

**MARIA C. VDA. DE LAPORE, PLAINTIFF AND APPELLANT, VS.
NATIVIDAD L. PASCUAL, JOINED BY HER HUSBAND, DEMETRIO
PASCUAL, DEFENDANTS AND APPELLEES.**

G.R. No. L-12679. April 27, 1960

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

Direct appeal to this Court from an order of the Court of First Instance of Negros Occidental, dismissing plaintiff's complaint on the ground that it is barred by prior judgment.

It appears that on January 28, 1954, plaintiff Maria C. Vda. de Lapore executed a "Deed of Sale with Right to Repurchase" by virtue of which she sold Lot No. 435-2, formerly a portion of Lot No. 435, Cadastral Survey of Bacolod, to herein defendant Natividad L. Pascual, the same to be repurchased on or before January 28, 1955. As plaintiff failed to exercise her right to repurchase within the period stipulated, the vendee Natividad L. Pascual instituted proceedings in the land registration court for consolidation and confirmance of title to the lot in question in her name. (Cadastral Case No. 2, G.L.R.O. No. 55.) The hearing of the petition was, upon agreement of the parties, postponed a number of times with a view to enabling the vendor Maria C. Vda. de Lapore to pay the repurchase price. The said vendor, however, failed to do so, and when the petition was last called for hearing on December 15, 1956—about a year from the filing thereof—neither she nor her counsel appeared. On that same date, the court issued an order consolidating title to the lot in dispute in the name of the petitioner, herein defendant Natividad L. Pascual, and directing the Register of Deeds of the province of Negros Occidental to issue the corresponding certificate of title in her name.

On February 22, 1957, after the order in the registration proceedings had become final and executory, Maria C. Vda. de Lapore filed the present complaint in the court below to annul the "Deed of Sale with Right to Repurchase" on the ground that it was fictitious, the real agreement between the parties being one of mortgage.

Instead of answering, the defendant Natividad L. Pascual, assisted by her husband Demetrio Pascual, filed a motion to dismiss, alleging that the complaint was barred by prior judgment.

Plaintiff opposed the motion, but the lower court, after hearing, overruled the opposition and, on April 29, 1957, issued an order dismissing the complaint. From that order, plaintiff took the present appeal.

The rule is settled that a decree entered by the land registration court confirming a party's title to the parcel of land applied for and directing its registration in his name, is conclusive not only on the questions actually contested and determined but upon all matters that might have been litigated and decided in the registration proceedings. (Dizon, et al. vs. Banues, 104 Phil., 107.) Needless to say, the estoppel applies to defenses available therein which are sought to be used in another action as the foundation of a claim for relief. In the case at bar, the legality and validity of the "Deed of Sale with Pacto de Retro" should have been assailed in the land registration proceedings by the appellant. This she failed to do. What is more, she was given ample opportunity to repurchase the land in question, but she did not avail herself of such opportunity. She did not even appear at the hearing of the case. And

when the land registration court entered a decree consolidating and confirming title in the name of herein appellee Natividad L. Pascual, appellant did not even appeal therefrom, thereby allowing it to become final. In the circumstances, we do not think the court below erred in dismissing the present complaint.

Wherefore, the order of dismissal appealed from is affirmed, with costs against appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Barrera, JJ., concur.

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