

SPOUSES GAUVAIN AND BERNARDITA BENZONAN, PETITIONERS, VS. COURT OF APPEALS, BENITO SALVANI PE AND DEVELOPMENT BANK OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 97973. January 27, 1992

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition to review the August 31, 1990 decision of the Court of Appeals which sustained the right of respondent Benito Salvani Pe to repurchase a parcel of land foreclosed by petitioner Development Bank of the Philippines (DBP) and sold to petitioners Gauvain and Bernardita Benzonan.

Respondent Pe is a businessman in General Santos City who owns extensive commercial and agricultural properties. He is the proprietor of the firm "Dadiangas B.P. Trading." One of the properties he acquired through free patents and miscellaneous sales from the Bureau of Lands is a 26,064 square meters parcel covered by Free Patent No. 46128 issued on October 29, 1969. OCT No. P-2404 was issued on November 24, 1969.

On February 24, 1970 or barely three months after he acquired the land, the respondent mortgaged the lot in question, together with another lot covered by TCT No. 3614 and some chattels to secure a commercial loan of P978,920.00 from the DBP. The lot was developed into a commercial-industrial complex with ricemill and warehouse facilities, a solar drier, an office and residential building, roadway, garden, depository, and dumping grounds for various materials.

When the private respondent failed to pay his loan after more than seven years had passed, DBP foreclosed the mortgage on June 28, 1977. On that date, the total obligation amounted to P1,114,913.34. DBP was the highest bidder. Certificates of sale were issued in its favor; P452,995.00 was for the two lots and P108,450.00 for the chattels. The certificate covering the disputed lot was registered with the Registry of Deeds on January 24, 1978.

After the foreclosure sale, respondent Pe leased the lot and its improvements from DBP for P1,500.00 a month. Part of the property was also leased by DBP to the then National Grains Authority.

The respondent failed to redeem the property within the one year period. On September 24, 1979 DBP sold the lot to the petitioners for P1,650,000.00 payable in quarterly amortizations over a five year period. The petitioners occupied the purchased lot and introduced further improvements worth P970,000.00.

On July 12, 1983, claiming that he was acting within the legal period given to him to repurchase, respondent Pe offered in writing to repurchase the lot for P327,995.00. DBP countered, however, that over the years a total of P3,056,739.52 had already been incurred in the preservation, maintenance, and introduction of improvements.

On October 4, 1983, Pe filed a complaint for repurchase under Section 119 of Commonwealth Act No. 141 with the Regional Trial Court (RTC) of General Santos City.

On November 27, 1986, the trial court rendered judgment. The dispositive portion reads:

"WHEREFORE, in view of the foregoing, the defendant Development Bank of the Philippines is ordered:

- to reconvey unto the plaintiff the parcel of land in question (Lot NO. P-2404) for the repurchase price of P327,995.00 plus legal interest from June 18, 1977 to June 19, 1978 only, and the expenses of extrajudicial foreclosure of mortgage; expenses for registration and ten percent (10%) attorney's fees;
- ordering the defendants to vacate forever the premises of said property in favor of the plaintiff upon payment of the total repurchase price;
- ordering the defendants, jointly and solidarily, to pay the plaintiff attorney's fees in the amount of P25,000.00;
- and to set an example to government banking and lending institutions not to take borrowers for granted by making it hard for them to repurchase by misleading them, the bank is hereby ordered to pay the plaintiff by way of exemplary damages in the amount of P50,000.00;

Ordering further the defendant DBP:

- to reimburse the co-defendants spouses Benzonan the amount they have paid or advanced the defendant DBP for the purchase of Lot O.C.T. No. P-2404;
- ordering the defendants to pay the cost of suit." (Rollo of G.R. No. 97973, pp. 74-75)

On appeal, the Court of Appeals affirmed the decision with modifications as follows:

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"All the foregoing premises considered, judgment is hereby rendered AFFIRMING the decision rendered by the court a quo with the modification that the defendant DBP shall reimburse to its co-defendant Benzonan spouses all amounts that the latter have paid for the land, minus interest, and that the Benzonan spouses shall be allowed to remove the improvement that they have made on the property under litigation, without impairing or damaging the same." (Rollo of G.R. No. 97973, p. 105)

A motion for reconsideration was denied on March 19, 1991.

The petitioners-spouses in G.R. No. 97973 raise the following "legal issues, reasons, or errors" allegedly committed by the Court of Appeals, to wit:

"1. The Court of Appeals erred in holding that conversion and use of the land in question to industrial or commercial purposes, as a result of which it could no longer be used for cultivation, and the fact that respondent Pe has vast holdings whose motive in seeking to repurchase the property is to continue the business or for speculation or greater profits did not deprive him of the right to repurchase under Sec. 119 of CA 141, and, as a result, in ignoring or disregarding Pe's admissions and undisputed facts establishing such circumstances, contrary to what this Court held in *Santana v. Mariñas*, 94 SCRA 853 [1979], *Vargas v. Court of Appeals*, 91 SCRA 195 [1979] and *Simeon v. Peña*, 36 SCRA 610 [1970]).

2. Assuming, arguendo, that respondent Pe still had the right to repurchase the land under Sec. 119 of CA 141, the Court of Appeals erred in not counting the 5-year period from the date of foreclosure sale on June 18, 1977 or at the very most from its registration on January 24, 1978, in accordance with the prevailing doctrinal law at the time as enunciated in *Monge v. Angeles*, 101 Phil. 561 [1957], *Oliva v. Lamadrid*, 21 SCRA 737 [1967] and *Tupas v. Damasco*, 132 SCRA 593 [1984], pursuant to which Pe's right to repurchase already expired.

3. The Court of Appeals erred in applying retroactively the ruling in *Belisario v. Intermediate Appellate Court*, 165 SCRA 101 [1988], which held that the 5-year period is counted from the date after the one-year period to redeem foreclosed homestead expired, to the foreclosure of the land in question in 1977, as its retroactive application revived Pe's lost right of repurchase and defeated petitioners' right of ownership that already

accrued under the then prevailing doctrinal law.

4. Assuming, arguendo, that respondent Pe had the right to repurchase the land in question and assuming, further, that the 5-year period is to be counted from the consolidation of ownership after the expiration of the one-year period to redeem, the Court of Appeals erred in not holding that the mere filing of an action for repurchase without tendering or depositing the repurchase price did not satisfy the requirements of repurchase, Pe's failure to make the tender or deposit even up to the present being confirmatory of speculative motive behind his attempt to repurchase.

5. Assuming, finally, that respondent Pe is entitled to repurchase the property, the Court of Appeals erred in not holding that petitioners are possessors in good faith, similar to a vendee a retro, entitled (a) to reimbursement of necessary and useful expenses under Article 1616 of the Civil Code as held in *Calagan v. CFI of Davao*, 95 SCRA 498 [1980] and in *Lee v. Court of Appeals*, 68 SCRA 196 [1975]; and (b) to refund of all amounts paid by them by reason of the sale of the property in their favor, including interest payments, in both instances with right of retention." (Rollo of G.R. No. 97973, pp. 14-16)

In G.R. No. 97998, DBP limited its petition to the value of the repurchase price and the nature of the contract between the parties. It framed the issues as follows:

"1. The Court of Appeals erred in not holding that Section 31 of Commonwealth Act No. 459 as amended is not applicable in the instant case to determine the repurchase price contrary to decisions of the Honorable Supreme Court in the following cases: *DBP v. Jimenez, et al.* (36 SCRA 426) and *DBP v. Mirang* (66 SCRA 141).

2. The Court of Appeals erred in not holding that the law between the contracting parties are the terms and conditions embodied in the contract signed by them." (Rollo of G.R. No. 97998, p. 12)

We find merit in the petitions.

The determination of the main issues raised by the petitioners calls for the proper application of Section 119 of CA 141 as amended which provides: "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 conveyance."

There is no dispute over the fact that the Government awarded the land to respondent Pe so that he could earn a living by farming the land. Did respondent Pe lose his right to repurchase the subject agricultural lot under the aforequoted law considering its conversion for industrial or commercial purposes? The evidence relating to the conversion is sufficiently established and yet was not properly appreciated by the respondent court.

Only three months after getting the free patent and the original certificate of title over the subject lot, it was mortgaged by respondent Pe to get a commercial loan of nearly P1 million from DBP. Pe spent the proceeds of the loan to construct permanent improvements on the lot for his rice-mill and other businesses, i.e., two warehouse buildings; administration-residential building; perimeter fence; solar and concrete drier; shed; machine shop; dirty kitchen; and machineries and equipments such as ricemill (TSN, August 13, 1984, pp. 173-174). The entire lot has been converted to serve commercial and industrial purposes. The testimony of petitioners Gauvain Benzonan on this score has not been successfully challenged, viz:

"Q. Out of this 2.6 hectares land area, how much of this is devoted to the solar drier construction?

A. The solar drier is about one thousand (1,000) square meters . . . ah no, about six thousand (6,000) square meters.

Q. What about the area occupied by the warehouse and the ricemill complex?

A. The warehouse and ricemill complex is occupying about one and a half (1 1/2) hectares.

Q. What about the area occupied by the residence as well as the roadways?

A. It covers about another half of a hectare again, Sir.

Q. Is any part of this two point six hectares devoted to agricultural production or production of agricultural crops?

A. None whatsoever because the other portion is occupied as a dumping area for our waste materials." (TSN, PP. 361-362, Sept. 3, 1985).

The conversion of the lot for commercial purposes is understandable considering that the heart of General Santos City developed in that area.

The respondent does not deny that, he is using the land for purely commercial and industrial purposes. His explanation is that the land may be converted into agricultural land in the future. He applies the *Krivenko v. Register of Deeds of Manila* (79 Phil. 461 [1947]) ruling that lands not mineral or forest are agricultural in nature and may be devoted to business purposes without losing their agricultural classification.

Indeed, the records show that it was never the intention of respondent Pe to utilize the land, given to him for free by the Government, for agricultural purposes. He was not the kind of poor farmer for whom homesteads and free patents were intended by the law.

As stated by the petitioners:

"1. Respondent Pe acquired by free patent the land in question with an area of 2.6064 hectares, which was issued Original Certificate of Title No. P-2404 on November 24, 1969. Instead of cultivating it for agricultural purposes, Pe mortgaged the land, along with another land, on February 24, 1970, or only three (3) months from issuance of OCT No. P-2404, with the DBP for P978,920.00. (par. 4, complaint, Annex "A"). Pe testified that his purpose was to construct in the land in question 'bodega', an administration-residential building, a perimeter fence, a concrete drier, and for some machineries and equipment." (TSN, p. 95, June 22, 1984). He stated that the improvements and facilities in the land included 'the warehouse, the ricemill and a big warehouse housing the palay of stocks of the National Grains Authority and an administration residential building, a solar drier and a perimeter fence and some sheds or garage x x x a small piggery pen of several compartments, a dirty kitchen x x x a machine shop.' (TSN, pp. 173-174, August 13, 1984). Pe used the property for such purposes and operated the ricemill business for a period of about nine (9) years until September, 1979 (pars. 7 and 8, complaint, Annex "A"), without paying the DBP of his mortgage indebtedness, as a result of which DBP foreclosed the properties. (Annex "F")

2. Respondent Pe testified that the land in question with its improvements has an appraised value of P1,347,860.00 in 1974, and P2,028,030.00 in 1976. (TSN, pp. 176, 177, August 13, 1984. Petitioner Gauvain Benzonan claimed it has a fair market value, as of 1985, of P5,000,000.00, (p. 8, trial court decision, Annex "F"). As against such value of the land and improvements, respondent Pe insisted that the repurchase price should only be the principal sum of P327,995.00. (par. 10, complaint, Annex "A")

3. Respondent Pe, when he testified in 1984, said he was 60 years old; he is now therefore over 66 years old. He is a 'businessman and resident of Dadiangas, General Santos City' (TSN, p. 3, June 20, 1984), doing business under the style, 'Dadiangas B.P. Trading' (TSN, 144, June 22, 1984). In his sworn declaration dated July 18, 1983, filed with the assessor's office pursuant to P.D. No. 1612, he listed the following real properties and their market value, all situated in General Santos City, to wit (Exh. 11-Benzonan):

- 447 sq. m. residential - P 28,720.00

- 11.9980 hectares of agri. lot - P 23,880.00

- 2.000 hectares of agri. lot - P 40,000.00

- 2.000 hectares of agri. lot - P 40,000.00
- 6,064 sq. m. of industrial lot - P303,200.00
- Industrial building - P434,130.00
- Industrial machinery - P 96,000.00

On June 22, 1984, when Pe testified, he said that 'I own three (3) residential lots, (TSN, p. 153, June 22, 1984) and that he and his wife own in Antique Province 'around twenty (20) hectares planted to coconut and sugarcane' (ibid., p. 145); he used to have 30 hectares of agricultural lands and 22 subdivision lots, which he sold to Norma Salvani and Carlos Salvani. (TSN, pp. 166-169, June 22, 1984); Exhs. 1, 1-A, 1-B, 1-C, 3, 6, 6-A-Benzonan)." (Rollo of G.R. No. 97973, pp. 17-19)

In the light of the records of these cases, we rule that respondent Pe cannot repurchase the disputed property without doing violence to everything that CA No. 141 (as amended) stands for.

We ruled in *Simeon v. Peña*, 36 SCRA 610, 617 [1970] through Chief Justice Claudio Teehankee, that:

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"These findings of fact of the Court of Appeals that "(E)vidently, the reconveyance sought by the plaintiff (petitioner) is not in accordance with the purpose of the law, that is, 'to preserve and keep in the family of the homesteader that portion of public land which the State has gratuitously given to him'" and expressly found by it to "find justification from the evidence of record. x x x."

"Under the circumstances, the Court is constrained to agree with the Court of Appeals that petitioner's proposed repurchase of the property does not fall within the purpose, spirit and meaning of section 119 of the Public Land Act, authorizing redemption of the homestead from any vendee thereof."

We reiterated this ruling in *Vargas v. Court of Appeals*, 91 SCRA 195, 200, [1979] viz:

"As regards the case of *Simeon v. Peña*, petitioners ought to know that petitioner therein was not allowed to repurchase because the lower court found that his purpose was only speculative and for profit. In the present case, the Court of Appeals found that herein petitioners' purposes and motives are also speculative and for profit.

"It might be well to note that the underlying principle of Section 119 of Commonwealth Act No. 141 is to give the homesteader or patentee every chance to preserve for himself and his family the land that the State had gratuitously given to him as a reward for his labor in cleaning and cultivating it. (*Simeon v. Peña*, 36 SCRA 617). As found by the Court of Appeals, the motive of the petitioners in repurchasing the lots in question being one for speculation and profit, the same therefore does not fall within the purpose, spirit and meaning of said section."

and in *Santana et. al. v. Mariñas*, 94 SCRA 853, 861-862 [1979] to wit:

"In *Simeon v. Peña* we analyzed the various cases previously decided, and arrived at the conclusion that the plain intent, the *raison d'être*, of Section 119, C.A. No. 141 ' . . . is to give the homesteader or patentee every chance to preserve for himself and his family the land that the state had gratuitously given to him as a reward for his labor in cleaning and cultivating it.' In the same breath, we agreed with the trial court, in that case, that it is in this sense that the provision of law in question becomes unqualified and unconditional. And in keeping with such reasons behind the passage of the law, its basic objective is to promote public policy, that is, to provide home and decent living for destitutes, aimed at promoting a class of independent small landholders which is the bulwark of peace and order."

"As it was in *Simeon v. Peña*, respondent Mariñas' intention in exercising the right of repurchase 'is not for the purpose of preserving the same within the family fold,' but 'to dispose of it again for greater profit in violation of the law's policy and spirit.' The foregoing conclusions are supported by the trial court's findings of fact already cited, culled from evidence adduced. Thus respondent Mariñas was 71 years old and a widower at the time of the sale in 1956; that he was 78 when he testified on October 24, 1963 (or over 94 years old today if still alive); that . . . he was not living on the property when he sold the same but was residing in the poblacion attending to a hardware store, and that the property was no longer agricultural at the time of the sale, but was a residential and commercial lot in the midst of many subdivisions. The profit motivation behind the effort to repurchase was conclusively shown when the then plaintiff's counsel, in the case below, Atty. Loreto Castillo, in his presence, suggested to herein petitioners' counsel, Atty. Rafael Dinglasan ' . . . to just add to the original price so the case would be settled.' Moreover, Atty. Castillo manifested in court that an amicable settlement was possible, for which reason he asked for time 'within which to settle the terms thereof' and that 'the plaintiff x x x Mr. Mariñas, has manifested to the Court that if the defendants would be willing to pay the sum of One Peso and Fifty Centavos (P1.50) per square meter, he would be willing to accept the offer and dismiss the case."

Our decisions were disregarded by the respondent court which chose to adopt a Court of Appeals ruling in *Lim, et al. v. Cruz, et al.*, CA-G.R. No. 67422, November 25, 1983 that "the motives of the homesteader in repurchasing the land are inconsequential" and that it does not matter even "when the obvious purpose is for selfish gain or personal aggrandizement."

The other major issue is when to count the five-year period for the repurchase by respondent Pe - whether from the date of the foreclosure sale or from the expiration of the one year period to redeem the foreclosed property.

The respondent court ruled that the period of repurchase should be counted from the expiration of the one year period to redeem the foreclosed property. Since the one year period to redeem expired on January 24, 1979 and he filed Case No. 280 on October 4, 1983 to enforce his right to repurchase the disputed property, the Court of Appeals held that Pe exercised his right to repurchase within the five year period provided by section 119 of CA 141 as amended.

The respondent court cited *Belisario, et al., v. Intermediate Appellate Court, et al.*, 165 SCRA 101, 107 [1988] where we held:

"x x x In addition, Section 119 of Commonwealth Act 141 provides that every conveyance of land acquired under the free patent or homestead patent provisions of the Public Land Act, when proper, shall be subject to repurchase by the applicant, his widow or legal heirs within the period of five years from the date of conveyance. The five-year period of redemption fixed in Section 119 of the Public Land Law of homestead sold at extrajudicial foreclosure begins to run from the day after the expiration of the one-year period of repurchase allowed in an extrajudicial foreclosure. (*Manuel v. PNB, et al.*, 101 Phil. 968) Hence, petitioners still had five (5) years from July 22, 1972 (the expiration of the redemption period under Act 3135) within which to exercise their right to repurchase under the Public Land Act."

As noted by the respondent court, the 1988 case of *Belisario* reversed the previous rulings of this Court enunciated in *Monge, et al., v. Angeles, et al.*, 101 Phil., 563 [1957] and *Tupas v. Damasco, et al.*, 132 SCRA 593 [1984] to the effect that the five year period of repurchase should be counted from the date of conveyance or foreclosure sale. The petitioners, however, urge that *Belisario* should only be applied prospectively or after 1988 since it established a new doctrine.

We sustain the petitioner's position. It is undisputed that the subject lot was mortgaged to DBP on February 24, 1970. It was acquired by DBP as the highest bidder at a foreclosure sale on June 18, 1977, and then sold to the petitioners on September 29, 1979.

At that time, the prevailing jurisprudence interpreting section 119 of R.A. 141 as amended was that enunciated in *Monge and Tupas* cited above. The petitioners Benzonan and respondent Pe and the DBP are bound by these decisions for pursuant to Article 8 of the Civil Code "judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines." But while our decisions form part of the law of the land, they are also subject to Article 4 of the Civil Code which provides that "laws shall have no retroactive effect unless the contrary is provided." This is expressed in the familiar legal maxim *lex prospicit, non respicit*, the law looks forward not backward. The rationale against retroactivity is easy to perceive. The retroactive application of a law usually divests rights that have already become vested or impairs the obligations of contract and hence, is unconstitutional (*Francisco v. Certeza*, 3 SCRA 565 [1961]).

The same consideration underlies our rulings giving only prospective effect to decisions enunciating new doctrines. Thus, we emphasized in *People v. Jabinal*, 55 SCRA 607 [1974] "x x x when a doctrine of this Court is overruled and a different view is adopted, the new doctrine should be applied prospectively and should not apply to parties who had relied on the old doctrine and acted on the faith thereof.

There may be special cases where weighty considerations of equity and social justice will warrant a retroactive application of doctrine to temper the harshness of statutory law as it applies to poor farmers or their widows and orphans. In the present petitions, however, we find no such equitable considerations. Not only did the private respondent apply for free agricultural land when he did not need it and he had no intentions of applying it to the noble purposes behind the law, he would now repurchase for only P327,995.00, the property purchased by the petitioners in good faith for P1,650,000.00 in 1979 and which, because of improvements and the appreciating value of land must be worth more than that amount now.

The buyers in good faith from DBP had a right to rely on our rulings in *Monge and Tupas* when they purchased the property from DBP in 1979 or thirteen (13) years ago. Under the rulings in these two cases, the period to repurchase the disputed lot given to respondent Pe expired on June 18, 1982. He failed to exercise his right. His lost right cannot be revived by relying on the 1988 case of *Belisario*. The right of petitioners over the subject lot had already become vested as of that time and cannot be impaired by the retroactive application of the *Belisario* ruling.

Considering our above findings, we find no need to resolve the other issues raised by the petitioners in their petitions.

WHEREFORE, the questioned decision of the respondent court is hereby REVERSED and SET ASIDE. The complaint for repurchase under Section 119 of Commonwealth Act No. 141 as amended is DISMISSED. No pronouncement as to costs.

Feliciano, Bidin, Davide, Jr., and Romero, JJ., concur.

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