

ISABELA BANDONG AND JUAN FERRER, PLAINTIFFS AND APPELLANTS, VS. ALEJANDRA AUSTRIA, DEFENDANT AND APPELLEE.

G. R. No. 9785. September 24, 1915

Ponente: CARSON, J.

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CARSON, J.:

On the 29th of April, 1905, the plaintiffs in this action sold to Antonio Ventenilla, since deceased, a parcel of land for the sum of P350, expressly reserving a right to repurchase under and in accordance with the terms of the deed of sale.

The written contract contained the following stipulation: "Tambien hacemos constar que una de las promesas que tenemos a D. Antonio que recompraremos este terreno en el mismo precio sin acordarse uno y otro del interes del dinero ni del producto del terreno, pero en el mes de marzo de cualquier ano, si recompramos. (We also set forth that one of the promises we have made to Don Antonio is that we will repurchase this land at the same price; neither of us make any stipulation as to interest on the money or the products of the land, but in the month of March of any year, if we repurchase.)"

The vendors offered to repurchase in the month of March, 1913, but this offer was declined on the ground that the right to repurchase had prescribed: a contention which is renewed by the defendant in this action, who is the widow of original vendee, deriving title through him.

The court below was of opinion that the right to repurchase expired at the end of four years from the date of the contract, relying in support of this ruling on the provisions of article 1508 of the Civil Code, which are as follows:

"The right mentioned in the preceding article (right to repurchase), in the absence of an express agreement, shall last four years counted from the date of the contract.

"In case of stipulation, the period of redemption shall not exceed ten years."

We are of opinion, however, that the above cited provision in the written contract was an express agreement between the parties by the terms of which the vendors were given the right to repurchase in the month of March of any year, after the date of the contract (1905), which they might elect for that purpose. In the event that they should assert that right in the month of March of any year after the date of the contract, it could not be said that there was no express agreement between the parties authorizing them so to do. Manifestly, therefore, the statutory limitation upon the right of repurchase to a period of four years is not applicable to the contract under consideration, that limitation being applicable only to cases wherein there is no express agreement touching the date of redemption. The parties having expressly agreed that the vendors should have the right to repurchase in the month of March of any year after the date of the contract, the only statutory limitation placed upon them in the exercise of that right is the limitation found in the second paragraph of article 1508 of the Civil Code cited above, which limits the power of the vendor, even by express agreement, to reserve a right to repurchase for a longer

period than ten years. We conclude, therefore, that the provisions of the contract of sale, whereby the parties undertook by express agreement to secure to the vendors a right to repurchase in the month of March of any year after the date of the contract, were valid and binding upon the parties for a period of ten years from the date of the contract but wholly without force and effect thereafter.

It is admitted that the vendors offered to repurchase the land in question in the month of March, 1913, less than eight years from the date of the contract. This they had a perfect right to do, and the judgment of the trial court which denies their right to enforce the terms of their contract on the ground that the period of redemption had expired by statutory limitation cannot, therefore, be sustained.

The judgment entered in the court below should be and is hereby reversed, without special condemnation of costs in this instance, and the record will be returned to the court below, where judgment will be entered in accordance herewith. So ordered.

Arellano, C. J., Torres, Trent, and Araullo, JJ., concur.

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