

MARIA BARBOSA, DECEASED, SUBSTITUTED BY HER HEIRS ELENA MANIAGO, ET AL., PLAINTIFFS AND APPELLANTS VS. FRANCISCO S. MALLARI, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-8012. August 30, 1956

Ponente: FELIX, J.

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FELIX, J.:

The property in litigation is a homestead land of an area of 149,259 square meters, more or less, assessed at P4,000. This land was originally patented in the name of Claudio Maniago, late husband of Maria Barbosa and father of the plaintiffs by substitution, as per Homestead Patent No. 16333 under H. A. No. 55411 and registered under Original Certificate of Title No. 294 of the Land Records of the province of Nueva Vizcaya, issued on July 5, 1931 (Exhibit A). After the demise of Claudio Maniago title to this property was transferred to Maria Barbosa and Transfer Certificate of Title No. 649 of the Register of Deeds of Nueva Vizcaya was on February 31, 1935, issued in her name (Exhibit B).

On November 2, 1937, Maria Barbosa executed a deed of sale (Exhibit 1) of this homestead land in favor of Asuncion Agustin, married to Francisco S. Mallari, in consideration of the sum of P2,000 receipt of which was acknowledge. Notwithstanding this acknowledgment, on that same day Francisco Mallari executed a so-called agreement (Exhibit 2), wherein he admitted that he owed Maria Barbosa the sum of P285 as part of the price of the land sold by the latter to his wife, promising to pay said amount in that very month of November, 1937. In this document he further promised to look in her behalf for a parcel of land of an extension not less than .20 hectares located near the road between Santiago and Cordon, within the province of Isabela, at a price not exceeding P200 to be paid from the sum of P285 aforesaid and to help her in securing title for the land to be purchased.

It also appears from the record that in addition to said acknowledgment of debt and promise of help, Francisco Mallari assumed the obligation of Maria Barbosa with the Philippine National Bank in the sum of P600 for which said land was mortgaged (Exhibit 4-A). Aside from these acknowledgment of debt and assumption of obligation Mallari must have given to the plaintiff, at the time of the execution of Exhibit 1, the down payment agreed upon, as otherwise she would not have delivered possession of the property sold to Asuncion Agustin, who on November 9, 1937, secured the issuance in her name of Transfer Certificate of Title No. 2210 (Exhibit H).

It so happened, however, that for the reason to be given later Maria Barbosa did not purchase the land she desired to acquire along the road of Santiago and Cordon, and on April 22, 1941, she instituted the present action in the Court of First Instance of Nueva Vizcaya against the spouses Francisco S. Mallari and Asuncion Agustin alleging in her complaint, which was amended on October 7, 1948, that plaintiff's consent to Exhibit 1 had been obtained by fraud, deceit and insidious machination; that the deed was fictitious and without consideration; that even if said deed of sale were valid, it should nevertheless be rescinded because of the failure of Francisco S. Mallari to comply with his (alleged) obligation to deliver to plaintiff the 20 hectares of land near the road between Santiago

and Cordon that he undertook to give her as part payment for, or in exchange of her property. She, therefore, prayed the court (1) to annul and void the deed of sale Exhibit 1; (2) to restore to plaintiff the ownership and possession of said parcel of land, requiring the Register of Deeds of Nueva Vizcaya, upon payment of the requisite fees therefor, to cancel Transfer Certificate of Title No. 2210 and re-issue Transfer Certificate of Title No. 649 in the name of the plaintiff; (3) to sentence Francisco S. Mallari to pay to plaintiff 600 cavans of palay or their value of P1,500 which plaintiff failed to perceive from her land from 1937 to the date of the filing of the complaint—less the sum of P715 made up of the amount of P115 already paid to the plaintiff, and the sum of P600 that Mallari paid to the; Philippine National Bank on account of the mortgage of said land—plus a further annual sum of 200 cavans of palay or their value of P500 as losses and damage she will suffer from the date of the filing of the complaint until the possession of her land is fully restored to her; (4) to sentence defendants to pay the Agricultural and Industrial Bank the sum of P2,600 for which the land in question was mortgaged by defendants, or in case of failure to do so and the bank forecloses its mortgage over the property, to pay the plaintiff whatever amounts she may be forced to pay to redeem the property or representing whatever losses she may suffer by reason of said foreclosure; and (5) that in case the deed of sale (Exhibit 1) is considered valid, that plaintiff be then sentenced to pay the defendants such sum as may be proved she actually received as purchase price of the homestead land in question but requiring defendants to return the land to her upon receipt of such payment, with costs against defendants.

These spouses timely filed their answer to the complaint and amended complaint and after hearing the Court rendered decision dismissing both plaintiff and complaint and defendants' counterclaim, with costs against the farmer.

According to the trial judge and as contended by defendants, the evidence, showed, among other things, that in the month of July, 1936, Maria Barbosa secured a loan in the sum of P600 from the Agency of the Philippine National Bank at Bayombong, Nueva Vizcaya, mortgaging the land in question (Exhibit D). As the loan had matured she was in need of money to liquidate her debt and save the mortgaged property. So she and her daughters Elena and Angela Maniago went to the house of defendant spouses Francisco S. Mallari and Asuncion Agustin in Aritao, Nueva Vizcaya, where Maria offered to sell said property to them because said Agency of the Philippine National Bank was pressing her for the payment of the loan. Maria and said spouses agreed that Asuncion Agustin would buy, as in fact she bought, the property in question on the following conditions: that the purchase price be P2,000; that on account of this price Asuncion would pay in the act of execution of the deed the sum of P1,115 and assume, in addition, the obligation to pay to the Agency of the Philippine National Bank the capital and interest of plaintiff's mortgage debt and that the buyer would execute a promissory note for the balance in favor of the plaintiff.

On November 2, 1937, Maria Barbosa and her daughter Angela Maniago de Pascual and Francisco S. Mallari went to Bayombong, Nueva Vizcaya, and once there and at the instance of Mallari they passed by the house of Atty. Macario Guevara to whom they explained the nature of the transaction they wanted to execute. This attorney accompanied them to the office of the Assistant Agent of the Philippine National Bank who approved the proposed transaction about the debt of Maria to the Bank which at that time amounted to P665.23. Following the instructions of Atty. Guevara, the parties entrusted to Mr. Hipolito Lasam, the Notary Public of the Agency, the preparation of the deed of sale, giving him all the data and necessary information relative to the same. Mr. Lasam drafted the deed (Exhibit 1), but not without first preparing at the instance of the plaintiff the agreement of the parties (Exhibits 2, 2-A, E and E-1). After all these papers had been prepared the same were translated to the contracting parties and Maria Barbosa forthwith impressed her digital mark at the bottom of Exhibit 1 and Francisco S. Mallari in turn signed the agreements (Exhibits 2, 2-A, E and E-1).

By reason of the execution of the deed of sale (Exhibit 1), Mallari paid the consideration of the sale in this manner: P1,050 in cash, ₱665.23 that the purchaser paid to the Agency of the Philippine National Bank at Bayombong on account of the mortgage debt of Maria Barbosa (Exhibits 4 and 4-A), and executed a promissory note for P285 (Exhibits 2, 2-A, E and E-I) which Mallari bound himself to satisfy within the month of November, 1937, binding himself at the same time to look for a parcel of land of an extension of not less than 20 hectares situated near the road between Santiago and Cordon, in the province of Isabela, to be purchased by Maria Barbosa at a price not exceeding P200 that was to be deducted from the sum of P285 that Mallari owed her.

On November 10, 1937, Maria Barbosa ordered her Son-in-law Enrique Pascual and her daughter Angela Maniago to go to Isabela in company with Mallari in search of the parcel of land they intended to buy. In Santiago, Isabela, they found a homestead, the property of the late Macario Reyes, not very far from the road and offered for sale at the price of P200, which they believed to be suitable and satisfactory for the plaintiff. However, due to a disagreement between the daughters and sons of the plaintiff, their mother told Mallari that she would talk to "him again after her children had come to an 'understanding on the conflict.

On November 15, 1937, Maria Barbosa saw Mallari just to ask him a sum of money and repeated the same story that she would return after her children came to a settlement, but Maria did not return any more until January 28, 1939, and this time it was to collect from him the balance of her credit, but as Mallari was unable to pay her any amount because his wife was in Macabebe, Parapanga, for medical treatment, she left infuriated and presented a complaint before the Provincial Fiscal of Nueva Vizcaya, Mr. Mayo, who called him to his office. There Maria Barbosa stated that she was no longer interested in securing the land in Isabela and wanted only to collect from Mallari her money, as per agreement (Exhibit 2), which Mallari promised to pay. At the instance of the Fiscal the agreement Exhibit 3 was prepared and in virtue thereof Francisco S. Mallari paid Maria Barbosa the sum of P209.26 on March 15, 1939, in the office of the Fiscal, as shown by the statement made by Maria Barbosa at the bottom of Exhibit 3, in the presence of Ernesto Quicia and Macario Guevara. At the same time the Fiscal caused to be written across Exhibit 2 the words "void as it is paid, March 15, 1931".

After the decision of the Court of First Instance was rendered Maria Barbosa died and her children by her deceased husband Claudio Maniago substituted her in this case. They appealed from the decision of the Court of First Instance of Nueva Vizcaya to the Court of Appeals, but this Tribunal certified the case to this Superiority because counsel for the plaintiffs stated in his brief that "after .mature deliberation the plaintiffs decided to raise only questions of law involved in the case, as set out in their assignments of error, (for) they accept and therefore adopt, for purposes of this appeal, the following findings of fact made by the court a quo."

As the facts found by trial judge are not disputed, we will now proceed to discuss the questions of law raised in appellants' brief. They contend that the original complaint filed on April 22, 1941, expressly alleges that the parcel of land herein involved was covered by Transfer Certificate of Title No. 649 in Maria Barbosa's name, which title on its face shows that the said land was surveyed pursuant to section 12 to 22 of Act No. 2874. Therefore, the trial judge erred in holding that the amended complaint —filed on October 7, 1948 which avers facts in amplification of the original complaint, for plaintiffs merely sought thereby to be allowed to redeem the land sold on the ground that it is a homestead patented under Act No. 2874—introduced a new cause of action and, consequently, that His Honor also erred in maintaining that the period of 5 years provided for in Act No. 2874, within which the plaintiff could repurchase the land sold, had expired (errors I and II), because under the allegations of the original complaint and the evidence adduced in support thereof, taken in conjunction with the admission contained in the deed of sale (Exhibit 1), attached to the first amended answer of the defendants dated June 9, 1941, the court was in duty bound to render judgment allowing the plaintiff to redeem the land in question even without the plaintiff amending her complaint (error III).

Section 117 of Act No. 2874, now section 119 of Commonwealth Act No. 141, prescribes the following:

"SEC. 119. 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 a period of five years from the date of the conveyance."

The deed of sale (Exhibit 1) was executed on November 2, 1937, and the original complaint was filed on April 22, 1941, which covers only a period of 3 years, 5 months and 20 days. However, upon going over the averments of said original complaint "we find that the action was not instituted for the purpose of redeeming or repurchasing the property in question under the provisions of said Commonwealth Act No. 141, but to annul said deed of sale (Exhibit 1) on the ground that Maria Barbosa's consent was obtained through fraud, deceit and insidious machinations, or to rescind said contract (Exhibit 1) for failure on the part of the vendee to pay the consideration thereof and, incidentally, for the restoration of ownership and possession of the land to the plaintiff, and for the payment of damages. Such being the aim of the original complaint the Court under no circumstance could on its averments and much less before hearing authorize or provide for the repurchase of the property under the provision of section 119 of Commonwealth Act No. 141, specially when it contained no allegation that plaintiff was in position and ready for the repurchase, and when the amended complaint was filed on October 7, 1948, after liberation, said period of 5 years had already elapsed. Moreover, it is to be noted that the amended complaint, though mentioning that the property in controversy was a "homestead land originally patented in the name of Claudio Maniago for which he was issued Original Certificate of Title No. 294 of the Register of Deeds of Nueva Vizcaya and that plaintiff had the right under the law of redeeming the same within a period of 5 years from the date she sold the property to the defendants', yet in the prayer of said amended complaint there is no request for permission to redeem the land in question under the aforementioned provisions of the law on the matter. For this reason we share in the opinion of the trial judge when he says that the action for the repurchase of a homestead is new and distinct from the one interposed in the original complaint for the annulment of a deed of sale. And it cannot be said that the amendment introduced by the latter complaint came to supplement or amplify the acts alleged in the original complaint. Consequently, the period of prescription, in so far as the new cause of action for repurchase of the homestead, went on running from the date of the execution of Exhibit 1 (November 2, 1937) at least up to the filing of the amended complaint (October 7, 1948), that is, far beyond the period of prescription already stated.

"(j) When a new cause of action is included in an amended complaint, and, at the time such amended complaint is filed, the period of limitation for such cause of action has already expired, is the action barred? Or, does the amendment relate back to the date of the original complaint?

The rule is well established that an amendment to a complaint which introduces a new cause of action is equivalent to a fresh suit upon a new cause of action and the statute of limitation continues to run until the amendment is filed (Ruyman et al. vs. Director of Lands, 34 Phil., 428-429). However, an amendment to a complaint by the addition of a new count which merely supplements and amplifies the facts originally alleged, relates back to date of commencement of the action and is not barred by the statute of limitations, the period of which expires after service of the original complaint but before service of the amendment." (Moran's Rules of Court, Vol. I, p. 384, 1952 ed.)

The original complaint in the case at bar does not state a cause of action with regard to the repurchase of the property under the provisions of the aforementioned section 119 of Commonwealth Act No. 141.

Wherefore, and on the strength of the foregoing considerations, we affirm the decision appealed from, with costs against appellants. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and

Endencia, JJ., concur.

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