

THIRD DIVISION

[G.R. No. 173636, January 13, 2016]

HEIRS OF JOSE MA. GEPUELA, PETITIONERS, VS. HERNITA MEÑEZ-ANDRES, ET AL., RESPONDENTS.

[G.R. No. 173770]

HERNITA MEÑEZ-ANDRES AND NELIA MEÑEZ CAYETANO, REPRESENTED BY THEIR DULY-APPOINTED ATTORNEY-IN-FACT ANGELITO MEÑEZ, PETITIONERS, VS. HEIRS OF JOSE MA. GEPUELA, RESPONDENTS.

D E C I S I O N

JARDELEZA, J.:

These are consolidated petitions for review on *certiorari* assailing the Decision^[1] dated January 31, 2005 and the Amended Decision^[2] dated July 21, 2006 of the Court of Appeals (CA) which denied the appeals of both parties and affirmed with modification the Decision^[3] dated May 25, 1999 of Branch 67 of the Regional Trial Court of Pasig City. The assailed Amended Decision upheld the redemption made by the late Jose Ma. Gepuela of the 36/72 *pro indiviso* share of the late Basilia Austria Vda. de Cruz over the property covered by Transfer Certificate of Title (TCT) No. 95524, except for the two and a half percent (2.5%) share of Hernita Meñez-Andres and her co-heirs.

The Facts

The controversy arose from the redemption made by the late Jose Ma. Gepuela (Gepuela), petitioner in G.R. No. 173636, and transferee of an aliquot portion of the property covered by TCT No. 95524, of the 36/72 *pro indiviso* share of Basilia Austria Vda. de Cruz (Basilia). Hernita Meñez-Andres and Nelia Meñez-Cayetano (Hernita, et al.), petitioners in G.R. No. 173770, assailed the redemption on the ground that Gepuela had no legal personality to make the redemption.

Basilia was the widow of Pedro Cruz, with whom she had five children, namely, Perfecto, Alberto, Luz, Benita and Isagani. Basilia executed a *Huling Habilin*,^[4] where she named her daughter Benita's children Hernita, Nelia, Rosemarie, Angel and Gracita as voluntary heirs to ten percent (10%) of the free portion of her estate. Basilia's *Huling Habilin* was admitted into ante-mortem probate on March 1, 1957.^[5] Her daughter Luz Cruz Salonga (Luz) was appointed Administratrix of Basilia's estate on August 18, 1976.^[6]

When Basilia died, she left behind considerable properties, including a 36/72 *pro indiviso* share in a 5,492 square meter property in San Juan, then province of Rizal.

This property was covered by TCT No. 95524 and co-owned with some of Basilia's children and grandchildren, as follows:

Basilia Austria Vda. de Cruz, widow—36/72; Perfecto Cruz, married to Flavia Jorge—12/72; Luz Cruz, married to Feliciano Salonga—12/72; Isagani Cruz, married to Milagros Villareal—4/72; Flavia Jorge, married to Perfecto Cruz—2/72; Pedrito Cruz, single—2/72; Perfecto Cruz, Jr., single—2/72; Vito Cruz, 20 years of age, single—2/72.^[7]

Perfecto and Flavia sold their interests (14/72 *pro indiviso* share) in the property to Severino Etorma (Etorma), who later on sold the same to Gepuela and one Antonio Cinco (Cinco). These transactions were annotated on TCT No. 95524 as Entry Nos. 12640 and 73035, dated November 13, 1964 and November 18, 1971, respectively.

^[8] In 1978, Cinco sold his share to Gepuela.^[9] This was likewise annotated in the title as Entry No. 3904 dated May 20, 1988.^[10] Luz also disposed, by way of a Sale of Rights with Mortgage, her 12/72 *pro indiviso* share in the property to Gepuela in another transaction registered as Entry No. 8536 dated May 8, 1989 on TCT No. 95524.^[11]

On July 29, 1986, Basilia's 36/72 *pro indiviso* share was sold in a public auction to satisfy the judgment in Civil Case No. 32824, entitled "*Benita Me[ñ]ez v. Luz Cruz Salonga as Administratrix of the Estate of Basilia Austria Vda. [d]e Cruz.*" Benita, as judgment creditor in the case, emerged as the highest bidder.^[12]

On May 14, 1987, Gepuela redeemed Basilia's 36/72 *pro indiviso* share from Benita by paying the auction price of Four Hundred Seventy-Four Thousand Nine Hundred Seventy-Seven Pesos (P474,977.00), inclusive of interest and other legal fees.^[13] This was inscribed on the title as Entry No. 022 dated May 14, 1987. Accordingly, Basilia's estate, through Administratrix Luz, executed a Deed of Sale^[14] and Waiver of Redemption^[15] over the share, subject to the following conditions: 1) Gepuela should obtain court approval of the sale; and 2) Gepuela should inform all heirs of the sale formally in writing.

After the expiration of the periods to redeem, Gepuela filed an action to consolidate his ownership over the 36/72 *pro indiviso* share he acquired by way of redemption from Basilia's estate. This was docketed as **LRC Case No. R-3855** and assigned to Branch 166 of the Regional Trial Court of Pasig. The other registered co-owners Isagani, Perfecto, Jr., Pedrito, and Vito (Isagani, et al.) opposed this action, raising Gepuela's lack of standing to redeem given that he is not a co-owner of Basilia's one-half portion. In a Decision^[16] dated December 6, 1989, the trial court granted Gepuela's petition, declared him the owner of Basilia's 36/72 *pro indiviso* share in the parcel of land covered by TCT No. 95524 and ordered the issuance of a new certificate of title to reflect this change in ownership.^[17]

Aggrieved, oppositors Isagani, Perfecto, Jr., Pedrito, Vito and Alberto appealed the trial court's Decision to the CA, docketed as CA-G.R. CV No. 25605. In a Decision^[18] dated January 31, 1992, the CA, however, affirmed the trial court's findings. **The CA's Decision in CA GR. CV No. 25605 was not appealed and became final and executory on February 26, 1992.**^[19] TCT No. 5033-R was issued that same year, reflecting Gepuela's ownership of the 36/72 *pro indiviso* share previously

owned by Basilia.^[20]

The proceedings covering Basilia's estate were, per motion of her heirs, ordered closed on February 15, 1996.^[21] The record also shows that Gepuela filed a case, docketed as **SCA No. 302** with Branch 159 of the Regional Trial Court of Pasig, for the partition of the property covered by TCT No. 5033-R.^[22] The lower court rendered a decision ordering the partition of the property. TCT No. 5033-R was cancelled and several titles were issued covering the respective shares of Gepuela, Isagani, Perfecto and Pedrito, and Vito Cruz in the property.^[23]

In the meantime, or on October 10, 1995, Basilia's grandchildren Hernita and Nelia filed a Complaint for Redemption and Consignation with Damages^[24] and a subsequent Amended Complaint for Declaration of Nullity of Redemption, Cancellation of Notation in Title, and Consignation with Damages^[25] against Gepuela. This was docketed as **Civil Case No. 65327** and raffled to Branch 67 of the Regional Trial Court of Pasig City.

In their complaint, Hernita and Nelia alleged, among others, that: 1) Gepuela's redemption was null and void as he not being an heir, legatee/devisee, co-owner or creditor) did not have the legal personality to redeem the share;^[26] and 2) Hernita and Nelia sent notices to Gepuela informing him of their intent to recover their interest in Basilia's 36/72 *pro indiviso* share and to tender payment of the redemption price paid by him, plus interest, which Gepuela refused.^[27]

In his Answer with Compulsory Counterclaim^[28] dated December 28, 1995, Gepuela denied Hernita and Nelia's allegations and alleged that his redemption had already been adjudicated by the trial court in LRC Case No. R-3855. This ruling has, in turn, been affirmed by the Seventh Division of the CA in CA G.R. CV No. 25605. No further appeal having been made, Gepuela asserts that the CA's Decision became final and executory on February 26, 1992.^[29]

Ruling of the Regional Trial Court

In its Decision^[30] dated May 25, 1999, the trial court upheld Gepuela's redemption of Basilia's 36/72 *pro indiviso* share. It, however, ruled that because Gepuela failed to formally notify Hernita, Nelia and Rosemarie of the redemption, the same was null and void insofar as it affected the latter's six percent (6%) share in the property. The dispositive portion of the trial court's Decision reads:

WHEREFORE, in view of the foregoing, the Court hereby renders judgment in favor of plaintiffs HERNITA ME[Ñ]EZ ANDRES, NELIA ME[Ñ]EZ CAYETANO, ROSEMARIE ME[Ñ]EZ PRONSTROLLER, all represented herein by their duly-appointed Attorney-in-fact, ANGELINO ME[Ñ]EZ and against defendant JOSE MA. GEPUELA, declaring that:

1. [T]he redemption made by defendant GEPUELA of the 36/72 portion of the Estate of Basilia Austria Vda. [d]e Cruz as covered previously by TCT No. 95524 and at present by TCT No. 5033-R is NULL AND VOID only insofar as to the shares of plaintiffs which corresponds to

Six Percent (6%) thereof;

2. [P]laintiffs are allowed to consign with the Court the redemption price of that portion which is their share of the 36/72 *pro indiviso* share of the Estate of Basilia Austria Vda. [d]e Cruz with interest at Twelve Percent 12% per annum from the institution of this action until fully paid;
3. [U]pon payment of the redemption price, and finality of this Decision the Register of Deeds of San Juan, Metro Manila is ordered to cancel Transfer Certificate of Title No. 5033-R and to issue another Transfer Certificate of Title reflecting therein the names of plaintiffs as owners of the *pro indiviso* share corresponding to six percent (6%) of the 36/72 *pro indiviso* share of defendant Jose Ma. Gepuela;
4. [D]efendant is ordered to pay the amount of Two Hundred Thousand Pesos (P200,000.00) for and as attorney's fees;
5. [T]o pay the cost of suit.

SO ORDERED.^[31]

Both parties filed their respective appeals before the CA.^[32]

Ruling of the Court of Appeals

The CA rejected both appeals and affirmed the trial court's Decision, with certain modifications. **At the outset, the CA noted that the validity of Gepuela's redemption has already been settled in LRC Case No. R-3855 and affirmed by the CA in CA G.R. CV No. 25605.** Since the Decision in said case had already become final and executory per entry of judgment dated February 26, 1992, the CA declared that Hernita, et al. are barred from assailing it again under the principle of *res judicata*.^[33]

Despite this, the CA still proceeded to resolve the case on the merits. Rejecting Hernita, et al.'s claim that Gepuela had no personality to redeem Basilia's 36/72 *pro indiviso* share, the appellate court held that Gepuela was not a stranger to, but rather a co-owner of, the entire communal property "x x x because the two estates are not separate and distinct properties but actually constitute one and the same property owned in community and covered by the same TCI No. 95524."^[34] Since redemption inures to the benefit of the other co-owners, the CA affirmed the trial court's decision insofar as it nullified the redemption *in proportion to Hernita, et al.'s respective shares*.^[35]

The CA thereafter recomputed the corresponding shares as follows: Hernita, Nelia, and Rosemarie, with their siblings Angel and Granito, are instituted heirs entitled to ten percent (10%) of the free portion of Basilia's estate, equivalent to two and a half percent (2.5%) share in the property. They are likewise entitled to the five percent (5%) share corresponding to the legitime of their deceased mother Benita, to which

they are entitled to, by right of representation, as the latter's heirs. The dispositive portion of the CA's Decision dated January 31, 2005 thus reads:

WHEREFORE, both appeals of plaintiffs-appellants and defendant-appellant are dismissed and the trial court's Decision dated May 25, 1999 is affirmed, with certain modification. The award of attorney's fees is deleted and paragraphs 1, 2 and 3 of the dispositive portion thereof are modified to read as follows:

"1. [T]he redemption made by defendant GEPUELA of the 36/72 portion of the Estate of Basilia Austria Vda. [d]e Cruz as covered previously by TCT No. 95524 and at present by TCT No. 5033-R is MULE AND VOID only insofar as to the shares of plaintiffs (and their siblings Angel and Gracito Me[ñ]ez) which correspond[] to 7.5% thereof;

2. [P]laintiffs are allowed to consign with the Court the redemption price of that portion which is their share of the 36/72 *pro indiviso* share of the Estate of Basilia Austria Vda. de Cruz with interest at Twelve Percent 12% per annum from finality of this Decision until fully paid;

3. [U]pon payment of the redemption price[] and finality of this Decision[,], the Register of Deeds of San Juan, Metro Manila is ordered to cancel Transfer Certificate of Title No. 5033-R and to issue another Transfer Certificate of Title reflecting therein the names of plaintiffs as owners of the *pro indiviso* share corresponding to 7.5% of the 36/72 *pro indiviso* share of defendant Jose Ma. Gepuela.

The trial court's Decision is affirmed in all other respects.

SO ORDERED.^[36]

Both parties filed their respective motions for reconsideration.

In denying these motions, the CA held that: (1) under the principle of *res judicata*, Hernita, et al. are barred from assailing the redemption made by Gepuela, the validity of which had long been settled in LRC Case No. R-3855 and CA GR. CV No. 25605;^[37] (2) the nullification of the redemption over Hernita, et al.'s proportionate share does not serve to disturb the final ruling in LRC Case No. R-3855 and CA G.R. CV No. 25605 because Hernita, et al.'s rights as co-owners were not resolved in said cases;^[38] (3) the one year period provided under the Rules of Court to redeem applies to redemption of properties sold on execution whereas Hernita, et al.'s right to recover their share is premised on the fact that they are co-owners of the subject property;^[39] (4) the lapse of about nine years from the auction sale cannot be equated with laches because of the equitable considerations that Hernita, et al. were neither shown to have been notified of the auction sale in 1986, nor impleaded as parties in the petition for consolidation subsequently filed by defendant Gepuela;^[40] (5) the imposition of 12% interest per annum from finality of Decision until fully paid is consistent with the guidelines laid down in *Eastern Shipping Lines* case.^[41]