

**DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS.
LEONARDO-DE CASTRO, JJ. ELLA GAGARANI, ISAGANI, ADRIAN,
NATHANIEL, NIEVA, JONATHAN, DIONESIO, FLORENCE AND
JEREMIAS, ALL SUR...**

G.R. No. 172248. September 17, 2008

Ponente: CORONA, J.

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CORONA, J.:

This is a petition for review on certiorari[1] of the December 14, 2005 decision[2] and March 28, 2006 resolution[3] of the Court of Appeals (CA) in CA-G.R. CV No. 64259.

The spouses Dionesio and Matea S. Asok owned several parcels of land. Upon their death on September 14, 1973 and February 22, 1982, respectively, their eleven children inherited the properties. One of the lands inherited was a lot covered by Original Certificate of Title (OCT) No. P-4272, a free patent issued on July 19, 1967, located at Pagawan, Manticao, Misamis Oriental with an area of 39,552 sq. m.[4]

Pursuant to the extrajudicial settlement of the estate with quitclaim executed by the spouses' children, the subject property was inherited by Denison Asok (Asok). As a result, OCT No. P-4272 was cancelled and Transfer Certificate of Title (TCT) No. T-9626 was issued and registered in his name on November 17, 1987.[5]

On August 31, 1989, Asok and his wife, respondent Ella Gagarani Asok, borrowed P100,000 from petitioner Development Bank of the Philippines, a government financial institution created and operating under EO 81,[6] as amended by RA 8523. They mortgaged the subject lot as collateral to guarantee payment of the loan. On due date, however, they failed to pay the loan and the mortgage was extrajudicially foreclosed pursuant to Act 3135.[7] Petitioner emerged as the highest bidder with a bid of P163,297.[8]

On November 28, 1991, a certificate of sale was issued in favor of petitioner. This was registered on December 24, 1992.[9] On March 25, 1998, petitioner's ownership over the property was consolidated and TCT No. T-27172 was issued in its name.[10]

Meanwhile, Asok died on October 24, 1993 and was succeeded by his surviving spouse and children (respondents).[11]

On May 15, 1998, respondents filed a complaint for repurchase against petitioner in the Regional Trial Court (RTC) of Initao, Misamis Oriental, Branch 44, docketed as Civil Case No. 98-68. On July 3, 1998, they filed an amended complaint on learning that TCT No. T-9626 had been cancelled by TCT No. T-27172 issued in the name of petitioner. They invoked their right to repurchase the property under Sec. 119 of CA 141, as amended:[12]

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.

In a decision dated January 7, 1999, the RTC dismissed the complaint. Reconsideration was denied on February 3, 1999.[13] It ruled that the one-year period for redemption should be reckoned from the date of sale, i.e., November 28, 1991. Then the five-year period provided under Sec. 119 of CA 141 should be counted from the expiration of the redemption period, i.e., November 28, 1992. Therefore, respondents had until November 28, 1997 to exercise their right to repurchase. However, the complaint was filed on May 15, 1998 which was beyond the prescribed period.[14]

Aggrieved, respondents appealed to the CA. In a decision dated December 14, 2005, the CA reversed and set aside the RTC decision. Reconsideration was denied in a resolution dated March 28, 2006. It held that the period of redemption started from the date of registration of the certificate of sale, i.e., December 24, 1992, and not from the date of sale. Thus, respondents had until December 24, 1998 to repurchase the property and the complaint was seasonably filed.[15]

Hence this petition.

Petitioner raises the following issues: (1) whether Sec. 119 of CA 141 is applicable in this case; (2) whether respondents are the legal heirs of the patentees and (3) whether the right to repurchase has already prescribed.

The petition lacks merit.

Petitioner contends that respondents cannot claim the right under Sec. 119 which covers homesteads and free patents because the free patent issued to Asok's parents had already been cancelled and a new TCT had in fact been issued to him. Thus, the property mortgaged to it was no longer covered by a free patent but by a TCT.[16]

This contention deserves scant consideration.

The plain intent of Sec. 119 is to give the homesteader or patentee every chance to preserve and keep in the family the land that the State has gratuitously given him as a reward for his labor in cleaning, developing and cultivating it.[17] Hence, the fact that the land had been inherited by the patentees' son (and a new title in his name issued) does not bring it outside the purview of Sec. 119. In fact, the policy behind the law is fulfilled because the land remains in the family of the patentee. As we explained in *Ferrer v. Mangente*: [18]

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 a 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.[19]

Having ruled that Sec. 119 is applicable to this case, we now go to the next issue: are respondents the "legal heirs" contemplated in the provision?

Petitioner argues that respondents are not the legal heirs of the patentees because respondents are merely their daughter-in-law and grandchildren.

We disagree. In line with the rationale behind Sec. 119, we reject a restricted definition of legal heirs. It is used in a broad sense and the law makes no distinctions.[20] In *Madarcos v. de la Merced*, [21] we held that:

The term "legal heirs" is used in Section 119 in a generic sense. It is broad enough to cover any person who is

called to the succession either by provision of a will or by operation of law. Thus, legal heirs include both testate and intestate heirs depending upon whether succession is by the will of the testator or by law. Legal heirs are not necessarily compulsory heirs but they may be so if the law reserves a legitime for them.

xxx xxx xxx

Verily, petitioners are legal heirs. Having been decreed under the rules on intestacy as entitled to succeed to the estate of the Catain spouses due to the absence of compulsory heirs, they now step into the shoes of the decedents. They should be considered as among the legal heirs contemplated by Section 119 as entitled to redeem the homestead.

The above interpretation of "legal heirs" as contra-distinguished from the restrictive construction given it by the lower court is more in keeping with the salutary purpose behind the enactment of Section 119 and the jurisprudence laid down on the matter. Indeed, it is not far-fetched to arrive at a more liberal conclusion if the section is analyzed in accordance with its purpose xxxx[22]

Respondents inherited the property from Asok, their husband and father, who in turn inherited it from his parents. Respondent Ella Gagarani Asok, as daughter-in-law of the patentees, can be considered as among the legal heirs who can repurchase the land in accordance with *Salenillas v. CA*. [23] In that case, we allowed the daughter and son-in-law of the patentees to repurchase the property because this would be "more in keeping with the spirit of the law. We have time and again said that between two statutory interpretations, that which better serves the purpose of the law should prevail." [24] Furthermore, the law must be liberally construed in order to carry out its purpose. [25]

Finally, petitioner asserts that even if respondents could be considered as being entitled to the right under Sec. 119, this had already prescribed because the period should be counted from the date of conveyance which means the date of sale and not the date of registration of the certificate of sale.

This argument lacks merit.

This is far from a novel issue. It was already resolved in *Rural Bank of Davao City, Inc. v. CA*. [26]

Thus, the rules on redemption in the case of an extrajudicial foreclosure of land acquired under free patent or homestead statutes may be summarized as follows: xxx If the land is mortgaged to parties other than rural banks, the mortgagor may redeem the property within one (1) year from the registration of the certificate of sale pursuant to Act No. 3135. If he fails to do so, he or his heirs may repurchase the property within five (5) years from the expiration of the redemption period also pursuant to Section 119 of the Public Land Act. [27]

There is no dispute that in extrajudicial foreclosures under Act 3135, the debtor or his or her successors-in-interest may redeem the property within one year. This redemption period should be reckoned from the date of registration of the certificate of sale. [28] The five-year period fixed in Sec. 119 begins to run from the expiration of the one-year redemption period. [29] Here, the certificate of sale was registered on December 24, 1992 and the one-year redemption period expired on December 24, 1993. Reckoned from that day, respondents had a five-year period, or until December 24, 1998, to exercise their right to repurchase under Sec. 119 of CA 141. Consequently, the CA was correct in holding that the complaint filed on May 15, 1998 was on time.

WHEREFORE, the petition is hereby DENIED. Petitioner Development Bank of the Philippines is ordered to execute a deed of reconveyance in favor of respondents upon payment by the latter of the redemption price.

No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio Morales[*], Azcuna and Leonardo-De Carpio, JJ., concur.

- [*] As replacement of Justice Antonio T. Carpio who is on official leave per Special Order No. 515.
- [1] Under Rule 45 of the Rules of Court.
- [2] Penned by Associate Justice Myrna Dimaranan-Vidal and concurred in by Associate Justices Romula V. Borja and Ricardo R. Rosario of the Twenty-Second Division, Mindanao Station in Cagayan de Oro City of the Court of Appeals; rollo, pp. 53-62.
- [3] Id., pp. 64-65.
- [4] Id., pp. 54, 69 and 172.
- [5] Id., pp. 43 and 55.
- [6] The Revised Charter of the Development Bank of the Philippines dated December 3, 1986.
- [7] An Act to Regulate the Sale of Property under Special Powers Inserted in or Annexed to Real Estate Mortgages.
- [8] Rollo, pp. 40, 55, 69 and 27.
- [9] Id., p. 55.
- [10] Id., pp. 186-187.
- [11] Id., p. 55.
- [12] Id., pp. 55-56.
- [13] Id., p. 56.
- [14] Id., p. 31.
- [15] Id., pp. 59-61.
- [16] Id., pp. 44-45.
- [17] *Fontanilla, Sr. v. CA*, 377 Phil. 382, 387 (1999).
- [18] 151-A Phil. 427 (1973).
- [19] Id., p. 427.
- [20] *Salenillas v. CA*, G.R. No. 78687, 31 January 1989, 169 SCRA 829, 835.
- [21] G.R. No. L-39975, 30 June 1989, 174 SCRA 599.
- [22] Id., pp. 601-603.
- [23] *Supra* note 20.
- [24] Id.
- [25] *Rivera v. Curamen*, 133 Phil. 454, 458 (1968).
- [26] G.R. No. 83992, 27 January 1993, 217 SCRA 554.
- [27] Id., p. 569. This doctrine had been reiterated in *Sta. Ignacia Rural Bank, Inc. v. CA*, G.R. No. 97872, 1

March 1994, 230 SCRA 513, 526 and *Heirs of Felicidad Canque v. CA*, G.R. No. 119184, 21 July 1997, 275 SCRA 741, 748-749.

Petitioner cites the case of *Lee Chuy Realty Corporation v. CA* (G.R. No. 104114, 4 December 1995, 250 SCRA 596) wherein it was stated:

"Under the free patent or homestead provisions of the Public Land Act a period of five (5) years from the date of conveyance is provided, the five-year period to be reckoned from the date of the sale and not from the date of registration in the office of the Register of Deeds. The redemption of extrajudicially foreclosed properties, on the other hand, is exercisable within one (1) year from the date of the auction sale as provided for in Act No. 3135." (Id., p. 602, citing Peña, Narciso, *Philippine Law on Natural Resources*, 1992 Revised Ed., pp. 35, 37.)

However, this was merely obiter dictum because the issue in this case is whether a judicial action to redeem coupled with consignment of the price within the redemption period is equivalent to a formal offer to redeem under Art. 1623 in relation to Art. 1620 of the Civil Code.

Another case petitioner cites is *Mata v. CA* (376 Phil. 525 [1999]) wherein the Court held:

"The term 'conveyance' imports the transfer of legal title from one person to another. It usually takes place upon the execution of the deed purporting to transfer the ownership of the land as the same is already valid and binding against the parties thereto even without the act of registration. The registration is intended to protect the buyer against claims of third parties against subsequent alienations by the vendor, and is certainly not necessary to give effect, as between the parties, to their deed of sale. Thus, for the purpose of reckoning the five-year period to exercise the right to repurchase, the date of conveyance is construed to refer to the date of the execution of the deed transferring the ownership of the land to the buyer." (Id., pp. 541-542.)

Again, this is not applicable because it did not involve an extrajudicial foreclosure sale.

[28] *Belisario v. Intermediate Appellate Court*, G.R. No. 73503, 30 August 1988, 165 SCRA 101, 107, citing *PNB v. CA et al.*, G.R. L-30831 and L-31176, Nov. 21, 1979, 94 SCRA 357, 371.

[29] Id., citing *Manuel v. PNB et al.*, 101 Phil. 968 (1957).

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