

ANTONIO TORRIJOS, PETITIONER, VS. GUILLERMO CRISOLOGO, ANASTACIO CRISOLOGO AND THE HON. COURT OF APPEALS, RESPONDENTS.*G.R. No. L-17734. September 29, 1962*

Ponente: LABRADOR, J.

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This is an appeal by way of certiorari against the amended decision of the Court of Appeals in CA-G. R. No. 23707-R, Torrijos vs. Crisologo, et al., confirming the registration of a certain parcel of land in the name of Antonio Torrijos subject to the right of Guillermo Crisologo and Anastacio Crisologo to repurchase the same within thirty days from the date the decision becomes final. The original decision of said Court affirmed the judgment of the Court of First Instance of Abra ordering the registration of the land subject of the proceedings and overruling the petition of the oppositors to said registration.

According to the findings of the Court of Appeals, the land subject of the registration proceedings was sold to petitioner Antonio Torrijos by the Crisologos for the sum of P3,050.00 on April 26, 1940, the sale including the land and a house standing thereon. The vendors reserved the right to repurchase the land and the house within three years from the date of the sale. The vendee was expressly authorized to make improvements on the house and to construct a fence on the land. The deed of sale a retro was registered in accordance with Act No. 3344. On July 27, 1948 the Crisologos and their mother filed an action against Torrijos to compel the latter to re-sell the property to the plaintiffs. This was docketed as Civil Case No. 170 of the Court of First Instance of Abra. The court of first instance in its judgment recognized the right of the Crisologos to repurchase the property within a fixed period of sixty days for the total sum of P25,913.95. On appeal to the Court of Appeals, the latter modified the decision, ordering the reduction of the price of the property by P6,000. Both parties appealed to the Supreme Court by petitions for certiorari. That filed by Torrijos was dismissed on February 7, 1956 and that filed by the Crisologos on March 15, 1956.

In the original decision of the Court of Appeals said Court found that on May 12, 1956 Guillermo Crisologo sent a letter to Torrijos offering to repurchase the property, which, in part, reads as follows:

"In connection with the above entitled civil case, this is to inform you that we are ready to comply with the Court's order dated March 5, 1956, and received by us on March 12, 1956, requiring us to reimburse to you the amount of P19,313.95 on or before May 12, 1956. When we went to you this morning to tender said reimbursement amount, we were surprised to find out that you were not in and only Mrs. Torrijos was in the house. Mrs. Torrijos informed us that she was not in a position to accept the redemption money. She further informed us that it might take sometime before you could comply with your part of the obligation of vacating the premises. However, to comply with the deadline set by the Court on our part, we have today deposited with the Clerk of Court an initial amount of P2,000.00 under Official Receipt No. C-7424743. As soon as you shall have vacated the premises, please notify us accordingly so that we can deliver to you the full repurchase amount. Please do this at your earliest possible time, in order to forestall any question that might arise in the

future, such as rents for your use of the premises after today's formal tender which has been made by us."

The answer thereto of the spouses Torrijos and Gerona is also quoted in the decision and reads as follows:

"Replying to your letter dated May 12, 1956, permit us to state.

"1. That we deny your statement that you were tendering to us the full amount of repurchase price of the house and lot in question on May 12, 1956. In fact the only amount you had on the day is Two Thousand P2,000.00 pesos.

"2. That we deny your claim that the Supreme Court gave you until May 12, 1956, to make a repurchase. We have not received any resolution to that effect.

"3. That the period of sixty (60) days within which to make a repurchase has already expired."

In the original decision of the Court of Appeals said Court makes the following finding:

"It seems that appellants believed that the consignment to or deposit of the repurchase price with the clerk of court (the receipt of which amount was refused by appellee or his wife) was necessary to suspend the running of the period for repurchase. So, if appellants really had in their possession the repurchase price of P19,313.95 ready to be delivered to appellee, there was no plausible reason for them to have deposited only P2,000.00. Indeed, this unexplained circumstance strengthens the belief that, as testified to by appellee, appellants offered to pay only P2,000.00 with the promise to pay the huge balance in an undetermined future—which offer was justly and legally rejected by appellee."

In consequence said Court, in the original decision, declared that it found no reversible error in the judgment appealed from and affirmed the same.

But in the amended decision the Court of Appeals reversed its previous stand and declared that as a bona fide offer to repurchase was made within the redemption period, which offer was flatly refused on the ground that the period has already expired, the vendor's right of action is preserved, thus:

"In view of the above mentioned ground for the refusal to reconvey, it becomes immaterial whether or not on May 12, 1956, appellants tendered the whole amount of P19,313.95 to appellee's wife, as testified to by Dr. Carlos Bañes, teacher Lea Alzate and appellant Guillermo Crisologo; or only P2,000.00 as appellee deduced from the fact that this was the only amount consigned to and deposited with the Clerk of Court. Under our laws and jurisprudence, when a bona fide offer to repurchase made within the redemption period is flatly refused by the vendee a retro on the erroneous ground that the period had already expired, the vendor's right of action is preserved (*Lafont vs. Pascasio*, 5 Phil. 391; *Villegas vs. Capistrano*, 9 Phil. 416; *Fructo vs. Fuentes*, 15 Phil. 362; *Retes vs. Suelto*, 20 Phil. 394). Under this circumstance, article 1518 of the old Civil Code (art. 1616 of the new), which provides for the payment of the repurchase price to the vendee, is not applicable. * * *"

It should be noted that the judgment entered in the previous case, whereby the Crisologos were allowed to repurchase the property for the sum of P19,313.95 and within the period of 60 days, definitely settled by judicial declaration the respective rights of the parties. Their relationship is not that of a vendor and a vendee under the terms of a private agreement equivocal in nature. In order to enforce their right to redeem the Crisologos were obliged to effect the repurchase, not only by offering the full amount of P19,313.95 but also by doing so within a period of 60 days. To this effect is the holding of an early case decided by this Court, that of *Angao vs. Clavano*, 17 Phil. 152, 1956, thus:

" 'The vendor cannot exercise the right of redemption without returning to the vendee the price of the sale.'"

"So that it is not sufficient for the vendor to intimate or to state to the vendee that the former desires to redeem the thing sold, but he must immediately thereupon offer to repay the price, and, should the vendee refuse to

accept the amount of the price thus offered, it must be placed on deposit, for if these conditions are not complied with, as in the present case, the provisions of article 1509 of the Civil Code become applicable, wherein it is provided that 'if the vendor should not comply with the provisions of article 1518, the vendee shall irrevocably acquire the ownership of the thing sold.'

There is nothing in the law nor in the decisions of this Court which would allow the vendor to offer less than the full price fixed in the judgment. Our study of the precedents on the subject leads to the conclusion that the law contemplates that the vendor return or tender nothing less than the full amount of the redemption price. (Villegas vs. Capistrano, 9 Phil. 416; Fructo vs. Fuentes, 15 Phil. 362; Angao vs. Clavano, *supra*; Rosales vs. Reyes, et al., 25 Phil. 495.)

"When a person having the right under a contract of pacto de retro makes a bona fide offer to repurchase, in accordance with the agreement and tenders the necessary amount of money, he has done all the law requires of him to preserve his right and to entitle him to the possession of the property." (Rosales vs. Reyes, et al., *supra*.) (Italics supplied.)

In the case at bar, the vendors, respondents herein, signified their desire to redeem the property, but there is no sufficient evidence that they had the full amount of the repurchase price and offered to return said full amount to effect the redemption. To such effect is the finding of the Court of Appeals (*supra*). If respondents, indeed, had the full amount with which to redeem the property, they should have deposited said full amount of the redemption price (P19,313.95). That they deposited only P2,000 as a token of their willingness to redeem the property, creates grave doubts that they actually had the necessary amount.

We have examined the cases cited by the Court of Appeals to support its ruling that the denial of Torrijos to allow the redemption of the property preserved the right of the Crisologos to redeem and we find that in all of them there is mention of a contract with a clause for redemption, but in none of them were the rights of the parties previously determined by a final judgment of a court, authorizing the redemptioner to effect redemption within a certain period of time and for a definite sum. In all the cases cited, the only issue was whether or not the right of redemption existed. In the case at bar the right had been judicially declared to exist, but made subject to be exercised within a definite period of 60 days and for a fixed amount. The cases cited cannot, therefore, be applicable to the case at bar.

Viewed from the general principles of the law on obligations and contracts, the effect of the previous judgment was to definitely fix the relations of the petitioner and the respondents as that if creditor and debtors, respectively, in the amount and within the period fixed in the judgment. If, as claimed by the respondents and found by the Court of Appeals, the creditor refused to allow the redemption, then Article 1256 of the Civil Code should govern their rights and obligations, thus:

"ART. 1256. If the creditor to whom tender of payment has been made refuses without just cause to accept it, the debtor shall be released from responsibility by the consignment of the thing or sum due."

The effect of the judgment of the Court of Appeals in its amended decision is to settle a matter already settled by judicial pronouncement in a manner that wholly nullifies the former judgment. Whereas the former judgment granted the Crisologos the right to redeem within 60 days from March, 1956, the Court of Appeals now says that the Crisologos will have again 30 days from the time our judgment becomes final, because Torrijos refused to allow redemption. The absurdity of the above ruling of the Court of Appeals, that the denial of the right to redeem extends the period of redemption, can be seen from the fact that a final judgment fixing the date to redeem at 60 days from March, 1956 has been set aside and the date of redemption fixed at six years later, i.e., 30 days from September, 1962, the date of this decision. Following the reasoning of the Court of Appeals, if the Crisologos would, on September 30, 1962, after judgment fixing redemption within 30 days from September, 1962, again

offer to redeem and the offer is again refused by Torrijos, the Crisologos would again have a right to bring a third suit because Torrijos' refusal to accept the offer suspended the period of redemption. And so on indefinitely.

The only remedy to prevent such an absurd situation is to declare, as we now hold, that as Torrijos refused to permit the redemption, the Crisologos should have deposited or consigned the full amount of the price with the Court, as provided in Article 1256 of the Civil Code.

Wherefore, the amended decision of the Court of Appeals is hereby set aside and its original decision affirmed. With costs against respondents So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Reyes, J. B. L., and Dizon, JJ., concur.

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