

MAXIMO MORALES, PETITIONER AND APPELLANT, VS. MARIA BIAGTAS, JOSE CUISON, BERNABE CUISON AND COSME CUISON, RESPONDENTS AND APPELLEES.*G.R. No. L-17193. September 29, 1962*

Ponente: PADILLA, J.

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On 19 July 1949, for and in consideration of P2,000, Martin Cuison, husband of Maria Biagtas and father of Jose, Bernabe and Cosme, all surnamed Cuison, sold to Maximo Morales a parcel of residential land and an adjoining parcel of land with a total area of 1,962 square meters, together with the improvements thereon, situated in Poblacion, Mapandan, Pangasinan, reserving the right to repurchase the parcels sold within a period to two years (Exhibit A). Neither Martin Cuison until his death nor his heirs had availed themselves of the right to repurchase the property within the stipulated period. On 21 February 1952 Maximo Morales executed an affidavit to consolidate unto himself the title to the property and requested the Registrar of Deeds in and for the province of Pangasinan to register the affidavit of consolidation (Exhibit B), but the Registrar refused to register the affidavit without a judicial order. Hence, on 15 November 1954 Maximo Morales filed in the Court of First Instance of Pangasinan a verified petition praying that the Registrar of Deeds be ordered to register the affidavit of consolidation of ownership and that he be granted any other legal or equitable remedy (civil case No. D-77). Despite notice, the heirs of the late Martin Cuison failed to object to the petition and to appear at the hearing set for and held on 24 July 1959. After hearing, on 14 October 1959 the court entered an order finding the contract (Exhibit A) to be a sale with a right to repurchase and directing the Registrar of Deeds in and for the province of Pangasinan to register the affidavit of consolidation (Exhibit B) upon payment of the fees therefor. After receipt of a copy of the above order on 23 October 1959, on 24 November 1959 the respondents filed a motion praying that they be allowed to repurchase the property subject of the contract in accordance with article 1606 of the new Civil Code which in part provides—

However, the vendor may still exercise the right to repurchase within thirty days from the time final judgment was rendered in a civil action on the basis that the contract was a true sale with right to repurchase.

On 7 December 1959 the petitioner Maximo Morales objected to the motion claiming that the 30-day period already had expired. On 15 February 1960 the trial court entered an order holding that the judgment referred to in the above article means a final and executory judgment; that counting the same because final and executory on 13 November 1959; that from 13 November 1959, the 30-day period provided in article 1606 of the new Civil Code would expire on 13 December 1959; and that the filing on 21 December 1959 of the respondents' motion praying to be allowed to repurchase the property was well within the 30 days from 14 October 1959, the date of the order, statutory period, and directing the respondents to pay within five days to the petitioner the sum of P2,000 as repurchase price and the latter to execute a deed of reconveyance in favor of the former, and, should the petitioner fail or refuse to accept the payment and execute the deed of reconveyance, the respondents to deposit the sum of P2,000 with the Clerk of Court within the same period of time subject to the petitioner's disposition. On 6

February 1960 the respondents deposited the sum of P2,000. His motion for reconsideration having been denied on 25 April 1960, Maximo Morales has appealed to this Court.

It is true that the judgment mentioned in article 1606 of the new Civil Code means a final and executory judgment.[1] But said article is not applicable to the present case, for the reason that the deed of sale with the right to repurchase (Exhibit A) was executed on 19 July 1949 when the new Civil Code was not yet enforced. And as such sale or alienation of property with a right to repurchase is a contract subject to a condition, the applicable or governing law is the old Civil Code. Article 2255 of the new Civil Code provides that—

The former laws shall regulate acts and contracts with a condition or period, which were. executed or entered into before the effectivity of this Code, even though the condition or period may still be pending at the time this body of laws goes into effect.

Under the old Civil Code there was no provision of 30-day period as that provided for in article 1606 of the new Civil Code. Hence, the period agreed upon by the parties in the contract, subject to the limitation imposed by the old Code, must govern. Having failed to exercise the right to repurchase the parcels of land within the period of two years as stipulated in the deed of sale (Exhibit A), the appellees lost such right.[2] Moreover, even if the provisions of article 1606 of the new Civil Code could be invoked, still such redemption or repurchase could be made within thirty days from the date of final judgment rendered in a civil action where the issue or controversy between the parties concerns with or involves the juridical nature or character of the contract. There being no issue or controversy as to the juridical nature or character of the contract in question, the provisions of the new Code invoked by the appellees cannot be applied.

The order appealed from is set aside, without pronouncement as to costs.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Regala, and Makalintal, JJ., concur.

[1] Perez vs. Zulueta, 106 Phil., 264.

[2] Magayano vs. Gapuan, 33 Phil., 453.

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