THE CONSTITUTIONAL POLICY ON LAND TENURE

By VICENTE G. SINCO *

The Constitution of the Philippines is closely patterned after that of the United States in so far as its purely political features are concerned. It establishes essentially identical institutions and processes of government. Except for the fact that one provides for a federal system of government and the other a unitary one, the political instrumentalities established in the two constitutions are practically alike in conception, character, and aim. But when we depart from the political field, the Constitution of the Philippines takes on a different aspect. For it incorporates certain definite social and economic policies reflecting contemporary attitudes and practices of governments which for some reasons are not directly traceable to the American pattern. This is clearly evident in the provisions of the Constitution affecting land ownership. A brief discussion of this subject may help clarify this feature.

Size of Land Holdings.

One of the most significant and novel provisions of our Constitution is that which authorizes the Congress of the Philippines to determine the size of private agricultural land which a person may own. The provision on the subject says:

> "The Congress of the Philippines may determine by law the size of private agricultural land which individuals, corporations, or associations may acquire and hold, subject to rights existing prior to the enactment of such law." [1]

With a Congress controlled by members who are allergic to anything savoring a system of feudal tenure, this provision may easily be used to carry out a plan for the development of an expanding agrarian middle class. But inasmuch as private agricultural land is not necessarily farm land but may also be residential or commercial land, Congress may likewise control the size of urban lots.

In a society where large landed estates prevail, a sharp and well-defined class distinction is noticeable. On the one hand, we have the wealthy landowners who often spend much of their time in cities; and, on the other hand, we have the landless who are quite

---

* LL.B. (U.P.), LL.M. (U.P.), L.H.D. (Ohio Northern University), Dean, College of Law, University of the Philippines.

[1] Art. XIII, sec. 3.

often reduced to a condition of serfdom. This state of things obtained in most countries of the ancient world, especially in Rome where the nobility built up latifundia in suitable regions. In modern times many a social conflict has been caused by similar inequalities in land tenure.[2] Since the first decade of this country, England has been prominent in the movement of breaking up large landed estates. All over Europe there has been since the first World War a steady trend toward the establishment of small holdings. In some countries, such as Germany, Yugoslavia, and Spain, this movement has been directed by constitutional provisions; while in others it is provided for merely in statutory laws. In South America the existence of large "estancias" or "haciendas" may be considered as the primary cause of the failure of the development of real democracy. The large proprietors constitute the bulk of the conservative party. Their conservatism, reenforced by a close relationship with the clerical group, has resulted in a strong combination which has dominated most of the history of South America. The landless constitute the peon and tenant group. They count for nothing in social and political movements because of their poverty and ignorance.

Subdivision of Lands.

Standing alone, the power of Congress to determine the size of private agricultural land which individuals, corporations, or associations may acquire and hold would be difficult to exercise. This is especially so because that authority is "subject to rights existing prior to the enactment of such law." But the Constitution gives Congress another power which may well serve to supplement or implement it but which may also be exercised as an independent authority. This power is vested by this provision:

> "The Congress of the Philippines may authorize, upon payment of just compensation, the expropriation of lands to be subdivided into small lots and conveyed at cost to individuals." [3]

What this constitutional provision contemplates is not without precedent in the annals of Philippine history. It should be remembered that one of the first acts of the Government of the United States in the Philippines was to acquire what was known as the Friar Lands in order to remove one of the causes of the social and economic ills in the past and to prevent their recurrence in the future. Thousands of hectares were thus purchased by the Government from re-

[2] See Encyclopedia of the Social Sciences, Article on Land Tenure.
[3] Art. XIII, sec. 4.

ligious orders of the Catholic Church and then resold in smaller lots to different individuals.

The questions arise. Is it necessary to have included this provision in our Constitution authorizing Congress to expropriate lands to be subdivided into small lots and to convey them at cost to individuals? May not this power be exercised by the legislative authority without this specific constitutional grant? To answer these questions intelligently, we should understand the nature and purpose of the right of eminent domain as a basic and inherent power of sovereignty. Eminent domain is essentially the right of the state to compel private persons to sell to it their propery that it needs. But in a constitutional government such as ours, the validity of its exercise depends upon two conditions: first, that the property taken be paid with a just compensation, and second, that such property be taken for public use.

These conditions form an indispensable requirement of the general rule prescribed by the Constitution which says: "Private property shall not be taken for public use without just compensation." Unless the Constitution provides otherwise, the two conditions of just compensation and public use must be fulfilled. They are both subject to judicial determination. In other words, whether the compensation is just and whether the use is public are matters for the courts to decide. As declared by the United States Supreme Court: "The nature of a use, whether public or private, is ultimately a judicial question." [4] But the determination of the existence of public use depends upon variable factors involving circumstances of time and place. There is no general and uniform criterion applicable to all cases. What may be public use under certain conditions may not be so under different circumstances. The wants of the community for the time being may or may not validly justify the exercise of the power of eminent domain.[5] A particular climate and soil may make a use public in a certain locality while the same use may be private in another locality.[6]

In view of these different factors that a court has to take in determining the validity of the exercise of the general power of expropriation in particular cases, the need for an exception to the general rule is apparent when the state has a special and predetermined goal to attain. Thus when the Constitution, in the interest of social peace and economic security, provides that private land be taken and subdivided into small lots to be sold at cost to individuals,

[4] *Rindge Co. v. County of Los Angeles*, 262 U.S. 700.
[5] *Charles River v. Warren Bridge*, 11 Pet. (U.S.) 420.
[6] *Clark v. Nash*, 198 U.S. 361.

it thereby determines the purpose of the taking. Whether such purpose in itself constitutes what courts consider public use or not is beside the point. That question is withdrawn from their jurisdiction. The only question left for them to determine is whether the compensation is just or not. The conclusion, therefore, is evident: that when Congress authorizes the taking of private land for the purpose of subdividing it into small lots to be sold at cost to individuals, no court or any other authority has any lawful right to subject the validity of the taking to the tests ordinarily employed in determining the legitimate exercise of the general right of eminent domain.[7]

Nature and Size of Lots.

One other point need be noted, namely: that the constitutional provision refers to lands in general. Such lands may thus be either urban or rural land, residential, commercial, industrial, or agricultural in the strict sense. The object is apparently to install the landless individual in a home of his own, or to give him a place for his business, or to establish him on a small farm of his own. The average Filipino house requires no more than 150 or 200 square-meter lot in urban areas. A piece of land with an area of one or two hectares within the *poblacion* of a town or a city is a relatively large area in this country where towns are usually small. It may easily be subdivided into sixty or more lots for residential homes. In older and more progressive countries, family farms devoted to the production of home needs occupy no more than four or five hectares of land each. Scientific methods achieve full utilization of the soil and render possible maximum productivity of the land.

Neither is it within the court's competence to decide what the exact size of a small lot should be. That is a question of policy. Arguments on that point are proper only when presented before Congress or the agency authorized by Congress to fix the size of small lots. Courts have no right to question the wisdom or correctness of the congressional or legislative decision by substituting it with their own. For them to assume that right is to arrogate power that the Constitution vests in other branches of the government.

The primary motive of the Constitution in promoting social peace and individual contentment through land ownership would be frustrated by a deliberate disregard of these considerations. Objections predicated on the evils of slum districts that may result from

---

[7] A declared public policy of the state, expressed either in a statute or the organic law is sufficient legal justification for the condemnation of private property. (*Fallbrook Irrigation Dist. v. Bradley*, 164 U.S. 112).

the possibility of congestion of numerous small homes are legally irrelevant. To accept them would be to undermine the social and economic policies declared by the Constitution. But even if the question were to be viewed from the side of social policy, small urban lots are not necessarily conducive to the rise of slums. Filthy neighborhoods are the result of uncontrolled urban planning, the absence of well-considered health and sanitation measures, and official laxity or neglect in the enforcement of housing regulations. The numerous homes established for laborers in well-planned plantations have not created slums. On the contrary, they are models of healthful and clean community living.

There is another reason behind the constitutional provision authorizing land subdivision through the process of expropriation. It is to facilitate the ownership of homes or homesteads by as many members of the community as practicable as one of the essential steps for carrying out the constitutional policy of social justice. The policy of the Constitution of the Philippines is to counterbalance the extreme individualism of the older constitutions which were built on the idea of *laissez-faire* and on the notion of the pioneer era that the best government is that which governs least. While the Constitution of the Philippines has not entirely abandoned the concept of individualism and has not placed the individual under absolute state control, it has nevertheless reduced the scope of his liberty in those areas of human activity where an emphasis on individual rights would conflict and do damage to the larger interests of an interdependent society. In doing so, it merely enforces the principle that every person is his brother's keeper and accordingly vests in the government, as an instrument of the public will, the power to demand fulfillment of the essence of that principle,—the social responsibility of every member of the state.

The language of the Constitution in vesting this power in Congress is so simple and unequivocal that no court may be justified to resort to extrinsic aid to understand its meaning. And yet the Supreme Court of the Philippines has disregarded it entirely and invalidated acts of expropriation exercised by cities or governmental agencies under an express authorization of Congress to expropriate private land for the purpose of subdividing it into small lots to be sold to individuals. Its decisions on the subject so far obstinately cling to the general law on eminent domain. Their premises and conclusions can hardly escape the charge that they may result in preventing the ultimate purposes of the Constitution and the will of Congress. For example, in the case of *Guido v. Rural Progress*

Administration [8] a statute authorizes the President of the Philippines to acquire private lands through purchase or expropriation and to subdivide the same into homelots or small farms for resale to private individuals; and it further empowers him to designate a department, office, or instrumentality of the government to carry out its objectives.[9] The Rural Progress Administration, as an agency of the government, was authorized by the President to expropriate two adjoining lots, partly commercial in character, with a combined area of 22,655 square meters on the main street in Maypajo, Caloocan, Rizal Province. The Supreme Court held that the expropriation was not valid, declaring that constitutional provision on the subject (Article XIII, sec. 4) refers to the expropriation of large landed estates, trusts in perpetuity, and land that embraces a whole town or a large section of a town or city. It asserts that it is "the size of the land expropriated, the large number of people benefited, and the extent of social and economic reform secured by the condemnation" that clothe the expropriation with public interest and public use. The Court explained that "expropriation in such cases tends to abolish economic slavery, feudalistic practices, endless conflicts between landlords and tenants, and other evils inimical to community prosperity and contentment and public peace and order." It held that social justice does not support the exercise of eminent domain in this case because "as applied to metropolitan centers, especially Manila, in relation to housing problems, it is a command to devise, among other social measures, ways and means for the elimination of slums, shambles, shacks, and houses that are dilapidated, overcrowded, without ventilation, light and sanitation facilities, and for the construction in their place of decent dwellings for the poor and the destitute." The Court said that condemnation for these purposes "bears direct relation to public safety, health and/or morals, and is legal." To summarize, the Court laid down two criteria for the valid exercise of the power under the constitutional provision in question: First, the land must be large and its distribution must benefit many people, not just 10, 20 or 50 persons and their families; and second, that the object must be public safety, health, morals, community prosperity and contentment, and public peace and order. To justify its conclusion, the Court cited a speech of one of the delegates to the Constitutional Convention, Mr. Miguel Cuaderno, which tells of the duty of the government to break up existing large estates and to provide for their acquisition, through purchase or expropria-

[8] 47 Off. Gaz. 1848.

[9] Commonwealth Act No. 539, Sections 1 & 2.

tion and for their sale to the occupants in order to reduce or abolish the oppression and exploitation of tenants. It is indeed strange that the Supreme Court had to resort to an extrinsic aid, such as this lone speech of a convention delegate, to interpret a constitutional provision which speaks in terms so clear and explicit that they can leave no doubt in the minds of the educated, not to say learned jurists. If as interpreted by the Supreme Court in this case, the size of the land to be expropriated, the existence of the necessity for expropriation, and the existence of public purpose or use of the taking, and the number of people to be benefited by it are questions for judicial determination, then this specific constitutional provision is absolutely worthless, a mere surplusage. For these different factors are what the general power of expropriation, which need not be expressly vested by any constitutional provision in the government, requires. In fact, most of them are decidedly legislative or political questions rather than judicial.

This decision of the Supreme Court as well as others following it is out of line with the social and economic policy of the Constitution as discussed in previous paragraphs. Its general theme is succinctly expressed in this passage: "The expropriation proceedings at bar have been instituted for the economic relief of a few families devoid of any consideration of public health, public peace and order, or other public advantage." Does the Court mean that the economic relief of a small portion of the nation is not a governmental duty? Does the Court mean that the government need not put out a small fire but should wait for the entire community to burn before it may validly extend its relief? The measures adopted in many countries during the great depression of 1930 and succeeding years were basically intended for economic relief. They served as the background of the broad aims of our Constitution. President Quezon once declared that, unlike the American Constitution which accentuates the position of the individual, our Constitution seeks to inculcate social responsibilities in the leadership and the citizenry of this new nation. Commenting on the practice of some of the justices of the United States Supreme Court of clinging to outmoded views in the early days of the New Deal period, views which contravened the new legislation, an American writer said: "We need have no fear of a dictatorship except from a reactionary court, writing the will of the past or of an uncompromising minority into the Constitution." [10] But our own Supreme Court can do worse when it fails to abide by the new formula on social betterment prescribed not in mere statutes but in the Constitution itself. It may even transform itself into a

[10] LEVY BERYL H. *Our Constitution: Tool or Testament?*, p. 383.

reactionary Court if many of its members should refuse to follow a realistic approach to the social and economic ideas clearly expressed in our Constitution. One thing a student of our constitutional system should wisely bear in mind and that is: that in the field of social and economic problems, the Constitution of the Philippines has considerably, though not completely, departed from its pattern, the Constitution of the United States; and therefore, the pertinent principles of American constitutional law in this field have ceased to act as lone guides in constitutional interpretation. This change demands a careful balancing of the old concepts with the new ideas of our Constitution in order that we may succeed in following its middle-of-the-road theories.

In the case of *City of Manila v. Arellano Colleges*,[11] the statute involved authorized cities and municipalities to contract loans for the purpose of purchasing or expropriating homesites within their respective jurisdictions and reselling them at cost to residents.[12] Pursuant to this law, the City of Manila expropriated several parcels of land with a combined area of seven thousand two hundred seventy square meters within the City. The Arellano Colleges, which owned the land, intended it for its buildings to be constructed at some future time. The Supreme Court held that the expropriation was invalid on the strength of its decision in the *Guido case*. The Court's reasoning is so muddled that it even held that the necessity for the expropriation had not been shown, when the right to determine the necessity for expropriating private property, under the general rule on eminent domain, unquestionably belongs exclusively to the legislature and is thus outside the jurisdiction of the courts.[13] The Court practically disregarded the clear constitutional mandate that Congress may authorize the expropriation of lands to be subdivided into lots and sold at cost to private individuals when it actually required a showing of public use and cited American authorities on the subject which are not applicable to the situation under our Constitution. True it is that even private property, when devoted to public use is or may be considered, under some decisions of doubtful force, withdrawn from the sphere of condemnable private property. But in the *Arellano Colleges* case, the property was not actually devoted to public use, on the assumption that a private college comes under this concept, for its intended or pretended use as a university site was still in the planning stage.

---

[11] 47 Off. Gaz. 4197.

[12] Republic Act No. 267.

[13] *North Laramie Land Co. v. Hoffman*, 268 U.S. 276; *Bragg v. Weaver*, 251 U.S. 57.

In the decision of the case of *Rural Progress Administration v. Reyes,*[14] the Supreme Court upheld the validity of the expropriation of three lots of a total area of about ten hectares, one of which was devoted to fishponds. The government agency expropriating the property intended to sell it in small lots to the tenants who had occupied them for many years, paying rentals to the owners and improving them by constructing their houses, planting fruit trees, building dikes for the cultivation of rice, and converting parts of them into fishponds and other uses. The owners had sought to eject the tenants on various occasions in the past but failed to make them vacate the property. Under these circumstances, the Court considered the expropriation valid, declaring that the conditions obtaining in this case had been such as would give rise to social conflicts and serious cases of public disorder not very different from those that prompted the purchase of the Friar Lands or those which led to the tragic murder of Mrs. Quezon. To the objection that fishponds may not be taken by the exercise of eminent domain, the Court answered that fishponds come under the classification of agricultural land and that when the law refers to private lands, it does not exclude fishponds which merely form part of such lands. Speaking for the Court, Justice Pablo declared that the large extent of the land is not necessarily the sole determining factor in expropriation proceedings and that another motive is furnished by the Constitution in the provision which requires the state to promote social justice. This statement is worthy of note as a correction and a sound modification of the previous decisions of the Court which practically established as a basis for the validity of expropriation the large size of the property to be taken for subdivision and sale to private individuals. In this case, four Justices dissented, adhering to the notion, which departs from the social policy of the Constitution, that the expropriation of private lands for the purpose of subdivision and resale to individuals is valid only when the property taken is a large landed estate.

Prohibitions against Alien Land Holding.

The total nationalization of land ownership is provided by the Constitution in this precept: "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." [15]

With this express prohibition, aliens may not hold public as well as private lands for agricultural purposes. The only exception is

[14] G. R. No. L-4703, Oct. 8, 1953.
[15] Art. XIII, sec. 5.

in case of hereditary succession, that is, that if a piece of land belonged to an alien on the approval of the Constitution, he may not sell it to another alien but may transmit that property to his heirs, even if they should be aliens, upon his death through hereditary succession. However, if a conveyance or sale of agricultural land had actually taken place before that Constitution went into effect, a certificate of that transfer may be validly executed even after the Constitution became effective.[16]

International complications have resulted from the existence of alien landholdings in a weak country. Because of this danger, it is best that the right of aliens to acquire land should be closely and strictly controlled and regulated. An example is afforded by the case of Texas. This was originally a province of Mexico. In order to secure its rapid settlement and development, the Mexican government offered free land to settlers in Texas. Americans took advantage of the opportunity more rapidly than Mexicans, and soon they organized a revolt against the Mexican rule and then secured annexation of Texas to the United States. A new increase of alien landholdings in Mexico had brought about a desire to prevent a repetition of the Texas affair. Accordingly, the Mexican constitution of 1917 contains serious limitations on the right of aliens to hold lands in Mexico.

Extent of Ban on Alien Ownership.

The term private agricultural land as used in the Constitution for a time raised doubts as to its meaning and scope. Should it be understood as land actually devoted to farming and thus exclude residential or commercial land in urban areas? Or does it have the same connotation as public agricultural land? Public agricultural land was interpreted by the Supreme Court of the Philippines long before the adoption of the Constitution as all land not classified as timber or mineral. It, therefore, includes not only land actually devoted to farming but also land used for residential, commercial, industrial, and other purposes.[17] The basis of the classification of land into agricultural, timber, and mineral would seem to be the uses to which nature itself has adapted it rather than other uses for which the ingenuity of man is capable of devising. This consideration appears to be best suited for a more fundamental and permanent purpose such as what a constitution contemplates. In this respect the nationalization of the ownership and development of land and natural

[16] *Haw Pia v. Omaña*, 64 Phil. 469.

[17] See *Mapa v. Insular Govt.*, 10 Phil. 175; *Montano v. Insular Govt.*, 12 Phil. 572; *Ibañez de Aldecoa v. Insular Govt.*, 13 Phil. 159.

resources of the country as provided by the Constitution of the Philippines finds a firm and lasting basis.

This classification of lands of the public domain was held by the Supreme Court to be applicable to lands of private ownership. In the leading case of *Krivenko v. The Register of Deeds of Manila*,[18] the Court pointed out that the term "agricultural land" has to be understood as having the same meaning throughout the provisions of the Constitution dealing on the subject of conservation and utilization of natural resources. Consequently, the provision which prohibits aliens from acquiring private agricultural lands, except in cases of hereditary succession, prohibits them from acquiring residential or commercial or industrial lands, all these being constitutionally classified under the term agricultural lands. Inasmuch as the Constitution has classified all land in the Philippines into agricultural, forest, and mineral, a piece of land which is neither mineral nor timber land is necessarily agricultural.

If this classification were to be confined to public lands alone, the constitutional plan of nationalizing the land and natural resources of the country could easily be circumvented and defeated. For a person who is a citizen of the Philippines might purchase public agricultural land for the purpose of converting it into a subdivision for residential or industrial purposes and thereafter sell it as private land to any party, including aliens. By such process, sooner or later, most agricultural areas of the public domain acquired by citizens of the Philippines by way of sale or homestead might fall into the hands of aliens in the form of residential, industrial, or commercial estates. The preservation of the patrimony of the nation would then be merely an ephemeral episode in the history of the Philippines. This consideration could not be the intention of the Constitution, an instrument designed for today and for generations to come. Thus it is obvious that unless all lands, whether of public or private ownership, are placed under the same classification, the purpose of the Constitution would be nullified.

It should be said, in answer to a point raised in a dissenting opinion in the Krivenko case, that the argument that this danger may be averted by an act of Congress prohibiting the transfer of residential, commercial, and industrial land to aliens is not tenable. Its constitutional basis could be of doubtful value, for these reasons: First, the constitutional guarantee of equal protection of the law and due process of law is equally available to both citizens and aliens.

[18] 44 Off. Gaz. 471. The rule in this case is followed in *Pindangan Agricultural Co. v. Schenkel*, No. L-46798, P. D. 1949B 112; *Rellosa v. Gao Chee Hun*, G. R. No. L-1411, Sept. 1953 and other cases.

While it is true that decisions of courts in the United States have upheld the validity of statutes classifying aliens and citizens into two groups with respect to certain occupations, prohibiting aliens, for instance, from taking part in public works contracts or engaging in occupations affected with a public interest, it is highly doubtful if by ordinary legislation alone aliens may be validly excluded from following ordinary occupations or owning property essential to their life, such as a piece of residential land. Secondly, it is a generally accepted rule of constitutional construction that a particular power granted or a specific prohibition prescribed in the Constitution may not be enlarged or reduced by ordinary legislative measures. If the term "private agricultural land" were to be understood as rural land actually devoted to farming, then the prohibition declared by the Constitution most likely may not be extended to include land for residential, commercial, or other purposes; and any measure passed by Congress to prohibit aliens from acquiring residential lots may well be interpreted as an enlargement of the constitutional prohibition and may thus be considered unauthorized and invalid.

Statutes implementing the constitutional provisions on natural resources adhere to the idea that all lands of the public domain which are not timber or mineral lands are agricultural in the generic sense.[19] This is shown by the fact that they refer to it as classifiable in its turn into agricultural—in its specific sense—, residential, commercial, and industrial lands.

Legislative interpretation confirming the meaning of agricultural lands as a term which includes all lands except timber and mineral is furnished by a statute of Congress which permits the mortgage of private real property of any kind in favor of aliens, subject to the condition that the alien creditor may not acquire such real property nor take part in its sale in case of foreclosure of mortgage. Should any such land be transferred to aliens, the statute obliges them to convey it within a period of five years to persons who are entitled to own land, otherwise the property would revert to the government.[20]

Consequences of Invalid Alienation.

A Filipino citizen who sells a piece of urban land to an alien in violation of the Constitution is not entitled to recover the property sold; but neither may the alien be compelled to return the property to him or to reimburse him with the amount paid for the land. The sale, however, is null and void in spite of the fact that at the time it was made no decision was yet rendered by the Supreme Court to

[19] See Commonwealth Act No. 141, Sec. 9.
[20] Republic Act No. 133.

the effect that the constitutional prohibition is applicable not only to lands actually devoted to agriculture but also to urban lands. In the cases in which this ruling was laid down, the Supreme Court held that the State alone is entitled to get the land either by escheat or, in case the land originally formed part of the public land, by reversion. But in the absence of any law providing for escheat proceedings applicable to the specific cases of illegal sale of private land by virtue of the constitutional prohibition, the land should remain in the situation in which it is found, that is: it should remain in the possession of the seller. The reason, according to the Court, is that both parties are *in pari delicto*.[21]

The ruling in the cases referred to in the foregoing paragraph is considerably weakened by strong dissenting opinions. One of these is that of Justice Pablo who pointed out that the parties could not be said to be *in pari delicto* because the sale was not fraudulent nor made in bad faith. Consent was given voluntarily by both parties who were fully aware of all the factors involved in the deal. The contract was not merely voidable but void *ab initio* because the Constitution prohibits the conveyance of land to aliens. To hold the parties *in pari delicto*, it must be shown that the contract is vitiated by fraud, misrepresentation, or duress. These were not present. The defect lies in the fact that land could not be the subject-matter of a contract of sale between a citizen and an alien. Therefore, there was no contract from the very beginning—the contract was nonexistent. Consequently, the parties should come under the provisions of the Civil Code on void contracts—not on voidable ones, as the majority of the Court declared. This being the case, both seller and purchaser should be placed in the position they occupied before the sale took place. This means that the land should be returned to the seller who should, in turn, reimburse the buyer with the amount of the purchase price.

Following this last line of thought, it would seem imperative and logical that the transfer of a piece of land to a Filipino by an alien who had illegally acquired it should not be considered a valid transaction. For if the acquisition by the alien was void *ab initio*, obviously he had nothing which he could legally transfer to any one. The taint of illegality should continue vitiating the subsequent transfer in the same way that it does in the case of sale of stolen goods. Unfortunately, another decision of our Court does not seem to uphold this principle.[22]

---

[21] *Cabauatan v. Uy Hoo*, G. R. No. L-2207; *Caoile v. Yu Chiao Peng*, 49 Off. Gaz., 4321; *Rellosa v. Gaw Chee Hun*, 49 Off. Gaz. 4345; *Bautista v. Isabelo*, 49 Off. Gaz., 4336.

[22] *Escoto v. Arcilla*, G. R. No. L-2819, May 30, 1951.

The decisions handed down by the majority of our Supreme Court so far are far-reaching in their effect. They have much to do with our problems of land tenure and with the constitutional policy on nationalization. Some of them need to be modified or, at least, clarified. Otherwise, they may well serve to perpetuate the social evils which our Constitution has precisely sought to eradicate.