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SO ORDERED.

Ynares-Santiago (Chairperson), Chico-Nazario, Velasco, Jr., and *Nachura, JJ.,* concur.

THIRD DIVISION

[G.R. No. 164584. June 22, 2009]

PHILIP MATTHEWS, *petitioner, vs.* **BENJAMIN A. TAYLOR and JOSELYN C. TAYLOR,** *respondents.*

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; NATIONAL PATRIMONY; ALIENS, WHETHER INDIVIDUALS OR CORPORATIONS, ARE DISQUALIFIED FROM ACQUIRING LANDS OF PUBLIC DOMAIN AS WELL AS PRIVATE LANDS; EXPLAINED. — Section 7, Article XII of the 1987 Constitution states: Section 7. Save in cases of hereditary succession, no private lands shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain. Aliens, whether individuals or corporations, have been disqualified from acquiring lands of the public domain. Hence, by virtue of the aforecited constitutional provision, they are also disqualified from acquiring private lands. The primary purpose of this constitutional provision is the conservation of the national patrimony. Our fundamental law cannot be any clearer. The right to acquire lands of the public domain is reserved only to Filipino citizens or corporations at least sixty percent of the capital of which is owned by Filipinos. The rule is clear and inflexible: aliens are absolutely not allowed to acquire public or private lands in the Philippines, save only in constitutionally recognized exceptions. There is no rule more settled than this constitutional prohibition, as more and more aliens attempt

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to circumvent the provision by trying to own lands through another. In a long line of cases, we have settled issues that directly or indirectly involve the above constitutional provision. We had cases where aliens wanted that a particular property be declared as part of their father's estate; that they be reimbursed the funds used in purchasing a property titled in the name of another; that an implied trust be declared in their (aliens') favor; and that a contract of sale be nullified for their lack of consent.

2. CIVIL LAW; SPECIAL CONTRACTS; LEASE; VALIDITY OF AGREEMENT OF LEASE UPHELD IN CASE AT BAR; ELUCIDATED. — x x x Benjamin has no right to nullify the Agreement of Lease between Joselyn and petitioner. Benjamin, being an alien, is absolutely prohibited from acquiring private and public lands in the Philippines. Considering that Joselyn appeared to be the designated "vendee" in the Deed of Sale of said property, she acquired sole ownership thereto. This is true even if we sustain Benjamin's claim that he provided the funds for such acquisition. By entering into such contract knowing that it was illegal, no implied trust was created in his favor; no reimbursement for his expenses can be allowed; and no declaration can be made that the subject property was part of the conjugal/community property of the spouses. In any event, he had and has no capacity or personality to question the subsequent lease of the Boracay property by his wife on the theory that in so doing, he was merely exercising the prerogative of a husband in respect of conjugal property. To sustain such a theory would countenance indirect controversion of the constitutional prohibition. If the property were to be declared conjugal, this would accord the alien husband a substantial interest and right over the land, as he would then have a decisive vote as to its transfer or disposition. This is a right that the Constitution does not permit him to have. In fine, the Agreement of Lease entered into between Joselyn and petitioner cannot be nullified on the grounds advanced by Benjamin. Thus, we uphold its validity.

APPEARANCES OF COUNSEL

Policarpio Pangulayan and Azura Law Office for petitioner.
Cyril A. Tagle for Benjamin A. Taylor.

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D E C I S I O N

NACHURA, *J.*:

Assailed in this petition for review on *certiorari* are the Court of Appeals (CA) December 19, 2003 Decision[1] and July 14, 2004 Resolution[2] in CA-G.R. CV No. 59573. The assailed decision affirmed and upheld the June 30, 1997 Decision[3] of the Regional Trial Court (RTC), Branch 8, Kalibo, Aklan in Civil Case No. 4632 for *Declaration of Nullity of Agreement of Lease with Damages*.

On June 30, 1988, respondent Benjamin A. Taylor (Benjamin), a British subject, married Joselyn C. Taylor (Joselyn), a 17-year old Filipina.[4] On June 9, 1989, while their marriage was subsisting, Joselyn bought from Diosa M. Martin a 1,294 square-meter lot (Boracay property) situated at Manoc-Manoc, Boracay Island, Malay, Aklan, for and in consideration of ₱129,000.00.[5] The sale was allegedly financed by Benjamin.[6] Joselyn and Benjamin, also using the latter's funds, constructed improvements thereon and eventually converted the property to a vacation and tourist resort known as the Admiral Ben Bow Inn.[7] All required permits and licenses for the operation of the resort were obtained in the name of Ginna Celestino, Joselyn's sister.[8]

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[1] Penned by Associate Justice Sergio L. Pestaño, with Associate Justices Marina L. Buzon and Jose C. Mendoza, *concurring*; *rollo*, pp. 54-61.

[2] *Id.* at 52.

[3] Penned by Acting Presiding Judge Pepito T. Ta-ay; CA *rollo*, pp. 102-115.

[4] Evidenced by a Marriage Contract; Exh "A", Folder of Exhibits of the Plaintiff.

[5] The sale was evidenced by a Deed of Sale duly executed by the parties and registered with the Registry of Deeds of Aklan; Exh. "D", Folder of Exhibits of the Plaintiff.

[6] *Rollo*, p. 55.

[7] *Id.*

[8] The licenses and permits were under the name of Joselyn's sister because at the time of the application, Joselyn was still a minor.

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However, Benjamin and Joselyn had a falling out, and Joselyn ran away with Kim Philippsen. On June 8, 1992, Joselyn executed a Special Power of Attorney (SPA) in favor of Benjamin, authorizing the latter to maintain, sell, lease, and sub-lease and otherwise enter into contract with third parties with respect to their Boracay property.[9]

On July 20, 1992, Joselyn as lessor and petitioner Philip Matthews as lessee, entered into an Agreement of Lease[10] (Agreement) involving the Boracay property for a period of 25 years, with an annual rental of ₱12,000.00. The agreement was signed by the parties and executed before a Notary Public. Petitioner thereafter took possession of the property and renamed the resort as Music Garden Resort.

Claiming that the Agreement was null and void since it was entered into by Joselyn without his (Benjamin's) consent, Benjamin instituted an action for Declaration of Nullity of Agreement of Lease with Damages[11] against Joselyn and the petitioner. Benjamin claimed that his funds were used in the acquisition and improvement of the Boracay property, and coupled with the fact that he was Joselyn's husband, any transaction involving said property required his consent.

No Answer was filed, hence, the RTC declared Joselyn and the petitioner in defeault. On March 14, 1994, the RTC rendered judgment by default declaring the Agreement null and void.[12] The decision was, however, set aside by the CA in CA-G.R. SP No. 34054.[13] The CA also ordered the RTC to allow the petitioner to file his Answer, and to conduct further proceedings.

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[9] Exh. "V"; Folder of Exhibits of the Plaintiff.

[10] Exh. "T"; Folder of Exhibits of the Plaintiff.

[11] Records, pp. 1-3.

[12] *Id.* at 132-137.

[13] Penned by Associate Justice Ruben T. Reyes, with Associate Justices Oscar M. Herrera and Angelina Sandoval-Gutierrez, *concurring*; *Id.* at 139-148.

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In his Answer,[14] petitioner claimed good faith in transacting with Joselyn. Since Joselyn appeared to be the owner of the Boracay property, he found it unnecessary to obtain the consent of Benjamin. Moreover, as appearing in the Agreement, Benjamin signed as a witness to the contract, indicating his knowledge of the transaction and, impliedly, his conformity to the agreement entered into by his wife. Benjamin was, therefore, estopped from questioning the validity of the Agreement.

There being no amicable settlement during the pre-trial, trial on the merits ensued.

On June 30, 1997, the RTC disposed of the case in this manner:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants as follows:

1. The Agreement of Lease dated July 20, 1992 consisting of eight (8) pages (Exhibits "T", "T-1", "T-2", "T-3", "T-4", "T-5", "T-6" and "T-7") entered into by and between Joselyn C. Taylor and Philip Matthews before Notary Public Lenito T. Serrano under Doc. No. 390, Page 79, Book I, Series of 1992 is hereby declared NULL and VOID;

2. Defendants are hereby ordered, jointly and severally, to pay plaintiff the sum of SIXTEEN THOUSAND (₱16,000.00) PESOS as damages representing unrealized income for the residential building and cottages computed monthly from July 1992 up to the time the property in question is restored to plaintiff; and

3. Defendants are hereby ordered, jointly and severally, to pay plaintiff the sum of TWENTY THOUSAND (₱20,000.00) PESOS, Philippine Currency, for attorney's fees and other incidental expenses.

SO ORDERED.[15]

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[14] *Id.* at 201-201-m.

[15] *Id.* at 355.

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The RTC considered the Boracay property as community property of Benjamin and Joselyn; thus, the consent of the spouses was necessary to validate any contract involving the property. Benjamin's right over the Boracay property was bolstered by the court's findings that the property was purchased and improved through funds provided by Benjamin. Although the Agreement was evidenced by a public document, the trial court refused to consider the alleged participation of Benjamin in the questioned transaction primarily because his signature appeared only on the last page of the document and not on every page thereof.

On appeal to the CA, petitioner still failed to obtain a favorable decision. In its December 19, 2003 Decision,[16] the CA affirmed the conclusions made by the RTC. The appellate court was of the view that if, indeed, Benjamin was a willing participant in the questioned transaction, the parties to the Agreement should have used the phrase "with my consent" instead of "signed in the presence of." The CA noted that Joselyn already prepared an SPA in favor of Benjamin involving the Boracay property; it was therefore unnecessary for Joselyn to participate in the execution of the Agreement. Taken together, these circumstances yielded the inevitable conclusion that the contract was null and void having been entered into by Joselyn without the consent of Benjamin.

Aggrieved, petitioner now comes before this Court in this petition for review on *certiorari* based on the following grounds:

4.1. THE MARITAL CONSENT OF RESPONDENT BENJAMIN TAYLOR IS NOT REQUIRED IN THE AGREEMENT OF LEASE DATED 20 JULY 1992. GRANTING *ARGUENDO* THAT HIS CONSENT IS REQUIRED, BENJAMIN TAYLOR IS DEEMED TO HAVE GIVEN HIS CONSENT WHEN HE AFFIXED HIS SIGNATURE IN THE AGREEMENT OF LEASE AS WITNESS IN THE LIGHT OF THE RULING OF THE SUPREME COURT IN THE CASE OF *SPOUSES PELAYO VS. MELKI PEREZ*, G.R. NO. 141323, JUNE 8, 2005.

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[16] *Supra* note 1.

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4.2. THE PARCEL OF LAND SUBJECT OF THE AGREEMENT OF LEASE IS THE EXCLUSIVE PROPERTY OF JOCELYN C. TAYLOR, A FILIPINO CITIZEN, *IN THE LIGHT OF CHEESMAN VS. IAC*, G.R. NO. 74833, JANUARY 21, 1991.

4.3. THE COURTS *A QUO* ERRONEOUSLY APPLIED ARTICLE 96 OF THE FAMILY CODE OF THE PHILIPPINES WHICH IS A PROVISION REFERRING TO THE ABSOLUTE COMMUNITY OF PROPERTY. THE PROPERTY REGIME GOVERNING THE PROPERTY RELATIONS OF BENJAMIN TAYLOR AND JOSELYN TAYLOR IS THE CONJUGAL PARTNERSHIP OF GAINS BECAUSE THEY WERE MARRIED ON 30 JUNE 1988 WHICH IS PRIOR TO THE EFFECTIVITY OF THE FAMILY CODE. ARTICLE 96 OF THE FAMILY CODE OF THE PHILIPPINES FINDS NO APPLICATION IN THIS CASE.

4.4. THE HONORABLE COURT OF APPEALS IGNORED THE PRESUMPTION OF REGULARITY IN THE EXECUTION OF NOTARIAL DOCUMENTS.

4.5. THE HONORABLE COURT OF APPEALS FAILED TO PASS UPON THE COUNTERCLAIM OF PETITIONER DESPITE THE FACT THAT IT WAS NOT CONTESTED AND DESPITE THE PRESENTATION OF EVIDENCE ESTABLISHING SAID CLAIM.[17]

The petition is impressed with merit.

In fine, we are called upon to determine the validity of an Agreement of Lease of a parcel of land entered into by a Filipino wife without the consent of her British husband. In addressing the matter before us, we are confronted not only with civil law or conflicts of law issues, but more importantly, with a constitutional question.

It is undisputed that Joselyn acquired the Boracay property in 1989. Said acquisition was evidenced by a Deed of Sale with Joselyn as the vendee. The property was also declared for taxation purposes under her name. When Joselyn leased the property to petitioner, Benjamin sought the nullification of the contract on two grounds: *first*, that he was the actual owner of the property since he provided the funds used in purchasing the same; and

[17] *Rollo*, pp. 554-556.

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second, that Joselyn could not enter into a valid contract involving the subject property without his consent.

The trial and appellate courts both focused on the property relations of petitioner and respondent in light of the Civil Code and Family Code provisions. They, however, failed to observe the applicable constitutional principles, which, in fact, are the more decisive.

Section 7, Article XII of the 1987 Constitution states:[18]

> Section 7. Save in cases of hereditary succession, no private lands shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain.

Aliens, whether individuals or corporations, have been disqualified from acquiring lands of the public domain. Hence, by virtue of the aforecited constitutional provision, they are also disqualified from acquiring private lands.[19] The primary purpose of this constitutional provision is the conservation of the national patrimony.[20] Our fundamental law cannot be any clearer. The right to acquire lands of the public domain is reserved only to Filipino citizens or corporations at least sixty percent of the capital of which is owned by Filipinos.[21]

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[18] A similar provision was set forth in the 1935 and 1973 Constitutions, *viz*:

Section 5, Article XIII of the 1935 Constitution states:

"Save in cases of hereditary succession, no private agricultural land shall be transferred or assigned except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain in the Philippines."

Section 14, Article XIV of the 1973 Constitution also states:

"Save in cases of hereditary succession, no private land shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands in the public domain."

[19] *Muller v. Muller*, G.R. No. 149615, August 29, 2006, 500 SCRA 65, 71; Frenzel *v. Catito*, 453 Phil. 885, 904 (2003).

[20] *Muller v. Muller*, *Id.*

[21] *Ting Ho, Jr. v. Teng Gui*, G.R. No. 130115, July 16, 2008, 558 SCRA 421.

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In *Krivenko v. Register of Deeds,*[22] cited in *Muller v. Muller,*[23] we had the occasion to explain the constitutional prohibition:

Under Section 1 of Article XIII of the Constitution, "natural resources, with the exception of public agricultural land, shall not be alienated," and with respect to public agricultural lands, their alienation is limited to Filipino citizens. But this constitutional purpose conserving agricultural resources in the hands of Filipino citizens may easily be defeated by the Filipino citizens themselves who may alienate their agricultural lands in favor of aliens. It is partly to prevent this result that Section 5 is included in Article XIII, and it reads as follows:

"Section 5. Save in cases of hereditary succession, no private agricultural land will be transferred or assigned except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain in the Philippines."

This constitutional provision closes the only remaining avenue through which agricultural resources may leak into alien's hands. It would certainly be futile to prohibit the alienation of public agricultural lands to aliens if, after all, they may be freely so alienated upon their becoming private agricultural lands in the hands of Filipino citizens. x x x

x x x x x x x x x

If the term "private agricultural lands" is to be construed as not including residential lots or lands not strictly agricultural, the result would be that "aliens may freely acquire and possess not only residential lots and houses for themselves but entire subdivisions, and whole towns and cities," and that "they may validly buy and hold in their names lands of any area for building homes, factories, industrial plants, fisheries, hatcheries, schools, health and vacation resorts, markets, golf courses, playgrounds, airfields, and a host of other uses and purposes that are not, in appellant's words, strictly agricultural." (Solicitor General's Brief, p. 6) That this is obnoxious to the conservative spirit of the Constitution is beyond question.[24]

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[22] 79 Phil. 461 (1947).

[23] *Supra*.

[24] *Id.* at 71-72; *Krivenko v. Register of Deeds of Manila*, 79 Phil. 461, 473-476 (1947).

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The rule is clear and inflexible: aliens are absolutely not allowed to acquire public or private lands in the Philippines, save only in constitutionally recognized exceptions.[25] There is no rule more settled than this constitutional prohibition, as more and more aliens attempt to circumvent the provision by trying to own lands through another. In a long line of cases, we have settled issues that directly or indirectly involve the above constitutional provision. We had cases where aliens wanted that a particular property be declared as part of their father's estate;[26] that they be reimbursed the funds used in purchasing a property titled in the name of another;[27] that an implied trust be declared in their (aliens') favor;[28] and that a contract of sale be nullified for their lack of consent.[29]

In *Ting Ho, Jr. v. Teng Gui*,[30] Felix Ting Ho, a Chinese citizen, acquired a parcel of land, together with the improvements thereon. Upon his death, his heirs (the petitioners therein) claimed the properties as part of the estate of their

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[25] The instances when aliens may be allowed to acquire private lands in the Philippines are:

(a) By hereditary succession (*Section 7, Article XII, Philippine Constitution).*

(b) A natural-born citizen of the Philippines who has lost his Philippine citizenship may be a transferee of private lands, subject to limitations provided by law (*Section 8, Article XII, Philippine Constitution).* Republic Act No. 8179 now allows a former natural-born Filipino citizen to acquire up to 5,000 square meters of urban land and 3 hectares or rural land, and he may now use the land not only for residential purposes, but even for business or other purposes.

(c) Americans who may have acquired title to private lands during the effectivity of the Parity Agreement shall hold valid title thereto as against private persons (*Section 11, Article XVII, 1973 Constitution).*

[26] *Ting Ho, Jr. v. Teng Gui, supra* note 21.

[27] *Muller v. Muller, supra* note 19; *Frenzel v. Catito, supra* note 19.

[28] *Muller v. Muller, Id.*

[29] *Cheesman v. Intermediate Appellate Court*, G.R. No. 74833, January 21, 1991, 193 SCRA 93.

[30] *Supra*.

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deceased father, and sought the partition of said properties among themselves. We, however, excluded the land and improvements thereon from the estate of Felix Ting Ho, precisely because he never became the owner thereof in light of the above-mentioned constitutional prohibition.

In *Muller v. Muller*,[31] petitioner Elena Buenaventura Muller and respondent Helmut Muller were married in Germany. During the subsistence of their marriage, respondent purchased a parcel of land in Antipolo City and constructed a house thereon. The Antipolo property was registered in the name of the petitioner. They eventually separated, prompting the respondent to file a petition for separation of property. Specifically, respondent prayed for reimbursement of the funds he paid for the acquisition of said property. In deciding the case in favor of the petitioner, the Court held that respondent was aware that as an alien, he was prohibited from owning a parcel of land situated in the Philippines. He had, in fact, declared that when the spouses acquired the Antipolo property, he had it titled in the name of the petitioner because of said prohibition. Hence, we denied his attempt at subsequently asserting a right to the said property in the form of a claim for reimbursement. Neither did the Court declare that an implied trust was created by operation of law in view of petitioner's marriage to respondent. We said that to rule otherwise would permit circumvention of the constitutional prohibition.

In *Frenzel v. Catito*,[32] petitioner, an Australian citizen, was married to Teresita Santos; while respondent, a Filipina, was married to Klaus Muller. Petitioner and respondent met and later cohabited in a common-law relationship, during which petitioner acquired real properties; and since he was disqualified from owning lands in the Philippines, respondent's name appeared as the vendee in the deeds of sale. When their relationship turned sour, petitioner filed an action for the recovery of the

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[31] *Supra*.

[32] *Supra*.

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real properties registered in the name of respondent, claiming that he was the real owner. Again, as in the other cases, the Court refused to declare petitioner as the owner mainly because of the constitutional prohibition. The Court added that being a party to an illegal contract, he could not come to court and ask to have his illegal objective carried out. One who loses his money or property by knowingly engaging in an illegal contract may not maintain an action for his losses.

Finally, in *Cheesman v. Intermediate Appellate Court*,[33] petitioner (an American citizen) and Criselda Cheesman acquired a parcel of land that was later registered in the latter's name. Criselda subsequently sold the land to a third person without the knowledge of the petitioner. The petitioner then sought the nullification of the sale as he did not give his consent thereto. The Court held that assuming that it was his (petitioner's) intention that the lot in question be purchased by him and his wife, he acquired no right whatever over the property by virtue of that purchase; and in attempting to acquire a right or interest in land, vicariously and clandestinely, he knowingly violated the Constitution; thus, the sale as to him was null and void.

In light of the foregoing jurisprudence, we find and so hold that Benjamin has no right to nullify the Agreement of Lease between Joselyn and petitioner. Benjamin, being an alien, is absolutely prohibited from acquiring private and public lands in the Philippines.Considering that Joselyn appeared to be the designated "vendee" in the Deed of Sale of said property, she acquired sole ownership thereto.This is true even if we sustain Benjamin's claim that he provided the funds for such acquisition. By entering into such contract knowing that it was illegal, no implied trust was created in his favor; no reimbursement for his expenses can be allowed; and no declaration can be made that the subject property was part of the conjugal/community property of the spouses. In any event, he had and has no capacity or personality to

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[33] *Supra*.

question the subsequent lease of the Boracay property by his wife on the theory that in so doing, he was merely exercising the prerogative of a husband in respect of conjugal property. To sustain such a theory would countenance indirect controversion of the constitutional prohibition.If the property were to be declared conjugal, this would accord the alien husband a substantial interest and right over the land, as he would then have a decisive vote as to its transfer or disposition. This is a right that the Constitution does not permit him to have.[34]

In fine, the Agreement of Lease entered into between Joselyn and petitioner cannot be nullified on the grounds advanced by Benjamin. Thus, we uphold its validity.

With the foregoing disquisition, we find it unnecessary to address the other issues raised by the petitioner.

WHEREFORE, premises considered, the December 19, 2003 Decision and July 14, 2004 Resolution of the Court of Appeals in CA-G.R. CV No. 59573, are *REVERSED* and *SET ASIDE* and a new one is entered *DISMISSING* the complaint against petitioner Philip Matthews.

SO ORDERED.

Ynares-Santiago (Chairperson), Chico-Nazario, Velasco, Jr., and *Peralta, JJ.,* concur.

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[34] *Cheesman v. Intermediate Appellate Court, supra* at 103-104.