

CLARA ATONG VDA. DE PANALIGAN FOR HERSELF AND IN BEHALF OF HER DECEASED HUSBAND, ARISTON PANALIGAN, SPOUSES ELIZABETH PANALIGAN AND CARLOS PALANOG, JR., MAGDALENA PANALIGAN, ARI...

G.R. No. 112611. July 31, 1996

Ponente: ROMERO, J.

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ROMERO, J.:

This case involves the simple issue of redemption as provided for in Section 119 of Commonwealth Act No. 141. The following facts are undisputed:

On August 13, 1956, the spouses Gaudencio Superioridad and Socorro Barrios, private respondents herein, acquired a 79,509 square meter parcel of land located at Barrio 5, Norala, South Cotabato under Homestead Patent No. V-5988. Consequently, Original Certificate of Title No. P-6776 (V-5988) over the subject Lot No. 744 (PLS-406-0) was issued in their names.

On January 13, 1973, the spouses Superioridad sold the subject property to Ariston Panaligan and Clara Atong for P25,000.00. After a little over a year, or on February 11, 1974, the spouses Panaligan sold the said lot to their four children, similarly for a consideration of P25,000.00. Lot No. 744 was subdivided into four lots, Lot Nos. 744-A, 744-B, 744-C and 744-D, each with an area of 19,877 square meters, and the corresponding transfer certificates of title were issued in favor of the spouses Elizabeth Panaligan and Carlos Palanog, Jr., Magdalena Panaligan, Ariston Panaligan, Jr. and Rosalinda Panaligan.

On October 20, 1977, private respondent spouses Superioridad, filed a complaint for repurchase of land under Section 119 of Commonwealth Act No. 141[1] against the spouses Panaligan and their children who were now the titled owners of the property in question.[2] In their answer, the Panaligans countered that private respondents abandoned their right to the property in question, that there was neither valid tender of payment nor consignment in court and that they are not desirous of preserving the land for homestead purposes but for "gain and speculative purposes."

After trial on the merits, the lower court ruled in favor of private respondent spouses Superioridad. The dispositive portion of its decision dated September 15, 1987 reads:

"WHEREFORE, decision is hereby rendered:

1. Authorizing plaintiffs to redeem Lot No. 744, Pls-406-D covered by Original Certificate of Title No. (V-13995) P-6776 of the Registry of Deeds for the Province of South Cotabato; as said lot was subdivided and transfer certificates of title covering each lot issued, the defendants in whose names said titles were issued shall reconvey them to plaintiffs;
2. Ordering plaintiffs to pay defendants the sum of P25,000.00 as repurchase price and another sum of P15,000.00 as price for useful improvements introduced by defendants on the lot in question.

No pronouncement as to costs.

SO ORDERED."[3]

Petitioners brought the case to the Court of Appeals alleging that the trial court erred in holding that private respondents could validly exercise their right to repurchase, which right to repurchase had already expired, and in ordering the tender of payment nine years after expiration of the right to repurchase.

Petitioners' appeal before respondent appellate court proved unsuccessful. On May 10, 1993, said court found no reversible error in the trial court decision and affirmed the said decision with modification. The dispositive portion of the assailed Court of Appeals decision reads:

"WHEREFORE, finding no reversible error in the appealed decision, We AFFIRM the same with the modification that plaintiffs-appellees are hereby ordered to remit to defendants-appellants the full amount of P40,000.00 within a non-extendible period of five (5) days from date of finality of herein judgment; otherwise, plaintiffs-appellants' (sic) right of redemption shall be automatically deemed waived, abandoned, or extinguished by prescription. No costs."[4]

Petitioners' motion for reconsideration was denied on October 19, 1993,[5] prompting the filing of the instant petition for review.

It is petitioners' main contention that the Court of Appeals ruling goes against this Court's pronouncement in *State Investment House Inc. v. CA*, 215 SCRA 734[6] that in exercising the right of redemption, tender of payment of the repurchase price is necessary.[7] Petitioners point out that during the hearings of the case in the trial court, private respondents could not readily deposit the P25,000.00 repurchase price with the Clerk of Court.[8] In its reply, petitioners add that the Court of Appeals failed to appreciate that private respondents are guilty of laches.

We find the petition to be utterly bereft of merit.

Before proceeding with the provision of law applicable in this case, it is necessary to correct petitioners' misimpression that the Court of Appeals failed to apply our ruling in the *State Investment* case. Said case is not applicable to the case at bar because it did not involve a land granted under a homestead or free patent, but an ordinary parcel of land which was mortgaged and foreclosed. Redemption was thus being exercised under civil law provisions and not under Section 119 of Commonwealth Act No. 141, which is the legal provision in question in instant case. Perforce, pronouncements in *State Investment* as regards the general rules of redemption necessitating tender of payment do not apply to the case at bar which involves land acquired under a homestead patent. What petitioners quoted was actually the Court ruling in *Belisario v. IAC*, 165 SCRA 101,[9] which case likewise did not involve land granted under a homestead patent.

The right of repurchase sought to be exercised by private respondents and allowed by both the trial and appellate courts, is based on Section 119 of Commonwealth Act No. 141, the Public Land Act. Said privilege is a part of the public policy to provide a home and decent living for destitutes, aimed at promoting a class of independent small landholders which, needless to say, is the bulwark of peace and order.[10]

Section 119 of Commonwealth Act No. 141 provides:

"Sec. 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 date of the conveyance."

It is uncontroverted that private respondent spouses sold the land to petitioners on January 13, 1973 and that a suit

for reconveyance was filed on October 20, 1977. Said suit was clearly within the five-year period to repurchase granted under the aforequoted legal provision.

The law is unambiguous. Tender of payment of the repurchase price is not among the requisites of the law and is therefore unnecessary, contrary to the petitioners' claims. In the case of *PNB v. CA*, 179 SCRA 619,[11] with reference to two parcels of land acquired under a free patent for which redemption within five years was conceded by petitioner therein, the Court held that "(it) is not even necessary for the preservation of such right of redemption to make an offer to redeem or tender of payment of purchase price within five years. The filing of an action to redeem within that period is equivalent to a formal offer to redeem. There is not even a need for consignment of the redemption price." [12] It is thus immaterial that private respondents did not readily deposit the repurchase price with the Clerk of Court.

As regards the accusation of laches, we likewise rule in favor of private respondents. The latter cannot be said to have slept on their rights or let an unreasonable length of time go by before asserting their rights, after recognizing that they filed suit to recover the property within the five-year period expressly provided for by law.

WHEREFORE, there being no reversible error in the questioned decision, the instant petition for review is hereby DENIED and the decision of the Court of Appeals in CA-G.R. CV No. 22120, "*Spouses Gaudencio Superioridad and Socorro Barrios v. Clara Atong Vda. de Panaligan, et al*" is AFFIRMED.

SO ORDERED.

Regalado (Chairman), Puno, and Mendoza, JJ., concur.

Torres, Jr., J., took no part.

[1] Civil Case No. 422, Court of First Instance, later the Regional Trial Court of Surallah, South Cotabato, Branch 26.

[2] The death of Ariston Panaligan left Clara Atong Vda. de Panaligan and their children as parties, and now as the petitioners in the instant case.

[3] Penned by Judge Cristeto D. Dinopol, Rollo, pp. 48-55.

[4] Decision penned by Justice Ma. Alicia Austria-Martinez and concurred in by Justices Quirino D. Abad Santos, Jr. and Pacita Cañizares-Nye, Rollo, pp. 39-43.

[5] Penned by Justice Ma. Alicia Austria-Martinez and concurred in by Justices Quirino D. Abad Santos, Jr. and Justo P. Torres, Jr., Rollo, p. 46.

[6] G.R. No. 99308, November 13, 1992.

[7] Rollo, p. 28.

[8] Rollo, pp. 129-131.

[9] *State Investment House Inc. v. CA*, supra, at 745-746.

[10] *A. NOBLEJAS & E. NOBLEJAS, REGISTRATION OF LAND TITLES AND DEEDS* 375 (1986 edition) citing *Pascua v. Talens*, 45 OG 9th Supplement 414, *Gramor v. Garcia*, CA-G.R. No. 1262-R and *Isaac v. Tan Chuan Leong*, 89 Phil. 24.

[11] G.R. No. 46898-99, November 28, 1989.

[12] Citing *Rosales v. Reyes*, 25 Phil. 495, *Gonzaga v. Go*, 69 Phil. 678 and *Rorio v. Rosario*, 93 Phil. 801.

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