

PABLO BASBAS, PLAINTIFF-APPELLANT, VS. RUFINO ENTENA, FLAVIANO TIBAY AND ANGELINA ENTENA (SPOUSES), AND R. M. RESURRECCION AS ACTING REGISTRAR OF DEEDS OF THE PROVINCE OF LAGUNA...

G.R. No. L-26255. June 30, 1969

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

This is an appeal from the decision of the Court of Agrarian Relations, in CAR Case No. 1478, Laguna '65, on the sole question of whether tender of payment and judicial consignment of the purchase price are necessary before a tenant-lessee may avail of the right of pre-emption or of redemption provided in Sections 11 and 12 of the Agricultural Land Reform Code.

In the action filed by tenant Pablo Basbas in the Court of Agrarian Relations against the alleged landholder or landholders Rufino Entena and the spouses Flaviano Tibay and Angelina Entena, the parties agreed to stipulate on the following facts:

"1. That plaintiff Pablo Basbas is the leasehold tenant of a 1-1/2 hectare parcel of riceland, known as Lot No. 1520 of the Sta. Rosa Estate Subdivision, located at Barrio Dila, Sta. Rosa, Laguna, formerly owned by defendant Rufino Entena and presently owned by spouses Flaviano Tibay and Angelina Entena, his co-defendants.

"2. That on April 11, 1964, defendant Rufino Entena executed a deed of sale of the aforementioned lot in favor of defendant spouses Flaviano Tibay and Angelina Entena.

"3. That on May 25, 1964, defendant Rufino Entena sent a letter, marked as Exhibit 'I', to plaintiff, to which the latter sent a reply dated June 4, 1964, marked as Exhibit 'A'.

"4. That under date of June 4, 1964, plaintiff wrote a letter, marked as Exhibit 'B', to the Governor of the Land Authority, to which he received a reply from the Acting Officer in Charge of the Land Authority, dated June 22, 1964, which is marked as Exhibit 'C', of which reply (Exhibit 'C') defendants have not been given copy or otherwise informed.

"5. That the deed of sale mentioned in paragraph 2 hereof, was registered in the office of the register of deeds of Laguna on May 26, 1964. The certification of the Register of Deeds respecting said sale is marked as Exhibit 'D'.

"6. That defendant Rufino Entena and his wife Aniceta Carapatan executed an affidavit, dated April 11, 1964, marked as Exhibit 'I' - defendant Register of Deeds.

"7. That defendant spouses Flaviano Tibay and Angelina Entena are son-in-law and daughter, respectively, of defendant Rufino Entena, and said spouses live separately from their father.

"8. That plaintiff has not deposited any sum of money in this Court to cover the pre-emption or redemption

price."

Exhibit "I" mentioned above (No. 3, Stipulation) refers to a letter sent by Rufino Entena to the tenant, to the effect that the landholding was being put up for sale at P13,000.00 per hectare and the tenant being given 90 days within which to communicate his intention to purchase the same: otherwise, the land would be offered to other buyers (page 1, folder of exhibits). Exhibit "A" (No. 3, Stipulation) is the tenant's reply to the landholder dated June 4, 1964, accepting the latter's offer to sell the land, although disagreeing to the quoted price therefor. The tenant in the same letter informed the landholder that he was enlisting the aid of the government in purchasing the land, as allowed by law. Ex-hibit "3" (No. 4, Stipulation) is the tenant's letter of June 4, 1964 addressed to the Governor of the Land Authority, asking the help of said agency to acquire the land he was working on and which was being offered for sale. Exhibit "C" (No. 4, Stipulation) is the answer of the Acting Officer in Charge of the Land Authority, informing the tenant that his petition was already being processed and definite action thereon will be taken as soon as the Land Bank shall have been fully organized. Ex-hibit "1-Register of Deeds" (No. 6, Stipulation) is the sworn affidavit of the spouses Rufino Entena and Aniceta Carapatan, dated April 11, 1964, attesting to the alleged fact that the tenant, Pablo Basbas, was fully notified of the sale of their land 90 days before said conveyance, and that the tenant had refused, or failed to exercise, the right of pre-emption granted him under the Agricultural Land Reform Code (page 6, folder of exhibits). The submission of this affidavit enabled the registration on May 26, 1964 of the deed of sale in favor of vendees Flaviano Tibay and Angelina Entena.

On the basis of the aforequoted stipulation of facts, the Agrarian Court dismissed the case, reasoning that as the plaintiff failed to make tender of payment and consignment of the purchase price the landowner can not be compelled to sell the property to him. Plaintiff-tenant thus interposed the present appeal.

The appellant-tenant's claim to preference in purchasing the land he is working on, in case the said land is to be sold, or to his right to redeem it in 2 years should the land be sold without his knowledge, is predicated upon Sections 11 and 12 of the Agricultural Land Reform Code (Republic Act 3844):

"SEC. 11. Lessee's Right of Pre-emption. - In case the agricultural lessor decides to sell the landholding, the agricultural lessee shall have the preferential right to buy the same under reasonable terms and conditions: Provided, That the entire landholding offered for sale must be pre-empted by the Land Authority if the owner so desires unless the majority of the lessees object to such acquisition: Provided, further, That where there are two or more agricultural lessees, each shall be entitled to said preferential right only to the extent of the area actually cultivated by him. The right of pre-emption under this section may be exercised within ninety days from notice in writing, which shall be served by the owner on all lessees affected."

"SEC. 12. Lessee's Right of Redemption. - In case the landholding is sold to a third person without the knowledge of the agricultural lessee, the latter shall have the right to redeem the same at a reasonable price and consideration: Provided, That the entire landholding sold must be redeemed: Provided, further, That where there are two or more agricultural lessees, each shall be entitled to said right of redemption only to the extent of the area actually cultivated by him. The right of redemption under this Section may be exercised within two years from the registration of the sale, and shall have priority over any other right of legal redemption."

The case herein, which positively is an exercise by the tenant of his right to redeem the landholding,[1] was nevertheless dismissed, the Agrarian Court considering as fatal the tenant's failure to tender payment or consign the purchase price of the property.

It is argued for the appellant-lessee that the Court of Agrarian Relations erred in dismissing the action for non-tender of the redemption price, since the law nowhere requires such tender, and, furthermore, the tenant is not bound to redeem his landholding at the price for which it was sold, but only at a reasonable price and consideration.

We find that no error was committed in dismissing the case. In the first place, there is no showing that the Land Reform Council has proclaimed that the government machineries and agencies in the region are already operating, as required by section 4 of Republic Act 3844.

In the second place, granting that sections 11 and 12 are operative, yet in *Torres de Conejero, et al. vs. Court of Appeals, et al.*, L-21812, April 29, 1966, 16 SCRA 775, this Court ruled that the timely exercise of the right of legal redemption requires either tender of the price or valid consignation thereof. Said the Court in said case (16 SCRA pages 781-782):

"It is not difficult to discern why the redemption price should either be fully offered in legal tender or else validly consigned in court. Only by such means can the buyer become certain that the offer to redeem is one made seriously and in good faith. A buyer can not be expected to entertain an offer of redemption without attendant evidence that the redemptioner can, and is willing to accomplish the repurchase immediately. A different rule would leave the buyer open to harassment by speculators or crackpots, as well as to unnecessary prolongation of the redemption period, contrary to the policy of the law. While consignation of the tendered price is not always necessary because legal redemption is not made to discharge a pre-existing debt (*Asturias Sugar Central vs. Cane Molasses Co.*, 60 Phil. 253), a valid tender is indispensable, for the reasons already stated. Of course, consignation of the price would remove all controversy as to the redemptioner's ability to pay at the proper time."

This Court further elaborated the point in its ruling on the motion to reconsider in the *Torres* case (16 SCRA, pages 783-784):

"3. Whether or not the petitioners exercised diligence in asserting their willingness to pay is irrelevant. Redemption by the co-owners of the vendor within 30 days is not a matter of intent, but is effectuated only by payment, or valid tender, of the price within said period. How the redemptioners raise the money is immaterial; timeliness and completeness of payment or tender are the things that matter.

"4. The offer of the redemption price is not bona fide where it is shown that the offerer could not have made payment in due time if the offer had been accepted. Note that the co-owner's right to redeem, being granted by law, is binding on the purchaser of the undivided share by operation of law, and the latter's consent or acceptance is not required for the existence of the right of redemption. The only matter to be investigated by the courts, therefore, is the timely exercise of the right, and the only way to exercise it is by a valid payment or tender within the 30 days prefixed by the Civil Code."

That the legal redemptioner is only required to pay a reasonable price is no obstacle to the requirement of tender, as ruled also in the *Torres* case (16 SCRA, page 781):

"It is, likewise, argued that tender of the price is excused because Article 1620 of the new Civil Code allows the redemptioner to pay only a reasonable price if the price of alienation is grossly excessive, and that the reasonableness of the price to be paid can only be determined by the courts. We think that the right of a redemptioner to pay a reasonable price under Article 1620 does not excuse him from the duty to make proper tender of the price that can be honestly deemed reasonable under the circumstances, without prejudice to final arbitration by the courts; nor does it authorize said redemptioner to demand that the vendee accept payment by installments, as petitioners have sought to do. -----."

In our opinion, the foregoing considerations are applicable to redemption (and pre-emption) under sections 11 and 12 of the Land Reform Act. Both under said law and under Article 1620 of the Civil Code, the right of legal redemption must be exercised within specified time limits; and the statutory periods would be rendered meaningless and of easy evasion unless the redemptioner is required to make an actual tender in good faith of what he believed to be the reasonable price of the land sought to be redeemed. The existence of the right of redemption operates to depress the market value of the land until the period expires, and to render that period

indefinite by permitting the tenant to file a suit for redemption, with either party unable to foresee when final judgment will terminate the action, would render nugatory the period of two years fixed by the statute for making the redemption and virtually paralyze any efforts of the landowner to realize the value of his land. No buyer can be expected to acquire it without any certainty as to the amount for which it may be redeemed, so that he can recover at least his investment in case of redemption. In the meantime, the landowner's needs and obligations can not be met. It is doubtful if any such result was intended by the statute, absent clear wording to that effect.

The situation becomes worse when, as shown by the evidence in this case, the redemptioner has no funds and must apply for them to the Land Authority, which, in turn, must depend on the availability of funds from the Land Bank. It then becomes practically certain that the landowner will not be able to realize the value of his property for an indefinite time beyond the two years redemption period.

The appellant herein, like the appellants in the *Torres* case, urge that this Court has ruled that previous tender of the redemption money is not indispensable in *De la Cruz vs. Marcelino*, 84 Phil. 709, and *Torio vs. Del Rosario*, 93 Phil. 800. It was, however, pointed out in the *Torres* decision that in the two cases relied upon by appellant the redemptioners had consigned or deposited in court the redemption price when action was filed, for which reason prior tender was held excused. In the case now before us, there was neither prior tender nor did judicial consignment accompany the filing of the suit. Furthermore, in the cases aforesaid, the Court took into account the brevity of the periods (9 days) allowed by the law operating at the time (Civil Code of 1889); in the case at bar, the statute grants the tenant two years to redeem.

It may be added that unless tender or consignment is made requisite to the valid exercise of the tenant's right to redeem, everytime a redemption is attempted, a case must be filed in court to ascertain the reasonable price. On the other hand, a prior tender by the tenant of the price that he considers reasonable affords an opportunity to avoid litigation, for the landowner may well decide to accept a really reasonable offer, considering that he would thereby save the attorney's fees and the expense of protracted litigation.

Section 74 of the Land Reform Act (Republic Act No. 3844) establishes a "Land Bank of the Philippines" intended "to finance the acquisition by the Government of landed estates for division and resale to small landholders, as well as the purchase of the landholding by the agricultural lessee from the landowner". No expression in this part of the law, however, indicates, or even hints, that the 2-year redemption period will not commence to run until the tenant obtains financing from the Land Bank, or stops the tenant from securing redemption funds from some other source. The considerations expressed in this decision on the confiscatory result of requiring the landowner to wait an indefinite time until the lessee acquires the means for making the redemption militate against construing the statement of purposes for which the Land Bank is created (section 74) as condition precedent to the alienation of a landholding.

WHEREFORE, the appealed order granting the motion to dismiss the complaint is affirmed. No costs.

Concepcion, C.J., Makalintal, Zaldivar, Sanchez, Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

Dizon, J., did not take part.

[1] When the tenant was notified on May 25, 1964 that the landholding was for sale, the same property was already conveyed in favor of the spouses Flaviano Tibay and Angelina Entena.

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