

**JOSEFINA TANDO, CARMEN TANDO, CECILIA TANDO-ARNOLD,
HILDA TANDO-TERENCIO, AND KALIBO RURAL BANK, INC.,
PETITIONERS, VS. HON. COURT OF APPEALS AND BENJAMIN TAGLE,
RESPONDENTS.**

G.R. No. 127984. December 14, 2001

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-127984/>

QUISUMBING, J.:

This petition for review on certiorari assails the decision[1] dated September 30, 1996, of the Court of Appeals in CA- G.R. CV No. 18716, reversing the decision[2] of the Regional Trial Court of Kalibo, Aklan, Branch 3, in Civil Case No. 222, for redemption of a parcel of land, as well as the Court of Appeals' resolution[3] dated January 27, 1997, denying the motion for reconsideration.

The antecedent facts, as culled from the records, are as follows:

Fernando Tagle, father of private respondent Benjamin Tagle, owned a parcel of land with an area of 292,177 square meters, covered by Tax Declaration No. 11139 in Barrio Cabatanga, Makato, Aklan. On August 17, 1962, he mortgaged said property to the Kalibo Rural Bank. Two years later, he sold the riceland portion of the same property to Jose Gonzales through a Deed of Sale purportedly with right to repurchase in five years' time.

On July 15, 1969, the Kalibo Rural Bank extrajudicially foreclosed the mortgage and, being the highest bidder, purchased the property. A Certificate of Sheriff's Sale was issued and the bank registered it in its name with the Registry of Deeds.

On March 23, 1970, Esperanza Tando, mother of petitioners Josefina and Carmen Tando, Cecilia Tando-Arnold and Hilda Tando-Terencio redeemed the foreclosed property from the bank. They also redeemed the riceland portion of the same property from Jose Gonzales. The redemptions were by virtue of a Deed of Assignment of Right of Redemption of a Mortgaged and Conditionally Sold Parcel of Land executed by Fernando Tagle in Esperanza's favor.

On August 12, 1970, the provincial sheriff executed a Final Deed of Sale over the foreclosed property in favor of Kalibo Rural Bank, which registered the same with the Registry of Deeds on August 14, 1970. The bank in turn, executed on September 7, 1970, a Deed of Sale over the same foreclosed property in favor of Esperanza, who registered the same with the Registry of Deeds on September 15, 1970.

On several occasions after the redemption of the land by Esperanza Tando from the bank, private respondent Benjamin Tagle offered to redeem the property from Esperanza, the last occasion being in April 1971. Because of her refusal, Fernando initiated the action for redemption of the subject property with the Regional Trial Court, then the Court of First Instance of Kalibo, Aklan, Branch 3, against spouses Jose and Esperanza Tando, Alejo G. Terencio and the Kalibo Rural Bank, Inc.. Upon motion of Terencio on the ground that the complaint stated no cause of action against him, the trial court dismissed the complaint against him.

On January 24, 1974, Fernando Tagle died and so he was substituted by his only son and heir, herein private respondent. Spouses Jose and Esperanza Tando also died on February 7, 1974, and March 12, 1981, respectively; and they were substituted by their children and heirs, the herein petitioners.

On March 17, 1988, the Regional Trial Court rendered its judgment, disposing as follows:

WHEREFORE, premises considered, judgment is hereby rendered against plaintiff and in favor of defendants as follows:

1)

Plaintiff's complaint against defendant spouses Esperanza Z. Tando and Jose Tando as well as against defendant Kalibo Rural Bank, Inc. is hereby DISMISSED with costs against substituted plaintiffs.

2)

The Court hereby declared that plaintiff CANNOT redeem the land in question from defendant spouses Esperanza Z. Tando and Jose Tando who are hereby declared absolute OWNER thereof.

3)

Plaintiff is NOT entitled to have said land in question conveyed by defendant spouses to him.

4)

Plaintiff's undated and unnotarized Deed of Assignment of Right of Redemption of a Mortgaged and Conditionally Sold Parcel of Land which is ANNEX "A" of the complaint and Exhibit "A" of plaintiff is hereby declared INVALID or INEXISTENT.

5)

The Deed of Sale of Real Estate dated September 7, 1970, executed by Virgilio Garcia, President and Manager of defendant Kalibo Rural Bank, Inc. in favor of Esperanza Z. Tando, married to Col. Jose Tando, marked as Exhibit "4" of defendant spouses also marked as Exhibit "D" of plaintiff and which is ANNEX "D" of the complaint is hereby declared VALID and effective.

6)

Defendant spouses counterclaim against plaintiff is hereby DISMISSED; same does not survive, plaintiff having died and defendant Col. Jose Tando having also died.

7)

Defendant spouses crossclaim against cross-defendant Kalibo Rural Bank, Inc. is hereby likewise DISMISSED for lack of merit.

SO ORDERED.[4]

In its decision, the trial court reasoned that by virtue of the Deed of Sale covering the mortgaged property executed by Kalibo Rural Bank after Fernando Tagle failed to redeem the property within the redemption period, the Tando spouses became the absolute owners thereof. The trial court also said that Fernando Tagle could no longer redeem the property from the Tando spouses because as preponderantly established by them, the parties agreed on a five-month redemption period, which already expired. They did not agree that the redemption period was five years. Private respondent could not rely on the Deed of Assignment[5] he presented for it did not contain the real agreement of the parties on the period of redemption.

Private respondent appealed to the Court of Appeals, which on September 30, 1996, decided as follows:

WHEREFORE, premises considered, the decision appealed from is REVERSED AND SET ASIDE and a new one is hereby rendered as follows:

- Defendants-appellees are hereby ordered to allow plaintiff-appellant to redeem the subject property within the remaining redemption period of three (3) years, four (4) months, and seven (7) days from finality of this judgment;
- The amount which plaintiff-appellant should pay as redemption price is SEVEN THOUSAND ONE HUNDRED FIFTY-ONE PESOS AND SIX CENTAVOS (P7,151.06), plus the expenses incurred in the redemption of the property from the Kalibo Rural Bank, Inc. and in the registration of all documents relative thereto;
- The Final Deed of Sale, dated August 12, 1970, executed by the provincial sheriff in favor of the Kalibo Rural Bank, Inc. and the Deed of Sale of Real Estate, dated September 7, 1970, entered into by and between Esperanza Tando and the Kalibo Rural Bank, Inc. are declared void;
- Defendants-appellees are ordered to pay plaintiff-appellant the following:
 - P20,000.00 per annum to be computed from November 15, 1971 until the property is finally redeemed by and turned-over to plaintiff-appellant as payment of the annual income of the property which he failed to receive by reason of the unlawful refusal of defendants-appellees to allow redemption; and
 - P20,000.00 for attorney's fees;

Costs against defendants-appellees.

SO ORDERED.[6]

In reversing the trial court, the Court of Appeals held that by virtue of the redemption by Esperanza Tando through the Deed of Assignment executed by Fernando, there was a valid and effective redemption within the reglementary period by Fernando Tagle. Hence, the subsequent deeds of sale which transferred to the Tando spouses the mortgaged property were void. As such, no interest or right was transferred. The Court of Appeals also said that the Deed of Assignment[7] presented by the private respondent was the real document embodying the agreement of the parties. Accordingly, private respondent can still redeem the property from petitioners because said deed provided for a five-year redemption period which had not yet expired when private respondent filed the petition for redemption.

After respondent court denied herein petitioners' motion for reconsideration,[8] they seasonably filed this instant petition. They aver that respondent court committed reversible errors in:

- ...REVERSING THE TRIAL COURT AND IN HOLDING THAT THE PRIVATE RESPONDENT HAS STILL THE RIGHT TO EXERCISE THE RIGHT OF REDEMPTION OVER THE FORECLOSED PROPERTY AS AGAINST THE PETITIONERS HEIRS OF THE SPOUSES FERNANDO AND ESPERANZA TAGLE. (SIC)
- ...DECLARING AS NULL AND VOID THE DEED OF SALE OF THE PROVINCIAL SHERIFF IN FAVOR OF THE KALIBO RURAL BANK DATED AUGUST 2, 1970, AND THE DEED OF SALE DATED SEPTEMBER 7, 1970 EXECUTED BY THE RURAL BANK IN FAVOR OF ESPERANZA TANDO.
- ...IN AWARDING THE PRIVATE RESPONDENT THE AMOUNT OF P20,000.00 PER ANNUM AS ANNUAL INCOME OF THE PROPERTY STARTING FROM NOVEMBER 15, 1971 UNTIL THE

PROPERTY IS FINALLY TURNED OVER TO THE PRIVATE RESPONDENT.[9]

For our resolution now are the following issues:

- Did Esperanza Tando redeem the property pursuant to a Deed of Assignment by Fernando Tagle, thereby rendering void the subsequent deeds of sale in her favor?
- Was the Deed of Assignment presented by private respondent the authentic document which contained the real agreement of the parties?
- Is private respondent entitled to an award of P20,000 per annum representing the income of the property from the date private respondent filed the petition for redemption up to the final transfer of the property in his favor?

Being interrelated, petitioners discussed jointly the assigned errors. They argue that the Court of Appeals erred in finding that Esperanza Tando redeemed the property from the Kalibo Rural Bank through the Deed of Assignment executed by Fernando Tagle, the truth being that said deed did not materialize because the parties were not able to agree on the redemption period. Petitioners maintain that the redemption by Esperanza was made through verbal agreement of the parties, i.e. Benjamin informed the bank that Esperanza would redeem the property on his behalf and the bank agreed. There was nothing written. It was for this reason that the Kalibo Rural Bank had to execute a Deed of Sale in favor of the Tandos after the Provincial Sheriff executed a final deed of sale to legalize the transfer of the subject property. Petitioners further said that the Court of Appeals had no ground to declare null and void the two deeds of sale. They assert that the source of their ownership over the subject property was the Deed of Sale and not the redemption made by Esperanza. Consequently, as private respondent lost his right over the property, he is not entitled to receive the income therefrom, which the Court of Appeals computed as P20,000 per annum, petitioners said.

Private respondent contends, in turn, that the petition must be denied for lack of merit. It only raises questions of fact which as a rule are not reviewable by this Court. He maintains that the parties were able to reach an agreement that Esperanza Tando would redeem the property from the Kalibo Rural Bank on mortgagor's behalf and that the latter has five years within which to redeem the property from her. This agreement, said private respondent, was embodied in the Deed of Assignment he presented in the trial court, the authenticity of which was corroborated by no less than the assistant manager of the Kalibo Rural Bank in his testimony before the same court. Because of the said deed, Esperanza Tando was able to redeem the property from the bank, as admitted by petitioners themselves in their petition for review submitted to this Court. Clearly, the appellate court did not err in its decision, private respondent said.

The issues raised in this petition, in our view, are factual. As a general rule, they are not reviewable by us in a petition for review. However, as there is a clear conflict between the factual findings of the trial court and the Court of Appeals, this case is an exception.[10] We are thus compelled to scrutinize closely the evidence to resolve the issues posed by petitioners.

Did Esperanza Tando redeem the property through the Deed of Assignment executed by Fernando Tagle, thereby rendering void the subsequent deeds of sale in her favor? We find in the affirmative. First, there was an admission by petitioners of this fact when they adopted the factual findings of the Court of Appeals in their petition submitted to this Court.[11] Petitioners categorically stated that the parties do not dispute that Esperanza was able to redeem the property from the Bank by virtue of the deed executed by Fernando assigning his right of redemption to her. What the parties dispute is whether the deed presented by Fernando to the court was the document which Esperanza presented to the bank.[12] Second, Esperanza was issued a Deed of Redemption by the bank, which was duly registered with the Register of Deeds. We do not think it probable that the bank would simply allow a stranger to the contract to redeem a property mortgaged to it, and for that matter, issue a deed of

redemption of the mortgaged property by mere verbal representation of a party. Prudence dictates that they require written authorization. We agree with the Court of Appeals when it said that:

Banks are known to be strictly protective of their interests. Under no circumstance would a bank allow a stranger to a mortgage contract to redeem a foreclosed property upon a mere verbal representation of the mortgagor. The Bank will certainly require a written authority which will be attached to its records in support of the transaction.[13]

Further, Atty. Suferido Roldan, the former assistant manager and secretary of Kalibo Rural Bank, testified that it was their practice to require authorization from the defaulting borrower before they allow redemption by third persons and persons permitted by law. He also testified that indeed Esperanza Tando showed an authorization from Fernando Tagle when she redeemed the property. Thus:

Atty Icamina:

This deed of redemption was executed by the bank in favor of defendant Esperanza Tando. Do you recall if there was any formal or written authority from Fernando Tagle to authorize Esperanza Tando to redeem the land in question?

Atty. Roldan:

I cannot safely say that there was but I think there was.

Q:

And you cannot produce a copy of that authority now?

A:

No, sir.

Q:

But you are sure that in your practice before the redemption could be effected in favor of a third party there should be authority from the defaulting borrower to enter into that redemption between the third party and the bank, is it not?

A:

Not only that. According to the law there are legal redemptioners qualified.

xxx

Q:

My question is only confined on lack of similar authority to redeem if you want to redeem the property

foreclosed, in your experience while you were connected with the Kalibo Rural Bank?

A: There are instances within which we allow to redeem the property to a qualified redemptioner. We do not allow redemption to any individual to redeem the property not in the record.

Q:

And you allow redemption on oral representation that he is qualified to redeem?

A:

If he can file proof that he is a brother or sister, public knowledge as ascendants or descendants to a defaulting borrower.

Q:

In this case the redemptioner is not related by affinity or consanguinity to the defaulting borrower?

A: In this instant case I have seen there was a waiver. I do not know if it is still in the record.[14]

Undoubtedly, Esperanza validly redeemed the property from the Bank through the Deed of Assignment executed by Fernando. It removed from the bank whatever right it had over the property. As a consequence, the bank had no right to be issued a final deed of sale by the Provincial Sheriff, much less to sell the property to the Tandos. The Court of Appeals, therefore, did not err when it declared void the two deeds of sale that ultimately caused the transfer of the property to the Tandos.

On the second issue, was the Deed of Assignment presented by private respondent the authentic document which embodied the real agreement of the parties? Again, we find in the affirmative. Between the testimony of private respondent and of petitioners, that of the former appears more logical and credible for being corroborated by the testimony of other witnesses.

Private respondent testified that after he and Esperanza Tando reached an agreement regarding the redemption of the mortgaged property, Alejo Terencio went to their house, with the draft deed which Fernando Tagle, Benjamin Tagle and two other witnesses later signed.[15] The deed provided for a five-year redemption period.[16] When asked why the deed he was presenting was merely a duplicate copy and unnotarized, private respondent explained that Alejo Terencio, the son-in-law of the Tando spouses and who represented them in their negotiation with the Tagles, took the original even before the documents were notarized, purportedly to use it in redeeming the property from its mortgagees.[17] Thereafter, Terencio did not return the original so he was not able to have the deed notarized, said private respondent.

Said testimony was corroborated by Araceli Gonzales, the wife of Jose Gonzales, the other mortgagee in this case. She said that Alejo Terencio presented to them a two-page document signed by Fernando Tagle, Benjamin Tagle and two other witnesses, when Terencio redeemed the riceland portion of the subject property.[18] The earlier quoted testimony of Atty. Roldan likewise supports the testimony of private respondent. Atty. Roldan said that Terencio presented an unnotarized waiver from Fernando. This waiver cannot be mistaken for any other document except the one referred to by Benjamin, especially in the light of Terencio's testimony which we shall discuss forthwith.

Alejo Terencio, the principal witness for the petitioners, testified that he redeemed the property from the

mortgagees through verbal representations.[19] It was only after the redemption that Terencio drafted a deed of assignment[20] which provided for a five-month redemption period.[21] The deed was thumbmarked by Fernando Tagle signed by Esperanza Tando, to show her conformity, and by Alejo Terencio as a witness.[22] Terencio further said that he did not have a copy of the deed because after he left the document with Benjamin Tagle for notarization (by Atty. Tesorero, the other witness for private respondent), Tagle did not bother to give him the notarized document.[23] This explains his failure to present a copy to the court of the said deed, Terencio said.

We find Alejo Terencio's testimony inconsistent with the testimony of the mortgagees who, as said earlier, testified that Terencio showed to them a document when he came to them to redeem the property. Also, it was the height of incompetence if Terencio, a lawyer and the then Register of Deeds, who knew the value of a deed of assignment to protect the interests of his parents-in-law whom he represented, failed to get the duly signed and notarized deed of assignment from the Tagles. Lastly, it was very unlikely that the Tagles would negotiate with the Tandos for a mere five-month redemption period. As observed by the Court of Appeals:

...Why should he (Fernando Tagle) agree to only a period of five (5) months to redeem it from Tando when that is the same period left for him to redeem it from the Bank? He might as well deal directly with the Bank for the remaining five (5) months and in that way still hold on to the possession and enjoyment of his property. The five-year period of redemption is the more likely period agreed upon since that logically jibes with the purpose of Tagle in extending to Tando the right of redemption in order not to lose his property to the Bank.[24]

Gleaned from the above, we agree that the deed of assignment presented by private respondent was the authentic document.

Finally, is private respondent entitled to an award of P20,000 per annum from the date of filing of the petition with the trial court until petitioners allow the transfer of the property to him? Our finding is in the affirmative. Private respondent's right of redemption of the property was subject to a five-year period. Said period had not yet expired when the Tagles initiated the complaint for redemption. Consequently, they did not lose ownership over the property and are thus entitled to enjoy it, including the income therefrom.[25] As petitioners do not dispute the amount of income set at P20,000/annum, we find no valid reason to alter it.

WHEREFORE, the petition is DENIED. The decision dated September 30, 1996, and the resolution dated January 27, 1997, of the Court of Appeals are AFFIRMED. Costs against petitioners.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and De Leon, Jr., JJ., concur.
Buena, J., on official leave.

[1] Rollo, pp. 38-52.

[2] RTC Records, pp. 659-682.

[3] Rollo, p. 56.

[4] RTC Records, pp. 681-682.

[5] Folder of Exhibits, Exhibit "A".

[6] Rollo, pp. 51-52.

[7] Supra, note 5.

[8] Id. at 56.

[9] Id. at 17-18.

[10] Salcedo vs. People, G.R. No. 137143, December 8, 2000, p. 7.

[11] Rollo, p. 11.

[12] Id. at 12.

[13] Id. at 47-48.

[14] TSN, July 30, 1986, pp. 24-27.

[15] TSN, July 10, 1979, pp. 14-18.

[16] Id. at 28-29.

[17] Id. at 19 and 22.

[18] TSN, August 12, 1976, pp. 18-19.

[19] TSN, August 21, 1984, pp. 20, 22 & 24.

[20] Id. at 25.

[21] Id. at 42.

[22] Id. at 37.

[23] Id. at 40.

[24] Rollo, p. 47.

[25] Civil Code, Article 428: The owner has the right to enjoy and dispose of a thing, without other limitations than those established by law.

The owner has also a right of action against the holder and possessor of the thing in order to recover it.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.