

PACIENCIA ANTEOJO, NESTOR VASQUEZ, ANTONIO VASQUEZ, AND JOSEFA VASQUEZ, PETITIONERS, VS. THE COURT OF APPEALS (SECOND DIVISION), ROSA VILLA, PAZ NAZARENO, EUSEBIO NAZARENO, AND ...

G.R. No. L-2306. October 14, 1950

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is a petition for the review of a decision of the Court of Appeals, second division, which reversed the decision of the Court of First Instance of Cavite and dismissed the complaint filed in the latter court.

As regards the status of the land in dispute, lot No. 1983 of the Maic Estate, the Court of Appeals found that in 1911, plaintiff Paciencia Anteojo and her now deceased husband Simplicio Vasquez bought from the Bureau of Lands said lot on the installment plan. Upon payment of the last installment, the corresponding sale certificate was issued in 1928 in favor of Paciencia Anteojo presumably because Simplicio was already dead. The Court of Appeals found further that the lot belonged to the conjugal partnership, it having been acquired for a valuable consideration during the marriage and at the expense of the common fund. Under the law, we have to accept these findings of the Court of Appeals.

On May 29, 1931, Paciencia sold the lot to the spouses Elias Nazareno and Rosa Villa for the sum of P3,000, as evidenced by the deed, Exhibit 7. The sale was approved by the Director of Lands. On the same date of Exhibit 7, the vendees executed an instrument (Exhibit A) wherein they stated that they accepted the sale in their favor; that they knew that Paciencia, the vendor, was acting only in representation of her children, and they expressed their readiness and willingness to return said lot to Paciencia and to her children when the latter reached the age of majority, upon return to them (vendees) of the sum of P3,000.

On August 1, 1944, Paciencia and her three children Nestor, Josefa and Antonio, commenced the present suit in the Court of First Instance of Cavite against Rosa Villa and her children to recover the said lot No. 1983, including the products of the land at the rate of 100 cavans of palay net a year. The trial court regarded the Tab as the exclusive property of Paciencia's children, perhaps because of the statements of the vendees in Exhibit A that in the sale of the lot to them, Paciencia was only acting in representation of her children. The trial court equally considered the suit as one to compel the defendants to comply with their undertaking to return the land when the children of Paciencia attained majority, and not an action to enforce a repurchase of the lot under a theory of sale with pacto de retro. Judgment was rendered ordering defendants to return the lot to the plaintiffs upon payment by the latter of P3,000, and also to deliver to the plaintiffs 60 cavans of palay net for every agricultural year since August, 1944 or its equivalent in money at the rate of P25 a cavan.

On appeal by the defendants to the Court of Appeals, said court as already stated, found and ruled that that lot No. 1983 was conjugal property. It also found and held that the contract evidenced by exhibits A and 7 was one of sale with right of repurchase whose maximum period under Art. 1508 of the Civil Code cannot exceed 10 years; that

said period expired on May 29, 1941; that altho in 1931 Paciencia could dispose of only her one-half share in the said conjugal property because the other half belonged to her children, said children by bringing the present action at a time when they were already of age, ratified said transaction, and that they may not now question the validity of the same, this, aside from the fact that the validity of said sale was not raised in the trial court. Said appellate court also held that altho in May, 1941 when the maximum period of repurchase expired, two of the children of Paciencia were still minors, the saving clause contained in Section 42 of the Code of Civil Procedure, giving minors or persons under disability three years after said disability is removed within which to present action, does not favor the other child because said child under no disability is a mere co-owner and not a joint tenant; and that even the two children who were minors when the period for repurchase expired, are not protected for the reason that the statute of limitations being remedial in nature, is not applicable to the period of redemption in the case of sale with pacto de retro, and that besides this, the provisions of Art. 1932 of the Civil Code of prescription operate on all persons, including minors.

Dissatisfied with the decision of the Court of Appeals, plaintiffs have filed the present petition for review, making the following assignment of errors;

I

"The respondent Court of Appeals (second division) committed an error of law in not declaring, on the basis of its own statement of facts, the contract marked Exhibit 7 as null and void.

II

"The respondent Court of Appeals (second division) erred in holding that the validity of the sale of the land in question was not raised in the court a quo, and that it could not consequently determine the said question.

III

"The respondent Court of Appeals (second division) committed an error of law in holding that the period of prescription established in article 1508 of the Civil Code may run against a minor who has no legal guardian.

IV

"The respondent Court of Appeals (second division) committed an error of law in not holding that the right of action of petitioners Josefa Vasquez and Antonio Vasquez inures to the benefit of their other co-petitioners."

Under the view we take of the case, we find it unnecessary to discuss the last two errors assigned. It is clear that in 1931, Paciencia could validly dispose of only one-half of the lot in question as her share in said conjugal property. The deed of sale, Exhibit 7, was therefore invalid as regards the other half of the lot.

We do not agree to the theory of the Court of Appeals that by bringing the present suit the children of Paciencia ratified the sale. That is too technical and strict a view of the implication of bringing the action. We are more inclined to agree with the trial court that the purpose of plaintiffs in bringing the action was not to redeem the land but rather to compel the vendees-defendants not only to comply with their undertaking to reconvey the property when they (the children) became of age, but also to return what belonged to them but which had invalidly and unjustly been disposed of by their mother. This view of the case is reinforced by the fact that in their complaint, plaintiffs asked the court to order the defendants to return the lot to them and they (plaintiffs) did not offer to return the P3,000 sales price.

With regard to the holding of the Court of Appeals that the question of the validity of the deed of sale was not raised in the trial court, we also disagree. It is true that in their complaint plaintiffs made mention of the deed of sale (Exhibit 7) whereby Paciencia sold the entire lot, and in the fifth paragraph thereof, said plaintiffs even stated

that one year before filing the complaint they tried to repurchase the lot and recover its possession by offering the sales price. They did not, however, say that they agreed to the sale or ratified the act of their mother, and notwithstanding their efforts to repurchase the land in 1943, as already stated when they brought the action in 1944, the plaintiffs no longer wanted to repurchase the lot but merely-sought to get it back even without returning the sales price. Their attitude and stand when they brought the action that they did not agree to the sale made by their mother and that they had a right that they were trying to enforce to get the lot back, can be gathered from their pleading without difficulty. In the prayer of their complaint, plaintiffs asked that defendants be ordered to return the lot, and not to resell it, to them. Their theory was that they were not relying on the validity of the sale and merely seeking compliance with the promise to resell, but they were attacking the validity of the transaction and wanted to get their property back. Besides, as counsel for the petitioners rightly contends, the very defendants in their amended answer indirectly raised the question of validity of the sale when they claimed that the children of Paciencia had confirmed the sale and assignment made by their mother, and alleged in paragraph 5 of their affirmative and special defenses that the plaintiffs were forever estopped from questioning the validity of the sale and assignment made by Paciencia, This can only mean that said plaintiffs were trying to question the validity of the sale under Exhibit 7. We believe that the question of the validity of the sale made by Paciencia was raised in the trial court.

In conclusion, we find and hold that altho Paciencia Anteojo could and did sell under pacto de retro one-half of lot No. 1983 which belonged to her, and that she failed to repurchase said portion within the period fixed by law, the sale with respect to the other half which belonged to her children was invalid, and that furthermore, in bringing the present action, said children did not ratify the illegal sale made by their mother.

The defendants are hereby ordered to return and deliver to the plaintiffs one half (1/2) of lot No. 1983. Paciencia Anteojo on her part will pay to said defendants the sum of P1,500. The defendants will also deliver to the plaintiffs 30 cavans of palay net or its equivalent in the sum of P25 per cavan, yearly, as found and ordered by the trial court, from August, 1944 until the year 1946. This Court understands that the price of palay after 1946 had substantially decreased and we find that an average price of P16 per cavan of palay beginning with 1947 up to 1950 would be fair.

As above modified, the decision of the Court of Appeals is hereby affirmed. No pronouncement as to costs..

Moran, C.J., Ozaeta, Paras, Feria, Bengzon, and Tuason, JJ., concur.

PABLO, M., Concurrente y disidente:

Estoy conforme con la conclusión legal de que el lote era de la propiedad ganancial de Simplicio Vazquez y Paciencia Anteojo. Por ministerio de la ley de sucesión, al fallecimiento del primero, la mitad del lote pertenece ya a Paciencia y la otra mitad a sus hijos Nestor, Josefa y Antonio Vazquez.

Paciencia no podía legalmente vender todo el lote solo podía disponer de la mitad que le pertenece y su usufructo viudal. Pero no existe el menor indicio de que lo haya dispuesto a favor de los demandados.

Los hermanos Nestor, Josefa y Antonio tienen derecho de reivindicar su participación de cualquiera, y los demandados deben entregarles inmediatamente, pues la venta hecha a su favor es absolutamente nula. Y la entrega no debe depender del pago que hiciera Paciencia de la cantidad de P1,500, como así dispone la decisión. Si, por algún motivo, no estuviese en condiciones ella de hacer el pago, los hermanos Vazquez serían privados de la posesión de la mitad del lote. Creo que eso es injusto. Por esta razón, no estoy conforme con la parte dispositiva de la decisión.

En mi opinion, debe ordenarse la inmediata entrega por los demandados de la mitad del lote a los liermanos Nestor, Josefa y Antonio, sin condici6n alguna, y que se condene a Paciencia Anteojo a restituir a los demandados la suma de P1,500.

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