

**ELENA SALENILLAS AND BERNARDINO SALENILLAS, PETITIONERS,
VS. HONORABLE COURT OF APPEALS AND HONORABLE RAYMUNDO
SEVA, JUDGE OF BRANCH 38 OF THE REGIONAL TRIAL COURT OF
CAMARINES ...***G.R. No. 78687. January 31, 1989*

Ponente: SARMIENTO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-78687/>**SARMIENTO, J.:**

This petition for review on certiorari which seeks the reversal and setting aside of the decision[1] of the Court of Appeals[2] dismissing the petition for certiorari against Judge Raymundo Seva of the Regional Trial Court of Camarines Norte and the private respondent, William Guerra, involves a pure question of law, i.e., the coverage and application of Section 119 of Commonwealth Act No. 141, as amended, known otherwise as the Public Land Act.

The facts are undisputed.

The property subject matter of the case was formerly covered by Original Certificate of Title No. P-1248, issued by virtue of Free Patent Application No. 192765, in favor of the spouses, Florencia H. de Enciso and Miguel Enciso. The said original certificate of title was inscribed in the Registration Book for the Province of Camarines Norte on December 10, 1961. On February 28, 1970, the patentees, the Enciso spouses, by an Absolute Deed of Sale, sold the property in favor of the petitioners, the spouses Elena Salenillas and Bernardino Salenillas for a consideration of P900.00. Petitioner Elena Salenillas is a daughter of the Encisos. As a result of the aforementioned sale, Transfer Certificate of Title No. T-8104 of the Register of Deeds of Camarines Norte was issued in the name of the Salenillas, cancelling Original Certificate of Title No. P-1248. On June 30, 1971, the petitioners mortgaged the property now covered by T.C.T. No. T-8104 with the Rural Bank of Daet, Inc. The mortgage was subsequently released on November 22, 1973 after the petitioners paid the amount of P1,000.00. Later, or on December 4, 1975, the petitioners again mortgaged the property, this time in favor of the Philippine National Bank Branch, Daet, Camarines Norte as security for a loan of P2,500.00.

For failure of the petitioners to pay their loan, extrajudicial foreclosure proceeding, pursuant to Act No. 3135, was instituted by the Philippine National Bank against the mortgage and the property was sold at a public auction held on February 27, 1981. The private respondent, William Guerra, emerged as the highest bidder in the said public auction and as a result thereof a "Certificate of Sale" was issued to him by the Ex-Officio Provincial Sheriff of Camarines Norte. Ultimately, on July 12, 1983, a "Sheriff's Final Deed" was executed in favor of the private respondent.

On August 17, 1983, the Philippine National Bank filed with the Regional Trial Court of Camarines Norte at Daet, a motion for a writ of possession. The public respondent, Judge Raymundo Seva of the trial court, acting on the motion, issued on September 22, 1983 an order for the issuance of a writ of possession in favor of the private respondent. When the deputy sheriff of Camarines Norte however attempted on November 17, 1983, to place the

property in the possession of the private respondent, the petitioners refused to vacate and surrender the possession of the same and instead offered to repurchase it under Section 119 of the Public Land Act. On August 15, 1984, another motion, this time for the issuance of an alias writ of possession was filed by the private respondent with the trial court. The petitioners, on August 31, 1984, opposed the private respondents' motion and instead made a formal offer to repurchase the property. Notwithstanding the petitioners' opposition and formal offer, the trial court judge on October 12, 1984 issued the alias writ of possession prayed for by the private respondent. The petitioners moved for a reconsideration of the order but their motion was denied.

Undeterred by their initial setback, the petitioners elevated the case to the respondent Court of Appeals by way of a petition for certiorari claiming that the respondent trial court judge acted with grave abuse of discretion in issuing the order dated October 12, 1984 granting the writ of possession, and the order dated October 22, 1984, denying their motion for reconsideration.

In a resolution dated January 23, 1985, the respondent appellate court gave due course to the petition; required the parties to submit simultaneous memoranda in support of their respective positions; and restrained the trial court and the private respondent from executing, implementing, or otherwise giving effect to the assailed writ of possession until further orders from the court.[3] However, in a decision promulgated on September 17, 1986, the respondent Court of Appeals dismissed the case for lack of merit. According to the appellate court:

It must be noted that when the original owner, Florencia H. Enciso whose title, OCT No. P-1248, was issued on August 9, 1961, executed a deed of absolute sale on February 28, 1970 of the property covered by said title to spouses Elena Salenillas and Bernardino Salenillas, the five year period to repurchase the property provided for in Section 119 of Commonwealth Act No. 141 as amended could have already started. From this fact alone, the petition should have been dismissed. However, granting that the transfer from parent to child for a nominal sum may not be the "conveyance" contemplated by the law, We will rule on the issue raised by the petitioners.[4]

x x x x x x x x

Applying the case of *Monge, et al. vs. Angeles, et al.*, [5] the appellate court went on to hold that the five-year period of the petitioners to repurchase under Section 119 of the Public Land Act had already prescribed. The point of reckoning, ruled the respondent court in consonance with *Monge*, is from the date the petitioners mortgaged the property on December 4, 1973. Thus, when the petitioners made their formal offer to repurchase on August 31, 1984, the period had clearly expired.

In an effort to still overturn the decision, the petitioners moved for reconsideration. Their motion apparently went for naught because on May 7, 1987, the respondent appellate court resolved to deny the same. Hence, this petition.

Before us, the petitioners maintain that contrary to the rulings of the courts below, their right to repurchase within five years under Section 119 of the Public Land Act has not yet prescribed. To support their contention, the petitioners cite the cases of *Paras vs. Court of Appeals* [6] and *Manuel vs. Philippine National Bank, et al.* [7]

On the other side, the private respondent, in support of the appellate court's decision, states that the sale of the contested property by the patentees to the petitioners disqualified the latter from being legal heirs vis-a-vis the said property. As such, they (the petitioners) no longer enjoy the right granted to heirs under the provisions of Section 119 of the Public Land Act.[8]

In fine, what need be determined and resolved here are: whether or not the petitioners have the right to repurchase the contested property under Section 119 of the Public Land Act; and assuming the answer to the question is in the affirmative, whether or not their right to repurchase had already prescribed.

We rule for the petitioners. They are granted by the law the right to repurchase their property and their right to do so subsists.

Section 119 of the Public Land Act, as amended, provides in full:

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 the date of the conveyance.

From the foregoing legal provision, it is explicit that only three classes of persons are bestowed the right to repurchase -- the applicant-patentee, his widow, or other legal heirs. Consequently, the contention of the private respondent sustained by the the respondent appellate court that the petitioners do not belong to any of those classes of repurchasers because they acquired the property not through inheritance but by sale, has no legal basis. The petitioners-spouses are the daughter and son-in-law of the Encisos, patentees of the contested property. At the very least, petitioner Elena Salenillas, being a child of the Encisos, is a "legal heir" of the latter. As such, and even on this score alone, she may therefore validly repurchase. This must be so because Section 119 of the Public Land Act, in speaking of "legal heirs", makes no distinction. *Ubi lex non distinguit, nec nos distinguere debemos*.

Moreover, to indorse the distinction made by the private respondent and the appellate court would be to contravene the very purpose of Section 119 of the Public Land Act which is to give the homesteader or patentee every chance to preserve for himself and his family the land that the State had gratuitously given him as a reward for his labor in clearing and cultivating it.[9] Considering that petitioner Salenillas is a daughter of the spouses Florencia H. de Enciso and Miguel Enciso, there is no gainsaying that allowing her (Elena) and her husband to repurchase the property 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.

Guided by the same purpose of the law, and proceeding to the other issue here raised, we rule that the five-year period for the petitioners to repurchase their property has not yet prescribed.

The case of *Monge, et al. vs. Angeles, et al.*, [10] cited as authority by the respondent Court of Appeals is inapplicable to the present controversy. The facts obtaining there are substantially different from those in this case. In *Monge*, the conveyance involved was a pacto de retro sale and not a foreclosure sale. More importantly, the question raised there was whether the five-year period provided for in Section 119 "should be counted from the date of the sale even if the same is with an option to repurchase or from the date the ownership of the land has become consolidated in favor of the purchaser because of the homesteader's failure to redeem it." [11] It is therefore understandable why the Court ruled there as it did. A sale on pacto de retro immediately vests title, ownership, and, generally, possession over the property on the vendee a retro, subject only to the right of the vendor a retro to repurchase within the stipulated period. It is an absolute sale with a resolutive condition.

The cases [12] pointed to by the petitioner in support of their position, on the other hand, present facts that are quite identical to those in the case at bar. Both cases involved properties the titles over which were obtained either through homestead or free patent. These properties were mortgaged to a bank as collateral for loans, and, upon failure of the owners to pay their indebtedness, the mortgages were foreclosed. In both instances, the Court ruled that the five-year period to repurchase a homestead sold at public auction or foreclosure sale under Act 3135 begins on the day after the expiration of the period of redemption when the deed of absolute sale is executed thereby formally transferring the property to the purchaser, and not otherwise. Taking into account that the mortgage was foreclosed and the mortgaged property sold at a public auction to the private respondent on February 27, 1981, with the "Sheriff's Final Deed" issued on July 12, 1983, the two offers of the petitioners to repurchase -- the first on November 17, 1983, and the second, formally, on August 31, 1984 -- were both made

within the prescribed five-year period.

Now, as regards the redemption price, applying Sec. 30 of Rule 39 of the Revised Rules of Court, the petitioners should reimburse the private respondent the amount of the purchase price at the public auction plus interest at the rate of one per centum per month up to November 17, 1983, together with the amounts of assessments and taxes on the property that the private respondent might have paid after purchase and interest on the last named amount at the same rate as that on the purchase price.[13]

WHEREFORE, the petition is GRANTED. The Decision dated September 17, 1986, and the Resolution dated May 7, 1987 of the Court of Appeals, and the Orders dated September 22, 1983, October 12, 1984, and October 22, 1984 of the Regional Trial Court of Daet, Camarines Norte, are hereby REVERSED and SET ASIDE, and another one ENTERED directing the private respondent to reconvey the subject property and to execute the corresponding deed of reconveyance therefor in favor of the petitioners upon the return to him by the latter of the purchase price and the amounts, if any, of assessments or taxes he paid plus interest of one (1%) per centum per month on both amounts up to November 17, 1983.

No costs.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Promulgated on September 17, 1986; Ejercito, B.C., J., ponente; Coquia, J.R. and Martinez, A.M., JJ., concurring.

[2] CA-G.R. S.P. No. 04603, Elena Salenillas, et al. vs. Hon. Raymundo Seva, etc., et al.

[3] Rollo, 20.

[4] Id., 16.

[5] 101 Phil 563 (1957).

[6] 91 Phil 389 (1952).

[7] 101 Phil 968 (1957).

[8] Rollo, id., 44.

[9] Santana vs. Mariñas, No. L-35537, December 27, 1979, 94 SCRA 853; Vargas vs. Court of Appeals, No. L-35666, June 29, 1979, 91 SCRA 195; Simeon vs. Peña, No. L-29049, December 29, 1970, 36 SCRA 610.

[10] Supra.

[11] Id., 564.

[12] Paras vs. Court of Appeals, et al., supra; and Manuel vs. Philippine National Bank, et al., supra.

[13] PNB vs. Court of Appeals, et al., No. L-60208, December 5, 1985, 140 SCRA 360; Dulay vs. Carriaga, No. L-52831, July 29, 1983, 123 SCRA 794; DBP vs. Zaragosa, No. L-23493, August 23, 1978, 84 SCRA 668.

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.