

FRANCISCA MADARCOS AND TELESFORO CATAIN, PETITIONERS, VS. HON. EUFROCINIO S. DE LA MERCED, PALAWAN COURT OF FIRST INSTANCE JUDGE, BRANCH I AND LORETO STA. MARIA, RESPONDENTS.

G.R. No. L-39975. June 30, 1989

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FERNAN, C.J.:

At issue in this petition for review on certiorari is the proper construction of the term "legal heirs" as used in Section 119 of the Public Land Act which provides:

Every conveyance of land acquired under the free patent or homestead provisions, when proper, shall be subject to repurchase by the applicant, his widow, or legal heirs, within a period of five years from the date of the conveyance."

The facts are as follows: Petitioners Francisca Madarcos and Telesforo Catain are the niece and nephew respectively of the spouses Benito Catain and Andrea Madarcos. Francisca is the daughter of the deceased brother (Joaquin) of Andrea Madarcos while Telesforo is the son of a deceased brother (Gregorio) of Benito Catain.

The Catain spouses died without issue and ab intestato. They left a tract of land with an area of 50,985 square meters, more or less, situated in Salvacion, Roxas, Palawan, covered by Homestead Patent No. 8193 and Bureau of Lands No. H-27580 and described in Certificate of Title G-25 issued in the name of Benito Catain on September 28, 1925 by the Register of Deeds of Palawan.

The only heirs of the deceased homesteaders were their nephews and nieces. In their duly registered Affidavit of Adjudication, said heirs divided the above parcel of land into several lots. One lot, known as Lot B, Psd 37486, with an area of 12,746 square meters, was awarded to petitioner Francisca Madarcos, as evidenced by Transfer Certificate of Title No. T-202 issued in her name. The rest of the lots were adjudicated to the other nephews and nieces of the deceased couple.

On May 19, 1972, Francisca Madarcos sold her share of the inheritance, Lot B, to respondent Loreto Sta. Maria for a consideration of P4,800.00 by reason of which the latter was issued Transfer Certificate of Title No. 5656 by the Register of Deeds of Palawan.

Subsequently, petitioners Francisca Madarcos and Telesforo Catain demanded the reconveyance of Lot B pursuant to Section 119 of the Public Land Act.[1] Respondent vendee Loreto Sta. Maria having refused, they instituted an action for repurchase with damages in the Court of First Instance of Palawan.

Respondent moved for the dismissal of the complaint on the ground that petitioners had no legal capacity to sue because they are not the legal heirs contemplated in Section 119 of the Public Land Act. The trial court sustained respondent's motion and dismissed the action in its order of August 30, 1974. That order is the subject of the

present appeal.

The trial court, in its assailed dismissal order of August 30, 1974, interpreted "legal heirs" to mean compulsory heirs as enumerated in Article 887 of the New Civil Code, thus excluding petitioners, who are collateral relatives of the grantees, from the operation of Section 119. That is palpable error.

The term "legal heirs" is used in Section 119 in a generic sense. It is broad enough to cover any person who is called to the succession either by provision of a will or by operation of law.[2] Thus, legal heirs include both testate and intestate heirs depending upon whether succession is by the will of the testator or by law. Legal heirs are not necessarily compulsory heirs but they may be so if the law reserves a legitime for them.[3]

In the instant case, as the decedents had left no will, the law supplanted their intention. Their estates were distributed by intestate succession.

Under the rules of intestacy in the Civil Code, the following inherit successively and exclusively:

1. Legitimate children and their descendants (Art. 979);
2. Legitimate parents and ascendants (Art. 985);
3. Illegitimate children (Art. 988) and their descendants (Art. 990);
4. Surviving spouse (Art. 995) without prejudice to rights of brothers, sisters, nephews and nieces of the deceased (Art. 1001);
5. Collateral relatives within the fifth degree (Art. 1010); and
6. The State (Art. 1011).

Since the Catain spouses were childless and were survived only by their nephews and nieces, the latter succeeded to the entire estate of the deceased.

Article 975 states that "when children of one or more brothers or sisters of the deceased survive, they shall inherit from the latter by representation, if they survive with their uncles or aunts. But if they alone survive, they shall inherit in equal portions."

Verily, petitioners are legal heirs. Having been decreed under the rules on intestacy as entitled to succeed to the estate of the Catain spouses due to the absence of compulsory heirs, they now step into the shoes of the decedents. They should be considered as among the legal heirs contemplated by Section 119 as entitled to redeem the homestead.

The above interpretation of "legal heirs" as contra-distinguished from the restrictive construction given it by the lower court is more in keeping with the salutary purpose behind the enactment of Section 119 and the jurisprudence laid down on the matter. Indeed, it is not far-fetched to arrive at a more liberal conclusion if the

section is analyzed in accordance with its purpose as in the case of *Pascua vs. Talens* [4] where the Court, speaking through Justice Bengzon, discoursed on the rationale behind Section 119. Thus:

"It is well-known that the homestead laws were designed to distribute disposable agricultural lots of the State to land-destitute citizens for their home and cultivation. Pursuant to such benevolent intention the State prohibits the sale or encumbrance of the homestead (Section 116) within five years after the grant of the patent. After that five-year period the law impliedly permits alienation of the homestead; but in line with the primordial purpose to favor the homesteader and his family the statute provides that such alienation or conveyance (Section 117 of Article No. 2874, now Section 119) shall be subject to the right of repurchase by the homesteader, his widow or heirs within five years. This section 117 is undoubtedly a complement of section 116. It aims to preserve and keep in the family of the homesteader that portion of public land which the State had gratuitously given to him. It would, therefore, be in keeping with this fundamental idea to hold, as we hold, that the right to repurchase exists not only when the original homesteader makes the conveyance, but also when it is made by his widow or heirs. This construction is clearly deducible from the terms of the statute."

In *Ferrer vs. Magante*, [5] We said:

"The applicant for a homestead is to be given all the inducement that the law offers and is entitled to its full protection. Its blessings, however, do not stop with him x x x. The policy of the law is not difficult to understand. The incentive for a pioneer to venture into developing virgin land becomes more attractive if he is assured that his effort will not go for naught should perchance his life be cut short. This is merely a recognition of how closely bound parents and children are in a Filipino family. Logic, the sense of fitness and of right, as well as pragmatic considerations thus called for continued adherence to the policy that not the individual applicant alone but those so closely related to him as are entitled to legal succession may take full advantage of the benefits the law confers."

And in *Rivera vs. Curamen*, [6] We said that "the law x x x because its purpose is to enable the family of the applicant or grantee to keep their homestead x x x must be liberally construed in order to carry out that purpose."

But even as both are decidedly legal heirs of the Catain spouses, only petitioner Francisca Madarcos can invoke the right of repurchase. The other petitioner, Telesforo Catain, cannot claim that prerogative as an heir of his deceased uncle because the homestead had already been partitioned and distributed among the nieces and nephews. The contested Lot B had been given to Francisca and it was she who executed the sale to respondent Loreto Sta. Maria in 1972. Only the vendor has the right to repurchase. As Francisca is still living, she alone can demand the reconveyance of her share, Lot B, from respondent vendee. [7]

WHEREFORE, the questioned dismissal order of the trial court dated August 30, 1974 in Civil Case No. 945 entitled "*Francisca Madarcos and Telesforo Catain vs. Loreto Sta. Maria*" is MODIFIED. Respondent Loreto Sta. Maria is hereby ordered to execute a deed of resale of Lot B, Psd 37486 in favor of petitioner Francisca Madarcos upon payment by the latter of the redemption price. The dismissal of the complaint as to the other petitioner, Telesforo Catain, is AFFIRMED. No costs.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Commonwealth Act No. 141.

[2] Article 782, New Civil Code.

[3] Article 887, *supra*.

[4] 80 Phil. 792, 793-794 (1948).

[5] L-36410, April 10, 1973, 50 SCRA 424, 427.

[6] L-23245, July 31, 1968, 24 SCRA 448.

[7] *Umengan v. Butacan*, L-16036, February 28, 1963, 7 SCRA 311.

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