

ROGELIO L. MADRIGAL AND GRACIA MADRIGAL PASTORES, PLAINTIFFS-APPELLANTS, VS.SPOUSES MANUEL DE CASTRO AND EVANGELINE QUITAIN, DEFENDANTS-APPELLEES.

Ponente: PERLAS-BERNABE, E., J.

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PERLAS-BERNABE, E., J.:

Before Us is an appeal from the Decision[1] dated April 10, 2002 of the Regional Trial Court (RTC), Branch 39, Calapan City, dismissing the complaint for redemption and consignment, docketed as Civil Case No. R-4486, filed by plaintiffs-appellants against defendants-appellees.

The facts of the case, as succinctly summarized by the court a quo, are as follows:

“The subject matter of this complaint is a portion of the property registered under the names of Luciano Lopez and Felisa Martinez, who had two-thirds share of the said property, and Juan Martinez (married to Consolacion Laguerta), who had one-third share of the same. This property was registered under Original Certificate of Title No. RO-128 (6658). On 18 March 1986, Original Certificate No. RO-128 (6658) was cancelled and Transfer Certificate of Title No. T-32996 for Lot A was issued in favor of defendants Manuel A. De Castro and Evangeline Quitain after they bought the one-third share of Juan Martinez. Transfer of (sic) Certificate of Title No.T-32997 for Lot B, covering the two-thirds share of the whole property was thereafter issued in favor of spouses Luciano Lopez and Felisa Martinez. The said spouses Luciano Lopez and Feisa Martinez died intestate sometime in 1919 and 1921, respectively.

The spouses Luciano Lopez and Felisa Martinez were survived by their children Angel M. Lopez and Remedios Lopez Madrigal. Angel M. Lopez and Remedios Lopez Madrigal also died sometime in 1978 and 1995, respectively. Remedios Lopez Madrigal was survived by the plaintiffs while Angel M. Lopez was survived by her (sic) daughter, Angeline G. Lopez. Hence, plaintiffs, being grandchildren of the spouses Luciano Lopez and Felisa Martinez, and Angeline G. Lopez, are considered by operation of law as co-owners of the subject property.

Thereafter, Elisa Gois (mother of Angeline G. Lopez), the predecessor-in-interest of the defendants petitioned the Court to allow the will of Angel M. Lopez to be probated. Despite the opposition of Remedios Lopez, Rogelio Madrigal and Gracia Madrigal, the will of Angel Lopez was allowed by the Court in Special Proceedings Case No. R-3125 dated 3 October 1983. Subsequently, said allowance of the will of Angel M. Lopez by the Court was affirmed by The Court of Appeals in its Decision dated 29 March 1988.

Sometime later, Elisa Gois, being the administratrix of the estate of Angel M. Lopez, sold a portion of the subject property (half of TCT No. T-32997 which corresponds to the share of Angeline Lopez of the said property) to herein defendant spouses. xxx”[2]

Record shows that, on April 29, 1996, plaintiffs-appellants filed a Complaint[3] for ejectment, docketed as Civil Case No. 1373 before the Municipal Trial Court (MTC), Calapan, Oriental Mindoro, against defendants-appellees claiming that the Spouses Luciano and Felisa Lopez leased the subject property to George Teng, who erected thereon the Mabuhay Bakery; that, upon the death of the Spouses Luciano and Felisa Lopez , the lease was

continued by their children, Remedios Lopez Madrigal and Angel Lopez; that, subsequently, George Teng sublet the facilities of the bakery business to the adjacent Halina Bakery owned by defendants-appellees; that the lease contract expired on December 31, 1995 without being renewed; that, on January 25, 1996, George Teng waived all his rights to the improvements on the subject property in favor of plaintiff-appellant Rogelio L. Madrigal; and that, despite demand, defendants-appellees refused to vacate the property.

In answer[4] to the foregoing, defendants-appellees alleged that they had already acquired the subject property, consisting of 101.5 square meters, from Elisa Gois, in her capacity as executrix of the estate of Angel Lopez, for a total consideration of P300,000.00, pursuant to the “Kasulatan ng Bilihan ng Lupa”[5] executed on July 1, 1989.

Claiming that neither they nor their mother, Remedios Lopez Madrigal, ever received any written notice informing them of the alleged sale and that it was only on May 23, 1996, upon receipt of defendants-appellees’ answer to the ejectment case, that they learned of such sale, plaintiffs-appellants filed the complaint[6] a quo, on June 20, 1996, seeking to exercise their right of redemption under Article 1620 of the Civil Code. On the same day, plaintiffs-appellants deposited to the court Far East Bank & Trust Company Check No. FE-001172 for P300,000.00, as evidenced by Official Receipt[7] No. 9933630.

In refuting the foregoing claim, defendants-appellees averred[8] that, on February 9, 1993, a letter was sent to Mr. and Mrs. Rogelio Madrigal by Atty. Edgardo C. Acheron, counsel for Elisa Gois, informing them of the intention of the latter to sell the subject property in favor of the defendants-appellees. The said letter[9] is reproduced hereunder:

“February 9, 1993

Mr. & Mrs. Rogelio Madrigal
4155 Sampaguita Street
Sun Valley Subdivision
Parañaque, Metro Manila

Dear Mr. & Mrs. Madrigal,

Please take notice that Elisa Gois, in her capacity as testatrix of the will of the deceased Angel Lopez, will sell the latter’s share in Lot No. 236-B, Psd-04-017304 covered by TCT No. T-32997, in favor of the spouses Manuel de Castro and Evangeline Quitain.

In connection with the preparation of the Deed of Absolute Sale and registering the same with the Registry of Deeds, please lend us the owner’s duplicate of TCT No. T-32997 in the name of Luciano Lopez and Felisa Martinez.

Thank you.”

They likewise submitted in evidence a letter[10] dated April 12, 1993 signed by Crisanto S. Cornejo, as counsel for Mr. and Mrs. Rogelio Madrigal, which reads in full as follows:

“Dear Atty. Acheron:

Your February 9, 1993, letter was forwarded by my clients, Mr. and Mrs. Rogelio Madrigal for Reply, requesting for a copy of the TCT T-32997.

As there is no finality in your claim that Elisa Gois ‘as testatrix’ of the will of the deceased Angel Lopez intending to sell his share of the land to spouses Manuel de Castro and Evangeline Quitain, you are admonished and advised NOT to proceed with your plans until FINALITY of the decision. You are cautioned to hold further action as your illegal possession of lands belonging to the Lopez estate is illegal per se, until

ownership is actually vested in favor of your client as we are still questioning before the proper forum your alleged claim of ownership of the estate in favor of Elisa Gois as ‘testatrix’ alleged in your letter.

To simplify issues and avoid court litigations, please wait for the opportune time when we may accede to your request. In the meantime, please refrain from encumbering or alienating the remaining Lopez estate until ownership is finally awarded and adjudicated in favor of your client.”

Defendants-appellees further claimed that, upon the death of the Spouses Luciano and Felisa Lopez, George Teng leased the subject property “from Angel Lopez alone to the exclusion of Remedios Madrigal”, and that it was Elisa Gois who collected the rentals therefrom, upon the death of Angel Lopez;[11] and that, having bought the one-third share from the successors-in-interest of Juan Martinez, they are likewise co-owners of the entire lot, Lot No. 236, originally covered by OCT No. RO-128 (6658) and are legally entitled to acquire the share pertaining to Angeline Lopez.[12]

After trial on the merits, the court a quo rendered judgment dismissing the complaint for redemption and consignment upon a finding that the correspondence between Attorneys Aceron and Cornejo constituted substantial compliance with the notification requirement of the law such that, as early as 1993, plaintiffs-appellants already had constructive notice of the sale. The court considered, however, that plaintiffs-appellants were not yet co-owners during that time, and only became so upon the death of their mother, Remedios Lopez Madrigal, on September 21, 1995. Thus, the court held that plaintiffs-appellants only had thirty (30) days from the said date within which to redeem the property. Since the complaint a quo was filed only on June 20, 1996, the right of plaintiffs-appellants to redeem the property had already prescribed.[13]

Aggrieved, plaintiffs-appellants are now before Us, on appeal, raising the following assignment of errors:

“THE TRIAL COURT ERRED IN HOLDING THAT PLAINTIFF’S RIGHT OF REDEMPTION HAS ALREADY BEEN BARRED BY PRESCRIPTION.

THE TRIAL COURT ERRED IN RULING THAT THE LETTER OF ATTY. ACERON TO MR. AND MRS. MADRIGAL DATED FEBRUARY 9, 1993 CONSTITUTES SUBSTANTIAL COMPLIANCE WITH THE REQUIREMENTS OF ARTICLE 1623 OF THE CIVIL CODE.

EVEN ASSUMING ARGUENDO THAT ATTY. ACERON’S LETTER SUBSTANTIALLY COMPLIED WITH ARTICLE 1623, THE TRIAL COURT ERRED WHEN IT APPLIED THE SAME RULING OF CONSTRUCTIVE NOTICE TO PLAINTIFF-APPELLANT GRACIA MADRIGAL PASTORES WHO WAS NOT ACTUALLY NOTIFIED OF THE SAID LETTER.”[14]

The Court finds merit in the instant appeal.

At the outset, it should be pointed out that defendants-appellees are adjoining owners and not co-owners of the subject property, as they so adamantly insist. It was stipulated during the pre-trial[15] that OCT No. RO-128 (6658) was already cancelled and in its stead, TCT Nos. T-32996 and T-32997 were issued in favor of defendants-appellees and the Spouses Luciano and Felisa Lopez, respectively. The Subdivision Plan[16] submitted by defendants-appellees in evidence clearly shows the segregation of Lot No. 236 and the technical description of the metes and bounds of each portion. Hence, defendants-appellees’ claim that there is as yet no real partition of Lot No. 236 is misleading. The right of redemption of co-owners excludes that of adjoining owners.[17]

Going now into the merits of the instant appeal, plaintiffs-appellants challenge the sufficiency of the letter[18] dated February 9, 1993 to comply with the notification requirement under the law.

Article 1623 of the Civil Code provides that “(t)he right of legal pre-emption or redemption shall not be exercised

except within thirty days from the notice in writing by the prospective vendor, or by the vendor, as the case may be. The deed of sale shall not be recorded in the Registry of Property, unless accompanied by an affidavit of the vendor that he has given written notice thereof to all possible redemptioners.”

The general rule, as reiterated in the case of *Mariano vs. Court of Appeals*[19], cited by the plaintiffs-appellants, is that written notice is indispensable, actual knowledge of the sale acquired in some other manners by the redemptioner notwithstanding. He or she is still entitled to written notice, as exacted by the Code to remove all uncertainty as to the sale, its terms and its validity, and to quiet any doubt that the alienation is not definitive. The law not having provided for any alternative, the method of notification remains exclusive, though the Code does not prescribe any particular form of written notice nor any distinctive method for written notification of redemption.

There are two exceptional cases, however, where the Supreme Court deviated from the strict letter of the law. In *Alonzo vs. Intermediate Appellate Court*[20], the co-heirs lived with the purchasers in the same lot while in *Distrito vs. Court of Appeals*[21], the co-owner was actually present and was even an active intermediary in the consummation of the sale of the property. A written notice, therefore, was held to be no longer necessary under the circumstances.

Guided by the foregoing law and jurisprudence, the Court affirms the dismissal of the complaint a quo with respect to plaintiff-appellant Rogelio L. Madrigal but upholds the exercise by plaintiff-appellant Gracia Madrigal Pastores of her right of redemption.

To countenance the position that plaintiff-appellant Rogelio Madrigal was still entitled to a written notice of the sale upon the death of his mother, Remedios Lopez Madrigal, at which time he became a co-owner of the subject property, would be stretching the law too far. The only purpose of the written notice is to insure that all the co-owners shall be actually notified of the sale and to remove all doubt as to the perfection thereof.[22] While plaintiff-appellant Rogelio Madrigal may not have been technically a co-owner yet in 1993, the undeniable fact remains that he had been actually notified of the sale and he has no real cause to complain. The death of his mother merely perfected his right of redemption. As such, he should have wasted no time in exercising the same. Redemption is, after all, a privilege, subject to restrictions imposed by the law.

However, the correspondence between the counsels for the parties in the instant case, which the trial court held to be substantial compliance of the notification requirement of the law, was addressed[23] only to “Mr. & Mrs. Rogelio Madrigal”. Thus, such notification cannot be fairly extended to serve as notification to his sister, plaintiff-appellant Gracia Madrigal Pastores, in the absence of circumstances that would justify a deviation from the general rule strictly requiring written notice to all possible redemptioners. Hence, plaintiff-appellant Gracia Madrigal Pastores was effectively notified of the questioned sale only on May 23, 1996, the date of receipt of defendants-appellees’ answer in Civil Case No. 1373, from where the 30-day period for redemption should be reckoned. Since the complaint a quo was filed on June 20, 1996, or within 30 days from May 23, 1996, her right to redeem the subject property as co-owner must be upheld.

Defendants-appellees argue[24] that, since Gracia Madrigal Pastores did not sign the verification of the complaint a quo, it could not be said that she opted to exercise her right of redemption.

The argument fails to convince Us.

The policy[25] of the law is to aid rather than defeat the exercise of the right of redemption. The Court cannot, therefore, give premium to technicalities at the sacrifice of a substantive right. As conceded by defendants-appellees, verification is a mere formal, not a jurisdictional requisite.

Moreover, the approval of the sale of the subject property by the probate court in Special Proceeding No. R-3125, as evidenced by the Order[26] dated September 24, 1992, would not constitute sufficient notification under the attendant circumstances. Although plaintiffs-appellants, as well as their mother, Remedios Lopez Madrigal, were oppositors in the said proceeding, and defendants-appellees could have argued that the said Order served all the purposes of a written notice of the sale in a more authentic manner than any other writing could have done, there is no proof whatsoever of the actual receipt of the Order, from which time the 30-day period for the exercise of the right of redemption could be said to have started to run against Remedios Lopez Madrigal. In fact, at the hearing for the presentation of rebuttal evidence held on January 17, 2002, Atty. Thaddeus Venturanza, counsel for plaintiffs-appellants, manifested[27] in open court that his clients never received copies of all the pleadings filed and orders issued in connection with SP No. R-3125. This was never rebutted by defendants-appellees. Counsel for the latter even went as far as to stipulate[28] that the petition for the issuance of certificate of allowance of the will and the petition to sell the subject property were not furnished plaintiffs-appellants nor their counsel.

WHEREFORE, premises considered, the Decision dated April 10, 2002 of the Regional Trial Court, Branch 39, Calapan, Oriental Mindoro is **AFFIRMED** with respect only to plaintiff-appellant Rogelio Madrigal. As to plaintiff-appellant Gracia Madrigal Pastores, let another one be entered allowing her to exercise her right of redemption over the subject property and ordering the defendants-appellees to accept the redemption price of P300,000.00 already consigned in court.

SO ORDERED.

Salazar-Fernando, Chairman, and Abdulwahid, JJ., concur.

[1] Records, pp. 205-217.

[2] Records, pp. 205-206.

[3] Records, pp. 9-13.

[4] Records, pp. 17-20.

[5] Records, pp. 92-93.

[6] Records, pp. 1-6.

[7] Exhibit "F", Records, p. 95.

[8] Answer, Records, p. 33.

[9] Records, p. 192.

[10] Records, p. 38.

[11] Records, p. 31.

[12] Records, p. 32.

[13] Records, pp. 215-216.

[14] Rollo, pp. 27-28

[15] Pre-trial Order, Records, p. 52.

[16] Exhibit 3, Records, p. 160.

[17] Article 1623, Civil Code.

[18] Exhibit 14, Records, p. 192.

[19] 222 SCRA 736, 743-744.

[20] 150 SCRA 259, 262-263.

[21] 197 SCRA 606, 610.

[22] Ibid.

[23] Exhibit 14, Records, p. 192.

[24] Appellees' Brief, Rollo, pp. 62-63.

[25] Cometa vs. Court of Appeals, 351 SCRA 294, 310.

[26] Exhibit 7, Records, pp. 183-184.

[27] TSN, January 17, 2002, p. 4.

[28] Ibid, p. 3.

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