

JOSE AMAR, ESPERANZA AMAR, ILDEFONSO AMAR, TORIBIO AMAR, BERNARDO AMAR, DOLORES AMAR AND ANTONIO AMAR, PLAINTIFFS AND APPELLANTS VS. TIMOTEO PAGHARION, DEFENDANT AND APPELLEE.

G.R. No. L-8025. May 30, 1956

Ponente: PADILLA, J.

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PADILLA, J.:

This is an action to recover title to and possession of a parcel of land described in the complaint, damages and costs and to compel the defendant to accept and receive the sum of P1,187.85 and to return to the plaintiffs the document evidencing a loan for the aforesaid sum executed by one of the plaintiffs. The defendant pleaded prescription.

The parties entered into the following stipulation of facts:

Come now the plaintiffs and the defendant through their respective undersigned attorneys, and to this Honorable Court most respectfully state that the facts which are admitted and undisputed by both parties are as follows:

- That the land described in paragraph "1" of the second amended complaint is the same land described in the amended answer of the defendant "Annex 'A' attached to the answer.
- That this land was inherited by the plaintiffs Jose Amar, Esperanza Amar, Toribio Amar, Bernardo Amar, Dolores Amar, Antonio Amar and Udefonso Amar with their sister Adoracion Amar from their mother (now deceased) Carmen Nacionales.
- That on April 16, 1926 this land was sold and transferred by means of a private document under a pacto de retro sale to Anastacia Y. de Espanola by the heirs (Jose N. Amar), Udefonso N. Amar, Toribio N. Amar, Bernardo N. Amar, and Adoracion Amar, as evidenced by Exhibit "A" for the plaintiffs and marked as Exhibit "1" for the defendant.
- That on October 27, 1927 the plaintiffs Udefonso Amar, Toribio Amar, Bernardo N. Amar and Adoracion Amar repurchased the above-described parcel of land from the said Anastacio Y. de Espanola for the sum of ₱1,187.85 and which sum was advanced to them by the said Timoteo Pagharion and for (in) consideration of the said sum of ₱1,187.85, Philippine Currency, the said Adoracion Amar and her husband Bartolome Alabado transferred and conveyed the above-described parcel of land by means of private instrument and which purports to be a deed of sale with right of repurchase unto the said Timoteo Pagharion as evidenced by Exhibit "B" for the plaintiffs and marked as Exhibit "2" for the defendant with its corresponding translation Exhibit "B-1" for the plaintiffs and Exhibit "2-A" for the defendant.
- That Adoracion Amar and her husband Bartolome Alabado delivered the possession of the land above-described

to the defendant Timoteo Pagharion.

- That the land is declared for the purpose of taxation in the name of the plaintiff Udefonso Amar as evidenced by Exhibit "C" for the plaintiffs.
- That the defendant Timoteo Pagharion has paid the taxes to this land from 1927 up to 1951.
- That the land taxes for the years 1945, 1946, 1947, 1948 and 1949 were paid by Adoracion Amar of her own accord.
- That Adoracion Amar tried to repurchase the said land from the defendant in the year 1945, but the defendant refused and still refuses to resell the same.
- That the land produces 60 cavanese of rice, 10 cavanese of corn and 5 cavanese of mongo, and the price of palay is P10, corn P5, and mongo P25 a cavan.

San Jose, Antique.
February 14, 1952.

(Sgd.) Ramon Maza

(Sgd.) Perpetuo A. Lotilla

Attorney for the Plaintiffs

Attorney for the Defendant

Sibalom, Antique

San Jose, Antique

Upon the foregoing stipulation the Court rendered judgment dismissing the complaint with costs.

After denial of their motion for reconsideration and new trial the plaintiffs have appealed.

The instrument of sale in favor of Anastacia Y. de Espanola of the parcel of land with a reservation of the right to repurchase it was executed on 18 April 1926 by five of the eight plaintiffs who had inherited the parcel of land from their late mother Carmen Nacionales (Exhibit A). There was no stipulation as to term within which the vendors could repurchase it. On 27 October 1927 the parcel of land was repurchased from Anastacia Y. de Espanola with money secured or borrowed from Timoteo Pagharion and after the repurchase the possession of the parcel of land was turned over to the latter who since then have been in possession thereof. Whether the transfer of possession of the parcel of land was in the nature of an assignment of the right of Anastacio Y. de Española, the former vendee, as may be implied from the turning over or delivery to the defendant of the instrument of sale (Exhibit A) and the possession of the parcel of land sold, or a new contract of sale with the reservation of the right to repurchase the parcel of land without term, the period of four years fixed by law within which the vendors may repurchase it[1] already had expired. Three of the plaintiffs who did not execute the instrument of sale do not pretend that they did not authorize the other five co-heirs to execute it for them. The plaintiffs rest their case on their right they claim they have to repurchase the parcel of land. But the defendant's possession of the parcel of land from 27 October 1927, when he took possession thereof, to 7 December 1949, when the complaint was filed in this case, 22 years, 1 month and 11 days had already elapsed, which is a period of time sufficient not only to bar the action but to vest in him title by prescription.[2]

The judgment appealed from is affirmed, with costs against the appellants.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

[1] Article 1508, old Civil Code.

[2] Sections 40 and 41, Act No. 190.

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