

**MAXIMO VIOLA AND JUANA ROURA, PLAINTIFFS AND APPELLANTS,
VS. VICENTA TECSON, DONATA LAJON AND AURELIA TECSON,
DEFENDANTS AND APPELLEES.***G. R. No. 25739. December 24, 1926*

Ponente: AVANCEÑA, C.J.

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The property in question described in the complaint was originally held in common by Fortunato Capistrano, Nicolas C. Cruz and Felix Cepilio Cruz. On September 26, 1923 the plaintiffs, the spouses Maximo Viola and Juana Roura, acquired from Fortunato Capistrano and Nicolas C. Cruz three-fourths of their share in this property. Felix Cepilio Cruz did not exercise his right of legal redemption in this sale. On March 7, 1925 Clara Santos, as administratrix of the intestate estate of the deceased Felix Cepilio Cruz, sold one-fourth of Felix Cepilio Cruz' share in this property for the sum of P4,000 to the defendant sisters, Vicenta and Aurelia Tecson. This sale was authorized by the court and was approved on March 10th. On the 20th of the same month the plaintiffs filed the complaint which initiated this action, in which they prayed that, by virtue of the right of legal redemption which they had in the sale of this one-fourth part of the property made to the defendants, judgment be rendered for the transfer of this share to them. The court holding that the right of legal redemption is granted by law only to the original co-owners and not to those who may later acquire their share in the community, and, considering that the plaintiffs are not the original coowners of the property in question, absolved the defendants from the complaint. From this judgment the plaintiffs appealed.

As a question of fact, there is no doubt that the plaintiffs exercised their right of redemption within the period of nine days provided by law, even taking into consideration that they did so only when they filed their complaint on March 20, 1925. While the sale appears to have been made on the 7th of the month, it was not approved by the court until the 10th, so that, excluding the latter date, only nine days elapsed up to the 20th. But, besides this, before filing their complaint, the plaintiffs had already requested the defendants to permit them to repurchase Felix Cepilio Cruz' share. And, moreover, we are of the opinion that the plaintiffs had knowledge of the sale only on the 15th of that month.

In regard to the question of law, we are of the opinion that the right of legal redemption (art. 1522 of the Civil Code) is not conceded solely and exclusively to the original coowners but applies to those who subsequently acquire their respective shares while the community subsists. The purpose of the law in establishing the right of legal redemption between coowners is to reduce the number of participants until the community is done away with, being a hindrance to the development and better administration of the property, and this reason exists while the community subsists and the participants continue to be so whether they be the original co-owners or their successors. The law must be so interpreted not only because it is in accordance with the spirit thereof but because there is nothing in its provisions which expressly, or by inference, limits the right of redemption to the original co-owners.

The judgment appealed from is revoked and it is held that the plaintiffs have the right to repurchase from the defendants the one-fourth share of the land in question which they acquired from Felix Cepilio Cruz, after complying with the conditions prescribed by law for exercising this right, without any special pronouncement as to costs. So ordered.

Johnson, Street, Malcolm, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

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