

MODESTO SORIANO, PETITIONER, VS. CAROLINA ABALOS, MERCEDES ABALOS, ENCARNACION ABALOS, PABLO MANUEL, ON HIS BEHALF AND AS GUARDIAN AD-LITEM OF ROMULO AND FLORENCIO, BOTH SURNAME...

G.R. No. L-1525. July 27, 1949

Ponente: MORAN, C.J.

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MORAN, C.J.:

This is an appeal by eertiorari from a decision of the Court of Appeals. The facts are as follows:

On March 17, 1938, respondents Juliana Abalos and Carolina Abalos sold the parcel of land described in the complaint to Felipe Maneclang and Modesto Soriano at the price of P750, with option to repurchase the same "at anytime they have the money." Offer to repurchase was made in December, 1941, which could not be carried out because of the war. Felipe Maneclang, in the meantime, ceded all his rights to petitioner Modesto Soriano, and in May 1944, offer to repurchase was again made, but Modesto Soriano rejected the offer. Wherefore, vendors consigned the price of P750 with the court and filed a complaint for repurchase.

Juliana Abalos died and was substituted in this case by her heirs Romulo and Florencio, surnamed Manuel. It turned out that the property did not belong to the vendors Carolina and Juliana Abalos alone, but also to their sisters, the Intervenors and respondents Mercedes and Encarnacion Abalos. The Court of First Instance of Pangasinan rendered judgment ordering Modesto Soriano to execute a deed of reconveyance in favor, not only of Carolina Abalos and the heirs of Juliana Abalos, but also of the Intervenors Mercedes and Encarnacion Abalos; authorizing Modesto Soriano to collect and receive as price for the reconveyance the sum of P750 consigned with the court; and sentencing Modesto Soriano to pay the respondents the sum of P3,200 as the value of the fruits of the land in 1944 obtained by Modesto Soriano. This Judgment was affirmed in toto by the Court of Appeals.

Petitioner Modesto Soriano now maintains in this Court that respondents no longer had any right to repurchase the property because, there being no express agreement as to the time within which the repurchase could be made, that time should be, under the first paragraph, article 1508 of the Civil Code, four years, which in this case expired on March 17, 1942.

The stipulation, however, is that the vendors may repurchase the property "at any time they have the money." There is, therefore, a time expressly stipulated, which is "any time." It being, however, an unlimited or indefinite time, under the second paragraph of article 1508 of the Civil Code, it cannot exceed ten years. This is the ruling laid down in the cases of *Heirs of Jumero vs. Lizares*, 17 Phil., 112; *Bandong vs. Austria*, 31 Phil., 479; and *Gonzaga vs. Go*, No. 47061. (40 Off. Gaz. [7th Supp.], 71).

In the first case, *heirs of Jumero vs. Lizares*, 17 Phil., 112, Chief Justice Arellano said: "* * * even admitting that it was stipulated that the right to repurchase or redeem should last for an indefinite time, such period is restricted to ten years, under paragraph 2 of article 1508 of the Civil Code, * * *" (p. 120). In the case of *Bandong vs.*

Austria, 31 Phil., 479, the vendors were given the right to repurchase "in the month of March of any year after the date of the contract." In other words, the vendors were given the right to repurchase again at anytime or any year. And this Court held that the repurchase could be made within a period of not more than ten years. And in the case of *Gonzaga vs. Go*, G. R. No. 47061, the vendors were given the right to repurchase "en cualquier tiempo devolviendo la cantidad de P250 y los gastos que ocasione el contrato." And this Court held that "en cualquier tiempo" meant not more than ten years.

We conclude, therefore, that in the instant case, the vendors had ten years within which to repurchase the property and that period did not expire until March 17, 1948. The offer to repurchase was made in May 1944.

It is also maintained by petitioner that the damages awarded to respondents were based erroneously on a value equal with that of Japanese war notes as were due in December, 1944. We believe that this contention is well taken. Petitioner is not liable to pay now in Philippine currency the same number of pesos in Japanese war notes to which he was sentenced on December 1944. He is liable only to pay the equivalent which may be determined by means of the Ballentine scale of values, as held in *Hilado vs. De la Costa*, G. R. No. L-150. According to that scale the value of Japanese Military Notes in relation to the peso in Philippine currency on December 1, 1944, was 90 to 1. Consequently, instead of the sum of P3,200, petitioner should be sentenced to pay yearly P35.55 as damages beginning May 1944 until the property is finally delivered to respondents.

For all the foregoing, the judgment of the Court of Appeals is affirmed with the only modification that the petitioner is sentenced to pay respondents, counting from May 1944 until the property is delivered to respondents, as damages, the amount of P35.55 yearly, plus costs. If the price consigned in court was destroyed, petitioner must bear the loss.

Ozaeta, Paras, Feria, Bengzon, Tuason, and Montemayor, JJ., concur.

MORAN, C. J.:

Mr. Justice Pablo voted for this decision.

CONCURRING

PERFECTO, J.:

We concur in this decision, with the statement that the so-called Ballantine system has the force and effect of law. The veto of the President of the United States to the corresponding act of our Congress has absolutely no effect, because the subject matter of the law in question is not among those which, under the Independence Act, are subject to the approval of the President of the United States of America.

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