

**QUIRICO L. SATURNINO, PETITIONER, VS. FELIZA LUZ PAULINO, MAXIMO DALEJA, JUANA LUCAS, NEMESIO LUCAS, DONATA GUILLERMO, AND COURT OF APPEALS, RESPONDENTS.***G.R. No. L-7385. May 19, 1955*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/48863d786bf3/>**CONCEPCION, J:**

This is an appeal by certiorari from a decision of the Court of Appeals. The pertinent facts are:

Upon the death of Jaime Luz Paulino, on February 10, 1937, he was survived by his children—Timoteo Esteban, Macario and Feliza, all surnamed Luz Paulino- and a grandson-Quirico L. Saturnino, son of his deceased daughter Antonia Luz Paulino. Among the properties left by Jaime Luz Paulino is a house and lot, situated in Barrio No. 13, municipality of Laoag, province of Ilocos Norte, and more particularly known as Lot No. 11366 of the Laoag Cadastre. On October 22, 1945, his daughter Feliza Luz Paulino executed a deed of absolute sale of said property in favor of the spouses Maximo Daleja and Juana Lucas and Nemesio Lucas and Donata Guillermo, for the aggregate sum of P1,200.00. In the language of the decision of the Court of Appeals.

"As said sale was made without the knowledge or consent of Quirico L. Saturnino who, according to him, learned of it in the early morning of October 23, 1945 (Exhs. B and I), and being desirous of exercising his right of subrogation as co-heir of the vendor, on October 23, 1945, and again on the 29th of that month, in the presence and with the assistance of his lawyer, offered verbally and in writing to the vendees to return then and there to them, in actual cash, 4/5 of the purchase price of said property, together with the expenses incurred by them in the preparation of the document, and tendered to them in their respective houses in Laoag, Ilocos Norte, written copies of the offer and the money in actual cash, Philippine currency, but defendants Juana Lucas and Donata Guillermo, for themselves and in representation of their respective husbands who were absent, refused acceptance thereof. For this reason on the following day, October 30, 1945, Quirico L. Saturnino instituted this action in the Court of First Instance of Ilocos Norte against the defendants mentioned in the caption hereof, depositing with the Clerk of said Court the sum of P960, Philippine currency, for delivery to the defendant vendees by way of reimbursement, together with the amount of P50 Philippine currency, to cover the expenses incurred in the preparation of the deed of sale, and stating that he was ready and willing to deposit other additional sums that the court may deem just and necessary. On these averments plaintiff prayed in the complaint that judgment be rendered in his favor and against the defendants:

"a. Declaring the sale made by defendant Feliza Luz Paulino to her co-defendants illegal with respect to one-fifth of the lot and to declare said one-fifth undivided share of the plaintiff;

"b. To order the defendants Maximo Daleja, Juana Lucas, Nemesio Lucas and Donato Guillermo to accept and receive from the clerk of court the sum of P690 corresponding to the reimbursement of the price paid by them for four-fifths (%) of the lot which their co-defendant Feliza Luz Paulino could legally convey; and the additional sum of P50 to cover their expenses in the preparation of the deed of sale;

"c. Ordering the defendants Maximo Dalaja, Juana Lucas, Nemesio Lucas and Donata Guillermo to execute a deed of reconveyance of what they could legally buy from their co-defendant Feliza Luz Paulino of the lot in question, in favor of the herein plaintiff; and

"d. Ordering the aforesaid defendants to pay damages in the sum of P1,000 annually to plaintiff until the reconveyance is effected, and an additional sum of P1,000 as damages to be paid by all of the defendants for their malicious acts, and the costs of suit.

"For such other remedies and relief just and equitable in the premises.

"On November 14, 1945, defendants answered the complaint with counterclaim, which was amended on December 12 of the same year, wherein it is alleged, among other things, that on April 25, 1937, at the municipality of Laoag, province of Ilocos Norte, all their inheritance from the deceased Jaime Luz Paulino had been divided in accordance with Section 596 of the Code of Civil Procedure and the last verbal wish of the decedent before his death, giving the residential lot in question together with the house of strong materials constructed thereon to Feliza Luz Paulino as her exclusive and only share, and leaving her brothers, Timoteo, Esteban and Macario, and their nephew Quirico Saturnino to divide all the agricultural lands among themselves, which division was duly effected. Defendants Maximo Daleja, Juana Lucas, Nemesio Lucas and Donata Guillermo allege that they are engaged in business and purposely bought said lot to erect thereon a 'camarin' for a rice mill and for use as a warehouse of rice, 'bagoong', coconuts and other articles of commerce and to deposit logs and lumber, and that because of their inability to realize this plan due to the action of the plaintiff, they will suffer damages in the sum of P3,000 yearly until this case is terminated. Wherefore all the defendants pray the court:

"1. To dismiss the complaint;

"2. To declare Feliza Luz Paulino as the exclusive owner of the whole lot in question;

"3. To declare the sale made by Feliza Luz Paulino of the whole lot in question to her co-defendants valid and in full force and effect;

"4. To order the plaintiff to pay three thousand pesos (P3,000) annually until this case is terminated and the further sum of one thousand pesos (P1,000) for the malicious acts of the plaintiff and the costs of this suit; and

"5. Any other relief just and equitable." (Roll, pp. 17-20)

This case was docketed as Civil Case No. 23 of the Court of First Instance of Ilocos Norte.

Meanwhile, or on November 19, 1945, Quirino L. Saturnino had filed, with said court, a petition, which was docketed as Special Proceeding Case No. 37, for the probate of the will and testament of Jaime Luz Paulino. Although, at first, all of the other heirs objected to said petition, on June 30, 1949, they eventually withdrew their opposition thereto, and the probate of the will was allowed by an order dated July 6, 1949. Said will provided that the property in dispute in Case No. 23, be distributed, share and share alike among the heirs of the testator.

On or about March 10, 1950, the defendant in said Case No. 23—respondents herein—filed a supplemental answer alleging that plaintiff—petitioner herein—has no legal capacity to sue, because the property in litigation -therein is part of the estate which is the subject matter of Case No. 37, in which an administrator was appointed but no adjudication had, as yet, been made. In due course, a decision was rendered in Case No. 23, on December 2, 1950, the dispositive part of which reads as follows:

"For all the foregoing considerations, the Court renders judgment declaring the sale made by the defendant Feliza Luz Paulino to her co-defendants null and void with respect to one-fifth (1/5) of the lot in question and the plaintiff is declared owner thereof as his undivided share; that the defendants are ordered to receive from the Clerk of Court the sum of P960 corresponding to the reimbursement of the price paid by them for four-fifths (4/5) of the lot in question which their co-defendant Feliza Luz Paulino could legally convey to them, and to execute a deed of reconveyance in favor of the plaintiff." (Roll, pp. 20-21).

On appeal from this decision, the defendants contended in the Court of Appeals, that the lower court had erred:

"1. In not dismissing the complaint in so far as the recovery of one fifth undivided interest in the lot in question is concerned;

"2. In not finding that there was an agreement between the defendant Feliza Luz Paulino on one hand and Esteban, Timoteo and Macario Luz Paulino on the other by virtue of which the house and lot in question were given and delivered to Feliza Luz Paulino;

"3. In not finding that the plaintiff-appellee fully confirmed the above mentioned agreement;

"4. In not upholding the validity of said agreement duly confirmed by the plaintiff-appellee and in not giving its effects and efficacy; \*

"5. In declaring the sale of the lot in question invalid with respect to one-fifth share of the appellee;

"6. In holding that there exists co-ownership in the lot between the appellee and appellants-purchasers; and

"7. In ordering the appellants-purchasers to let redemption prayed for by the appellee." (Roll p. 21).

None of these questions was, however, decided by the Court of Appeals, which found it necessary to pass instead, upon what it regarded a "prejudicial question." Said the Court of Appeals:

"Before delving into the merits of the appeal, we have first to pass upon a prejudicial question. There is no dispute in this case that the properties left by the late Jaime Luz Paulino are in custodia legis, for they are subject to testate proceedings in said Civil Case No. 37 which is still pending in the Court of First Instance of Ilocos Norte. Although the will of the testator has been allowed, no settlement of accounts has been effected, no partition of the properties left by the decedent has been made, and the heirs have not legally received or been adjudicated or assigned any particular piece of the mass of their inheritance. This being the case, and pending such partition, adjudication or assignment to the heirs of the residue of the estate of the testator Jaime Luz Paulino, none of his heirs can properly allege or claim to have inherited any portion of said residue, if there be any, because his or her right of inheritance remains to be in the nature of hope. Consequently, neither Feliza Luz Paulino, nor any of her coheirs} can legally represent the estate of the decedent, or dispose as his or hers of the property involved in this case, included as item No. 20 of the inventory (Exh. 4), or institute any case in court to demand any part of such estate as his own, or claim any right of legal redemption as coheir in the sale of any piece of the mass of the inheritance that may have been disposed of by any of the heirs. In the case at bar, even if it were true that by agreement of the heirs the property involved herein had been assigned to Feliza Luz Paulino as her share, that agreement and subsequent sale are of no legal effect without the sanction or approval of the court before which Civil Case No. 37 is pending.

"The foregoing conclusion relieves Us from considering the other points raised in the present controversy.

"Wherefore, the decision appealed from is hereby reversed and the complaint dismissed, without pronouncement as to costs.

"It is so ordered." (Roll, pp. 21-23.)

The present petition for review by certiorari filed by Quirico L. Saturnino, is directed against this decision of the Court of Appeals. It is clear, to our mind, that said petition must be granted. Pending "partition, adjudication or assignment to the heirs" of a deceased testator, their "right of inheritance" is not merely "in the nature of hope," for—pursuant to Article 657 of the Civil Code of Spain, which was in force in the Philippines at the time of the death of Jaime Luz Paulino—"the rights to the succession of a person are transmitted from the moment of his death" and the heirs—pursuant to Article 661 of the same Code—"succeed to the deceased in all his rights and obligations by the mere fact of his death." In other words, the person concerned is an heir and he may exercise his rights as such, from the very moment of the death of the decedent. One of those rights is that of redemption under Article 1067 of the aforesaid code (Article 1088 of the Civil Code of the Philippines). What is more, this right of

redemption may be exercised only before partition, for said provision declares explicitly:

"If either of the heirs should sell his hereditary rights- to a stranger before the partition, any or all of his co-heirs may be subrogated to the rights of the purchaser by reimbursing him for the purchase price, provided it be done within the period of one month, to be counted from the time they were informed thereof." (Italics supplied.)

With reference to the adjudication, which the Court of Appeals seemingly considers essential to the enjoyment of the right of redemption among co-heirs, it should be noted that a property may be adjudicated either to one heir only or to several heirs pro-indiviso. In the first case, the adjudication partakes, at the same time, of the nature of a partition. Hence, if the property is sold by the heir to whom it was adjudicated, the other heirs are not entitled to redeem the property, for, as regards, the same, they are neither co-heirs nor co-owners. In the second case, the heirs to whom the property was adjudicated pro-indiviso are, thereafter, no longer co-heirs, but merely co-owners. Consequently, neither may assert the right of redemption conferred to co-heirs although, in proper cases, they may redeem as co-owners, under Article 1522 of the Civil Code of Spain (Article 1620, Civil Code of the Philippines). Hence, commenting on said Article 1067, Manresa says:

"La venta del derecho hereditario ha de hacerse antes de que se practique la partition. Esto es evidente, porque despues al derecho hereditario en abstracto sustituyen las cosas o derechos determinados comprendidos en la respectiva adjudication, cesa la comunidad en la herencia, y podra proceder otro retracto, mas no el retracto especial a que el art. 1067 se refiere." (7 Manresa [6th ed. Revised] p. 719.)

Again, the house and lot involved in the case at bar are not in custodia legis. Said property was sold by Feliza Luz Paulino to Maximo Daleja, Juana Lucas, Nemesio Lucas and Donata Guillermo on October 22, 1945, or almost a month before Special Proceeding Case No. 37 was instituted (November 19, 1945). At that time, the buyers of said property were in possession thereof. They still held it when the judicial administrator was appointed in Case No. 37, and this must have taken place after the probate of the will on July 6, 1949 (Rule 78, section 4, Rule 79, sections 4 and 6, and Rule 80, section 5, Rules of Court). Up to the present, said buyers remain in possession of the property in litigation. Neither the court, taking cognizance of Case No. 37, nor the judicial administrator therein appointed, has even tried to divest them of said possession. In fact, if they were as they are—unwilling to yield it and the administrator wished to take the property under his custody, it would be necessary for him to institute a separate civil action therefor.

In view of the foregoing<sup>1</sup>, and considering that the Court of Appeals has not passed upon the issues raised therein by respondents herein and that the decision of said court does not state the facts essential to the determination of those issues, said decision is hereby reversed, and let the records of this case be remanded to the Court of Appeals for further proceedings, 'not inconsistent with this decision. Respondents, except the Court of Appeals, shall pay the costs of this instance. It is so ordered.

Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, and Reyes, J.B.L., JJ., concur.

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