

**DEOGRACIAS SIMEON AND NATIVIDAD MASANGKAY, PETITIONERS,
VS. LOURDES PEÑA, JOSE PEÑA, THE MANUFACTURERS BANK AND
TRUST COMPANY AND THE COURT OF APPEALS, RESPONDENTS.***G.R. No. L-29049. December 29, 1970*

Ponente: TEEHANKEE, J.

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Appeal by certiorari from a decision of the Court of Appeals affirming the judgment rendered by the Court of First Instance of Rizal.

Petitioners-spouses, as plaintiffs, had filed on July 1, 1963 with the Court of First Instance of Rizal their complaint against respondents-spouses Lourdes Peña and Jose Peña as defendants to compel the latter to resell to them the property of 4.4696 hectares in Antipolo, Rizal, covered by Transfer Certificate of Title No. 90368 of the register of deeds of Rizal for the sum of P23,566.50. They joined in their suit as co-defendant, respondent Manufacturers Bank and Trust Company to which the Peña spouses had mortgaged on October 4, 1961 the said property as security for payment of a P30,000.00-mortgage loan extended them by the bank.

The history of the property and of the transactions thereon between the parties is thus narrated in the appellate court's decision: "On July 2, 1935, the then Governor General of the Philippine Islands, Frank Murphy, issued Patent No. 18711 in the name of the heirs of Ignacio Simeon. The document was duly registered in the Office of the Register of Deeds of the Province of Rizal, and on the basis thereof, Original Certificate of Title No. 732 (Exh. C) was issued.

"The heirs of Ignacio Simeon, namely, plaintiff Deogracias Simeon and his brother, Emiliano, executed an instrument of adjudication sometime in the year 1958 over the property covered by said Certificate of Title No. 732. Upon registration thereof, Original Certificate of Title No. 732 was cancelled and in lieu thereof Transfer Certificate of Title No. 57271 (Exh. B, for Lot No. 1, which is more particularly described as follows, to wit: x x x was issued in the name of plaintiff Deogracias Simeon, and Transfer Certificate of Title No. 57272, for Lot No. 2, was issued in the name of Emiliano Simeon, the brother and co-heir of said plaintiff.

"On August 25, 1958, in the City of Manila, herein plaintiffs executed a Deed of First Mortgage (Exhibit A) in favor of the defendants spouses over the above-described property to secure the payment of a loan of P18,000.00 extended to them by defendants spouses. As plaintiffs defaulted in the payment of the loan, defendant Lourdes Peña filed a Civil Case No. 5867 against them in the Court of First Instance of Rizal for the foreclosure of the mortgage. The litigating parties therein, however entered into a compromise agreement and on the basis thereof, a decision was promulgated under date of August 16, 1960 (Exhibit D). Plaintiffs herein failed to comply with the terms and conditions stipulated in the aforesaid compromise agreement, and upon motion of the herein defendants, the Court issued a writ of execution foreclosing the mortgage on March 22, 1961.

"Accordingly, the property described in Transfer Certificate of Title No. 57271 was sold at public auction on April 27, 1961, and defendant Lourdes Peña, as highest bidder purchased the same for P23,566.50 as

evidenced by the Certificate of Sale (Exhibit E) executed in her favor by the Provincial Sheriff of Rizal.

"The sale was approved and confirmed by the Court in its Order (Exhibit F) issued under date of May 11, 1961.

"Upon registration of said Certificate of Sale and the Order above-adverted to, Transfer Certificate of Title No. 57271 was cancelled and Transfer Certificate of Title No. 90368 (Exhibit G) was issued in the name of defendant Lourdes Peña.

"On October 4, 1961, the same property was mortgaged by the defendants Jose Peña and Lourdes Peña to the defendant Manufacturers Bank and Trust Company to secure an indebtedness of P30,000.00. The mortgage was duly registered in the office of the Register of Deeds of Rizal under Entry No. 31889/T-NO. 90368 and annotated in Transfer Certificate of Title No. 90368.

"On March 27, 1963, plaintiffs, through their counsel sent a letter (Exh. H) to the defendants demanding the repurchase of the property in question which demand, however, was not honored by the latter thereby constraining the former to file the present suit."

The appellate court found that petitioner Simeon was a real estate owner and operator, having subdivided another original homestead likewise inherited by him from his father which he sold as 45 subdivided residential lots: "It also appears that plaintiff Deogracias Simeon owned several parcels of land apart from Lot 1 of Transfer Certificate of Title No. 57271, which is not the litigated parcel, among which are --

"(a) The Doña Nati Subdivision located at Parugan, Antipolo, Rizal, consisting of approximately 45 residential lots, although most of the lots comprised in the same have already been sold (t.s.n., Session of December 2, 1965, pp. 6-9);

"(b) 600 square meters of residential lot located at 36 Sumulong Street, Antipolo, Rizal (t.s.n., Session of December 2, 1965, p. 13);

"(c) Another residential lot located in the interior of Sumulong Street, Antipolo, Rizal, consisting of 2,340 square meters (t.s.n., Session of December 2, 1965, p. 13);

"(d) A rice land located at Antipolo, Rizal, consisting of around 500 square meters although the plain-tiff claims that he had already sold the same (t.s.n., Session of December 2, 1965, p. 17).

"And that as admitted by the plaintiff the Doña Nati Subdivision formed part of an original homestead granted to his late father Ignacio Simeon, which the plaintiff and his brother Emiliano subsequently inherited from their father and divided it into equal shares (t.s.n., pp. 21-23, Dec. 2, 1965). One half of this homestead grant was sold by Emiliano to the spouses Anto-nio Fernando and Felisa Nicolas (t.s.n., pp. 17-18, Dec. 2, 1965), while the other half portion was likewise sold by the plain-tiff to Rosario Tuason, which portion was later on repurchased by the plaintiff, now known as the Doña Nati Subdivision) t.s.n., p. 18, Dec. 2, 1965), covered by Transfer Certificate of Title No. 92278 of the Register of Deeds for the province of Rizal (t.s.n., p. 11, Dec. 2, 1965). Thereafter, plaintiff had caused this 'Doña Nati Subdivision' to be subdivided into 45 residential lots more or less through a certain Atty. Castañeda who took charge of selling the subdivided lots for the plaintiff (t.s.n., pp. 8-9, Dec. 2, 1965). Almost all of these residential lots were already sold (t.s.n., p. 12 id.)."

The appellate court upheld the trial court in the latter's disbelieving petitioner Simeon's allegation "that he is redeem-ing it for sentimental reasons without intention of subdividing much less selling the same" as against respondent Lourdes Peña's testimony "that on several occasions in the year 1963, plaintiff had been persuading them to sell back the property as he had either a buyer who was willing to pay a high price for the property or somebody who was willing to finance the development and subdivision of the property and whatever profit they would realize would be divided equally with them (plaintiff and defen-dants Peñas)."

The appellate court thus ruled that it would not sanction petitioners' objective in seeking to redeem the property merely to enable them to speculate and dispose of it again at much greater profit in violation of the salutary policy behind section 119 of the Public Land Law "to preserve and keep in the family of the homesteader that portion of the public land which the State had gratuitously given to him." [1] The appellate court held:

"The decisive issue to be threshed out is whether or not under the foregoing established facts the plaintiffs can still redeem the property pursuant to Section 119 of Commonwealth Act 141, which provides as follows:

'Section 119. 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 conveyance.'

"In connection with this issue, we have examined with care the cases decided involving the aforequoted provision of law (Pascua vs. Talens, 80 Phil. 792; Isaac et al. vs. Tan Chuan Leong, et al., G. R. No. L-3324, May 23, 1951; Sigbe Lasud, et al. vs. Sontay Lasud, et al., G. R. No. L-19242, Feb. 29, 1964; Sagucio vs. Bulos, G. R. Nos. L-17608-09, July 31, 1962; Francisco, et al. vs. Certeza, et al., G. R. No. L-16849, Nov. 29, 1961) in order to analyze and effectively understand and weigh the reason underlying the decisions of the Supreme Court in said cases so as to serve as guideposts in resolving the question presented before us by the plaintiffs-appellants. In all these cases heretofore mentioned the Honorable Supreme Court adhered to the underlying principle for which said law was enacted in that the plain intent of the law is to give the homesteader or patentee every chance to preserve for himself and his family the land that the State had gratuitously given to him as a reward for his labor in cleaning and cultivating it. And we agree with the trial court that it is in this sense that the provision of law in question becomes unqualified and unconditional. And in keeping with such reasons behind, the passage of the law, its basic objective is to promote public policy, that is, to provide home and decent living for constitutes, aimed at promoting a class of independent small landholders which is the bulwark of peace and order.

"In the instant case, however, the lower court found out that plaintiff's purpose in exercising his right of redemption is not 'for the purpose of preserving the same within the family fold.' And such conclusion reached by the trial court finds justification from the evidence of record. By the plaintiffs' own evidence and admission in court, plaintiff is engaged in real estate business and that one of the homestead grants of his father, which was inherited by him and later on converted by him into more or less 45 subdivided residential lots were practically all disposed of through sale. Evidently, the reconveyance sought by the plaintiff is not in accordance with the purpose of the law, that is, 'to preserve and keep in the family of the homesteader that portion of public land which the State has gratuitously given to him' x x apart from the fact that plaintiff as being the owner of several parcels cannot be treated as a landless person, referred to in said law. Accordingly, plaintiffs-appellants cannot invoke the application of said law in his favor."

Petitioners anchor their appeal on the contention that "there is no evidence that petitioners are not going to preserve the homestead land in question in their family or that they are going to resell the same after they have made the repurchase from respondents Peñas", while conceding that respondent Peña had testified that they had offered to share equally the profits of the sale on subdivision of the property (which they would dismiss as a "bare uncorroborated allegation") [2] and that "petitioner Deogracias Simeon had sold another homestead land inherited by him from his father, repurchased from the vendee, and subdivided it into lots some of which he has sold - but this does not mean that he is likewise repurchasing the homestead land now in question also for subdivision and resale. There is no proof at all of such intention." [3]

These findings of fact of the Court of Appeals that "(E)vidently, the reconveyance sought by the plaintiff [petitioner] is not in accordance with the purpose of the law, that is, 'to preserve and keep in the family of the homesteader that portion of public land which the State has gratuitously given to him'" and expressly found by it to "find justification from the evidence of record. By the plaintiff's own evidence and admission in court ...", as

correctly contended by respondents, are beyond review of this Court in this appeal. The Court has consistently held, as recently restated by Mr. Justice Jose B.L. Reyes in *Alvero vs. Reas*,^[4] that "the credibility of witnesses and the weighing of conflicting evidence are matters within the exclusive authority of the Court of Appeals" and that "bar-ring a showing that the findings complained of are totally devoid of support in the record, or that they are so glaringly erroneous as to constitute a serious abuse of discretion, such findings must stand, for the Supreme Court is not expected or required to examine and contrast the oral and documentary evidence submitted by the parties" - which evidence is not elevated to the Court and will not be sent for in the absence of special reasons and circumstances to do so.

Under the circumstances, the Court is constrained to agree with the Court of Appeals that petitioners' proposed repurchase of the property does not fall within the purpose, spirit and meaning of section 119 of the Public Land Act, authorizing redemption of the homestead from any vendee thereof, in the same manner that the Court ruled out in *Lasud vs. Lasud*,^[5] redemption by the daughter of the homesteader from his son, of her one-half share of the homestead which she had sold to him (her brother), after their father's death. In the other decisions of the Court cited by the Court of Appeals as well as by the parties,^[6] (upholding the right of redemption), what is noteworthy is that the redemptioner's purpose therein in seeking redemption of the homestead was not questioned as being in violation of the policy and spirit of section 119 of the Public Land Act which benevolently subjects to the right of repurchase within five years from the date of conveyance, any conveyance of the homestead made by the homesteader, his widow or legal heirs, even if it is effected past the 25-year period from issuance of title during which any conveyance after the initial five-year prohibitory period (section 118) is required to bear the approval of the Secretary of Agriculture and Natural Resources. "These homestead laws" as stated by the Court in *Pascua vs. Talens*,^[7] "were designed to distribute disposable agricultural lots of the State to land-destitute citizens for their home and cultivation ... It [referring to sec. 119] aims to preserve and keep in the family of the homesteader that portion of public land which the State had gratuitously given to him." Here, petitioners' purpose was frontally challenged and conclusively found to be for the speculative purpose of redeeming the land only to dispose of it again for greater profit in violation of the law's policy and spirit.

In *Santander vs. Villanueva*,^[8] where the Court held that "[homesteaders] should not be allowed to take advantage of the salutary policy behind the Public Land Law to enable them to recover the land in question from [vendees] only to dispose of it again at much greater profit to themselves", the Court was constrained to allow recovery of the homestead upon payment of the original price paid, since the sale had been made within the initial prohibitory five-year period and was null and void ab initio under section 118, but in view of the lower court's findings that the homesteader had "embarked in a venture of speculation over the homestead", the Court nevertheless found it appropriate "to refer this case to the Director of Lands for investigation and forfeiture of (the) homestead under sec. 124 of the Public Land Law, if the facts found would warrant such forfeiture."

ACCORDINGLY, the judgment appealed from is hereby affirmed, with costs against petition-ers.

Concepcion, C.J., and Castro, J., did not take part.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, Barredo, Villamor, and Makasiar, JJ., concur.

[1] *Pascua vs. Talens*, 80 Phil. 792 (1948).

[2] Petitioner's brief, pp. 8-9.

[3] *Idem*, p. 10.

[4] G.R. No. L-28337, Sept. 30, 1970, citing *Santa Ana, Jr. vs. Hernandez*, 18 SCRA 973 (1966).

[5] 10 SCRA 425 (1964).

[6] See also *Umengan vs. Butacan*, 7 SCRA 311 (1963).

[7] *Supra*, fn. 1.

[8] 103 Phil. 1 (1958).

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