

NATIVIDAD CABACUG, PLAINTIFF-APPELLEE, VS. PLACIDO LAO AND SUPERLA REVELO, DEFENDANTS-APPELLANTS.*G.R. No. L-27036. November 26, 1970*

Ponente: FERNANDO, J.

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Plaintiff's statutory right to repurchase two parcels of land obtained through a free patent was sought to be frustrated by defendants raising the extraneous plea that having at one time been the wife of a Chinese national, thereafter deceased, and failing thereafter to regain Philippine citizenship, she was not entitled to recover. She had no choice then but to go to court. She was successful, as the lower court could not very well close its eyes to a stipulation of facts that on its face made quite evident the absence of any legal justification for the refusal of defendants to allow such repurchase. Not satisfied with such judgment, defendants appealed. We affirm.

The facts as stipulated follow: That the plaintiff, Natividad Cabacug, was born a Filipino citizen; that the plaintiff was married to Te Ben Ting, a Chinese citizen, on January 26, 1944; that on October 19, 1946, the said Te Ben Ting died; that on March 16, 1957, Original Certificate of Title No. P-1332, Free Patent No. V-67-921 was issued to plaintiff covering two (2) parcels of land (the land in question) with a total area of 62, 053 square meters, both situated at the Poblacion of Tudela, Misamis Occidental; that on September 13, 1962, the above-mentioned two parcels of land with OCT No. P-1332, Free Patent No. V-67921 were sold by the plaintiff to the defendants, Placido Lao and Superla Revelo, for the total sum of P13,500.00; that by virtue of the sale, Transfer Certificate of Title No. T-436 for the said two parcels of land was issued in the name of the defendants; that the plaintiff on several occasions offered to repurchase the above-mentioned two parcels of land from the defendants, but the defendants continuously refused the offer so that on August 11, 1965, the plaintiff deposited with the Clerk of Court, Court of First Instance, City of Ozamiz the sum of P13,165.00 as the repurchase money and filed the present complaint for repurchase with damages on September 22, 1965; that the plaintiff, at the time the stipulation of facts was submitted, had not filed an affidavit of repatriation, although she had been voting in the previous local and national elections; that in the complaint and in the OCT No. P-1332, Free Patent No. V-67921, the civil status of the plaintiff appears as single; that the plaintiff was then living with a Chinese citizen named Felix Lao without having been married to him and with whom she had four (4) children; that the two (2) parcels of land in question, prior to the sale to the defendants, had been planted with coconut trees, and the defendants had introduced improvements on the land, but the extent, value and time when these improvements were made depended on the evidence to be submitted.[1]

On the above facts, there being a failure of defendants to introduce evidence on their behalf, the lower court, on August 8, 1966, rendered the decision in favor of the plaintiff and against defendants ordering them to reconvey the two parcels of land in question. Defendants were furthermore required to pay to plaintiff the sum of P533.00 every two months from the date of the filing of the complaint representing the reasonable value of the produce of the land until the same shall have been reconveyed. A motion for reconsideration was filed by defendants on August 27, 1966 which was denied on September 3, 1966. Hence this appeal on September 20, 1966 directly to

this Court. As set forth at the opening of this opinion, the appeal is devoid of merit and the judgment must be affirmed.

1. The pivotal question determinative of this controversy is, as made clear at the outset, the right to repurchase of plaintiff, which on the face of the undisputed facts is quite evident were it not for the plea by defendants that she had lost her Filipino citizenship by marrying a Chinese national, who thereafter died, and she had not reacquired the same. Such a marriage did occur on January 26, 1944. She did lose then under our statute and controlling decisions her Filipino citizenship having acquired by such marriage her husband's nationality.[2] Her husband died on October 19, 1946. According to law, the marriage status having terminated as of that date, she could have reacquired her Filipino nationality by repatriation which could be effected "by merely taking the necessary oath of allegiance to the [Republic] of the Philippines and registration in the proper civil registry." [3] At the time she acquired the free patent to the parcels of land on March 16, 1957, she had not taken such steps. Nonetheless, no such question was raised by the government. On September 13, 1962, when the sale of such land now in litigation was made to defendants, she likewise had the same status. Then, when in accordance with the beneficent provision of the Public Land Act, she would repurchase the same, defendants would seek to negate such a clear legal right by the plea that she was not a Filipino.[4]

It is said, and with reason, that a holder of a land acquired under a free patent is more favorably situated than that of an owner of registered property. Not only does a free patent have a force and effect of a Torrens Title,[5] but in addition the person to whom it is granted has likewise in his favor the right to repurchase within a period of five years. This salutary provision of the law is not to be set at naught by the far-fetched and implausible plea herein made that a legal obstacle exists, one which if it could be raised at all could be set up only by the government as the aggrieved party. It is not to be lost sight of either that considering the ease and facility with which the repatriation of plaintiff in this case could be effected, such a plea as that made by defendants even if not so clearly lacking in persuasive force certainly cannot avail to defeat plaintiff's claim. The judgment therefore in her favor must be affirmed.

2. There is another consideration that equally sustains the conclusion reached. Defendants' norm of conduct cannot be said to be in consonance with the requirements of good faith. That plaintiff was a widow of a Chinese national as far back as 1946, sixteen years before the transaction, was known to defendants when they purchased the property. The suspicion could be legitimately entertained that all the while, they harbored the sinister intention of rendering nugatory a statutory right in favor of plaintiff. For the lower court then to lend its aid under the circumstances to further this nefarious scheme is to cast a reflection on the law. They should be the last to expect, considering that what they did was marred by the absence of fair dealing so indissolubly linked with the legal order, that an affirmative response to what their hearts were set on would be forthcoming. So the lower court acted, and its judgment is entitled to affirmance.

3. Thus three of the errors assigned, all of which had a bearing on the legal right of plaintiff to repurchase the disputed parcels of land are disposed of. The other two errors being factual in character need not be looked into. This Court, on appeals directly made to it, can pass only on questions of law.

WHEREFORE, the judgment of August 8, 1966 is affirmed. With costs against defendants.

Reyes, J.B.L., Makalintal, Zaldivar, Teehankee, Barredo, and Villamor, JJ., concur.

Concepcion, C.J., and Ruiz Castro, J., concur in the result.

Dizon and Makasiar, JJ., on official leave.

[1] Stipulation of Facts, Record on Appeal, pp. 20-22.

[2] According to Commonwealth Act No. 63, Section 1(7), citizenship is lost "in the case of a woman, upon her marriage to a foreigner if, by virtue of the law in force in her husband's country, she acquires his nationality," (1936). Cf. *Roa v. Collector of Customs*, 23 Phil. 315 (1912); *Paz Chua v. Secretary of Labor*, 68 Phil. 649 (1939); *Tan Chong v. Secretary of Labor*, 79 Phil. 249 (1947); *Villahermosa v. Commissioner of Immigration*, 80 Phil. 541 (1948); *Escoto v. Arcilla*, 89 Phil. 199 (1951); *Cu v. Republic*, 89 Phil. 473 (1951); *Talaroc v. Uy*, 92 Phil. 52 (1952); *Yee v. Director of Public Schools*, L-16924, April 29, 1963, 7 SCRA 832.

[3] Commonwealth Act No. 63, Section 2(2) and Section 4, Cf. *Roa v. Collector of Customs*, 23 Phil. 315 (1912); *Commonwealth v. Baldello*, 67 Phil. 277 (1939); *Villahermosa v. Commissioner of Immigration*, 80 Phil. 541 (1948); *Pindangan Agri-cultural Co., Inc. v. Ernest A. Schenkel*, 83 Phil. 529 (1949); *Guillermo v. Republic*, L-16984, June 29, 1963, 8 SCRA 383.

[4] According to Commonwealth Act No. 141, Section 119: "Every conveyance of land acquired under the free patent or home-stead 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." (1936).

[5] Cf. *Sumail v. Court of First Instance of Cotabato*, 96 Phil. 946 (1955); *Roco v. Gimeda*, 104 Phil. 1011 (1958); *Ombe v. Diga*, 108 Phil. 1136 (1960); *Nelayan v. Nelayan*, 109 Phil. 193 (1960); *Panimdim v. Director of Lands*, L-19731, July 31, 1964, 11 SCRA 628; *Director of Lands v. Court of Appeals*, L-17696, May 19, 1966, 17 SCRA 71; *Villanueva v. Portigo*, L-27002, Aug. 27, 1969, 29 SCRA 99.

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