

101 Phil. 563

[G. R. No. L-9558. May 24, 1957]

LEONCIO MONGB, SEVERA POLVOROSA AND MARIA MONGE, PLAINTIFFS AND APPELLANTS, VS. LINO ANGELES AND SOCORRO MOLINA, DEFENDANTS AND APPELLEES.

D E C I S I O N

BAUTISTA ANGELO, J.:

On July 30, 1948, plaintiffs executed in favor of defendants a deed of sale of a parcel of land acquired by plaintiffs under a homestead patent with right to repurchase it within one year from the date of sale. Because of the failure of plaintiffs to repurchase the land as stipulated, the sale became absolute on July 30, 1949, although defendants actually consolidated their ownership over the land on January 17, 1953 in accordance with an order of consolidation issued in Special Proceeding No. 548 (Court of First Instance of Camarines Sur). However, plaintiffs claim that they can still exercise the right to repurchase the land within the period of five years from July 30, 1949 under Section 119 of Commonwealth Act No. 141 (Public Land Law) and to that effect they tendered to defendants the repurchase price of P1,200, and when the latter refused, they consigned the money with the clerk of court and instituted the present action.

Defendants moved to dismiss the complaint on the grounds (1) that it does not state a cause of action and (2) that, in any event, the action was not commenced within the period prescribed by law. The court sustained the motion and dismissed the case without costs. Hence this appeal.

The question to be determined is whether the period of five years which Section 119 of Commonwealth Act No. 141 allows a homesteader to repurchase a homestead sold by him should be counted from the date of the sale even if the same is with an option to repurchase or from the date the ownership of the land has become consolidated in favor of the purchaser because of the homesteader's failure to repurchase it.

Section 119 of Commonwealth Act No. 141 provides: "Every conveyance of land acquired under the free patent or homestead provisions, when proper, shall be subject to repurchase by the applicant, his widow, or legal heirs, within the period of five years from the *date* of the conveyance." The language of the law is clear. It provides that the period of five years shall be counted from the *date of conveyance*, regardless of its nature. The word conveyance is of American origin. It may refer not only to an absolute sale but also to mortgage or any other transaction. It has been defined as signifying "every instrument by which any estate or interest in real estate is created, alienated, mortgaged, or assigned" (18 C. J., 900; 18 C. J. S., 92). When the law is clear, it admits of no interpretation. It follows therefore that the pretense of appellants to the effect that the 5-year period should be counted from the date the ownership of appellees over the land had become consolidated is untenable.

The above interpretation finds support in recent decisions of this Court. In *Blanco vs. Bailon*, G. R. No. L-7342, April 28, 1956, the question raised was whether the 5-year period of redemption began from the date of the execution of the contract or from the date of its registration in the office of the register of deeds, considering that the homestead was registered under the Torrens system. This court held that it is the former because in so far as the owner of the homestead is concerned, the conveyance mentioned in Section 119 of the Public Land Law is the actual date thereof, and not the date of registration of the deed of sale. (Citing *Galasinao vs. Austria*, 97 Phil., 82, 51 Off. Gaz., 2874).

In *Galanza vs. Nuesa*, 95 Phil., 713, 50 Off. Gaz., 4213, the question that arose was "whether the period to repurchase the land in question shall be counted from the execution of the deed of sale with right to repurchase or from the issuance of transfer certificate of title to the herein defendant" and the Court held that appellant's title had already become absolute because of appellee's failure to redeem the land within five years from the date of sale. The Court added: "Both under Section 50 of the Land Registration Law and under Section 119 of Commonwealth Act 141, the owner of a piece of land is neither prohibited nor precluded from binding himself to an agreement whereby his right of repurchase is for a certain period starting from the date of the deed of sale." In other words, the date of the sale is of paramount consideration.

The order appealed from is affirmed, with costs against appellants.

Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Reyes, J. B. L., Endencia, and Felix,

JJ., concur.

Date created: October 13, 2014