

## ANGEL ORTIZ, AND LATER THE HONGKONG AND SHANGHAI BANKING CORPORATION, PETITIONER AND APPELLEE, VS. ANGEL ORTIZ, OPPONENT AND APPELLANT.

*G.R. No. 8105. December 17, 1913*

Ponente: TORRES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-8105/>

---

### TORRES, J.:

This appeal, through bill of exceptions, was made by counsel for Angel Ortiz from the decree rendered on August 8, 1910, by the Honorable Jesse George, associate judge of the Court of Land Registration, in which he held that the Hongkong and Shanghai Banking Corporation was the owner of the lands and their improvements, the subject matter of the application presented by Angel Ortiz, having obtained them from the latter through purchase under pacto de retro during the course of the proceedings in this case, and ordered that parcels 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19, together with all their improvements, be registered in the name of the said bank. The decree also ordered that copies of the plans of parcels 4, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, and 19 be transmitted by the clerk of the court to the Director of the Bureau of Lands for the purpose of the proceedings prescribed in section 66 of Act No. 926, and that, with respect to parcels 1, 2, 3, 5, 6, 7, and 12, the applicant should make an exact survey of the same and present to the court, on or before November 1, 1910, correct plans and technical descriptions of these parcels, which plans should be duly certified by the Director of Lands in accordance with the provisions of Acts Nos. 1875 and 1937. To all the owners of the lands adjoining the said parcels was reserved the right to appear before the court within a period of thirty days after the presentation of the plans just above mentioned, in order that they might impugn the boundaries established in the survey, and, in case no one should so appear within the said period, the decree would be issued in accordance with the boundaries and areas specified in the plans, surveys, and technical descriptions previously mentioned, which decree would be final against all the world. A new survey was ordered to be made of the said first parcel, in conformity with the provisions of the Law of Waters, excluding therefrom all the land that belonged to the shore. The registration of parcels 20 and 21 was denied, without prejudice to the filing of a new application. It was further directed that, when the decree should become final, the necessary orders, judgments, decrees, and certificates of title should be issued, and that the Hongkong and Shanghai Banking Corporation should pay the proper legal costs, including the expenses occasioned by the new surveys.

Angel Ortiz, by written petition of December 12, 1907, applied to the Court of Land Registration for the registration in his name, as absolute owner, of nineteen rural and two urban properties, situated in different pueblos of the Province of Sorsogon, together with the improvements thereon. The petition contained a statement of the respective areas and boundaries of these parcels of land, the assessed value each of twenty of them and of the just selling value of parcel 21, not yet assessed, and recited that the petitioner had acquired the said properties from 4 he widow and heirs of the deceased F. Suarez, of Sorsogon, in payment of a debt which they owed him, and that, to the best of his knowledge and belief, there was no encumbrance on the properties mentioned, nor was there any person who had any right or share therein, with the exception of the obligation that affected the same, as

specified in the instrument of November 14, 1907, which is Exhibit No. 20. On pages 14 to 18 of the record is found an amendment of some details not contained in the aforesaid application. On the hearing of the case oral testimony was introduced by the applicant.

At this stage of the proceedings counsel for the Hongkong and Shanghai Banking Corporation, by written motion of April 30, 1910, requested that the applicant, Angel Ortiz, be substituted by the counsel for the said banking concern as the applicant in this case, and that, in due course of time, a decree be issued in favor of the aforesaid corporation, for the registration of each and all of the real properties mentioned and described in this case. This motion further recited that Ortiz, by an instrument of April 21, 1908, ratified before a notary, transferred to the Hongkong Bank with other property, that herein concerned, in payment of the sum which he was owing; that the right was reserved to Angel Ortiz to repurchase the property in question within the period of one year counting from the 21st of April, 1908, which period was, by another instrument of April 21, 1909, also ratified before a notary, extended to one year more, that is, to April 21, 1910; that the period stipulated for the repurchase of the said real properties, as well as the extension of time allowed, had both expired, without the transferrer Ortiz having availed himself of the right that had been reserved to him, and that, therefore, the ownership of each and all of the real properties specified and described in this case had become consolidated in favor of the said bank and that the transfer, made to the latter on April 21, 1908, was now final, absolute, and irrevocable.

At the hearing had on this motion, the attorney, Alfredo Chicote, in Ortiz' name, opposed the petition of the bank, on the ground that the instrument presented at the trial was not one of sale with right of repurchase, nor was it all the contract between The Hongkong and Shanghai Bank and Angel Ortiz, and alleged that, on the first page of the said instrument, allusion is made to another covenant executed on the same date, April 21, 1908, in which the period for the exercise of the right of redemption is fixed at five years with the additional stipulation that Ortiz should pay during" these five years P20,000 out of the proceeds of his business for the purpose of gradually paying up the purchase price, which covenant is an integral part of the instrument of the same date, exhibited at trial, and if Ortiz through fault, negligence or malice should fail to pay the said P20,000, then the period of five years, by failure to fulfill the obligation agreed upon, should be considered to have elapsed; that it was also stipulated that, in any case where the bank might be entitled to consider the period for repurchase as having expired, it should deliver to Ortiz the sum required for the redemption of his properties, under security of a mortgage on the same which the bank could foreclose in the manner provided by the Code of Civil Procedure; that, as the debtor Ortiz was unable to pay to the bank the said P20,000, not through any fault, negligence or malice on his part, but because his business produced no profits, the period was extended to one year more, by an instrument of April 21, 1909; and that, by virtue of the contract executed on or about July 6, 1909, by and between The Hongkong Bank, Angel Ortiz and Messrs. Lizarraga, the bank consented that Messrs. Lizarraga should, instead of Ortiz, directly deliver to it the said P20,000, and that Ortiz' business should be turned over to Messrs. Lizarraga, wherefore even though Ortiz had wished to pay the P20,000, he could not have done so, since the business was no longer in his charge.

During the hearing of the case counsel for the bank and for Angel Ortiz introduced oral and documentary evidence upon which the aforementioned decree was rendered.

On the supposition that Angel Ortiz, as owner of the twenty-one properties specified in his application, was entitled to ask for the registration of his ownership in the property registry in accordance with the law, the principal issue involved in this case is the question as to whether The Hongkong and Shanghai Banking Corporation (which acquired and consolidated the ownership of the said twenty-one properties, on account of the period fixed in the contract of purchase and sale having lapsed without the vendor Ortiz having repurchased these properties, notwithstanding the lapse of the period of one year and of the renewal thereof for another year,

allowed for their redemption) was entitled to obtain from the Court of Land Registration authorization to subrogate itself in the place and stead of the vendor, who had already ceased to be the owner of the properties sought to be registered.

Section 29 of Act No. 496 provides as follows; "After the filing of the application and before registration the land therein described may be dealt with and instruments relating thereto shall be recorded, in the same manner as if no application had been made; but all instruments left for record relating to such land shall be indexed in the usual manner, etc."

Angel Ortiz, the lawful owner of the said twenty-one properties, including rural and urban, owed the bank a considerable sum and, as security for its payment, had to mortgage these properties, which he did by an instrument of November 14, 1907, entered in the property registry. On December 12 of the same year, 1907, before the removal of this encumbrance, he applied to the Land Court for the registration of his twenty-one mortgaged properties.

Ortiz having been unable to comply with his engagement to pay his debt to the bank, and in order to avoid a foreclosure sale of the mortgaged properties, got the Hongkong Bank to accept an arrangement consisting in the sale of these properties to the creditor bank for a sum equal to his debt, under the stipulation that he should be allowed to repurchase them within one year counting from the 21st of April, 1908. The vendor was to continue in the use and occupation of the properties sold, without the payment of any interest or rent, and his only obligation was to deposit with the bank the net proceeds obtained from his business. If the amount deposited by the end of the said period reached P20,000, the bank was to grant Ortiz the necessary sum, under mortgage security, so that together with the said P20,000 he might be able to redeem the properties sold.

The year elapsed and the vendor Ortiz was unable to deliver in deposit the P20,000 agreed upon, and at his request the purchaser bank allowed him another year's extension of time, under the same conditions. This renewal likewise lapsed and still Ortiz did not comply with his engagement. The bank therefore consolidated its ownership and by operation of law became the absolute owner of the properties sold in payment of a debt of P270,000. The record discloses absolutely no proof that the period for the repurchase was five years; on the contrary, the notarial documents executed by Ortiz in favor of the bank, on April 21, 1908, and April 21, 1909, clearly prove that in the first instrument a year was fixed and in the second an extension of time of another year was granted him to enable him to repurchase the properties sold, and as he, the vendor, did not do so, the bank became the owner of the same. The sale that during the years from 1908 to 1910 was merely one under right of repurchase thus became absolute from the 21st of April, 1910.

The judge of the Court of Land Registration was of the opinion that the ownership and control of the real properties which were the subject matter of the application presented by the vendor Angel Ortiz for the purpose of the registration of the said properties in the property registry, had passed to the Hongkong and Shanghai Bank, and that the original applicant, by reason of his having surrendered and transferred his properties without having repurchased them within the stipulated period, was no longer entitled to register them in his name. The court therefore held that the Hongkong Bank, the purchaser, had an indisputable right to substitute the applicant Angel Ortiz in this case and to obtain the registration of the properties that it had acquired, for the reason that the said bank had been subrogated in the rights of the applicant Ortiz, who, on account of his failure to make use of his right to repurchase the properties that he had sold, ceased thenceforth to be the owner of the same, nor could he be considered as such by the courts in view of the contents of the two notarial instruments which prove, without contradiction whatever, that he had sold the real properties he sought to register and because the period allowed for their repurchase had fully expired. Therefore the ownership of the bank, the purchaser, was in fact consolidated, and in its name the registration must of course be made, in accordance with the law governing" this

matter, as the subrogated owner in the place and stead of the applicant, the vendor.

Article 1509 of the Civil Code prescribes: "If the vendor should not comply with the provisions of article 1518, the vendee shall irrevocably acquire the ownership of the thing sold."

Article 1518, *aforecited*, provides; "The vendor cannot exercise the right of redemption without returning to the vendee the price of the sale, etc."

It was proved that Angel Ortiz sold his properties to the Hongkong and Shanghai Bank under reservation of his right to recover them within the period of one year which was extended for another year, pursuant to the provisions of articles 1507 and 1508 of the Civil Code, but he did not reimburse the purchaser for the price of the sale, which was his original debt to the purchaser bank itself. Therefore the latter, in accordance with the law, irrevocably acquired the ownership of the properties sold by its original debtor Angel Ortiz and, upon this premise, the bank was perfectly entitled to be subrogated in this case, as it was, in place of the applicant Angel Ortiz; therefore it is unquestionable that the properties, which the bank lawfully acquired by deed of conveyance, must be registered in its name as the lawful owner thereof.

The allegation made by counsel for Ortiz, that the period fixed for the repurchase was five years, cannot be admitted for want of proof. This period of time is set forth in the fourth paragraph of the instrument of April 21, 1908 (Exhibit 201), page 713 of the record, where the transferer or vendor of the properties in payment of his debt states that, in order to avoid a foreclosure sale of the mortgaged properties which he transferred to the Hongkong and Shanghai Bank, he might, if he should be permitted so to do, pay instead his debt within said period of five years instead of sacrificing his properties and with the profits obtained therefrom materially diminish his debt by paying the sum of P20,000 the first year; and, accordingly, in the same instrument, he declares that he has assigned and transferred to the creditor bank, through an instrument of the same date, the properties therein specified. In the instrument referred to, executed on the same date, April 21, 1908, page 116 of the record, the condition was stipulated among others that if, within the period of one year counting from date, Ortiz should pay to the Hongkong and Shanghai Bank the sum of P270,460.03, then the latter should be obliged to resell to him the properties therein specified, but that, if he did not do so, the conveyance should be final and irrevocable. As Ortiz did not succeed, in accordance with the agreement, in repurchasing the properties sold, another instrument was executed on April 21 of the following year, 1909, page 721 of the record, in which the vendor Ortiz stated that he desired that the bank should grant him, notwithstanding his involuntary noncompliance with what had been stipulated and covenanted, a further delay and an extension of the period for the repurchase of the properties he had sold, and for this purpose he ratified, by means of an instrument entitled "Assignment of property in payment of a debt," the previous agreement executed on April 21, 1908. The purchaser Ortiz was in fact granted such extension of one year, to April 21, 1910, but neither during this period did he avail himself of his redemption right. Therefore, in accordance with the stipulations agreed upon, the sale and transfer of property made by Ortiz in payment of his debts to the bank became final and absolute by the lapse of the stipulated time and of its extension. The covenant made by and between Ortiz and the bank and the latter's rights as the purchaser, now the owner, of the properties sold, cannot be affected by the special contract executed in July, 1909, between Ortiz and Lizarraga Hermanos, with the bank's knowledge, to the end that this firm should, during the period allowed for the redemption, have charge of the administration of the properties sold, in the hope that under its management they might produce what Ortiz had been unsuccessful in obtaining from them during the time they had been in his hands. The Hongkong Bank, the purchaser, found itself necessarily obliged to accept and acquire the vendor's properties in payment of his debt, lest it might not collect what he was owing it, and it had to consent to Lizarraga Hermanos' administering them to see whether this firm might derive the profit from them that their previous owner had been unable to obtain, for what the bank sought was the collection of its credit and its aim was not to

get the properties which were sold to it in payment of the same.

Besides the adverse claim filed by the Attorney-General with respect to the first parcel of land bordering on the shore, the record discloses no other against the application for the registration of the properties in question. This application is sufficient and proper, upon the fulfillment of the conditions and requirements prescribed by law. Therefore the decree appealed from is in accordance with the law and the merits of the case.

For the foregoing reasons, whereby the error assigned to the decree appealed from is deemed to have been refuted, the said decree should be and is hereby affirmed, with the costs upon the appellant.

Arellano, C. J., Johnson and Moreland, JJ., concur.

**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.