

**SPOUSES ALEXANDER CRUZ AND ADELAIDA CRUZ, PETITIONERS,
VS. ELEUTERIO LEIS, RAYMUNDO LEIS, ANASTACIO L. LAGDANO,
LORETA L. CAYONDA AND THE HONORABLE COURT OF APPEALS,
RESPONDENTS.**

G.R. No. 125233. March 09, 2000

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Private respondents, the heirs of spouses Adriano Leis and Gertrudes Isidro,[1] filed an action before the Regional Trial Court (RTC) of Pasig seeking the nullification of the contracts of sale over a lot executed by Gertrudes Isidro in favor of petitioner Alexander Cruz, as well as the title subsequently issued in the name of the latter. Private respondents claimed that the contracts were vitiated by fraud as Gertrudes was illiterate and already 80 years old at the time of the execution of the contracts; that the price for the land was insufficient as it was sold only for P39,083.00 when the fair market value of the lot should be P1,000.00 per square meter, instead of P390.00, more or less; and that the property subject of the sale was conjugal and, consequently, its sale without the knowledge and consent of private respondents was in derogation of their rights as heirs.

The facts that gave rise to the complaint:

Adriano and Gertrudes were married on 19 April 1923. On 27 April 1955, Gertrudes acquired from the then Department of Agriculture and Natural Resources (DANR) a parcel of land with an area of one hundred (100) square meters, situated at Bo. Sto. Niño, Marikina, Rizal and covered by Transfer Certificate of Title (TCT) No. 42245. The Deed of Sale described Gertrudes as a widow. On 2 March 1956, TCT No. 43100 was issued in the name of "Gertrudes Isidro," who was also referred to therein as a "widow."

On 2 December 1973, Adriano died. It does not appear that he executed a will before his death.

On 5 February 1985, Gertrudes obtained a loan from petitioners, the spouses Alexander and Adelaida Cruz, in the amount of P15,000.00 at 5% interest, payable on or before 5 February 1986. The loan was secured by a mortgage over the property covered by TCT No. 43100. Gertrudes, however, failed to pay the loan on the due date.

Unable to pay her outstanding obligation after the debt became due and payable, on 11 March 1986, Gertrudes executed two contracts in favor of petitioner Alexander Cruz. The first is denominated as "Kasunduan," which the parties concede is a pacto de retro sale, granting Gertrudes one year within which to repurchase the property. The second is a "Kasunduan ng Tuwirang Bilihan," a Deed of Absolute Sale covering the same property for the price of P39,083.00, the same amount stipulated in the "Kasunduan."

For failure of Gertrudes to repurchase the property, ownership thereof was consolidated in the name of Alexander Cruz in whose name TCT No. 130584 was issued on 21 April 1987, canceling TCT No. 43100 in the name of Gertrudes Isidro.

On 9 June 1987, Gertrudes Isidro died. Thereafter, her heirs, herein private respondents, received demands to vacate the premises from petitioners, the new owners of the property. Private respondents responded by filing a complaint as mentioned at the outset.

On the basis of the foregoing facts, the RTC rendered a decision in favor of private respondents. The RTC held that the land was conjugal property since the evidence presented by private respondents disclosed that the same was acquired during the marriage of the spouses and that Adriano contributed money for the purchase of the property. Thus, the court concluded, Gertrudes could only sell to petitioner spouses her one-half share in the property.

The trial court also ruled that no fraud attended the execution of the contracts. Nevertheless, the "Kasunduan," providing for a sale *con pacto de retro*, had superseded the "Kasunduan ng Tuwirang Bilihan," the deed of absolute sale. The trial court did not consider the *pacto de retro* sale an equitable mortgage, despite the allegedly insufficient price. Nonetheless, the trial court found for private respondents. It rationalized that petitioners failed to comply with the provisions of Article 1607 of the Civil Code requiring a judicial order for the consolidation of the ownership in the vendee *a retro* to be recorded in the Registry of Property.

The dispositive portion of the RTC's Decision reads:

WHEREFORE, in the light of all the foregoing, judgment is hereby rendered:

1. Declaring Exhibit G – "Kasunduan ng Tuwirang Bilihan" Null and Void and declar[ing] that the title issued pursuant thereto is likewise Null and Void;
2. Declaring the property in litigation as conjugal property;
3. Ordering the Registry of Deeds of Marikina Branch to reinstate the title of Gertrudes Isidro;
4. Ordering the plaintiff[s] [sic] to comply with the provision[s] of Article 1607 in relation to Article 1616 of the Civil Code;
5. Ordering the defendant[s] to pay plaintiff[s] P15,000.00 nominal damages for the violation of plaintiffs' rights;
6. Ordering the defendant [s] to pay plaintiff[s] the sum of P8,000.00 as and for attorney's fees;
7. Dismissing defendant[s'] counterclaim; and
8. Ordering defendant[s] to pay the cost of suit.

SO ORDERED.[2]

Petitioners appealed to the Court of Appeals in vain. The Court of Appeals affirmed the decision of the Regional Trial Court, holding that since the property was acquired during the marriage of Gertrudes to Adriano, the same was presumed to be conjugal property under Article 160 of the Civil Code. The appellate court, like the trial court, also noted that petitioner did not comply with the provisions of Article 1607 of the Civil Code.

Petitioners are now before this Court seeking the reversal of the decision of the Court of Appeals. First, they contend that the subject property is not conjugal but is owned exclusively by Gertrudes, who was described in the Deed of Sale between Gertrudes and the DANR as well as in TCT No. 43100 as a widow. Second, assuming the land was conjugal property, petitioners argue that the same became Gertrudes' exclusively when, in 1979, she mortgaged the property to the Daily Savings Bank and Loan Association. The bank later foreclosed on the mortgage in 1981 but Gertrudes redeemed the same in 1983. Chief

The paraphernal or conjugal nature of the property is not determinative of the ownership of the disputed property. If the property was paraphernal as contended by petitioners, Gertrudes Isidro would have the absolute right to dispose of the same, and absolute title and ownership was vested in petitioners upon the failure of Gertrudes to redeem the property. On the other hand, if the property was conjugal, as private respondents maintain, upon the death of Adriano Leis, the conjugal partnership was terminated,[3] entitling Gertrudes to one-half of the property.[4] Adriano's rights to the other half, in turn, were transmitted upon his death to his heirs,[5] which includes his widow Gertrudes, who is entitled to the same share as that of each of the legitimate children.[6] Thus, as a result of the death of Adriano, a regime of co-ownership arose between Gertrudes and the other heirs in relation to the property.

Incidentally, there is no merit in petitioners' contention that Gertrudes' redemption of the property from the Daily Savings Bank vested in her ownership over the same to the exclusion of her co-owners. We dismissed the same argument by one of the petitioners in *Paulmitan vs. Court of Appeals*,[7] where one of the petitioners therein claimed ownership of the entire property subject of the case by virtue of her redemption thereof after the same was forfeited in favor of the provincial government for non-payment of taxes. We held, however, that the redemption of the land "did not terminate the co-ownership nor give her title to the entire land subject of the co-ownership." We expounded, quoting our pronouncement in *Adille vs. Court of Appeals*:^[8]

The petition raises a purely legal issue: May a co-owner acquire exclusive ownership over the property held in common?

Essentially, it is the petitioner's contention that the property subject of dispute devolved upon him upon the failure of his co-heirs to join him in its redemption within the period required by law. He relies on the provisions of Article 1515 of the old Civil Code, Article 1613 of the present Code, giving the vendee a retro the right to demand redemption of the entire property.

There is no merit in this petition.

The right of repurchase may be exercised by a co-owner with respect to his share alone (CIVIL CODE, art. 1612; CIVIL CODE (1889), art. 1514.). While the records show that petitioner redeemed the property in its entirety, shouldering the expenses therefor, that did not make him the owner of all of it. In other words, it did not put to end the existing state of co-ownership (*Supra*, Art. 489). There is no doubt that redemption of property entails a necessary expense. Under the Civil Code:

Art. 488. Each co-owner shall have a right to compel the other co-owners to contribute to the expenses of preservation of the thing or right owned in common and to the taxes. Any one of the latter may exempt himself from this obligation by renouncing so much of his undivided interest as may be equivalent to his share of the expenses and taxes. No such waiver shall be made if it is prejudicial to the co-ownership.

The result is that the property remains to be in a condition of co-ownership. While a vendee a retro, under Article 1613 of the Code, "may not be compelled to consent to a partial redemption," the redemption by one co-heir or co-owner of the property in its totality does not vest in him ownership over it. Failure on the part of all the co-owners to redeem it entitles the vendee a retro to retain the property and consolidate title thereto in his name (*Supra*, art. 1607). But the provision does not give to the redeeming co-owner the right to the entire property. It does not provide for a mode of terminating a co-ownership.

It is conceded that, as a rule, a co-owner such as Gertrudes could only dispose of her share in the property owned in common. Article 493 of the Civil Code provides:

ART. 493. Each co-owner shall have the full ownership of his part of the fruits and benefits pertaining thereto, and he may therefore alienate, assign or mortgage it, and even substitute another person in its enjoyment, except when personal rights are involved. But the effect of the alienation or the mortgage, with respect to the

co-owners, shall be limited to the portion which may be allotted to him in the division upon the termination of the co-ownership.

Unfortunately for private respondents, however, the property was registered in TCT No. 43100 solely in the name of "Gertrudes Isidro, widow." Where a parcel of land, forming part of the undistributed properties of the dissolved conjugal partnership of gains, is sold by a widow to a purchaser who merely relied on the face of the certificate of title thereto, issued solely in the name of the widow, the purchaser acquires a valid title to the land even as against the heirs of the deceased spouse. The rationale for this rule is that "a person dealing with registered land is not required to go behind the register to determine the condition of the property. He is only charged with notice of the burdens on the property which are noted on the face of the register or the certificate of title. To require him to do more is to defeat one of the primary objects of the Torrens system." [9]

As gleaned from the foregoing discussion, despite the Court of Appeals' finding and conclusion that Gertrudes as well as private respondents failed to repurchase the property within the period stipulated and has lost all their rights to it, it still ruled against petitioners by affirming the Regional Trial Court's decision on the premise that there was no compliance with Article 1607 of the Civil Code requiring a judicial hearing before registration of the property in the name of petitioners. This provision states:

ART. 1607. In case of real property, the consolidation of ownership in the vendee by virtue of the failure of the vendor to comply with the provisions of article 1616 shall not be recorded in the Registry of Property without a judicial order, after the vendor has been duly heard.

The aforequoted article is intended to minimize the evils which the pacto de retro sale has caused in the hands of usurers. A judicial order is necessary in order to determine the true nature of the transaction and to prevent the interposition of buyers in good faith while the determination is being made. [10]

It bears stressing that notwithstanding Article 1607, the recording in the Registry of Property of the consolidation of ownership of the vendee is not a condition sine qua non to the transfer of ownership. Petitioners are the owners of the subject property since neither Gertrudes nor her co-owners redeemed the same within the one-year period stipulated in the "Kasunduan." The essence of a pacto de retro sale is that title and ownership of the property sold are immediately vested in the vendee a retro, subject to the resolutive condition of repurchase by the vendor a retro within the stipulated period. Failure thus of the vendor a retro to perform said resolutive condition vests upon the vendee by operation of law absolute title and ownership over the property sold. As title is already vested in the vendee a retro, his failure to consolidate his title under Article 1607 of the Civil Code does not impair such title or ownership for the method prescribed thereunder is merely for the purpose of registering the consolidated title. [11]

WHEREFORE, the decision of the Court of Appeals is MODIFIED in that the petitioners are deemed owners of the property by reason of the failure of the vendor, Gertrudes Isidro, to repurchase the same within the period stipulated. However, Transfer Certificate of Title No. 130584, in the name of Alexander M. Cruz, which was issued without judicial order, is hereby ordered CANCELLED, and Transfer Certificate of Title No. 43100 in the name of Gertrudes Isidro is ordered REINSTATED, without prejudice to compliance by petitioners with the provisions of Article 1607 of the Civil Code.

SO ORDERED.

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

Pardo, J., on official business abroad.

[1] Private respondents Eleuterio Leis, Raymundo Leis, Anastacia Leis-Lagnada and Loreta Leis-Cayonda are the children of spouses Adriano Leis and Gertrudes Isidro, while private respondent Teresita Mandocdoc is the spouses' grandchild.

[2] Records, p. 276.

[3] Civil Code, Article 175 (1).

[4] Civil Code, Article 185.

[5] Civil Code, Article 777.

[6] Civil Code, Article 996.

[7] 215 SCRA 866 (1992).

[8] 157 SCRA 455 (1988).

[9] Ibarra vs. Ibarra, Sr., 156 SCRA 616 (1987), citing Paraiso vs. Camon 106 Phil. 187 (1959). Ibarra was wrongly cited in p.4 of the Petition (Rollo, p.6) as "Vda. de Carcallas v. Judge Yancha, G.R. 46401, 18 Dec. 87," at 156 SCRA 608 (1987).

[10] Aquino, Civil Code, Vol. 3, 1990 ed., pp. 150-151.

[11] De Guzman, Jr. vs. Court of Appeals, 156 SCRA 701 (1987). See also De Bayquen vs. Balaoro, 143 SCRA 412 (1986).

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