performed. The renovation started in 1992 and was finished in 1993 or early 1994.

"The gist of the testimony of Rosanna Regalado:

"Regalado is 43 years old and a real estate broker. Regalado is a close friend of defendant. Regalado acted as broker in the sale of the Wack-Wack property between defendant and Alexander and the owner. The sale Agreement (Exh. '38') is dated March 5, 1987. The price is ₱5.5 million in Far East Bank and Trust Company manager's checks. The four (4) checks mentioned in paragraph 1 of the Agreement were issued by Alexander but she is not sure because it was long time ago.

"The gist of the testimony of Sylvia Ty:

"She is 40 years old, businesswoman and residing at 675 Notre Dame, Wack-Wack Village, Mandaluyong City. Sylvia and Alexander have a daughter named Krizia Katrina Ty, who is 16 years old. Krizia is in 11th grade at Brent International School. Alexander was an executive in several companies as shown by his business cards (Exhs. '40', '40-A', '40-B', '40-C', '40-D', '40-E', '40-F', and '40-G'). Before defendant and Alexander got married, the latter acquired a condominium unit in Los Angeles, USA, another property in Montebello, California and the EDSA property. The properties in the

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USA were already settled and adjudicated in defendant's favor (Exhs. '41' and '41-A'). Defendant did not bring any property into the marriage. After the marriage, defendant engaged in selling imported clothes and eventually bought four (4) units of stall in Shoppesville Greenhills and derived a monthly income of ₱50,000.00. the price for one (1) unit was provided by defendant's mother. The other three (3) units came from the house and lot at Wack-Wack Village. The ₱3.5 million manager's check was purchased by Alexander. The sale Agreement was signed by Alexander and defendant (Exhs. '38-A' and '38-B'). After the purchase, defendant and Alexander continued the construction of the property. After Alexander's death, defendant continued the construction. The first architect that defendant and Alexander engaged was Gerry Contreras (Exhs. '42', '42-A' and '42-A-1' to '42-A-7'). The post-dated checks issued by Alexander were changed with the checks of plaintiff. After the death of Alexander, defendant engaged the services of Architect Tom Adarne. Home Construction, Inc. was contracted to continue the renovation. Defendant and Alexander made payments to Contreras from January to May 1998 (Exhs. '43', '43-A' to '43-H', inclusive). A general contractor by the name of Nogoy was issued some receipts (Exhs. '43-J' and '43-K'). a receipt was also issued by Taniog (Exh. '43-L'). the payments were made by defendant and Alexander from the latter's accounts. The Agreement with Home Construction Inc. (Exhs. '26') shows defendant's signature (Exh. '26-A'). the additional works were covered by the progress billings (Exhs. '27' to '34-A'). Defendant paid them from her account. The total contract amount was ₱5,049,283.04. The total expenses, including the furnishings, *etc*. reached the amount of ₱8 to 10 million and were paid from defendant's and Alexander's funds. After the death of Alexander, plaintiff made payments for the renovation of the house (Exh. 'M') which plaintiff considered as advantages but plaintiff did not make any claim for reimbursement from the estate of Alexander. Defendant's relationship with plaintiff became strained when he asked her to waive her right over the Union Ajinomoto shares. Alexander was a friend of Danding Cojuangco and was able to import luxury cars. Alexander made a written offer to purchase the Wack-Wack property. Alexander graduated from the Woodberry College in 1978 or 1979 and returned to the Philippines in 1979 defendant returned to the Philippines about six (6) months later. Plaintiff was financially well off or wealthy. Alexander was very close to plaintiff and he was the most trusted son and the only one who grew up in plaintiff's house. Plaintiff observed Chinese traditions. Alexander was not totally dependent on plaintiff

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because he had his own earnings. Upon his return from the USA, Alexander acquired the properties in the USA while studying there. At the time of his death, Alexander was vice president of Union Ajinomoto. Defendant could not say how much was the compensation of Alexander from Union Ajinomoto. Defendant could not also say how much did Alexander earn as vice president of Royal Porcelain Corporation. Alexander was the treasurer of Polymark Paper Industries. Alexander was the one handling everything for plaintiff in Horn Blower Sales Enterprises, Hi-Professional Drilling, Round Consumer, MVR Picture Tubes, ABT Enterprises. Plaintiff supported defendant and her daughter in the amount of ₱51,000.00 per month from 1988-1990. Defendant did not offer to reimburse plaintiff the advances he made on the renovation of the Wack-Wack property because their relationship became strained over the Ajinomoto shares. Defendant could not produce the billings which were indicated in the post-dated checks paid to Architect Contreras. After the birth of her child, defendant engaged in the boutique business. Defendant could not recall how much she acquired the boutique (for). In 1983 or 1984 defendant started to earn ₱50,000.00 a month. The properties in the USA which were acquired by Alexander while still single were known to plaintiff but the latter did not demand the return of the titles to him. The Transfer Certificates of Title of the Wack-Wack and EDSA properties were given to defendant and Alexander. The Condominium Certificate of Title was also given to defendant and Alexander. The plaintiff did not demand the return of the said titles.

"The gist of the testimony of Atty. Mario Ongkiko:

"Atty. Ongkiko prepared the Deed of Sale of the EDSA property. There was only one Deed of Sale regarding the said property. The plaintiff was not the person introduced to him by Yujuico as the buyer.[3]

On January 7, 2000, the RTC rendered its decision, disposing as follows:

WHEREFORE, judgment is hereby rendered:

1. Declaring plaintiff as the true and lawful owner of the subject properties, as follows:

A. A parcel of land with an area of 1728 square meters, situated along EDSA Greenhills, Mandaluyong City, covered by TCT No. 006585.

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[3] *Id*. at 53-57.

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B. A residential land with an area of 1584 square meters, together with the improvements thereon, situated in Notre Dame, Wack-Wack Village, Mandaluyong City, covered by TCT No. 62670.

C. A residential condominium unit with an area of 167.5 square meters, situated in 29 Annapolis St., Greenhills, Mandaluyong City, covered by Condominium Certificate Title No. 3395.

2. Ordering the defendant to transfer or convey the subject properties in favor of plaintiff and the Register of Deeds for Mandaluyong City to transfer and issue in the name of plaintiff the corresponding certificates of title.

3. Ordering the defendant to pay plaintiff the amount of ₱100,000.00, as moral damages and ₱200,000.00, as attorney's fees plus the cost of the suit.

SO ORDERED.[4]

Respondent herein, Sylvia S. Ty, appealed from the RTC Decision to the CA, assigning the following as errors:

I.

THE TRIAL COURT ERRED IN HOLDING THAT APPELLEE PURCHASED THE EDSA PROPERTY BUT PLACED TITLE THERETO IN THE NAME OF ALEXANDER T. TY, SO THAT AN EXPRESS TRUST WAS CREATED BETWEEN APPELLEE, AS TRUSTOR AND ALEXANDER AS TRUSTEE IN FAVOR OF THE LATTER'S SIBLINGS, AS BENEFICIARIES EVEN WITHOUT ANY WRITING THEREOF; ALTERNATIVELY, THE TRIAL COURT ERRED IN ANY CASE IN HOLDING THAT AN IMPLIED TRUST EXISTED BETWEEN APPELLEE AND ALEXANDER TY IN FAVOR OF APPELLEE UNDER THE SAME CIRCUMSTANCES.

II.

THE TRIAL COURT ERRED IN HOLDING THAT APPELLEE PURCHASED THE WACK-WACK AND MERIDIEN CONDOMINIUM PROPERTIES BUT PLACED ITS TITLES THERETO IN THE NAMES OF SPOUSES ALEXANDER AND APPELLANT BECAUSE HE WAS FINANCIALLY CAPABLE OF PAYING FOR THE PROPERTIES WHILE ALEXANDER OR HIS WIFE, APPELLANT SYLVIA S. TY,

[4] *Id*. at 95.

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WERE INCAPABLE. HENCE, A RESULTING TRUST WAS CREATED BETWEEN APPELLEE AND HIS SON, ALEXANDER, WITH THE FORMER, AS OWNER-TRUSTOR AND BENEFICIARY AND THE LATTER AS TRUSTEE CONCERNING THE PROPERTIES.

III.

THE TRIAL COURT ERRED IN AWARDING MORAL DAMAGES OF ₱100,000 AND ATTORNEY'S FEES OF ₱200,000 IN FAVOR OF APPELLEE AND AGAINST DEFENDANT-APPELLANT IN HER CAPACITY AS ADMINISTRATRIX OF THE INTESTATE ESTATE OF ALEXANDER TY, INSTEAD OF AWARDING APPELLANT IN HER COUNTERCLAIM ATTORNEY'S FEES AND EXPENSES OF LITIGATION INCURRED BY HER IN DEFENDING HER HUSBAND'S ESTATE AGAINST THE UNJUST SUIT OF HER FATHER-IN-LAW, HEREIN APPELLEE, WHO DISCRIMINATED AGAINST HIS GRAND DAUGHTER KRIZIA KATRINA ON ACCOUNT OF HER SEX.

The arguments in the respective briefs of appellant and appellee are summarized by the CA Decision, as well as other preliminary matters raised and tackled, thus:

In her Brief, defendant-appellant pointed out that, based on plaintiff-appellee's testimony, he actually intended to establish an express trust; but that the trial court instead found that an implied trust existed with respect to the acquisition of the subject properties, citing Art. 1448 of the Civil Code of the Philippines.

It is defendant-appellant's contention that the trial court erred: In applying Art. 1448 on implied trust, as plaintiff-appellee did not present a shred of evidence to prove that the money used to acquire said properties came from him; and in holding that both she and her late husband were financially incapable of purchasing said properties. On the contrary, defendant-appellant claimed that she was able to show that she and her late husband had the financial capacity to purchase said properties.

Defendant-appellant likewise questioned the admission of the testimony of plaintiff-appellee, citing the Dead Man's Statute; she also questioned the admission of her late husband's income tax returns, citing Section 71 of the NIRC and the case of *Vera v. Cusi, Jr.*

On July 10, 2001, plaintiff-appellee filed his appellee's Brief, whereunder he argued: That the trial court did not err in finding that

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the subject properties are owned by him; that the said properties were merely registered in Alexander's name, in trust for his siblings, as it was plaintiff-appellee who actually purchased the subject properties he having the financial capacity to acquire the subject properties, while Alexander and defendant-appellant had no financial capacity to do so; that defendant-appellant should be sentenced to pay him moral damages for the mental anguish, serious anxiety, wounded feelings, moral shock and similar injury by him suffered, on account of defendant-appellant's wrongful acts; and that defendant appellant should also pay for attorney's fees and litigation expenses by him incurred in litigating this case.

In a nutshell, it is plaintiff-appellee's thesis that in 1973, when he accompanied his son, Alexander, to America, he told his son that he would put some of the properties in Alexander's name, so that if death overtakes him (plaintiff-appellee), Alexander would distribute the proceeds of the property among his siblings. According to plaintiff-appellee, the three properties subject of this case are the very properties he placed in the name of his son and name-sake; that after the death of Alexander, he reminded his daughter-in-law, the defendant appellant herein, that the subject properties were only placed in Alexander's name for Alexander to hold trust for his siblings; but that she rejected his entreaty, and refused to reconvey said properties to plaintiff-appellee, thereby compelling him to sue out a case for reconveyance.

On September 5, 2001, defendant-appellant filed her reply Brief and a motion to admit additional evidence. Thereafter, several motions and pleadings were filed by both parties. Plaintiff-appellee filed a motion for early resolution dated May 17, 2002 while defendant-appellant filed a motion to resolve dated August 6, 2003 and a motion to resolve incident dated August 12, 2003.

Plaintiff-appellee then filed a comment on the motion to resolve incident, to which defendant-appellant tendered a reply. Not to be outdone, the former filed a rejoinder.

Thus, on February 13, 2004, this Court issued a resolution, to set the case for the reception of additional evidence for the defendant-appellant.

In support of her motion to admit additional evidence, defendant-appellant presented receipts of payment of real estate taxes for the years 1987 to 2004, obviously for the purpose of proving that she

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and her late husband in their own right were financially capable of acquiring the contested properties. Plaintiff-appellee however did not present any countervailing evidence.

Per resolution of March 25, 2004, this Court directed both parties to submit their respective memorandum of authorities in amplification of their respective positions regarding the admissibility of the additional evidence.

Defendant-appellant in her memorandum prayed that the additional evidence be considered in resolving the appeal in the interest of truth and substantial justice. Plaintiff-appellee, on the other hand, in his memorandum, argued that the additional evidence presented by the defendant-appellant is forgotten evidence, which can lo longer be admitted, much less considered, in this appeal. Thereafter, the case was submitted for decision.

Before taking up the main issue, we deem it expedient to address some collateral issues, which the parties had raised, to wit: (a) the admissibility of the additional evidence presented to this Court, (b) the admissibility of plaintiff's testimony, (c) the admissibility of the income tax return, and (d) laches.

On the propriety of the reception of additional evidence, this Court falls backs (sic) upon the holding of the High Court in *Alegre v. Reyes*, 161 SCRA 226 (1961) to the effect that even as there is no specific provision in the Rules of Court governing motions to reopen a civil case for the reception of additional evidence after the case has been submitted for decision, but before judgment is actually rendered, nevertheless such reopening is controlled by no other principle than that of the paramount interest of justice, and rests entirely upon the sound judicial discretion of the court. At any rate, this Court rules that the tax declaration receipts for the EDSA property for the years 1987-1997, and 1999; for the Wack-Wack property for the years 1986-1987, 1990-1999; and for the Meridien Condominium for the years 1993-1998 cannot be admitted as they are deemed forgotten evidence. Indeed, these pieces of evidence should have been presented during the hearing before the trial court.

However, this Court in the interest of truth and justice must hold, as it hereby holds, that the tax declaration receipts for the EDSA property for the years 2000-2004; the Wack-Wack property for the years 2000-2004; and the Meridien Condominium for the years 2000-2001 may be admitted to show that to this date, it is the defendant-

appellant, acting as an administratrix, who has been paying the real estate taxes on the aforestated properties.

As regards the admissibility of plaintiff-appellee's testimony, this Court agrees with the trial court that:

> "Defendant's argument to the effect that plaintiff's testimony proving that the deceased Alexander Ty was financially dependent on him is inadmissible in evidence because he is barred by the Dead Man's Statute (Rule 130, Sec. 20, Rules of Court) for making such testimony, is untenable. A reading of pages 10 to 45 of the TSN, taken on November 16, 1998, which contain the direct-examination testimony of plaintiff, and pages 27, 28, 30, 34, 35, 37, 39, 40 of the TSN, taken on January 15, 1999; page 6 of the TSN taken on December 11, 1998, pages 8, 10, 11, 12, 14, 23 24 of TSN, taken on taken on February 19, 1999; and pages 4,5,6,7,8,11,25 and 27 of the TSN taken on March 22, 1999, will show that defendant's lawyer did not object to the plaintiff as witness against defendant, and that plaintiff was exhaustively cross-examined by defendant's counsel regarding the questioned testimony, hence, the same is not covered by the Dead Man's Statute (*Marella v. Reyes*, 12 Phil. 1; *Abrenica v. Gonda and De Gracia*, 34 Phil. 739; *Tongco v. Vianzon*, 50 Phil. 698).

A perusal of the transcript of stenographic notes will show that counsel for defendant-appellant was not able to object during the testimony of plaintiff-appellee. The only time that counsel for defendant-appellant interposed his objection was during the examination of Rosemarie Ty, a witness (not a party) to this case. Thus the Dead Man's Statute cannot apply.

With regard to the income tax returns filed by the late Alexander Ty, this Court holds that the same are admissible in evidence. Neither Section 71 of the NIRC nor the case of *Vera v. Cusi* applies in this case. The income tax returns were neither obtained nor copied from the Bureau of Internal Revenue, nor produced in court pursuant to a court order; rather these were produced by plaintiff-appellee from his own files, as he was the one who kept custody of the said income tax returns. Hence, the trial court did not err in admitting the income tax returns as evidence.

Anent the issue of laches, this Court finds that the plaintiff-appellee is not guilty of laches. There is laches when: (1) the conduct of the

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defendant or one under whom he claims, gave rise to the situation complained of; (2) there was delay in asserting a right after knowledge defendant's conduct and after an opportunity to sue; (3) defendant had no knowledge or notice that the complainant would assert his right; and (4) there is injury or prejudice to the defendant in the event relief is accorded to the complainant. These conditions do not obtain here.

In this case, there was no delay on the part of plaintiff-appellee in instituting the complaint for recovery of real properties. The case was files four years after Alexander's death; two years after the inventory of assets of Alexander's estate was submitted to the intestate court; and one month after defendant-appellant filed a motion to sell or mortgage the real estate properties. Clearly, such length of time was not unreasonable.[5]

The CA then turned to "the critical, crucial and pivotal issue of whether a trust, express or implied, was established by the plaintiff-appellee in favor of his late son and name-sake Alexander Ty."

The CA proceeded to distinguish express from implied trust, then found that no express trust can be involved here since nothing in writing was presented to prove it and the case involves real property. It then stated that it disagrees with the court *a quo*'s application of Art. 1448 of the Civil Code on implied trust, the so-called purchase money resulting trust, stating that the very Article provides the exception that obtains when the person to whom the title is conveyed is the child, legitimate or illegitimate, of the one paying the price of the sale, in which case no trust is implied by law, it being disputably presumed that there is a gift in favor of the child.

The CA therefore reasoned that even assuming that plaintiff-appellee paid at least part of the price of the EDSA property, the law still presumes that the conveyance was a discretion (a gift of devise) in favor of Alexander.

As to plaintiff-appellee's argument that there was no donation as shown by his exercise of dominion over the property, the CA held that no credible evidence was presented to substantiate the claim.

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[5] *Id.* at 58-61.

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Regarding the residence condominium and the Wack-Wack property, the CA stated that it did not agree either with the findings of the trial court that an implied trust was created over these properties.

The CA went over the testimonies of plaintiff-appellee and the witness Conchita Sarmiento presented to show that spouses Alexander and Sylvia S. Ty were financially dependent of plaintiff-appellee and did not have the financial means or wherewithals to purchase these properties. It stated:

Consider this testimony of plaintiff-appellee:

Q During the time that Alex was staying with you, did you ever come to know that Alexander and his wife did go to the States?

A Yes, sir. But I do not know the exact date. But they told me they want to go to America for check up.

Q Was that the only time that Alexander went to the States?

A Only that time, sir. Previously, he did not tell me. That last he come (*sic*) to me and tell [*sic*] me that he will go to America for check up. That is the only thing I know.

Q Would you say for the past five years before his death Alex and his wife were going to the States at least once a year?

A I cannot say exactly. They just come to me and say that I [*sic*] will go to "*bakasyon*." They are already grown people. They don't have to tell me where they want to go.

Q You are saying that Alexander did not ask you for assistance whenever he goes to the States?

A Sometimes Yes.

Q In what form?

A I gave him peso, sir.

Q For what purpose?

A Pocket money, sir.

There is no evidence at all that it was plaintiff-appellee who spent for the cancer treatment abroad of his son. Nor is there evidence that he paid for the trips abroad of Alexander and the defendant-

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appellant. Admittedly, he only gave his son Alexander pocket money once in a while. Simply put, Alexander was not financially dependent upon the plaintiff-appellee, given that Alexander could afford the costs of his cancer treatment abroad, this on top of the trips he made to the United States at least once a year for five successive years without the support of his father.

The fact that Alexander stayed with his father, the plaintiff-appellee in this case, even after he married Sylvia and begot Krizia, does not at all prove that Alexander was dependent on plaintiff-appellee. Neither does it necessarily mean that it was plaintiff-appellee who was supporting Alexander's family. If anything, plaintiff-appellee in his testimony admitted that Alexander and his family went to live with him in observance of Chinese traditions.

In addition, the income tax returns of Alexander from 1980-1984, and the profit and loss statement of defendant-appellant's Joji San General Merchandising from 1981-1984, are not enough to prove that the spouses were not financially capable of purchasing the said properties. Reason: These did not include passive income earned by these two, such as interests on bank deposits, royalties, cash dividends, and earnings from stock trading as well as income from abroad as was pointed out by the defendant-appellant. More importantly, the said documents only covered the years 1980-1984. The income of the spouses from 1985 to 1987 was not shown. Hence, it is entirely possible that at the time the properties in question were purchased, or acquired, Alexander and defendant-appellant had sufficient funds, considering that Alexander worked in various capacities in the family corporations, and his own business enterprises, while defendant-appellant had thriving businesses of her own, from which she acquired commercial properties.

And this is not even to say that plaintiff-appellee is this case failed to adduce conclusive, incontrovertible proof that the money use to purchase the two properties really came from him; or that he paid for the price of the two properties in order to have the beneficial interest or estate in the said properties.

A critical examination of the testimony of plaintiff-appellee's witness, Conchita Sarmiento, must also show that this witness did not have actual knowledge as to who actually purchased the Wack-Wack property and the Meridien Condominium. Her testimony that plaintiff-appellee visited the Wack-Wack property and paid for the

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costs of the construction of the improvements over the said property, in the very nature of things, does not prove that it was the plaintiff-appellee who in fact purchased the Wack-Wack property.[6]

On the other hand, the CA found defendant-appellant's evidence convincing:

> In contrast, Rosana Regalado had actual knowledge of the transaction she testified to, considering that she was the real estate broker who negotiated the sale of the Wack-Wack property between its previous owner Drago Daic and the spouses Alexander and Sylvia Ty. In her testimony, she confirmed that the checks, which were issued to pay for the purchase price of the Wack-Wack property, were signed and issued by Alexander, thereby corroborating the testimony of defendant-appellant on this point.
>
> Significantly, during the trial, Conchita Sarmiento identified some receipts wherein the payor was the late Alexander Ty. Apparently, prior to the death of Alexander, it was Alexander himself who was paying for the construction of the Wack-Wack property; and that the only time plaintiff-appellee paid for the costs of the construction was when Alexander died.
>
> Quite compelling is the testimony of defendant-appellant in this respect:
>
> Q And after the death and burial of your husband, will you tell this Honorable Court what happened to the construction of this residence in Wack-Wack?
>
> A Well, of course, during the period I was mourning and I was reorganizing myself and my life, so I was not mainly focused on the construction, so it took a couple of months before I realized that the post-dated checks issued by my husband was changed through checks by my father-in-law Mr. Alejandro Ty.
>
> Q And did you had [*sic*] any conversation with Mr. Alejandro Ty regarding as to why he did that?
>
> A Yes, sir, that was the beginning of our misunderstanding, so I decided to hire a lawyer and that is Atty. Ongkiko, to be able to settle my estate and to protect myself from with the checks that they changed that my husband issued to Architect Gerry Contreras.

[6] *Id.* at 64-65.

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Q Was there any point in time that you yourself took over the construction?

A Yes, sir, right after a year of that property after I was more settled.

Q And did you engaged [*sic*] the services of any professional or construction company for the purpose?

A Yes, sir.

Q Who was that?

A Architect Tom Adarme.

Q What is his first name, if you recall?

A Architect Tommy Adarme.

Q And was there any company or office which helped Architect Adarme in the continuation of the construction?

A Yes, I also signed a contract with Architect Adarme and he hired Home Construction to finish the renovation and completion of the construction in Wack-Wack, sir.

Q Do you have any document to show that you yourself overtook personally the continuation of the construction of your residence?

A Yes, sir I have the whole construction documents and also the documents through Arch. Gerry Contreras, that contract that we signed.

In other words, plaintiff-appellee took over the management of the construction of the Wack-Wack property only because defendant-appellant was still in mourning. And, If ever plaintiff-appellee did pay for the costs of the construction after the death of Alexander, it would be stretching logic to absurd proportions to say that such fact proved that he owns the subject property. If at all, it only shows that he is entitled to reimbursement for what he had spent for the construction.[7]

Accordingly, the CA concluded, as follows:

Going by the records, we hold that plaintiff-appellee in this case was not able to show by clear preponderance of evidence that his son and the defendant-appellant were not financially capable of

[7] *Id.* at 66-67.

purchasing said property. Neither was plaintiff-appellee able to prove by clear preponderance of evidence (*i.e.*, credible documentary evidence) that the money used to purchase the said properties really came from him. (And even if we assume that it came from him, it would still not establish an implied trust, as it would again be considered a donation, or a gift, by express mandate of the saving clause of Art. 1448 of the Civil Code, as heretofore stated).

If anything, what is clear from the evidence at bench is that Alexander and the defendant-appellant were not exactly bereft of the means, the financial capability or resources, in their own right, to purchase, or acquire, the Meridien Condominium and the Wack-Wack property.

The evidence on record shows that Alexander Ty was 31 years old when he purchased the Meridien Condominium and was 33 years old when he purchased the Wack-Wack property. In short, when he purchased these properties, he had already been working for at least nine years. He had a car care business and a beer garden business. He was actively engaged in the business dealings of several family corporations, from which he received emoluments and other benefits. As a matter of fact, Alexander and plaintiff-appellee had common interest in various family corporations of which they were stockholders, and officers and directors, such as: International Paper Industries, Inc.; Agro-Industries Specialists Services, Inc.; Hi-Professional Drillings and Manufacturing, Inc.; MVR-TV Picture Tube, Inc.; Crown Consumer Products, Inc.; Philippine Crystal Manufacturing Corporation; and Union Emporium, Inc.

Furthermore, at the time of his death, the son Alexander was Vice-President of Union Ajinomoto (Exh. "40"); Executive Vice-President of Royal Porcelain Corporation (Exh. "40-A"); Treasurer of Polymart Paper Industries, Inc. (Exh. "40-B"); General Manager of Hornblower Sales Enterprises and Intercontinental Paper Industries, Inc. (Exh. "40-C"); President of High Professional Drilling and Manufacturing, Inc. (Exh. "40-D"); President of Crown Consumer Products, Inc. (Exh. "40-E"); (Executive Vice-President of MVR-TV Picture Tube, Inc. (Exh."40-F"); and Director of ABT Enterprise, Inc. (Exh. "40-G"). He even had a controlling interest in ABT Enterprises, which has a majority interest in Union Ajinomoto, Inc.

What is more, the tax declaration receipts for the Wack-Wack property covering the years 2000-2004, and the tax declaration receipts for the Meridien Condominium covering the years 2000-2001,

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showed that to his date it is still the estate of Alexander that is paying for the real estate taxes thereon.

In the context of this formidable circumstances, we are constrained to overturn the judgment of the trial court, which made these findings:

> Based on the facts at hand and the applicable law, the ineluctable conclusion is that a fiduciary relationship or an implied trust existed between plaintiff and Alexander Ty with the former as the owner, trustor and beneficiary and the latter as the trustee, concerning the subject real properties. The death of Alexander automatically extinguished the said fiduciary relationship, hence, plaintiff's instant action to recover the subject properties from the intestate estate of Alexander Ty is meritorious.

We do not agree. To belabor a point, we are not persuaded that an implied trust was created concerning the subject properties. On the assumption, as elsewhere indicated, the plaintiff-appellee at the very least, paid for part of its purchase price, the EDSA property is presumed to be a gift, or donation, in favor of Alexander Ty, defendant-appellant's late husband, following the saving clause or exception in Art. 1448 of the Civil Code. To repeat, it is the saving clause, or exception, not the general rule, that should here apply, the late Alexander Ty being the son of Plaintiff-appellee.

Nor are we convinced, given the state of the evidence on record, that the plaintiff-appellee paid for the price of the Meridien Condominium and the Wack-Wack property. Therefore, the general rule announced in the first sentence of Art. 1448 of the Civil Code has no application in this case. Or, if the article is to be applied at all, it should be the exception, or the saving clause, that ought to apply here, the deceased Alexander Ty being the son, as stated, of plaintiff-appellee.

To sum up: Since plaintiff-appellee has erected his case upon Art. 1448 of the Civil Code, a prime example of an implied trust, viz.: that it was he who allegedly paid for the purchase price of some of the realties subject of this case, legal title or estate over which he allegedly granted or conveyed unto his son and namesake, Alexander Ty, for the latter to hold these realties in trust for his siblings in case of his (plaintiff-appellee's) demise, plaintiff-appellee is charged with the burden of establishing the existence of an implied trust by evidence described or categorized as "sufficiently strong," "clear

and satisfactory," or "trustworthy." As will be presently discussed. Sad to say, plaintiff-appellee has miserably failed to discharge that burden. For, if the records are any indication, the evidence adduced by plaintiff-appellee on this score, can hardly merit the descriptive attributes "sufficiently strong," or "clear and satisfactory," or "trustworthy."

If only to emphasize and reiterate what the Supreme Court has in the past declared about implied trusts, these case law rulings are worth mentioning –

> Where a trust is to be established by oral proof, the testimony supporting it must be sufficiently strong to prove that the right of the alleged beneficiary with as much certainty as if a document were shown. A trust cannot be established, contrary to the recitals of a Torrens title, upon vague and inconclusive proof.
>
> As a rule, the burden of proving the existence of a trust is on the party asserting its existence, and such proof must be clear and satisfactorily show the existence of the trust and its elements. While implied trusts may be proved by oral evidence, the evidence must be trustworthy and received by the courts with extreme caution and should not be made to rest on loose, equivocal or indefinite declarations. Trustworthy evidence is required because oral evidence can easily be fabricated.

The route to the reversal of the trial court's finding that an implied trust had been constituted over the subject realties is, thus, indubitably clear.

As a final point, this Court finds that the plaintiff-appellee is not entitled to moral damages, attorney's fees and costs of litigation, considering that the instant case is clearly a vexatious and unfounded suit by him filed against the estate of the late Alejandro Ty. Hence, all these awards in the judgment a quo are hereby DELETED.[8]

The CA therefore reversed and set aside the judgment appealed from and entered another one dismissing the complaint.

On October 18, 2004 the CA resolved to deny therein plaintiff-appellee's motion for reconsideration.[9]

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[8] *Id*. at 67-69.

[9] Resolution, *id*. at 72-80.

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Hence, this petition.

Petitioner submits the following grounds:

IN REVERSING THE TRIAL COURT'S JUDGMENT, THE COURT OF APPEALS –

1. MADE FACTUAL FINDINGS GROUNDED ON MANIFESTLY MISTAKEN INFERENCES, SPECULATIONS, SURMISES, OR CONJECTURES OR PREMISED ON THE ABSENCE OF, OR ARE CONTRADICTED BY, THE EVIDENCE ON RECORD, AND WITHOUT CITATIONS OF THE SPECIFIC EVIDENCE ON WHICH THEY ARE BASED.

2. RULED THAT THERE WAS A "PRESUMED DONATION," WHICH IS A MATTER NEVER RAISED AS AN ISSUE IN THE CASE AS IT, IN FACT, CONFLICTS WITH THE PARTIES' RESPECTIVE THEORIES OF THE CASE, AND THUS DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS AS TO CALL FOR THIS HONORABLE COURT'S EXERCISE OF ITS POWER OF SUPERVISION.

3. APPLIED THE PROVISION ON PRESUMPTIVE DONATION IN FAVOR OF A CHILD IN ARTICLE 1448 OF THE CIVIL CODE DESPITE AB TY'S EXPRESS DECLARATION THAT HE DID NOT INTEND TO DONATE THE SUBJECT PROPERTIES TO ALEXANDER AND THUS DECIDED A QUESTION OF SUBSTANCE NOT THERETOFORE DETERMINED BY THIS HONORABLE COURT.

4. REQUIRED THAT THE IMPLIED TRUST BE PROVEN WITH DOCUMENTARY EVIDENCE AND THUS DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORD WITH LAW AND JURISPRUDENCE.[10]

The Court disposes of the petition, as follows:

The EDSA Property

Petitioner contends that the EDSA property, while registered in the name of his son Alexander Ty, is covered by an implied trust in his favor under Article 1448 of the Civil Code. This, petitioner argues, is because he paid the price when the property

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[10] *Id.* at 20-21.

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was purchased and did so for the purpose of having the beneficial interest of the property.

Article 1448 of the Civil Code provides:

> 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 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.

The CA conceded that at least part of the purchase price of the EDSA property came from petitioner. However, it ruled out the existence of an implied trust because of the last sentence of Article 1448: x x x 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.

Petitioner now claims that in so ruling, the CA departed from jurisprudence in that such was not the theory of the parties.

Petitioner, however, forgets that it was he who invoked Article 1448 of the Civil Code to claim the existence of an implied trust. But Article 1448 itself, in providing for the so-called purchase money resulting trust, also provides the parameters of such trust and adds, in the same breath, the proviso: "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." (Emphasis supplied.)

Stated otherwise, the outcome is the necessary consequence of petitioner's theory and argument and is inextricably linked to it by the law itself.

The CA, therefore, did not err in simply applying the law.

Article 1448 of the Civil Code is clear. If the person to whom the title is conveyed is the child of the one paying the

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price of the sale, and in this case this is undisputed, NO TRUST IS IMPLIED BY LAW. The law, instead, disputably presumes a donation in favor of the child.

On the question of whether or not petitioner intended a donation, the CA found that petitioner failed to prove the contrary. This is a factual finding which this Court sees no reason on the record to reverse.

The net effect of all the foregoing is that respondent is obliged to collate into the mass of the estate of petitioner, in the event of his death, the EDSA property as an advance of Alexander's share in the estate of his father,[11] to the extent that petitioner provided a part of its purchase price.

The Meridien Condominium and the Wack-Wack property.

Petitioner would have this Court overturn the finding of the CA that as regards the Meridien Condominium and the Wack-Wack property, petitioner failed to show that the money used to purchase the same came from him.

Again, this is clearly a factual finding and petitioner has advanced no convincing argument for this Court to alter the findings reached by the CA.

The appellate court reached its findings by a thorough and painstaking review of the records and has supported its conclusions point by point, providing citations from the records. This Court is not inclined to reverse the same.

Among the facts cited by the CA are the sources of income of Alexander Ty who had been working for nine years when he purchased these two properties, who had a car care business, and was actively engaged in the business dealings of several family corporations, from which he received emoluments and other benefits.[12]

The CA, therefore, ruled that with respect to the Meridien Condominium and the Wack-Wack property, no implied trust

[11] See Article 1061 and subsequent articles of the Civil Code.

[12] See CA Decision, *rollo*, p. 67.

was created because there was no showing that part of the purchase price was paid by petitioner and, on the contrary, the evidence showed that Alexander Ty had the means to pay for the same.

WHEREFORE, the petition is *PARTLY GRANTED* in that the Decision of the Court of Appeals dated July 27, 2004 and its Resolution dated October 18, 2004, in CA-G.R. No. 66053, are *AFFIRMED*, with the *MODIFICATION* that respondent is obliged to collate into the mass of the estate of petitioner, in the event of his death, the EDSA property as an advance of Alexander Ty's share in the estate of his father, to the extent that petitioner provided a part of its purchase price.

No costs.

SO ORDERED.

Puno, C.J. (Chairperson), Carpio, and *Leonardo-de Castro, JJ.,* concur.

Corona, J., on leave.

EN BANC

[G.R. No. 165776. April 30, 2008]

GENEVIEVE O. GAAS and ADELINA P. GOMERA, *petitioners, vs.* **RASOL L. MITMUG, Regional Director, Region XII, Commission on Audit,** *respondent.*