

FELIX FERRER, PLAINTIFF-APPELLEE, VS. ABRAHAM MANGENTE, DEFENDANT-APPELLANT.*G.R. No. L-36410. April 13, 1973*

Ponente: FERNANDO, J.

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Defendant, Abraham Mangente, could not have been unaware that in raising the issue of whether a son could exercise the right to repurchase a piece of land acquired under a homestead patent, both at the stage of trial and now on appeal, he was running the risk of an adverse decision. The law being what it is, a legal heir, no less than the applicant or his widow, is certainly entitled to do so.[1] He did seek to impart an element of plausibility, not to say novelty, to the question by the allegation that the father in this case was not the original applicant to such homestead but another son who predeceased him. That certainly was not enough to turn the tide of fortune. The lower court faithful to the oft-reiterated policy of the law of according the benefits of the Public Land Act, not only to the individual who applied for a homestead but also to the family of which he formed part, resolved the issue in favor of plaintiff, Felix Ferrer. His action for reconveyance grounded under the above applicable legal provision met with success. As will be more fully shown, the decision reached has support in law. We affirm.

The case was decided on a stipulation of facts. There it was shown that the disputed property, Lot No. 53, located in Manjuyud, Negros Oriental, was originally acquired by one Rolando Ferrer, under a homestead patent issued on January 17, 1941, covering an area of 19 hectares. Upon his dying, single and intestate on February 14, 1945, without debts and liabilities, his father, Segundo Ferrer, executed an extrajudicial settlement of his estate adjudicating unto himself such lot to which a homestead patent had previously been issued. The father likewise obtained a new transfer certificate of title. He then sold such lot, already thus registered in his name to defendant, Abraham Mangente, on July 2, 1963. In a little over two years, August 15, 1965 to be exact, he met his death. Plaintiff, who is his son, sought to repurchase such property on June 28, 1968, the offer being sent by registered mail and received by defendant on July 3, 1968.[2]

On the above facts, plaintiff Felix Ferrer, who filed the action for reconveyance, did prevail. In the well-written decision of the lower court, presided by Judge Macario P. Santos, there is discernible the commendable effort to deal justly with the respective claims of plaintiff and defendant. Thus the judgment was rendered by him "ordering the defendant to reconvey and deliver the possession of the land in question to the plaintiff and upon payment by the latter to him of the sum of three thousand five hundred (P3,500.00) pesos as repurchase money, plus the additional sum of one thousand (P1,000.00) pesos spent by him for removing the stamps of the trees thereon." [3] The matter was elevated by defendant to the Court of Appeals, but in a resolution of November 15, 1972, copy of which was filed with this Court only on February 22 of this year, the case was forwarded to this Court as the principal errors assigned are legal in character. As set forth at the outset, there is no warrant for the reversal of the decision on appeal.

1. The principal error assigned by appellant is that plaintiff is devoid of any right to step into the shoes of his deceased father, as if he were not a legal heir falling within the terms of Section 119 of the Public Land Act. It has

already been intimated in the opening paragraph of this opinion that such an approach is at war with the cardinal postulate that the land in question having been acquired by homestead patent inures to the benefit, not only of the applicant, but of his family included in which are both the deceased father Segundo Ferrer and his son, appellee Felix Ferrer. Thus deference to such a fundamental principle consistently adhered to in our past decisions rules out any other conclusion except that of affirmance. It would be a deviation, both inexplicable and unjustified, if appellant were to be upheld. Plaintiff, belonging as he does to the Ferrer family, comes within the terms of the statutory provision. The land in question was originally acquired through a homestead patent. It did not lose such character by the mere fact of the original grantee, his brother Rolando, having died in the meanwhile with the title passing to their father. 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. This is particularly so in this case as the appellee is the son of the deceased. There is no question then as to his status of being legal heir. 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 call for a 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.

Even in the United States where perhaps the degree of unity in a family is not as marked, this Court in *Jocson vs. Soriano*,^[4] the opinion by Justice Johnson citing American cases, could state: "The conservation of a family home is the purpose of homestead laws. The policy of the state is to foster families as the factors of society, and thus promote general welfare. The sentiment of patriotism and independence, the spirit of free citizenship, the feeling of interest in public affairs, are cultivated and fostered more readily when the citizen lives permanently in his own home, with a sense of its protection and durability."^[5] The last paragraph of his opinion reads: "Under the statutory and constitutional provisions of the various states of the Union it has been held that homestead privilege does not terminate on the husband's death but is transmitted to his widow and children." "^[6] The same thought finds expression in *Soriano vs. Ong Hoo*,^[7] where Justice Labrador asponente stated: "The evident purpose of the Public Land Law, especially the provisions thereof in relation to homesteads, is to conserve ownership of lands acquired as homesteads in the homesteader or his heirs, x x x This is evident from the provisions of the law, such as the prohibition against sale of the homestead within a period of five years from and after the date of the issuance of the patent or grant, and after five years and before 25 years after issuance of title without the consent of the Secretary of Agriculture and Natural Resources, x x x and the permission granted the homesteader or his legal heirs to repurchase the land within five years from the date of the conveyance x x x."^[8]

There is likewise *Umengan vs. Butacan*,^[9] with the opinion of Justice Makalintal setting forth the following: "The case is now before us on appeal by plaintiff and by defendants Manuel Manzano and Ramona S. Pablo. The first question is whether, with respect to the shares of Florentina Umengan in the two parcels of land which were sold at public auction to Angeles Umengan on February 22, 1958 and in turn sold by the latter to Ramona S. Pablo on the following June 3, the period of redemption is one year pursuant to Section 26 of Rule 39, or five years under Section 119 of Commonwealth Act No. 141. Defendant Ramona S. Pablo contends that the cited provision of the Public Land Act does not apply despite the fact that the lands in question were originally acquired as homesteads, because the right of redemption within five years given to the homesteader himself, his widow or legal heirs, refers exclusively to voluntary conveyances and not to involuntary ones, such as the sale on execution of Florentina's shares to satisfy the judgment against her. The contention is without merit. The law does not distinguish between the two kinds of conveyances. The reason for allowing redemption within five years which cannot even be waived by the party entitled thereto, obtains with equal force in both. Those who are permitted to

acquire public lands by working them as homesteads, being hardly in a position to become property - owners otherwise, are afforded the additional protection that in case their acquisitions are sold they or their heirs shall have enough time to effectuate the repurchase."^[10] It is to be noted that Justice Makalintal in support of the conclusion reached cited *Cassion vs. Banco Nacional Filipino*^[11] In that case, this Court, speaking through Justice Tuason, referring to the purpose of the Public Land Act stressed "the intent to promote the spread of small land ownership and the preservation of public land grants in the hands of the underprivileged for whose benefit they are specially intended and whose welfare is a special concern of the State."^[12] While the case is not on all fours, the ruling announced in *Rivera vs. Curamen*,^[13] a relatively recent case, through Justice Dizon, speaks to the same effect. "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 x x x must be liberally construed in order to carry out that purpose."^[14] Nothing can be clearer therefore than that the first error assigned is devoid of any merit.

2. With the disposition of the crucial issue posed, the other two errors assigned could be summarily disposed of. How could appellant raise the issue that the offer to repurchase was not on time when well within such period, appellee did so through the registered mail? The courts of the land, including this Tribunal, allow parties the full benefit of filing their pleadings that way as long as the period given to them has not expired. Appellant would want to be placed on a higher plane, ignoring that to sustain his contention could lead to nullification of a statutory right. How could it elicit sympathetic response? If, as had been shown above, the legal norm requires that the protection accorded an applicant as well as his family should be vitalized and not emasculated, it certainly would be at war with such a basic policy to accept the view set forth by appellant in the second assignment of error. It suffices to mention the error last assigned to the effect that the lower court should have dismissed plaintiffs complaint for reconveyance to make evident that it does not need any refutation at all.

WHEREFORE, the decision of Judge Macario P. Santos of the Court of First Instance of Negros Oriental dated February 28, 1970 is affirmed. With costs against appellant Abraham Mangente.

Makalintal, Zaldivar, Ruiz Castro, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

Concepcion, C.J., took no part.

[1] Section 119 of the Public Land Act, Commonwealth Act No. 141 (1936) reads as follows: "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."

[2] Record on Appeal, 30-32. Decision,

[3] Record on Appeal, 40-41.

[4] 45 Phil. 375 (1923).

[5] *Ibid.*, 379.

[6] *Ibid.*

[7] 103 Phil. 829 (1958).

[8] Ibid., 831 -832. It is precisely because of the well-settled principle that the family is in effect as much the beneficiary as the applicant that in *Lasud vs. Lasud*, L-19242, Feb. 29, 1964, 10 SCRA 425, Justice Labrador as the author of the opinion of the Court could state: "It must be remembered that the appellee Santay Lasud against whom the right to repurchase or reconveyance is asserted is a son of the original homesteader himself and is an immediate member of the family of the homesteader and his direct descendant and heir to the property. In point of proximity to the homesteader, the appellee is as close to the original homesteader as the appellant who tries to redeem the property. They are brother and sister, son and daughter of the homesteader. Under the circumstances We agree with the Court below that the sale of the homestead or part thereof does not fall within the purpose, spirit and meaning of the provision of the Public Land Act x x x authorizing redemption of the homestead from any vendee thereof." Ibid., 428.

[9] L-16036, Feb 28, 1963, 7 SCRA 311.

[10] Ibid., 313-314.

[11] 89 Phil. 560(1951).

[12] Ibid., 562.

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

[14] Ibid.. 452-453.

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