

JUANITA RIVERA, PETITIONER, VS. SILVINO CURAMEN, RESPONDENT.

G.R. No. L-23245. July 31, 1968

Ponente: DIZON, J.

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DIZON, J.:

Appeal from a decision of the Court of Appeals the dispositive part of which is as follows:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiffs Dominga Barcelona Justine Curamen and Felicidad Curamen, and against the defendants Juanita Curitana and her minor children namely Ruperto, Darwin, Regalado and Erlinda, all surnamed Rivera, directing the said defendants:

1. To reconvey all the three parcels of land described in paragraph 2 of the complaint as covered by Original Certificates of Title Nos. P-594 and 6289 and/or all their rights and interests therein to the plaintiffs upon payment by the plaintiffs of the sum of "4,000.00 together with whatever amounts might have been paid by the defendants to the R.F.C., now D.B.P., on account of the mortgage;
2. To execute the necessary deed of re-conveyance and such other instruments to effect the said reconveyance within five days from receipt of the aforementioned amounts from the plaintiffs; and
3. To pay the plaintiffs P500.00 as attorney's fees, and to pay the costs."

Silvino Curamen commenced the present action for reconveyance on May 18, 1957 against the spouses Ernesto Rivera and Juanita Curitana. Upon his death during the pendency of the case below, he was substituted as party plaintiff by his daughters Justina and Felicidad. Whether or not his widow was also made a party is now in question.

Rivera also died on December 18, 1958, for which reason his minor children Ruperto, Darwin, Regalado and Erlinda were substituted in his place, and because of their minority their mother was appointed as their guardian ad litem.

It is not disputed that pursuant to a free patent issued on March 22, 1950, original certificate of title No. P-594 was issued. On the same date in the name of Silvino Curamen, married to Dominga Barcelona, covering lots 1 and 2, F-61908, both situated in Pantabangan, Nueva Ecija, containing an area of 6.6775 hectares.

Pursuant to a homestead title issued on November 1, 1938 in the name of Silvino Curamen, widower, over another parcel of land with an area of 20.5278 hectares, situated in the same municipality, original certificate of title No. H-6289 was likewise issued on the same date in his name.

On November 21, 1950, the Curamen spouses mortgaged the three parcels of land abovementioned to the Rehabilitation Finance Corporation - hereinafter referred to as the RFC - to secure payment of a 73,500.00 loan payable within five years. The deed of mortgage was registered in accordance with law. Because the mortgagors failed to pay the amortizations due, the RFC foreclosed the mortgage and the properties were sold at public

auction on September 9, 1955, with the RFC as the highest bidder. The certificate and final deed of sale executed in the latter's favor were registered on September 1, 1965, and, as a result, the original certificates of title covering the mortgaged properties were cancelled and transfer certificates of title Nos. NT-20845 and 20846 were issued in favor of the RFC.

It is also admitted that on April 1, 1955 the Curamen spouses sold their right to repurchase the properties to the Rivera spouses for the sum of P4,000.00), but under the condition that the latter would continue to pay the mortgage obligation to the RFC - presumably for the purpose of re-purchasing the properties. In this connection the trial court found by admission made on the witness stand by Juanita Curitana - that she was still paying the mortgage debt to the RFC up the time of the trial.

Subsequently, the Curamens sought to repurchase the properties their right to repurchase them by offering to the Riveras the sum of P4,000.00 together with whatever amounts the latter had already paid to the RFC on account of the mortgage obligation, and demanded execution of the proper deed of reconveyance. Because the Riveras ignored this demand, the present action was instituted.

As reason for their refusal, the Riveras relied, in part, upon a quit claim deed allegedly executed by Domingo Barcelona on October 27, 1958, whereby, for the total sum of P74,000.00, she ceded and transferred to them her rights and interest in the properties in question. His Honor, the trial judge, while not ruling expressly that the deed was void, expressed doubts as to its authenticity or voluntariness by making the observation that the document was only thumbmarked by Dominga Barcelona who was admittedly illiterate and about 75 years of age at the time of its alleged execution in Caranglan, Nueva Ecija, and appears to have been acknowledged only on October 30, 1958 before a Notary Public in Manila.

Petitioner Juanita Curitana denied that Silvino Curamen had ever offered to repurchase said lands from her and her husband, and further claimed that because in 1955 said lands were still uncultivated they had to spend P1;500.00 for clearing, and P5,000.00 for irrigation canals.

According to the lower court, however, her testimony regarding expenditures for the improvement of the properties, was "not worthy of belief, because she was in no financial position to accumulate such cash for such expenses", she being only a sari-sari store-owner with an operating capital of P200 to P500 from 1948 to 1955. The court further observed that she never claimed that she and her husband had tenants working for them, and had further admitted that she herself had never gone to the lands in question before 1955.

The foregoing findings and conclusions of the trial court having been affirmed by the Court of Appeals, are now beyond our power to review.

We shall now, therefore limit ourselves to considering the main questions raised by petitioner, namely, that the Court of Appeals erred: in holding that Dominga Barcelona is not one of the plaintiffs (below) in this case, as well as in altogether disregarding the quit-claim deed executed by her; and finally, in affirming in toto the decision of the lower court.

The first two questions are interrelated, and the last depends, more or less entirely upon their resolution.

There is some confusion in the record on the question of whether or not Dominga Barcelona was really made a party in this case upon the death of her husband. This matter, however, is not decisive of the merits of this appeal. Neither is the quit-claim allegedly executed by her, con-sidering our view regarding its legal effect upon the right of the other respondents herein to repurchase the properties in question.

Under the law, every conveyance of land acquired under the free patent or homestead provisions of existing laws

shall be subject to repurchase by the applicant, his widow or legal heirs, within five years from the date of the conveyance. Assuming that the original grantees, Silvino Curamen And his widow, had lost their right to repurchase the properties - in the case of the first because of the sale of his right to repurchase made on April 1, 1955, and in that of the second because of the quit-claim already referred to - it does not necessarily follow that their legal heirs had likewise lost their right to repurchase or that they would be entitled to repurchase only their share as heirs of their deceased father who died after instituting the present case for reconveyance. The law clearly grants them the right to repurchase the property covered by a free patent or a homestead title within five years from the date of the conveyance. Speaking specifically of the present case, that right is not limited to the repurchase of the share corresponding to their father only, because the latter is already dead, but refers to the repurchase of the property meaning the whole of it. This, in our opinion, is the only logical meaning to be given to the law which because its purpose is to enable the family of the applicant or grantee to keep their homestead (*Lusted vs. Piñol, et al.*, C. R. L-10825, September 27, 1957) -must be liberally construed in order to carry out that purpose.

The quit-claim executed by Dominga Barcelona can not have the effect of depriving her children of their right to repurchase. Assuming that it is valid, it binds her alone.

The record is not clear as to whether or not at the time the appealed decision was rendered the defendants in that court had already repurchased the properties from the RFC. Said decision, however, would seem to imply that they had done so because its dispositive part orders said defendants to reconvey to the plaintiffs all the three parcels of land described, in the complaint and/or all their rights and interest therein, under the conditions therein setforth. But if such is not the case, the proper relief to be granted to the heirs of Curamen is to require Juanita Curitana Rivera and her co-parties to reconvey to the plaintiffs below the right to repurchase the pro-perties from the RFC from whom they may proceed to re-purchase the properties.

MODIFIED AS ABOVE INDICATED, the decision appealed from is affirmed in all other respects. With costs.

Concepcion, (CJ)., Reyes, JBL, Makalintal, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.

Ruiz Castro, J., did not take part.

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