

PONCIANO MEDEL, PETITIONER AND APPELLANT, VS. CARLOS N. FRANCISCO, OPPONENT AND APPELLEE.

G.R. No. 27890. December 31, 1927

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

On May 16, 1917, Carlos N. Francisco sold the land belonging to him, described in transfer certificate of title No. 3598 to Telesforo Calasan with a right of repurchase, which was noted on the back thereof on May 16, 1917. Telesforo Calasan, in turn, sold this land to Ponciano Medel on December 4, 1926.

On January 17, 1927 Ponciano Medel brought this action in the Court of First Instance for the purpose of compelling the register of deeds to cancel the notation of the right of repurchase on the title to this land on account of the time within which to exercise said right having expired, Ponciano Medel contends that the period within which to exercise this right is four years while Carlos N. Francisco, on the other hand, contends that it is ten years. The trial court admitting that the period is ten years and it not having expired yet when this action was filed, denied the petition.

The only question involved in this appeal is whether the period for the repurchase of the land, which Carlos N. Francisco reserved the right to do when the sale was made, is four or ten years. The stipulation is noted on the title in the following terms:

"This sale is made with the condition that the vendor Carlos N. Francisco reserves the right to repurchase, at the cost price of this sale, a fourth part of the land above described from which he can remove earth for the sole and exclusive use of his earthen jar factory when, the same is established."

According to article 1508 of the Civil Code, the right of repurchase, in the absence of any express agreement, lasts four years and, in case of stipulation, the period shall not exceed ten years.

A term means a period of time within which an act may, or must, be performed or a fact take place. Applied to the right of repurchase, it is the time within which this right may be exercised. It necessarily involves a beginning and an end of time. The clause of the contract quoted does not express, in this sense, a stipulation of time. According to its terms, the vendor Carlos N. Francisco reserved the right to redeem the land when he might have an earthen jar factory. This does not mean that he could repurchase the land any time before he had the earthen jar factory, but when he had it. That is especially so when it is taken into consideration that there is a condition imposed for the repurchase of the land, to wit that it is to be used solely and exclusively for the manufacture of earthen jars. According to this clause of the contract, it is evident that the establishment of an earthen jar factory is the fact that would give birth to the right of repurchase. In this sense, what is really stipulated in the clause is the suspension of the right of repurchase until the earthen jar factory has been established. If this is all, the meaning of this clause is then clear that the parties did not stipulate any time for exercising the right of repurchase; and, in accordance with the law, the right lasts no longer than four years from the date of the contract, which period has already expired without having been made use of.

These four years must be counted from the date of the contract notwithstanding the suspension of the exercise of the right of repurchase, because the stipulation of this suspension is null and void, it having exceeded four years, which constitutes the legal period of this right. (Santos vs. Heirs of Crisostomo and Tiongson, 41 Phil., 342.)

The judgment appealed from is reversed and it is held that the right of repurchase reserved by the vendor Carlos N. Francisco has expired, and the cancellation by the register of deeds of the notation of this right on the title must be, as it is hereby, ordered, without special pronouncement as to costs. So ordered.

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

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