

JOSE CASTILLO, PLAINTIFF AND APPELLANT, VS. EULALIO BELISARIO, DEFENDANT AND APPELLEE.*G.R. No. 11226. October 17, 1916*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11226/>**PER CURIAM:**

By a judgment of June 8, 1915, the trial court denied the petition of plaintiff for the delivery to him of certain lands, found that the defendant was still entitled to purchase them, and ordered the defendant to pay the price thereof within twenty days, with legal interest from November 12, 1914, and that the deed of sale be afterwards canceled. No express finding was made as to costs. From this judgment the plaintiff appealed.

On November 12, 1914, counsel for Jose Castillo filed a complaint against Eulalio Belisario in the Court of First Instance of Pangasinan, asking that the defendant be ordered to deliver to the plaintiff the two parcels of land which, with their respective metes, bounds and areas, were duly described in the second paragraph of the complaint, and to pay to him P5,000 as an indemnity for losses and damages, and the costs. Said counsel alleged that on December 20, 1909, the defendant sold to the plaintiff the aforementioned parcels of land for P550 by means of the public instrument Exhibit A (attached to the complaint and made an integral part thereof) on condition that the defendant might repurchase the said land within the period of five months and twelve days from the said date of December 20, 1909; that this period expired on May 31, 1910, without the defendant having made use of this right of repurchase, notwithstanding several friendly demands made upon him so to do, and that the defendant unlawfully and in bad faith refused to deliver the said parcels of land to the plaintiff.

In his written answer counsel for the defendant admitted the first two paragraphs of the complaint, denied the rest and all the material allegations contained in the complaint not expressly admitted. In special defense he alleged that prior to May 31, 1910, and up to the time this action was filed, the defendant was willing and ready to repurchase the said two parcels of land sold under pacto de retro to the plaintiff, but that the latter had refused, and still refused, to receive the P550 stipulated for the repurchase and tried to compel the defendant to pay to the plaintiff the exorbitant sum of P3,000 for the property which defendant had sold him for P550; and that this conduct on the part of the plaintiff had caused the defendant losses and damages in the amount of P600. The defendant's counsel therefore prayed the court to absolve his client from the complaint, with the costs against the plaintiff.

At the trial of the case the defendant presented parol testimony and the documents Exhibits A, B, C, D, and E. Exhibit A, a document presented by the plaintiff with the complaint and ratified before a notary, is the contract of sale under right of repurchase, hereinbefore mentioned, in which the vendor, Belisario, declared that the two parcels therein described were not mortgaged, encumbered, or otherwise alienated and that they were free of all charge and encumbrance; that he reserved the right to repurchase them by returning to the vendee, Jose Castillo, the price of the sale, P550, within five months and twelve days, that is, from December 20, 1909, to May 31, 1910; and that the vendor delivered to the purchaser the title deeds of the said properties but that the latter was not to take possession of the lands until the period for the repurchase had expired, during which time the vendor might gather the 1909 crops. If within the said period the vendor Belisario should be unable to repurchase his

lands, their sale was to be considered final and absolute in favor of the purchaser Castillo, who could then immediately take possession of the said lands, register them in his own name in the property registry and dispose of them as he might deem proper. The purchaser, Castillo, after noting the contents of the said deed of sale, manifested his conformity therewith.

The following facts are admitted and recognized by both parties, to wit, the identification of the two parcels of land sold under right of repurchase by the defendant to the plaintiff, and the authenticity and due execution of the contract contained in the document Exhibit A inserted in the complaint.

The record shows that the period for the repurchase was extended to the month of September, 1911, and that on one of the days of this month the defendant-vendor, being sick, sent the P550, the price of the repurchase, by his son Maximo Belisario, accompanied by Manuel Mendoza, a brother-in-law of the purchaser Castillo, to the plaintiff, but the latter refused to receive the said sum, saying that he could no longer do so, although after the accounts of the defendant's debt had been settled in July, 1912, the plaintiff demanded that the defendant pay him P1,384.70, and in May, 1913, attempted to collect from the vendor the sum of P3,000.

From the aforesaid facts, satisfactorily proven in this case, it is concluded that the contract entered into by the parties and set forth in the document Exhibit A inserted in the complaint, is one of the sale under right of repurchase of two parcels of land, that is, the vendor had the right to repurchase the lands sold and for the same amount for which he had sold them, within the period stipulated and that specified in the extension of time that are shown to have been duly granted by the purchaser Castillo to the vendor Belisario.

The latter on his part complied with the obligation imposed upon him by article 1518 of the Civil Code, for it is an undeniable fact that the vendor, Belisario, on account of his being sick, sent his son Maximo, accompanied by the witness Mendoza, a brother-in-law of the purchaser Castillo, to repay the latter the sum of P550, the price of the sale under right of redemption, in order to repurchase the said lands. Therefore, Belisario having complied with the first and special requirement of the law, had a right to repurchase the lands sold by him. Furthermore, as he was in material possession of them by express stipulation between the contracting parties, he cannot be compelled to deliver them to the plaintiff-purchaser, inasmuch as the defendant-vendor not only tendered the price of the repurchase, but also took the proper steps to enable the plaintiff to receive it, although, as it was proven, Castillo, without any good reason whatever, refused to receive it, notwithstanding that the sum offered was the true price of the redemption and was placed at his disposal by the vendor within the extension of time agreed upon.

The vendor who is bound by the conditions prescribed in articles 1507 and 1518 of the Civil Code is obliged to pay the legal interest at the rate of 6 per cent per annum from the date of the judicial claim, together with the expenses referred to in sub-article 1 of the last article above cited, and must repay the principal within the period of ten days.

The plaintiff has not consolidated his ownership in the lands purchased by him and therefore is not entitled to bring an action for the recovery of possession thereof.

For the foregoing reasons the errors assigned to the judgment appealed from have been refuted, and the said judgment should be, as it is hereby, affirmed, as it is in conformity with the law. It is understood, however, that the defendant must pay to the plaintiff the sum of P550, the price of the redemption, within the term of ten days, with legal interest from November 12, 1914, after first complying with the provisions of article 518 [1518] of the Civil Code. The costs shall be assessed against the appellant. So ordered.

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

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