# EDUARDO FONTANILLA, SR. AND ELLEN M. T. FONTANILLA, PETITIONERS, VS. HON COURT OF APPEALS AND LUIS DUAMAN, RESPONDENTS

*G.R. No. 119341. November 29, 1999*

Ponente: KAPUNAN, J.

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**KAPUNAN, J.:**

This is a petition for review on certiorari filed by Eduardo Fontanilla, Sr. and his daughter, Ellen M.T. Fontanilla (herein petitioners), seeking the reversal of the decision, dated 19 August 1994, of the Court of Appeals in CA-G.R. CV No. 25061 and its resolution, dated 6 February 1995, denying petitioners' motion for reconsideration of said decision.

The facts of the case are not disputed. Spouses Crisanto and Feliciana Duaman were awarded a homestead patent over a parcel of land, and consequently, Original Certificate of Title No. I-2720 covering the same was issued to them. Upon their death, private respondent Luis Duaman, one of their children, inherited a four-hectare portion of the homestead. Transfer Certificate of Title No. 33441 covering the said portion was issued in his name. On 21 July 1976, in order to expedite the loan application of his two (2) sons, Ernesto and Elpidio Duaman, with the Development Bank of the Philippines, private respondent transferred to them the ownership of his share in the homestead. Accordingly, TCT No. 33441 was cancelled and in lieu thereof, TCT No. T-97333 was issued in the names of Ernesto and Elpidio.

On 8 August 1985, in view of the imminence of foreclosure of the said lot by the bank, Ernesto and Elpidio sold the two-hectare portion thereof to Eduardo Fontanilla, Sr. for P30,000.00. The vendee named in the deed of sale was Ellen M. T. Fontanilla. Pursuant to the sale, TCT No. 172520 covering the two-hectare portion (subject lot) was issued in the name of Ellen M. T. Fontanilla. Sometime later, private respondent informed Eduardo Fontanilla of his desire to repurchase the subject lot.

On 20 June 1989, private respondent instituted with the Regional Trial Court, Branch 9 of Cauayan, Isabela, an action against petitioners for the "Repurchase of the Homestead and Delivery of Title No. T-97333." Upon motion filed by petitioners, the lower court dismissed private respondent's complaint for failure to state a cause of action.

On appeal, the CA reversed the order of the lower court. Essentially, the CA held that private respondent could still exercise the right to repurchase under Section 119 of the Public Land Act (Commonwealth Act No. 141, as amended) despite the fact that it was not him but his sons who conveyed the subject lot to petitioners.

Aggrieved, petitioners filed the instant petition alleging that-

> "1. The respondent CA erred when it concluded that private respondent Luis Duaman, who was not the vendor who executed the deed of sale in favor of petitioner Ellen M.T. Fontinillam, has the right to repurchase the land subject matter of the action;
>
> 2. The respondent CA erred when it concluded that the homestead applicant, his widow or his legal heirs have

> the right to repurchase the homestead every time the same is conveyed to a third party or sold to persons outside the family circle."[1]

In a nutshell, petitioner contend that private respondent, not being the vendor in the sale of the subject lot to petitioners, could no longer exercise his right to repurchase under Section 119 of the Public Land Act against petitioners. Said provision of law reads:

> "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 the date of conveyance."

It is well to remember that "these homestead laws were designed to distribute disposable agricultural lots of the State to land-destitute citizens for their home and cultivation."[2] Further, the plain intent of Section 119 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."[3]

Petitioners, however, urge this Court to deviate from this salutary principle arguing that private respondent could no longer avail himself of the right to repurchase under Section 119 because he was not the vendor of the subject lot. Only the vendor allegedly has the right to repurchase. Petitioners further argue that Ernesto and Elpidio cannot, by themselves, exercise said right as they are not "legal heirs" of the homesteader. In support of their contention, petitioners cite Madarcos vs. de la Merced[4] where we held that-

> "[t]he contested Lot B had been given to Francisca and it was she who executed the sale to respondent Loreto Sta. Maria in 1972. Only the vendor has the right to repurchase. As Francisca is still living, she alone can demand the reconveyance of her share, Lot B, from respondent vendee."[5]

Petitioners' contention is bereft of merit. Our pronouncement in Madarcos that "[o]nly the vendor has the right to repurchase" was taken out of context by petitioners. Said pronouncement may not be sweepingly applied in this case because of a significant factual difference between the two (2) cases. In Madarcos, we ruled that Catain (petitioner therein) cannot repurchase the share of Francisca, his co-heir, because the homestead had already been partitioned and distributed among them as heirs. In other words, in that case, we held that Catain could not avail himself of the right granted under Section 119 because he was not entitled to repurchase the share of his co-heir in the homestead. Upon the other hand, in this case, private respondent is precisely seeking to repurchase from petitioners his own share in the homestead that he inherited from his parents.

Indeed, there is nothing in Section 119 which provides that the "applicant, his widow, or legal heirs" must be the conveyor of the homestead before any of them can exercise the right to repurchase. Rather, what said law plainly provides is that the "applicant, his widow, or legal heirs" shall be entitled to repurchase the homestead within five (5) years from the date of conveyance. In this case, there is no dispute that private respondent is the legal heir of spouses Crisanto and Feliciana Duaman, the homesteaders.

Echoing the ratiocination of the lower court, petitioners also aver that assuming arguendo that private respondent can still exercise his right to repurchase under Section 119, the same is already time-barred. In support of this averment, petitioners reckon the five-year period to repurchase from 21 July 1976 when private respondent conveyed the subject lot to his sons. When the complaint was filed with the lower court on 20 June 1989, more than five (5) years had lapsed and prescription of the right to repurchase had allegedly already set in.

This contention is likewise untenable. As correctly held by the CA, the transfer of the subject lot by the father (private respondent Luis) to his sons (Ernesto and Elpidio) is not the "conveyance" contemplated by Section 119 because the subject lot remains in the family of the homesteaders, the transferee being their direct descendants.


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The avowed fundamental policy of Section 119, e.g., "to preserve and keep in the family of the homesteader that portion of the public land which the State had gratuitously given to him,"[6] is clearly not violated by said conveyance.

Thus, in Lasud vs. Lasud,[7] we declared that the sale by the daughter of the homesteader of her one-half share in the homestead to her brother (son of the homesteaders) "does not fall within the purpose, spirit and meaning of the provision of the Public Land Act (Com. Act No. 141, Section 119) authorizing redemption of the homestead from any vendee thereof."[8] We quoted with approval the disquisition of the lower court in this case as follows:

> "x x x Considering that Sec. 119 of the Public land Law aims to preserve in the family of the homesteader that portion of the public domain which the State had gratuitously given to him, it is apparent that the conveyance mentioned therein refers to an alienation made to a third person outside the family circle. And certainly the defendant Santay Lasud can not be considered a third person in relation to the original homesteader, his father, because there is a privity of interest between him and his father, the defendant Santay Lasud being the continuity of the legal personality of the former. So much so, that the sale made by the plaintiff, Sigbe Lasud, to her brother, the defendant Santay Lasud, can not be a 'proper' case to be brought under the operations of Sec. 119 of the Public Land Law, because such a sale does not take the land out of the family circle of the homesteader their father that is, the sale is not in contravention of an avowed fundamental policy, which is, to preserve and keep [in] the family of the homesteader,' the land granted to him by the State."[9]

Since the transfer of the subject lot by private respondent to his sons does not fall within the purview of Section 119, it necessarily follows that the five-year period to repurchase cannot be reckoned from the date of said conveyance. Rather, the date of conveyance for the purpose of counting the five-year period to repurchase under Section 119 is that "alienation made to a third party outside of the family circle"[10] which in this case was the conveyance of the subject lot to petitioners on 8 August 1985. Accordingly, private respondent's complaint for the repurchase of the subject lot, which was filed on 20 June 1989, was not time-barred as not more than five (5) years had lapsed since the date of its conveyance to petitioners.

The foregoing construction is merely in keeping with the purpose of Section 119 - "to enable the family of the applicant or grantee to keep their homestead" - for it is well settled that the law must be construed liberally in order to carry out that purpose.[11] As we held in Ferrer vs. Mangente[12]-

> "x x x The applicant for a homestead is to be given all the inducement that the law offers and is entitled to its full protection. Its blessings, however, do not stop with him. This is particularly so in this case as the appellee is the son of the deceased. There is no question then as to his status of being a legal heir. The policy of the law is not difficult to understand. The incentive for a pioneer to venture into developing virgin land becomes more attractive if he is assured that his effort will not go for naught should perchance his life be cut short. This is merely a recognition of how closely bound parents and children are in Filipino family. Logic, the sense of fitness and of right, as well as pragmatic considerations thus call for continued adherence to the policy that not the individual applicant alone but those so closely related to him as are entitled to legal succession may take full advantage of the benefits the law confers."[13]

WHEREFORE, premise considered, the petition is hereby DENIED and the assailed decision of the respondent Court of Appeals is AFFIRMED.

**SO ORDERED.**

Davide, Jr., C.J.,(Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

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[1] Rollo, pp. 13-14.


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[2] Simeon vs. Peña, 36 SCRA 610, 618 (1970) citing Pascua vs. Talens, 80 Phil. 792 (1948).

[3] Id., at 615-616.

**[4] 174 SCRA 599 (1989).**

[5] Id., at 604.

[6] See note 2.

**[7] 10 SCRA 425 (1964)**

[8] Id., at 428.

[9] Id., at 427.

[10] Id.

[11] Rivera vs. Curamen, 24 SCRA 448, 458 (1968).

**[12] 50 SCRA 424 (1973).**

[13] Id., at 427.


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