

JOSE BABADI AND SABINA BONITA, PLAINTIFFS AND APPELLEES, VS. MANUEL IGNACIO, GEKONIMA RESMAL, MAROELINO IGNACIO AND COSME IGNAOIO, DEFENDANTS AND APPELLANTS.

G.R. No. L-8324. January 19, 1956

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is an action to quiet title over a parcel of land situated in the Cabanatuan instituted by plaintiffs against defendants before the Court of First Instance of Nueva Ecija.

Defendants answered the complaint setting up certain special defenses and a counterclaim. The parties concluded a stipulation of facts and on its strength they submitted the case for decision.

On December 3, 1952, the court rendered decision declaring the plaintiffs true owners of the land in dispute and dismissing the counterclaim of defendants with costs. The case was taken to this Court on the ground that the only questions involved are purely legal.

The land in question was acquired by Manuel Ignacio on October 15, 1929 by virtue of a homestead patent issued to him under the provisions of Act No. 2874, and for which Original Certificate of Title No. 2994 was issued by Register of Deeds of Nueva Ecija on November 9, 1929. The land was mortgaged by Manuel Ignacio to the Philippine National Bank on June 19, 1930 to guarantee the payment of P160. For failure of Ignacio to pay the mortgage debt, the Bank foreclosed the mortgage pursuant to the provisions of Act No. 3135 and the land was sold to the Bank as the highest bidder for the sum of P230.14 on May 30, 1941.

On September 8, 1943, the Philippine National Bank executed an affidavit consolidation of ownership over the land by virtue of which the original title was cancelled and in lieu thereof the Register of Deeds issued in its favor Transfer Certificate of Title No. 19545. On September 1, 1947, the Bank sold the Jose Babadi and Sabina Bonita for the sum of P800.00, and as a result the Register of Deeds issued in their favor Transfer Certificate of Title No. 85 T-2451).

Sometime in May, 1950, Manuel Ignacio asked the spouses Babadi to allow him to redeem the property pursuant to section 119 of Commonwealth Act No. 141, and when the request was denied, Ignacio and his wife executed a document waiving their rights over the land. The question to be determined is whether Manuel Ignacio and his wife can repurchase the land within the purview of section 119 of Commonwealth Act 141. Section 119 provides:

"SEC. 119. Every conveyance of land acquired under the 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 the conveyance."

It should be noted that the land was a homestead adjudicated to Manuel Ignacio on October 15, 1929 by virtue of a patent issued under Act No. 287 and for which Original Certificate of Title No. 2994 was issued in his favor the

Register of Deeds on November 9, 1929. The land was mortgaged by Ignacio to the Philippine National Bank on June 19, 1939 to secure the pay of P160, and upon his failure to pay the mortgage debt, the Bank foreclosed the mortgage and bought the land as the highest bidder on May 30, 1941. On September 8, 1943, the Bank consolidated its ownership over the land and the same date the Register of Deeds issued in its favor Transfer Certificate Title No. 19545. Then, on September 1, 1947, the Bank sold the land to the plaintiffs for P800.

The foregoing shows that the patentee, Manuel Ignacio, mortgaged the land which eventually gave title to the Philippine National Bank nearly 10 years the issuance of the patent and so the transaction was valid and binding under section 118 of Commonwealth Act No. 141. The question that now arises is: From what date can Manuel Ignacio redeem the land within the purview of section 119 of said Act? In other words, from what dates shall the period five years within which redemption could be made be counted? The answer is not difficult to perceive. The law provides that the 5-year period of redemption shall be counted from the date of the conveyance and this undoubtedly refers to the act of consolidation of its ownership made by the Philippine National Bank on September 8, 1943 on which date the Register of Deeds issued in its favor Transfer Certificate of Title No. 19545. Since M Ignacio attempted to repurchase the land only in May, 1950, or after nearly seven years, it is evident that he has already forfeited his right to redeem the land.

As to the question of procedure raised by appellants in the sense that the I court erred in deciding the case on the merits without giving them an opportunity to submit additional evidence, the same has no merit, it appearing that the case was submitted for decision without objection and raised this question on appeal for the first time. They are therefore guilty of estoppel.

The decision appealed from, being in accordance with law and the evidence, is hereby affirmed, with costs.

Parás, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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