

DIRECTOR OF LANDS, SALVADOR EVIDENTE, PETITIONER AND APPELLEE, VS. BIENVENIDA JOCSON LAGNITON, OPPOSITOR AND APPELLANT.*G.R. No. 11491. May 28, 1958*

Ponente: LABRADOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11491/>**LABRADOR, J.:**

On February 25, 1955, petitioner herein Salvador Evidente filed a motion in Cadastral Case No. 4, GLRO No. 9789, praying that a notice of levy issued by the Municipal Court of Iloilo City in Civil Case No. 1722, entitled "Agustin Jocson vs. Juan Cezar and Cristina de Cezar," register on December 13, 1954 appearing on Transfer Certificate of Title No. 8712, covering Lot No. 655 of the Iloilo Cadastre, be cancelled. The land covered by Transfer Certificate of Title No. 8712 was acquired by petitioner Salvador Evidente by purchase from Ildefonso Cezar on January 26, 1955. The sale was registered on February 7, 1955, on which date said transfer certificate of title was issued in the name of Salvador Evidente. Ildefonso Cezar in turn acquired the said lot by redemption from the Sheriff on December 9, 1954, the sheriff having attached the same in Civil Case No. 2627 of the Court of First Instance of Iloilo, entitled "Agustin Jocson vs. Juan Cezar and Cristina de Cezar," and sold it at public auction to the judgment creditor Agustin Jocson on December 9, 1953.

The motion of petitioner Salvador Evidente was granted on February 28, 1955, and on April 28, 1955, Bienvenida Jocson Lagniton, special administratrix of the late Agustin Jocson, moved for the reconsideration of the said order, alleging that said lot No. 655, covered by Transfer Certificate of Title No. 8712 in the name of Salvador Evidente, had previously been attached on execution in Civil Case No. 1722 of the Municipal Court of Iloilo City and registered on December 13, 1954. This motion for reconsideration was opposed by petitioner and the matter was referred by the Register of Deeds of Iloilo to the Land Registration Commission as a consulta. Said Commission ruled that the levy on execution of December 13, 1954, cannot be annotated at the back of the certificates of title in the names of Ildefonso Cezar and Salvador Evidente. Not satisfied with the opinion of the Commission, oppositor filed a motion for relief in the Court of First Instance of Iloilo on April 28, 1955, but said court on August 2, 1955, denied the petition for relief, holding that as the land has been isold at public auction to satisfy a judgment against Juan Cezar and Cristina de Cezar owing to Agustin Jocson, and as it was subsequently redeemed by a successor in interest of the original judgment debtors, said land exclusively belonged to the redemptioner and as such cannot be held to answer for another personal liability of the judgment debtors. Against this order Bienvenida Jocson Lagniton has filed this appeal.

In her first assignment of error, appellant claims that as the redemption by Ildefonso Cezar, which took place on December 9, 1954, was not registered until January 27, 1955, the levy on execution of said property by Agustin Jocson in Civil Case No. 1722 of the Municipal Court of Iloilo City, registered on a previous date, i.e., December 13, 1954, should obtain preference over and above the redemption. We find no merit in this contention. Agustin Jocson, who secured the attachment of Civil Case No. 1722 of the Municipal Court of Iloilo City, is the same Agustin Jocson who is the judgment creditor in Civil Case No. 2627 of the Court of First Instance of Iloilo.

Besides, the redemption was made from Agustin Jocson to whom the property was sold at public auction as the highest bidder. Agustfn Jocson, therefore, had actual knowledge of the redemption of the property on December 9, 1954, and this knowledge is equivalent to registration.

In her second assignment of error appellant also claims that the redemption by Ildefonso Cezar on December 9, 1954 could not validly affect the rights acquired by the attachment of the property by virtue of Civil Case No. 1722 of the Municipal Court of Iloilo City, registered on December 13, 1954. It is argued in support of this claim that the sale by Ildefonso Cezar to petitioner Salvador Evidente, which took place on January 26, 1955, was subsequent to the levy of attachment, and furthermore that the exercise of the right of redemption by Ildefonso Cezar on December 9, 1954 is not valid, because Ildefonso Cezar is not a successor in interest within the meaning of Section 25, Rule 39, Rules of Court. It is also argued that the case of *Rosete vs. Yap*, 50 Off. Gaz. 3579; 95 Phil., 560, is not applicable to the case at bar.

We have carefully examined the case of *Rosete vs. Yap*, and we find that the case at bar falls under the ratio decidendi of said case. In said case the wife redeemed the property sold at public auction with her own money, and we decided that she could effect such redemption as a successor in interest of the conjugal property sold on execution, because she has an inchoate right to such conjugal property. The right of a son, with respect to the property of a father or mother, is also an inchoate or contingent interest, because upon the death of the father or the mother or both, he will have a right to inherit said conjugal property. If any holder of an inchoate interest is a successor in interest with right to redeem a property sold on execution, then the son is such a successor in interest, as he has an inchoate right to the property of his father.

The general rule on who has the right of redemption over property sold on execution has been stated by us thus:

"Under the law which permits a successor in interest to redeem the property sold on execution, the term 'successor in interest' includes one to whom the debtor has transferred his statutory right of redemption; one to whom the debtor has conveyed his interest in the property for the purpose of redemption; or one who succeeds to the interest of the debtor by operation of law; or one or more joint debtors who were joint owners of the property sold; or the wife as regards her husband's homestead by reason of the fact that some portion of her husband's title passes to her." (*Magno vs. Viola and Sotto*, 61 Phil. 80)

The right of the son Ildefonso Cezar in this case to redeem the property as a successor in interest within the meaning of paragraph (a) of Section 25 of Rule 39 of the Rules of Court arises also from the fact that the judgment debtors, in this case the spouses, permitted and consented to the son's effecting the redemption. There is no prohibition against a judgment debtor, whose property is levied on execution, to transfer his right of redemption to anyone whom he or she may desire. By such permission to redeem by the grant of such right, the son became a successor in interest within the meaning of said paragraph, entitled to effect the redemption.

"Ordinarily, statutory authority to redeem property sold under execution is granted to the judgment debtor or his successor in interest, but is sometimes also granted to the 'owner' of the property, which means any owner of the real estate whose interest was subject to the payment of the judgment upon which it was sold, without regard to whether he is the judgment debtor or claims under him. Redemption is proper where made by the debtor's grantee, or assignee, or assignee for the benefit of creditors, or assignee or trustee in insolvency proceedings. * * *." (21 Am. Jur. 176.)

"If, in conventional redemption, the vendor can alienate in favor of a third person his right to redeem the property sold, it is logical, and not prohibited by law, that the judgment debtor whose property has been attached on execution and sold may convey or sell to third persons his right to exercise legal redemption. (Sec. 450, Code of Civ. Proc.)" (*Diez vs. Delgado, et al.*, 37 Phil., 389.)

The order appealed from is hereby affirmed, with costs against oppositor-appellant.

Paras, C.J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.

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