

**ELISEO DE LA CRUZ, MATIAS DE LA CRUZ, JOSE DE LA CRUZ AND
FELICIDAD DE LA CRUZ, PLAINTIFFS AND APPELLANTS, VS.
JACINTA ACOSTA MUYOT, GONZALO ACOSTA, ANTONIO ACOSTA,
FELICIDAD DE...**

G. R. No. L-9402. October 31, 1957

Ponente: PADILLA, J.

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PADILLA, J.:

In his lifetime, the late Andres de la Cruz, father of the plaintiffs, executed on 3 March 1939 a deed of sale, of a parcel of land containing an area of 6,000.70 sq. m., in Manila, for the sum of P12,720.20, in favor of the late Mariano Acosta, father of the defendants, with the right reserved by the vendor to repurchase it. In an action to recover title to the said parcel of land and accounting brought by the herein plaintiffs against the administratrix of the estate of the late Mariano Acosta, who was substituted by the herein defendants, and Jose Muyot, the Court of First Instance of Manila and the Court of Appeals on appeal held that the contract entered into by and between the parties to the transaction embodied in the instrument executed on 3 March 1939 was a sale with the right reserved by the vendor to repurchase the parcel of land sold, but that the period of time within which the vendor could avail himself of the right reserved by him to repurchase the parcel of land sold already had expired (CA-GR No. 9908-R, 5 May 1954; Annex F, pp. 43-63, Record on Appeal). After the judgment of the Court of Appeals had become final and executory, on 30 July 1954 the plaintiffs wrote a letter sent to each of the defendants, except to Generoso Acosta whose address could not be ascertained, advising them that they (plaintiffs) were availing themselves of their right to redeem or repurchase the parcel of land sold pursuant to the provisions of the last paragraph of article 1806 of the new Civil Code and requesting them at the same time to designate the place in Manila where they (plaintiffs) could pay to them (defendants) the repurchase price, and that failure to hear from them before 12:00 o'clock noon of 2 August 1954, would be deemed to be a refusal by them to reconvey the parcel of land (Annex G). A copy of this letter was sent also to Atty. Federico Agrava (Annex H). Not having received an answer from the defendants to their letter, on 4 August 1954, the plaintiffs filed a complaint in the Court of First Instance of Manila praying that the defendants be ordered to reconvey to them the parcel of land upon payment of the repurchase price of P12,720.20 (Civil No. 23652). In answer the defendants alleged that ownership of and title to the parcel of land sought to be repurchased by the plaintiffs had been acquired irrevocably by the vendee a retro, their late father Mariano Acosta, for failure of the vendor a retro, the plaintiffs' late father, Andres de la Cruz, to repurchase it within one year from 3 March 1939, as stipulated in the contract; and that the defendants cannot invoke in their favor the provisions of article 1606 of the new Civil Code, for if they; should be applied to the case at bar they would impair a vested right. The defendants prayed that the complaint be dismissed. The parties submitted the case for judgment on the pleadings. On 6 December 1954 the Court dismissed the complaint with costs against the plaintiffs. The latter appealed and the Court of Appeals certified the ease to this Court for the reason that it only involves a question of law.

The appellants or their late father had the right to repurchase the parcel of land up to 3 March 1940. The vendor or

his successors-in-interest having failed to avail themselves of the right thus reserved, the vendee a retro irrevocably acquired the ownership of and the title to the parcel of land, pursuant to article 1509 of the old Civil Code, the law then in force. To apply and give effect, therefore, to the provisions of the last paragraph of article 1606 of the new Civil Code, invoked by the appellants, would impair the right of the appellees acquired under the provisions of the old Civil Code—an impairment prohibited by article 2258 of the new Civil Code.[1]

The judgment dismissing the complaint is affirmed, with costs against the appellants.

Partis, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angela, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

[1] Uson vs. Del Rosario, 92 Phil., 630; Mendoza vs. Cayas, Phil., 107; 62 Off. Gaz. 200.

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