

FERNANDO MANUEL, PLAINTIFF AND APPELLANT, VS. PHILIPPINE NATIONAL BANK, ET AL., DEFENDANTS AND APPELLEES.*G. R. No. L-9664. July 31, 1957*

Ponente: REYES, A., J.

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The plaintiff Fernando Manuel was the registered owner of a piece of land acquired by him as a homestead. In 1937, he mortgaged the land to the Philippine National Bank as security for a loan. As the loan was not paid, the mortgage was foreclosed in accordance with Act No. 3135 and the land sold at public auction on September 8, 1941, the provincial sheriff giving the buyer, the Philippine National Bank, the corresponding certificate of sale, which was recorded in the register of deeds on the 13th of that same month.

Plaintiff had, under said Act No. 3135, the right to redeem his land within one year "from and after the date of the sale" in accordance with the procedure prescribed by the Rules of Court. But he failed to exercise that right within the period given, which expired on September 9, 1942, and under the Rules of Court, the purchaser at public auction was, from this latter date, entitled to a final deed from the sheriff. However, for reasons which do not appear, it was not until September 2, 1950, or some 9 years after the auction sale, that the final deed was given by the sheriff and recorded in the register of deeds and the corresponding certificate of title issued to the bank.

The land was subsequently sold by the bank to Roberto Avena and by the latter, in turn, to Lucia L. Babaran who, upon the sales being recorded, was, on September 4, 1950, issued the corresponding transfer certificate of title.

In October, 1954, plaintiff, invoking the homesteader's right of redemption under section 119 of the Public Land Law, offered to repurchase the land, and upon the offer being rejected, deposited the redemption money in court and brought the present action against the Philippine National Bank and the subsequent buyers to compel them or any of them to reconvey the land to him.

The defendants set up the defense that plaintiff's right to redeem the land had already expired. And the lower court having upheld that defense and dismissed the complaint for that reason, plaintiff appealed the case directly to this Court, the questions raised being purely legal.

The case hinges on whether the 5-year redemption period fixed in section 119 of the Public Land Law should, in the case of a homestead sold as a result of an extra-judicial foreclosure, be counted from the date of the sale or from the date of the sheriff's final deed of sale.

The said section provides:

"Sec. 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 5 years from the date of the conveyance."

In *Galanza vs. Nuesa* (50 Off. Gaz. 4213), where a homestead was sold with pacto de retro, we ruled that the buyer's title became absolute when the seller failed to repurchase the homestead within five years from the date of

the sale. Applying that ruling in a recent case (*Leoncio Monge, et al. vs. Lino Angeles, et al.* [*] G. R. No. L-9558, May 24, 1957), where a homestead was sold subject to redemption within one year, we held that the 5-year redemption period prescribed in the above section should be counted from the date of the sale and not from the date the ownership of the land "had become consolidated" in the buyers.

Appellant, however, cites an earlier decision, that of *Paras vs. Court of Appeals, et al.* [*] (G. E. No. L-4091, May 28, 1962) and on the authority thereof contends that the final deed issued by the sheriff in the present case on September 2, 1950 should be taken as the conveyance referred to in section 119 of the Public Land Law, so that the 5-year redemption period provided for in that section should be counted from that date and not from the date of the execution sale. The citation does not necessarily help appellant's position. For while we there expressed agreement to the opinion of the Court of Appeals that the 5-year redemption period provided for in the Public Land Law does not begin from the date of the sale—when a mere provisional certificate of sale is issued by the sheriff,—we at the same time accepted that court's view that the said 5-year period begins "on the day after the expiration of the period of repurchase" provided for in foreclosure sales. And there is no question that appellant in the present case did not attempt to repurchase his homestead until after 12 years after the expiration of the one-year period of repurchase allowed in an extrajudicial foreclosure. Note must be taken of the fact that under the Rules of Court the expiration of that one-year period forecloses the owner's right to redeem, thus making the sheriff's sale absolute. The issuance thereafter of a final deed of sale becomes a mere formality, an act merely confirmatory of the title that is already in the purchaser and constituting official evidence of that fact.

Section 50 of the Land Registration Law does not militate against this view. That section provides in effect that a deed in itself does not effect a conveyance and that it is the act of registration that effects such conveyance. As repeatedly declared by this Court, "the registration is intended to protect the buyer against claims of third persons arising from subsequent alienations by the vendor, and is certainly not necessary to give effect as between the parties to their deed of sale." (*Galanza vs. Nuesa, supra, Galasinao et al., vs. Austria, et al.*, 97 Phil., 82, 51 Off. Gaz. 2874 and cases therein cited.) In other words, as between the parties themselves, the conveyance is effective from the date of the sale and not from the date of the registration of the deed.

It follows from the foregoing that appellant's attempt to exercise his right of redemption under the Public Land Law some 13 years from the auction sale or 12 years from the expiration of his right of redemption under the Rules of Court, was too late, so that the lower court did not err in dismissing his complaint.

Wherefore, the decision appealed from is affirmed, with costs against the appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia and Felix, JJ., concur.

[*] *Supra*, P. 663.

[-] 91 Phil., 389

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