

**GUILLERMO P. VILLASOR, PLAINTIFF AND APPELLANT, VS.
RODOLFO A. MEDEL, MARIANO MEDALLA, MILAGROS C. ARANETA,
REPRESENTED BY HER LEGAL GUARDIAN, LORENZO L. ARANETA
AND JOSE L. JUS...**

C. A. No. L-8677. September 29, 1948

Ponente: TUASON, J.

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TUASON, J.:

This was an action of legal redemption brought under Articles 1521 and 1522 of the Civil Code. In so far as they are pertinent to this appeal, the facts may be condensed as follows: A large tract of land situated in the municipality of Bacolod, Negros Occidental, and covered by several certificates of title, formerly belonged as conjugal property to Guillermo Villasor and Basilisa Camento, man and wife Guillermo Villasor died on September 21, 1914, leaving as universal heirs his widow and five children. One of the children died intestate while a minor and her share of the land passed to her mother, Basilisa Camento

On July 15, 1921, Basilisa Camento, as judicial administratrix of her deceased husband's estate, submitted to the court a project of partition, whereby undivided part of the estate was allotted to her four surviving children and 6/10 to herself. That partition was approved in due course.

On April 16, 1926, Basilisa Camento executed a deed of donation intervivos by which she gave all her 6/10 undivided share to her grandchildren in equal undivided shares. One of her grandchildren was Guillermo P. Villasor, the present plaintiff, who, by virtue of the donation, became the owner of 3/20 undivided part of the estate. The donation was duly accepted by the legal guardian of the minors, Jose C. Villasor, duly appointed by the court, but it was not registered until December 2, 1936.

Meanwhile, on July 1, 1931 Jose C. Villasor, as guardian and in behalf of three grandchildren of Basilisa Camento named Remedios, Luis and Lilia Jurilla, and with the necessary permission of the court, sold their shares to Mariano Medalla, appellee. The sale included the share of Resurreccion Villasor, one of the daughters of the original owners and the mother of the three minors just mentioned and represented by Jose C. Villasor and both Resurreccion Villasor and her husband, Felipe Jurilla, signed the deed of sale with their children's legal guardian. The total sale price was P22,000.00, of which P12,000.00 pertained to the three minors shares, according to the plaintiff's computation.

On March 11, 1939, the plaintiff, who had reached majority on the 6th of that month, "through his attorneys addressed a registered special delivery letter to Mariano Medalla, formally offering him the amount of P12,000.00 for the repurchase" of the shares of the three minors surnamed Jurilla, but he made no offer for Resurreccion Villasor's share. Rodolfo A. Medel, Milagros C. Araneta and Jose J. Justiniani bought the shares of other co-owners of the tract. Refusing at first to sell to the plaintiff, they were made defendants with Medalla in the same case under separate causes of action, but the suit as to them was settled in some form or other before trial or appeal.

Mariano Medalla, by way of special defenses, alleged that by virtue of a final project of partition filed and approved by the court in Case No. 7612 on August 10, 1939, (after the present suit was instituted but before it was tried), the portions of the estate now known as lots Nos. 832, 833, 834 and 836, had been segregated and adjudicated to him (Medalla); (2) that the complaint did not state facts sufficient to constitute a cause of action; and (3) that the plaintiff at the time of the sale of those portions to Mariano Medalla on July 1, 1931, was not yet a co-owner of the hacienda, having become such only on December 2, 1936, when for the first time he appeared as one of its registered owners. Medalla maintained that the plaintiff became a co-owner, not from the date of the donation but from the date of its registration. Under the third special defense, it was also alleged that Medalla, since July 1, 1931 had made important improvements on the portions of the hacienda purchased by him and had, through his labor, efforts and sacrifices, obtained for those portions a valuable sugar production quota for all of which he had spent considerable sums of money.

The trial court overruled the above defenses except the second, which it sustained. Under the second special defense, it was contended that the plaintiff's right of redemption, if ever he had had any, had expired. The defendant and appellee, not satisfied with the lower court's rejection of his other defenses, reiterates them in this instance and urges that they be considered, to which the appellant objects. Without passing on the legal validity of the appellant's objection, we shall take up only the question on which the court below dismissed the suit. From our view of the case it is unnecessary to touch on the other issues formulated by the appellee.

Article 1524 of the Civil Code reads:

"The right of legal redemption may not be exercised except within nine days, counted from the inscription in the Registry, and, in the absence thereof, from the time the redemptioner shall have had knowledge of the sale.

"The right of redemption of co-owners excludes that of adjacent owners."

The provision of this article (which fixes the period of nine days within which the right of legal redemption may be exercised has not been repealed or modified by the Code of Civil Procedure or the Rules of Court. The right of legal redemption and the right to commence actions are entirely of different nature. The first is a substantive right which, in the absence of the article, would never exist? the second restricts the period in which the cause of action may be asserted (*Sempio vs. Del Rosario*, 44 Phil., 1.)

There are other notable dissimilarities between legal redemption and legal action which challenge any attempt to bring the former within the rule of the statute of limitations which suspends the running of the period of prescription during minority. An action is addressed to a court of justice; legal redemption partakes of a rescission of contract and is addressed to one of the contracting parties by the other. An action may be brought only by persons not working under any disability; legal redemption may, we believe, be exercised by a minor of sufficient discretion; at any rate, his natural guardian or whoever has the minor in his custody may validly make the repurchase in his behalf, (*Guinto vs. Lim Bonfing etc.*, 48 Phil. 884, 887.) An action seeks to assert a fundamental, primary right of which the plaintiff has been unlawfully deprived, or to redress a wrong which has been inflicted; legal redemption is in the nature of a mere privilege created by law partly for reasons of public policy and partly for the benefit and convenience of the redemptioner, to afford him a way out of what might be a disagreeable or inconvenient association into which he has been thrust.) (*10 Manresa*, 4th ed., 317.)

The law in prescribing certain contingencies as the starting point from which the nine-day period should be counted, is to be presumed to exclude all others. *Exclusio unius est exclusio alterius*. The starting point; is registration or, in the absence of registration, knowledge of the conveyance by the co-owners. It is logical to assume that if minority had been contemplated, the law would have so expressly stated.) This is specially true in a code which, unlike an ordinary statute, is framed with meticulous care and thorough reflection. The role of minors

in cases of legal redemption is too conspicuous and perceptible to have been overlooked in the framing of article 1524. The onerous position of the purchaser and considerations of public interest, we believe, forbade liberality as to time in favor of redemptioners; hence the limitation of the causes of extension to those factors (actual or constructive notice) without which the exercise of the right of redemption would not be possible. The shortness of the period fixed in the above article is itself a safe index, in our opinion, of its peremptoriness and inflexibility.

The policy of the law with regard to the period of conventional redemption (*pacto de retro*) furnishes the key to the scope of Article 1524 with reference to the period for legal redemption. It is to be noted that legal redemption and conventional redemption are of the same nature. The provisions governing both are to be found in the same Chapter VI entitled "Resolution of the Sale"; the same Title IV entitled "Contract of Purchase or Sale"; and the same Book entitled "Obligations and Contracts," all of the Civil Code. It is also to be noted that the law fixes the duration of conventional redemption at four years, in default of an express agreement, and at ten years the maximum period beyond which the parties themselves may not agree. (Article 1508.) Now, it would hardly be contended that a period of grace might be claimed by a vendor with the right of repurchase or his successor by reason of mental disability or non-age. Commenting on Article 1507 and 1509 of the Code, Manresa says:

"Ante todo, debemos notar que la cuestion del plazo, durante el cual puede ejercitarse el derecho de retracto, esta undnimente considerada como una cuestion de interes publico. Ya Portalis observaba que no convenia a la propiedad el estar por mucho tiempo sujeta a condiciones resolutorias de esta indole. Por esta raztion, el sentido delCodigo es restrictivo y llimitativo, debiendo resolverse con este criterio, en nuestra opinion, las dudas que puedan ocurrir, pues tal criterio es, sin duda, el que mejor concuerda con el espiritu de la ley." (10 Man, 2nd ed., p. 302.)

Reasoning by analogy, the conclusion must be that the period of nine days within which the right of legal redemption may be taken advantage of, counted from the date of registration or, in the absence of registration, from the date the redemptioner acquired knowledge of the sale, is absolute. In fact, there is much stronger reason against relaxing the period in favor of a legal redemptioner than in favor of a vendor with *pacto de retro*. In the latter transaction, there is a contractual relation founded on valuable consideration, a contract by which the party from whom the repurchase is sought has been benefited. The right of legal redemption is a pure creature of the law, regulated by law, and works only one way in favor of the redemptioner. Not having parted with anything, the legal redemptioner can compel the purchaser to sell but can not be compelled to buy.)

We do not believe that the framers of the Civil Code ever intended to countenance a situation so unjust to one of the parties and prejudicial to social interest. The construction of Article 1524 which the plaintiff offers would keep the property in a state of indivision even if one of the co-owners wanted to separate. This is contrary to the express policy of the law that "No co-owner shall be obliged to remain a party to the community, but each may, at any time, demand partition of the thing held in common." (Article 400, Civil Code.) It would be extremely unfair to the purchaser and injurious to the public welfare to keep in state of suspense, for possibly as long as 20 years' or more, what his co-owner might do when he becomes of age. While the uncertainty continued the purchaser could not make any improvement on the property without running the risk of losing his investments and the fruits of his labor.

The case of *Wenceslao et al. vs. Calimo*, Phil. 906, is *obiter dictum* in so far as it insinuates or states that the period fixed in article 1524 does not run against minors. But even if that decision had value as a precedent, it could not serve as a pattern upon which to base judgment for the plaintiff here. The dictum stressed the fact that the minors in that case had no legal guardian. The present appellant not only had such a guardian but it was this very guardian, Jose C. Villasor, who, as guardian of plaintiff's cousins and former co-owners, sold the lots in question to the defendant-appellee. This guardian not only could have repurchased those lots for the plaintiff within nine

days but could have sold them, with the court's authority, directly to the plaintiff himself instead of to Medalla.

This brings home more eloquently than anything else can illustrate the injustice which a prolonged period .for legal redemption would entail. Here, the plaintiff would repurchase the lots nine years after the defendant bought them, during which years, the latter claims, he has improved the property. To the argument such as that advanced, that a purchaser does not have to improve the property and need only reap its fruits, the answer is that not all lands are in a condition of full productivity when purchased. Some require investments of capital and toil to bring them into a state of usefulness.

The judgment of the lower court is affirmed with costs against the appellant.

Moran, C.J., Paras, Feria, Pablo, Perfecto, and Bengzon, JJ., concur.

BRIONES, M., conforme:

Convengo en la ponencia por el fundamento de que teniendo los menores tutor legal cuando nacio el derecho de retracto bajo el articulo 1524 delCodigo Civil, el plazo de nueva

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