

JULIAN H. DEL PILAR, PLAINTIFF AND APPELLANT, VS. MANUEL CATINDIG, DEFENDANT AND APPELLEE.*G.R. No. 10432. November 04, 1916*

Ponente: ARAULLO, J.

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The plaintiff in these proceedings, relying upon the right of legal redemption by adjacent owners, provided for in article 1523 of the Civil Code, brought suit against the defendant in the justice of the peace court of the municipality of Bulacan, of the province of the same name, and prayed for judgment in his favor and against the defendant, declaring him to be subrogated in place of the latter in the ownership of a parcel of land which the defendant had recently acquired from a woman named Maria Cornelio, in exchange for one of his own. After a hearing in the justice of the peace court judgment was rendered in favor of the plaintiff, from which judgment the defendant appealed to the Court of First Instance of the province. There the plaintiff filed a new complaint in which, after describing both the land acquired by the defendant in exchange for that of the said Maria Cornelio and the sum of P21, and his own land abutting on that of the defendant so acquired by the latter, prayed the court to render judgment by declaring him, the plaintiff, to be entitled to the legal redemption of the property described in the complaint and acquired by the defendant from Maria Cornelio as aforesaid; and that the court order the defendant to deliver this property to the plaintiff, on payment of the sum of P21, the value of the property or, at most, the sum of P57, the value of the defendant's land that was exchanged with Maria Cornelio.

The defendant in his answer denied each and all of the facts contained in the complaint and in special defense alleged that the plaintiff's lands that adjoined his own were larger than the defendant's and that the land in question afforded the only means of ingress through which work animals could reach the defendant's land, if the plaintiff's lands were excluded. The defendant therefore prayed the court to absolve him from the complaint, with the costs against the plaintiff.

The parties stipulated in writing to submit the case to the Court of First Instance as though it had been originally filed before the same, in view of the fact that, according to the rule laid down by the Supreme Court, the justice of the peace court of Bulacan which first took cognizance thereof had no jurisdiction in the matter. After trial and the introduction of evidence in the said Court of First Instance, judgment was rendered on August 6, 1914, dismissing the complaint with the costs against the plaintiff. From that judgment the plaintiff appealed, with the right to have the evidence reviewed, and forwarded to this Supreme Court the proper bill of exceptions in which he alleged for the purpose of his appeal that the lower court erred:

"First. In holding that the appellant had not proven his right to acquire the land in question, but that his sole purpose appeared to be to molest the appellee. Second. In holding that the appellee acquired the land in question in order that it might serve as a passage way for his stock to his other land that was surrounded by those of the appellant, and in considering this fact as the basis of the judgment. Third. In not holding the right of legal redemption of adjacent owners to lie in the appellant, and in not recognizing the latter's right of subrogation in place of the appellee with regard to the land in question, by payment of either of the sums

mentioned in the complaint.

Article 1521 of the Civil Code provides:

"Legal redemption is the right to be subrogated, with the same conditions stipulated in the contract, in the place of the person who acquires a thing by purchase or in payment of a debt."

And article 1523 of the same Code prescribes:

"The owners of the adjacent lands shall also have the right of redemption when the sale of a rural estate is involved the area of which does not exceed one hectare.

"The right referred to in the preceding paragraph is not applicable to adjacent lands which are divided by brooks, drains, ravines, roads, and other apparent easements for the benefit of other estates.

"If two or more adjacent owners should make use of the redemption at the same time, the one who is owner of the adjacent land of lesser area shall be preferred; and, should both be equal in area, the person who first requested it." Manresa, in his noted work Commentaries on the Civil Code, in treating of the said article 1523 (vol. 10, p. 358, 2d ed.) says as follows:

"This right being limited in scope to rural lands not exceeding one hectare in extent, it is seen that the intention of the Code in this respect is solely to favor the development of the ownership of land and agricultural interests. An estate of not more than a hectare in area does not, as a general rule, produce enough to keep one family; its cultivation can not be accomplished economically, as the agricultural implements used have to be brought in across lands belonging to other owners, and the same may be said with regard to the gathering and transportation of the produce. All these difficulties disappear if, on the sale of the estate, it is purchased by one of the adjacent owners, whereby the public interest is favored, because the production increases, the private interests of the redemptioner are respected and no ostensible harm is occasioned either the vendor or the purchaser.

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"The purpose of this article, as stated by the Code Commission in the revised edition of the Civil Code, was to furnish with the course of time some remedy for the excessive subdivision of real estate which offers an insuperable obstacle to the development of wealth."

As may be seen, the object of the lawmaker in allowing the redemption by adjacent owners is to prevent a rural estate, adjacent to that belonging to another owner or other owners and the area of which does not exceed one hectare, from passing into the hands of a person other than some one of the adjacent owners so that the property of these latter would be divided without benefit to the public weal and perhaps to the prejudice of the adjacent owners themselves who are interested in preserving the integrity of their respective properties and in using the alienated estate for the improvement and development of their own lands.

The right of redemption by adjacent owners cannot be exercised by any of these latter among themselves, but only by them against a stranger who acquires from any one of them, by purchase or gift, in payment, or by any other title for value, a rural estate of the area fixed by law. The purpose of the right of action granted in such a case to the redemptioner (in connection with the right provided for in the articles 1521 and 1523 of the Civil Code, above transcribed, to subrogate himself, under the same conditions stipulated in the contract, in place of the person who acquired the property by any of the means mentioned) is to give preference to any of the owners of the adjacent lands as against the purchaser (that is, against the third person who, not being an adjacent owner, acquired the property) in order that he may have and hold the land under the same conditions as those stipulated in the respective contract.

The supreme court of Spain made an explicit declaration in that sense, in its decisions of November 26, 1895, December 4, 1896, and March 8, 1901.

This last decision was rendered in a case in which the plaintiff, exercising the right of legal redemption, alleged that he was the owner of one celemin of land which on the north adjoined a piece of land of an approximate area of one fanega, less than one hectare, which had belonged to a woman named Juana Pena Romero, and which had been sold to one Zacarias Cuerda. The plaintiff prayed the court to hold that he was entitled to redeem the said land and to order Cuerda to execute a deed of conveyance of all his rights in the property to the plaintiff. Cuerda opposed the plaintiffs petition, alleging that it was evident that the right of legal redemption could be availed of only by the adjacent owners, when the sale thereof had been made to a person who had no property adjoining the land so alienated, and that he was the owner of a piece of land which on the north was conterminous with the property sought to be redeemed. The civil branch of the Audiencia of Caceres rendered judgment affirming that of the lower court and allowing the redemption prayed for in the complaint; whereupon the plaintiff filed an appeal in cassation before the supreme court and alleged that article 1523 of the Civil Code had been violated, as well as the rule laid down in the two first cited decisions of the same court, pursuant to which a right of action for legal redemption lies only against strangers who buy the property sought to be redeemed, but not against another adjacent owner who has the same interest as the plaintiff in the consolidation of the scattered holdings and in the disappearance of the small parcels of property. In deciding that case the supreme court said:

"Legal redemption can only be enforced against a stranger who buys the property sought to be redeemed and not against another adjacent owner who has the same interest."

As the defendant in the case at bar is the owner of the land abutting upon that sought to be redeemed by the plaintiff and is also one of the adjacent owners of this same land, it is evident that the plaintiff has no right whatever in the said property and that the action brought by him against the defendant is improper.

For the foregoing reasons, we affirm the judgment of dismissal, appealed from, with the costs of this instance against the appellant. So ordered.

Torres, Johnson, Carson, Moreland, and Trent, JJ., concur.

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