

**MARINA B. VARGAS AND SEGISMUNDO VARGAS, SR., PETITIONERS,
VS. THE COURT OF APPEALS, CONRADO ALCANTARA, LADISLAWA
INQUIMBOY AND ZACARIAS ANTONIO, RESPONDENTS.***G.R. No. L-35666. June 29, 1979*

Ponente: DE CASTRO, J.

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This is a petition for review on certiorari of the decision of the Court of Appeals dated July 11, 1972 reversing the decision of the Court of First Instance of Cotabato, which sustained the right of herein petitioners to repurchase, and ordered herein private respondents to reconvey, portions of the homestead, particularly Lots 1346-D and 1346-E, covered by Transfer Certificate of Titles Nos. T-9557 and T-9558, respectively, of the Office of the Register of Deeds of Cotabato, for the same amount of P28,128.50 as appearing in the deed of sale with pacto de retro.

On September 27, 1951, petitioner Segismundo Vargas, Sr., husband of Marina B. Vargas, was issued Homestead Patent No. V-241 by the Office of the President covering a parcel of land known as Lot No. 1346, Pls-209-D, situated at Lagao, General Santos (formerly Buayan), Cotabato, containing an area of 9.2523 hectares. Two years after, or on May 1, 1953, Original Certificate of Title No. V-1733 covering the said parcel of land was issued by the Office of the Register of Deeds of Cotabato in favor of the said patentee.

On December 26, 1957, petitioners subdivided the home-stead into five portions, denominated as Lots 1346-A, 1346-B, 1346-C, 1346-D and 1346-E. Even before the issuance of the patent and title, petitioners disposed a portion of the home-stead. Thus, on August 5, 1950, petitioners sold a portion with an area of 1.9997 hectares, later identified as Lot 1346-C to Congressman Luminog Mangelen for P3,000.00. The amount of P1,600.00 was paid on the date of the execution of the deed of sale and the balance of the purchase price in the amount of P1,400.00 was later paid in 1963 by Datu Samad Mangelen, brother of the late Congressman. On July 21, 1952, petitioners sold another portion with an area of 1.1093 hectares, indicated as Lot 1346-B, to Magno Mateo. Dispositions of the homestead continued after the issuance of the patent and title. On June 14, 1957, petitioners ceded another portion containing an area of 5,176 square meters, known as Lot 1346-A, to Atty. Eugenio Millado in concept of attorney's fees for the case of petitioners' daughter. Finally, on September 29, 1962, petitioner sold the lots in question, Lots 1346-D and 1346-E to the herein private respondents spouses Conrado Alcantara and Ladislawa Inquimboy for a price of P28,128.50. Accordingly, the Register of Deeds of Cotabato, Zacarias Antonio, also impleaded as respondent herein, issued Transfer Certificate of Titles Nos. T-9557 and T-9558 to private respondents-vendees.

Petitioners filed an action to repurchase Lot 1346-C from Datu Mangelen. The case was docketed as Civil Case No. 611 of the Court of First Instance of Cotabato. However, petitioners withdrew the complaint in consideration of 1,200 square meters of said lot that Datu Mangelen ceded to the petitioners. One-half of that portion was given by the petitioners to their counsel, Atty. Arturo Peralta, as attorney's fee.

On June 10, 1965, petitioner Marina Vargas, by virtue of a power of attorney from her husband, filed the present case against herein private respondents and the Register of Deeds of Cotabato, for the purpose of repurchasing Lots 1346-D and 1346-E, pursuant to Section 119[1] of Commonwealth Act No. 141, otherwise known as The Public Land Act.

The lower court, in its order dated June 20, 1968, upheld the rights of the petitioners to repurchase and ordered the private respondents to reconvey Lots 1346-D and 1346-E covered by Transfer Certificate of Titles Nos. T-9557 and T-9558, respectively, of the Office of the Register of Deeds of Cotabato, for the same amount of P28,128.50 as appearing in the deed of sale. Petitioners were given thirty (30) days from the finality of the decision to exercise their right of repurchase, otherwise said right shall be deemed forfeited.

Private respondents appealed to the Court of Appeals and as earlier mentioned, the Court of Appeals reversed and set aside the order of the lower court and dismissed the complaint; hence this appeal on certiorari, petitioner assigning the following errors:

"I. THE COURT OF APPEALS OVERLOOKED THE REAL RULINGS OF THE SUPREME COURT WHICH SUSTAIN THE RIGHT OF THE PETITIONERS TO REPURCHASE THE LAND IN QUESTION HEREIN.

II. THE COURT OF APPEALS OVERLOOKED IMPORTANT FACTS CONTAINED IN VARIOUS ADMISSIONS OF RECORD TO SHOW THAT PETITIONERS, IN DIS-POSING OF PORTIONS OF THEIR HOMESTEAD, ACTED UNDER FINANCIAL PRESSURE RATHER THAN IN A SPIRIT OF SPECULATION.

III. THE COURT OF APPEALS ARRIVED AT CONCLUSIONS OF SPECULATIVE INTENT ON THE PART OF PETITIONERS ON THE BASIS OF CIRCUMSTANCES THAT ARE EQUIVOCAL."

1. In the first assignment of error, petitioners anchor their right to repurchase on the basis of the rulings of this Court on the cases of *Santander vs. Villanueva* (103 Phil. 1) and allegedly reiterated in *Simeon vs. Peña* (36 SCRA 610). They urged this Court that said cases sustain their right to repurchase the land in question.

We do not agree.

In the *Santander* case, the homesteaders were allowed to recover their homestead upon payment of the price for which they sold it, because the sale was null and void ab initio under Section 118[2] of Commonwealth Act No. 141, it being made within the initial prohibitory five year period from the date of the issuance of a homestead patent. In the present case, the homestead patent was issued on September 27, 1951 and the sale of the lots in question to private respondents was executed on September 29, 1962 which clearly was beyond the initial prohibitory five year period.

As regards the case of *Simeon vs. Peña*, petitioners ought to know that petitioner therein was not allowed to repurchase because the lower court found that his purpose was only speculative and for profit. In the present case, the Court of Appeals found that herein petitioners' purposes and motives are also speculative and for profit.

It might be well to note that the underlying principle of Section 119 of Commonwealth Act No. 141 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. (*Simeon vs. Peña*, 36 SCRA 617.) As found by the Court of Appeals, the motive of the petitioners in repurchasing the lots in question being one for speculation and profit, the same therefore does not fall within the purpose, spirit and meaning of said section.

2. Petitioners claim in their second and third assignment of errors is that the finding of the Court of Appeals of

speculative and profit-making motive of petitioners in effecting the repurchase, is contrary to evidence.

We also find no merit in this contention.

The undisputed and admitted fact found by the Court of Appeals is that after the issuance of the homestead patent and the original certificate of title, petitioners subdivided the home lot into five parts and subsequently disposed all of them. What is more glaring is that even before the issuance of the patent and before the expiration of the initial five year prohibitory period, petitioners already alienated portions of the homestead. The patent was issued on September 27, 1951, but as early as August 5, 1950, petitioners already sold Lot 1346-C with an area of 1.9997 hectares to the late Congressman Luminog Mangelen. And again, on July 21, 1952, or less than a year after the patent was issued, petitioners sold Lot 1346-B to Magno Mateo with an area of 1.1093 hectares. These acts, according to the Court of Appeals, in which We agree, are highly indicative of a lack of intent on their part to preserve the homestead for their family, as could further be gleaned from the fact that petitioners never took steps to recover Lot 1346-B from Mateo Magno or Lot 1346-A from Atty. Eugenio Millado. Petitioners abandoned their action to repurchase Lot 1346-C from Datu Luminog Mangelen when the latter agreed to cede to them 1,200 square meters thereof. But, after receiving that area from the Datu, petitioners immediately conveyed away one-half of that portion to their lawyer, Atty. Arturo Peralta. Again, these acts according to the appellate court strongly negate an intention on the part of petitioners to preserve the homestead for themselves.

With respect to the two lots in question which are sought to be repurchased by the petitioners, the appellate court found out that petitioner Marina Vargas candidly admitted that if they (petitioners) succeeded in their action to repurchase, they will convey a portion of the two lots to their lawyer, Atty. Arturo Peralta in accordance to the demand of their counsel.

Moreover, upon testimony of witness Amanda Malonjao, a realtor, it was established that petitioner Marina Vargas has offered to the former to resell the two lots involved in the present case at a higher price even before the case has been finally decided by the lower court. Petitioner Marina Vargas denied the same and claimed that her only purpose in going to the house of Amanda Malonjao in 1965 was to accompany a certain Francisca Provido for the latter to redeem the title of a lot she had previously mortgaged to Amanda Malonjao. Petitioner Marina Vargas presented Francisca Provido to buttress her denial. The Court of Appeals, in resolving the question of fact as to which of the two testimonies should be upheld, gave full credence to the testimony of Amanda Malonjao.

All these, together with the fact that petitioners do not reside in Cotabato but in San Miguel, Bulacan, and that they do not have a house in any part of the homestead, the Court of Appeals found basis for the conclusion that the purpose of bringing this case was not in order to keep and preserve the homestead, if they succeed in recovering it, but their motives are for speculation and for profit.

In the present appeal, petitioners dispute the factual findings of the Court of Appeals, which did not resolve any legal question. The only question raised on appeal before the Court of Appeals is one of fact--whether petitioners' purpose and motive in seeking to repurchase from the private respondents the two lots in question is to preserve the home-stead for themselves or whether their purpose and motive are for speculation and for profit. Thus, the Court of Appeals observed:

"It is thus obvious in the light of the foregoing circumstances that the heart of the case at bar is whether or not plain-tiffs (petitioners herein) are repurchasing the lots in question in order to preserve the homestead for their family.

Therefore, to resolve the vital issue, we are constrained to look into the past and present actuations of the plaintiffs. For thru them, we can glean plaintiffs' intent, scheme or cause of action."

It is a well-established rule as to make it trite to say that in appeal to the Supreme Court only questions of law may be raised. This Court has held in numerous cases that findings of facts by the Court of Appeals are in general final and conclusive (Chan vs. Court of Appeals, 33 SCRA 737; Ramirez Tel. Corp. vs. Bank of America, 29 SCRA 191; Castro vs. Tomporong, 78 Phil. 804; Goduco vs. Court of Appeals; 14 SCRA 282; Tan vs. Court of Appeals, 20 SCRA 54, to name a few), except when:

1. the conclusion is a finding grounded entirely on speculation;
2. the inference made is manifestly mis-taken, absurd or impossible;
3. there is a grave abuse of discretion;
4. the judgment is based on a misapprehension of facts;
5. the Court of Appeals in making its findings, went beyond the issues of the case and the same are contrary to the submission of both appellant and appellee.

None of the above exceptions, however, exists in the case at bar; hence, there is no reason for Us to disturb the findings of facts of the Court of Appeals.

WHEREFORE, the petition is hereby denied and the decision of the Court of Appeals sought to be reviewed is affirmed. No pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

[1] 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 the conveyance.

[2] Section 118. - Except in favor of the Government or any of its branches, units, or institutions, lands acquired under free patent or homestead provisions shall not be subject to encumbrance or alienation from the date of the approval of the application and for a term of five years from and after the date of issuance of the patent or grant, x x x.

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