

TEOFILA FELICES, PLAINTIFF-APPELLANT, VS. FRANCISCO COLEGADO, DEFENDANT-APPELLEE.

G.R. No. L-23374. September 30, 1970

Ponente: ZALDIVAR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/aa1785aad94f/>

ZALDIVAR, J.:

Appeal from the decision of the Court of First Instance of Camarines Sur, in its Civil Case No. 5510, on a question of law -- the facts having been stipulated by the parties in the court below.

Felipe Felices died on November 5, 1938. The only property left by him was a homestead located in Barrio Curry, Pili, Camarines Sur, comprising 21 hectares, more or less, for which Original Certificate of Title No. 73 was issued in his name. Soon after his death, five of his seven surviving children, namely, Marta, Maria, Teofila, Silverio, and Pedro, all surnamed Felices, physically partitioned among themselves the aforementioned home-stead, each one taking actual and exclusive possession of the specific portion pertaining to him/her, although no transfer certificate of title was issued in their individual names.[1] On February 24, 1949, Maria Felices sold her share to Roman Iriola with right of repurchase (con pacto de retro), which share is on the extreme northern part of the homestead, more particularly described as follows:

"A parcel of irrigated rice land covering an area of four (4) and one-fourth hectares situated in the barrio of Curry, municipality of Pili, province of Cam. Sur, Philippines, bounded on the North by the property of Mamerto Iriola; on the East by the Himaao River; on the South by the property of the heirs of Felipe Felices; and on the West by the Lagundi Creek. This land is an integral part of the land described under Original Certificate of Title No. 73 issued on October 20, 1948. Proportionate assessed value: P704.00"

Upon the insistence of Roman Iriola, the deed of conditional sale was signed by all the brothers and sisters of Maria, and soon after the execution of the deed Iriola took possession of the above-described property.

Sometime in 1951, Silverio Felices, Pedro Felices, Marta Felices and Maria Felices agreed to sell absolutely to Francisco Colegado their respective shares in the homestead for the total price of P8,500.00. Knowing, however, that such sale could not be validly effected because of the prohibition to alienate a homestead within five years from the issuance of the patent, they agreed to execute the document of sale later on. In the meantime, and inasmuch as the share of Maria Felices was still in the possession of Roman Iriola by virtue of its having been previously sold to him with right of repurchase, Francisco Colegado advanced the amount for the repurchase of Maria's share from Roman Iriola.

When the repurchase price was offered to Roman Iriola, the latter refused to allow the repurchase. The Felices brothers and sisters (Silverio, Pedro, Marta and Maria), therefore, consigned the amount for the repurchase with the court and filed Civil Case No. 1991 in the Court of First Instance of Camarines Sur to compel Roman Iriola to allow the repurchase and accept the proffered repurchase money. In the complaint, Teofila Felices, the other sister, who had a share in the homestead, was joined as party defendant along with Roman Iriola because she refused to join as a party plaintiff with her brothers and sisters.

On September 11, 1953, Maria, Marta, Silverio and Pedro, all surnamed Felices, and Francisco Colegado finally executed a deed of absolute sale whereby the said Felices brothers and sisters ceded to the latter their respective shares in the homestead inherited by them from their deceased father.

On June 19, 1954, a decision was rendered by the Court of First Instance of Camarines Sur in Civil Case No. 1991 ordering Roman Iriola to allow Maria Felices to repurchase the property that she had previously sold conditionally to him. Iriola appealed from that decision to the Court of Appeals, and the latter court affirmed the decision. Upon payment by Francisco Colegado, on August 21, 1962, of the sum of P2,053.61 to the heirs of Roman Iriola^[2], as finally determined by the Court of Appeals, said heirs surrendered the possession of the land to Colegado.

Shortly thereafter, or on September 7, 1962, Teofila Felices, thru her lawyer, addressed a letter to Francisco Colegado informing him of her desire to redeem the parcel of land sold to him by Maria Felices and at the same time offering the sum of P2,053.61 as the redemption price of the land -- which amount was later on deposited with the Clerk of Court -- but this offer to redeem was refused by Francisco Colegado. On September 19, 1962, Teofila Felices commenced the present action against Francisco Colegado in the Court of First Instance of Camarines Sur (Civil Case No. 5510), asserting that being a co-owner defendant Colegado can be compelled to allow her to exercise the right or legal redemption over that portion which her sister Maria Felices had conditionally sold to Roman Iriola and later repurchased from Iriola by Colegado, invoking the provision of Article 1620 of the Civil Code which reads:

"A co-owner of a thing may exercise the right of redemption in case the shares of all the other co-owners or of any of them, are sold to a third person. If the price of the alienation is grossly excessive, the redemptioner shall pay only a reasonable one.

"Should two or more co-owners desire to exercise the right of redemption, they may only do so in proportion to the share they may respectively have in the thing owned in common."

In his answer, which contains a counterclaim, defendant Francisco Colegado maintains that plaintiff is now precluded to redeem the land in question. He bases his stand on Article 1088 of the same Code,^[3] and asserts that once a property is partitioned among the heirs, as in the case at bar, the sale by any one of the heirs of his share to a third person cannot be the subject of redemption by his co-heirs.

On February 26, 1964, the trial court rendered its decision dismissing the complaint, as well as defendant's counterclaim, with costs against plaintiff. In its decision, the trial court made the following findings and conclusions:

"The partition of the homestead left by the deceased Felipe Felices is a fact undisputed by the parties. This was the subject of their stipulation which reads:

'That even before the issuance of Original Certificate of Title No. 73 on October 20, 1948 to the deceased Felipe Felices the children of the said deceased immediately after his death had already made a physical partition of the land among themselves, although no transfer certificate of title was actually issued in favor of each heir to his or her corresponding share'.

"The partition conferred upon each heir 'the exclusive ownership of the property adjudicated to him' (Javeles vs. Barrios, et al., 66 Phil. 107; Aliases vs. Alcantara, 16 Phil. 489, Alcala vs. Alcala, 35 Phil. 679). In other words, after the partition of the homestead of Felipe Felices immediately following his death on November 5, 1938, the co-ownership or co-heirship among his children ceased and each of them became the exclusive owner of the portion of the homestead adjudicated to him or her own individual share. Consequently, Teofila Felices is not a co-owner of the share of Maria Felices in the said homestead and she has, therefore, no right to

redeem the same from Francisco Colegado.

"The defendant's counterclaim for damages is not supported by the evidence. It is convincingly disproved by the emphatic denial of the plaintiff.

"WHEREFORE, the complaint and counter-claims are DISMISSED with costs against the plaintiff."[4]

Hence the present appeal by plaintiff Teofila Felices.

The only question to be resolved in this appeal is whether, or not, under the facts stated in the foregoing paragraphs, plaintiff-appellant can exercise the right of legal redemption of the land in question from defendant-appellee, pursuant to the provisions of Article 1620 and/or Article 1088 of the Civil Code. As correctly held by the trial court, Article 1088 of the Civil Code has no application in the present case because said article can only be availed of when a co-heir sells his share before the partition of the hereditary estate[5]. That article refers to the hereditary right itself, in the abstract sense, without specifying any particular portion, although the proportionate participation of each co-heir is ascertainable. This article presupposes that there has as yet been no distribution of the estate among the heirs, for the moment such distribution has taken place, even in a state of pro-indiviso, the heirs ceased to be considered simply as co-heirs, but they have thereby become co-owners.[6] Consequently, if one of the co-owners sells his share to a stranger, a co-owner may claim his right of redemption as a co-owner under Article 1620 of the Civil Code[7], not as a co-heir under Article 1088 of the same Code.

But in the instant case, We also find that plaintiff-appellant has no right to redeem the property as co-owner under Article 1620 of the Civil Code. Co-ownership exists when the ownership of an undivided thing or right belongs to different persons[8]. It is an inherent and peculiar feature of co-ownership that although the co-owners may have unequal shares in the common property, quantitatively speaking, each co-owner has the same right in a qualitative sense as any one of the other co-owners. In other words, every co-owner is the owner of the whole, and over the whole he exercises the right of dominion, but he is at the same time the owner of a portion which is truly abstract, because until division is effected such portion is not concretely determined.

In the case before Us, it is admitted by plaintiff-appellant herself that immediately after the death of their father, Felipe Felices, she and her brothers and sisters divided or partitioned the homestead among themselves extrajudicially, each heir taking physical and exclusive possession and control of his or her aliquot share. The portion given to Maria Felices, which plaintiff-appellant now seeks to redeem, is about one-fifth of the homestead on the northernmost part, marked out by metes and bounds, as described in paragraph 3 of the complaint. And when Maria Felices sold her share to Roman Iriola in 1949, she delivered to him the possession of the particular portion of the homestead constituting her distinct share, and since then Roman Iriola, and later his heirs upon his death, have continuously cultivated the land and introduced improvements thereon until the possession thereof was in turn delivered to defendant-appellee Francisco Colegado in 1962 pursuant to the decision of the Court of Appeals. There is, therefore, no doubt that at the time Maria Felices sold her share to defendant-appellee Colegado, and even prior thereto when she ceded the same property to Roman Iriola, the community of interest over the entire homestead of their father between her (Maria) and her brothers and sisters had already ceased, and so the claim of plaintiff-appellant to redeem the property under Article 1620 can not be sustained because when that property was sold by Maria Felices to defendant-appellee she (plaintiff-appellant) was no longer a co-owner of that particular property. The following ruling of this Court; speaking through Mr. Justice J. B. L. Reyes, is pertinent to the resolution of the issue in the present case:

"The foregoing theory is untenable. Tested against the concept of co-ownership, as authoritatively expressed by the commentators, appellant is not a co-owner of the registered parcel of land, taken as a unit or subject of co-ownership, since he and the spouses do not 'have a spiritual part of a thing which is not physically divided'

(3 Sanchez Roman 162), nor is each of them an 'owner of the whole, and over the whole he exercises the right of domi-nion, but he is at the same time the owner of a portion which is truly abstract....' (3 Manresa 405). The portions of appel-lant-plaintiff and of the defendant spouses are correctly determined and identi-fiable, for to the former belongs the northern half, and to the latter be-longs the remaining southern half, of the land. That their respective por-tions are not technically described, or that said portions are still embraced in one and the same certificate of title, does not make said portions less determinable or identifiable, or dis-tinguishable, one from the other, nor that dominion over each portion less exclusive, in their respective owners. Hence, no right of redemption among co-owners, exists." (De la Cruz v. Cruz, et al., L-27759, April 17, 1970, 32 SCRA, 307, 311).[9]

The foregoing sufficiently disposes of the issue raised in this appeal. However, even granting the claim of plaintiff-appellant that co-ownership of the home-stead still existed as of the time defendant-appellee repurchased the share of Maria Felices from Roman Iriola still she can not exercise the right of legal redemption of the controverted property. The record shows that on September 11, 1953 defendant-appellee Colegado bought the respective shares of Silverio Felices, Pedro Felices, and Marta Felices in the homestead. By such purchase defendant-appellee had thereby become a co-owner of the homestead. When defendant-appellee thereafter paid for the portion allotted to Maria Felices, in August, 1962, he was at that time not a stranger but already a co-owner of the homestead. Hence, plaintiff-appellant can not redeem the land from defendant-appellee because the lat-ter and plaintiff-appellant had become co-owners, and as co-owners neither of them has the right of legal re-demption against the other.[10] In the case of Viola v. Roura & Tecson (49 Phil., 808), this Court held that the right of legal redemption is not limited solely and ex-clusively to original co-owners but applies as well to those who subsequently acquire the respective shares of the co-owners while the community exists.

WHEREFORE, the decision appealed from is affirmed, with costs against plaintiff-appellant.

IT IS SO ORDERED.

Reyes, J.B.L., Acting C.J., Dizon, Makalintal, Castro, Fernando, Teehankee, Barredo, and Makasiar, JJ., concur.
Concepcion, C. J., on official leave.
Villamor, J., did not take part.

[1] Original Certificate of Title No. 73 was can-celled and Transfer Certificate of Title No. 415 was later issued in the name of the "Heirs of Felipe Felices."

[2] Roman Iriola died before the termination of Civil Case No. 1991.

[3] "Art. 1088. Should any of the heirs sell his here-ditary rights to a stranger before the partition, any or all of the co-heirs may be subrogated to the rights of the purchaser by reimbursing him for the price or the sale, pro-vided they do so within the period of one month from the time they were notified in writing of the sale by the vendor."

[4] Pages 62-63, Record on Appeal.

[5] Castro, et al. v. Castro, 97 Phil., 705.

[6] Castro, et al. v. Castro, supra; Caram et al., v. Court of Appeals, et al., 101 Phil. 315.

[7] Saturnino v. Paulino et al., 97 Phil., 51.

[8] Article 484, Civil Code.

[9] See also Estoque vs. Pajimula, L-24419, July 15, 1968, 24 SCRA 62-63; Umengan vs. Butacan, L-16036,

February 28, 1963, 7 SCRA 311; and De Jesus vs. Mangla-pus, 81 Phil. 114.

[10] Estrada vs. Reyes, 33 Phil., 31; Magno vs. Viola and Sotto, 61 Phil. 80.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.