

VICTORIANA SAGUCIO, PLAINTIFF, RESPONDENT AND APPELLANT VS. ADRIANO BULOS, DEFENDANT, PETITIONER AND APPELLEE.

G. R. Nos. L-17608-09. July 31, 1962

Ponente: PAREDES, J.

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PAREDES, J.:

On October 29, 1948, plaintiff Victoriana Sagucio filed with the Court of First Instance of Isabela, a complaint (Civil Case No. 142), against defendant Adriano Bulos, for the redemption of a 21 hectare land covered by a Homestead Patent, originally issued in the name of Andres Sagucio, deceased father of Victoriana, pursuant to Sec. 119 of Commonwealth Act No. 141, in view of the repeated refusal of the defendant to permit her to repurchase the property, without any justifiable ground therefor.' The land was sold by Andres Sagucio for P3,000.00 in Japanese money on April 21, 1944, to Adriano Bulos and TCT No. 201 was issued in the latter's name on February 19, 1947. The CFI of Isabela rendered judgment on July 29, 1954, the dispositive portion of which reads—

"FOR ALL THE FOREGOING CONSIDERATIONS, the court hereby enters judgment (a) ordering the defendant to execute the proper deed of conveyance of the homestead in question in favor of plaintiff upon payment by the latter to him of the sum of P3,200.00 it being understood that plaintiff should assume the obligation in the sum of P3,000.00 in favor of the Philippine National Bank; (b) ordering the defendant to deliver to the plaintiff the possession of the land; (c) ordering the Register of Deeds of Isabela to cancel Transfer Certificate of Title No. 201, and to issue in lieu thereof another transfer certificate of title in favor of the plaintiff and (d) defendant to pay the costs."

The above judgment was appealed to the Court of Appeals, which modified the same as follows—

"3. The decision below in reference to the disposition of the total amount of P6,200.00 due from appellee to appellant, should be clarified. We declare that the said sum of P6,200.00 should first be applied to the payment of the mortgage indebtedness in favor of tile Philippine National Bank. The remainder, if any, after deducting the costs of the suit, should be turned over to appellant. In the event that the amount of P6,200.00 be not sufficient to cover the entire obligation to the bank, the said amount, minus the costs, should be turned over to the Bank and the deficiency thereof should be made up by appellant.

Thus modified, the judgment appealed from in all other respect, is hereby affirmed. Costs against appellant."

The petition for Certiorari, to review the above judgment, presented by defendant Adriano Bulos, was dismissed by Us in a resolution dated September 27, 1956, and the judgment was correspondingly entered on October 26, 1956.

On June 25, 1959, Adriano Bulos filed an action (Civ. Case No. 1298), in the same Court, for Quieting of Title, in accordance with the provisions of Articles 476 to 480 of the new Civil Code, alleging that the decision recognizing Sagucio's right to repurchase had already become invalid, ineffective and unenforceable, because of her failure to exercise said right within the period provided for in Section 119 of Act 141.

On July 10, 1959, Sagucio presented two pleadings, one in Civil Case No. 142, asking for the execution of the judgment rendered therein (to exercise her right of redemption) and another in Civil Case No. 1298, which was an Answer to the action for quieting of title. The quieting of title case was submitted by the parties on the following stipulation of facts, to wit—

"1. That a complaint was filed in Civil Case No. 142 which is incorporated hereof by way of reference and is found on page 1 of the records of said case, and the corresponding answer was filed which is also incorporated hereof by way of reference and is found on page 6 of the records of said case * * *.

2. That in the said case a decision was rendered by the court on July 29, 1954 and is found on pages-93 to 101 of the records, which decision was. appealed to the Court of Appeals by the defendant Adriano Bulos; that the Court of Appeals rendered a decision affirming the decision of this Court with a slight modification; that said decision of the Court of Appeals was appealed by certiorari to the Supreme Court and was affirmed by said court in a decision rendered on September 27, 1956, which is marked as 'Annex A' of this stipulation of facts;

3. That after the filing of Civil Case No. 142 and on April 18, 1949, plaintiff Victoriana Segucio made a judicial consignment of P370.00 to this court estimated by her and intended as a repurchase price of the homestead in question, which amount was withdrawn by her on September 6, 1952 before the rendition of judgment in this Court;

4. That the plaintiff Victoriana Segucio shall deposit immediately to the court within five days repurchase price of P6,200.00 from the issuance of the order of the court to that effect;

5. That with respect to Civil Case No. 1293, inasmuch as the respondent in his answer admitted paragraphs 1, 2, 4, 5 and 6 of the complaint and that he simply denied paragraphs 3, 7, 8, 9, 10 and 11 thereof which refer to question of law, the parties believe that there is no need of presenting any oral or documentary evidence, and;

6. That the parties agree that the approximate market value of the land in question covered by Transfer Certificate of Title No. 201 is P20,000.00."

Upon the basis of the above stipulation of facts, on October 14, 1959, the Court said—

"For all the foregoing consideration, the Court hereby enters judgment (a) denying, as it hereby denies the petition for a writ of execution; (b) declaring that the right of plaintiff-respondent Victoriana Segucio to repurchase the homestead under the Public Land Law has prescribed; and (c) declaring petitioner-defendant Adriano Bulos the absolute and registered owner in fee simple of the land covered by Transfer Certificate of Title No. 201. Without special pronouncement as to costs."

After the motion for reconsideration, invoking the spirit of the law and the avowed policy of the State to the effect that the heirs of the homesteader must be given all the chance to redeem the property was denied, Sagucio elevated the matter to this Court on two assignments of errors, both of which converge on the issue as to whether or not she can still repurchase the property, under the facts obtaining in the present case.

There is no question that Victoriana Sagucio has the right to repurchase the property in question. This is the clear import of the decision in Civil Case No. 142, ordering the defendant Bulos to execute the proper deed of conveyance in her favor. The Court of Appeals and this Court affirmed the decision, with slight modification only as to the disposition or application of the money to be paid.

Section 119 of Act No. 141, relied upon by appellee provides—

"Every conveyance of land acquired under the free patent 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."

Following strictly the letter of the provision and taking as basis for computation of the period of redemption the date of conveyance, which was April 21, 1944, it would seem that when the appellant tried to redeem the property by asking the execution of the judgment in Civil Case No. 142, the five (5) year period had already elapsed. But the period prescribed for repurchasing the property had been interrupted by judicial demand, by the bringing of the action for redemption (Civil Case No. 142), which amounted to a tender to redeem, as in fact, the complainant consigned with the Court the sum of P370.00 which was withdrawn on September 6, 1952 (stipulation of facts). The filing of the action to redeem was well within the 5-year period which preserved her right to repurchase (*Lustado vs. Pinol, et al.* 102 Phil. 1164). It is held that when prescription is by judicial demand, the full time for the prescription must be reckoned from the cessation of the interruption (*Florendo vs. Organo*, 90 Phil., 483; *Pamposa de Nator vs. CIR*, 114 Phil.,—; see also *Spring vs. Barr* 120 Southern Reporter, 256, 9 La. App. 732; 54 C. J. S., 293). Considering that the decision in the action for redemption (Case No. 142), became final on October 26, 1956, on which date the interruption had ceased to exist, and the motion for a writ of execution was presented on July 10, 1959, it follows that the period to redeem has not elapsed.

Moreover, as things now stand, what is before Us is a petition for the issuance of a writ of final judgment in case No. 142, which was filed on July 10, 1959. By virtue of the provisions of Rule 39, section 6, therefore, the judgment in said case No. 142 could be executed on motion within 5 years from the date of its finality, which was October 26, 1956. The motion for execution of said judgment was within such period. But the lower court and the appellee countered with the argument that said provision (Sec. 6, Rule 39), governs cases of execution in general and not the period to repurchase under section that to permit the execution of the decision, as sought for by the appellant, would amount to extending the period of repurchase from 5 to 10 years, thereby offending the express mandate and spirit of said section. The rule of execution of judgment under the rules should govern all kinds of execution of judgment, unless it is otherwise provided in other laws. As the Public Land Act does not provide the procedure for the execution of judgments arising from its provisions, "By express provision of Rule 132 of the Rules of Court, the rules contained therein apply to land registration cases in a suppletory character and whenever practicable and convenient (*Dulay vs. The Director of Lands*, 53 Off. Gaz. p. 161)" (*Duran vs. Oliva*, 113 Phil.,—; 58 Off. Gaz., [39] 6637; also *Marcelo vs. Mencias*, 107 Phil., 1071; 58 Off. Gaz., [16] 3349).

And considering finally the avowed policy of the Public Land Act, to give the homesteader an opportunity to preserve as much as possible, the ownership of the land acquired by him through hard labor and toil, it would seem just to permit the appellant daughter of the homesteader to repurchase the land. Appellee would not lose anything. The amount he paid as original price, in Japanese money, would have been aptly compensated by the enjoyment of the fruits of the property for several years.

Wherefore, the decision appealed from is hereby reversed and another entered, ordering the appellee to execute the corresponding deed of reconveyance in favor of appellant Victoriana Sagucio, in accordance with the terms and conditions specified in the decision of the Court of Appeals heretofore recited. No pronouncement as to costs.

Bengzon, C.J., Concepcion, Barrera, Dizon, Regala, and Makalintal, JJ., concur.

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