

SECOND DIVISION

[G.R. NO. 149751, March 11, 2005]

**PURIFICACION BALILO-MONTERO AND JOVENCIO* BALILO,
PETITIONERS, VS. EUGENIA SEPTIMO, CONSUELO ROBLES AND
PLACIDO ROBLES, RESPONDENTS.**

D E C I S I O N

CALLEJO, SR., J.:

Jose Balilo was the owner of a parcel of land, with an area of 7.7837 hectares, located in San Jose, Occidental Mindoro, covered by Homestead Patent No. 46784 issued on February 21, 1938. Based on the said patent, Original Certificate of Title (OCT) No. 3014 was issued to and under his name by the Register of Deeds.^[1]

On August 12, 1943, Jose Balilo died intestate.^[2] Sometime in 1948, Niniana Balilo, the sister of Jose Balilo, filed a petition in the Court of First Instance (CFI) of Pampanga, for the guardianship of the property and the person of Jovencio Balilo whom she alleged to be the son of her brother, Jose Balilo; hence, her nephew. The case was docketed as Special Proceeding No. 262. Niniana filed a motion in the said case, for authority to execute, for and in behalf of her ward, a deed of absolute sale over the property covered by OCT No. 3014 in favor of Jose Septimo for P750.00. The CFI granted the motion. Niniana executed the deed of absolute sale over the property in favor of Jose Septimo who, thereafter, declared the property in his name for taxation purposes and paid the realty taxes thereon.

However, Jose Septimo failed to register the deed in the Office of the Register of Deeds and, consequently, to secure a torrens title over the property in his name. The guardianship case was terminated on September 24, 1951 per the Order of the CFI of even date.^[3]

Thereafter, on October 12, 1963, Jovencio Balilo filed a complaint against Jose Septimo in the CFI of Occidental Mindoro, to compel the latter to resell the property to him. The case was docketed as Civil Case No. R-159. Jovencio alleged therein that he was the only legitimate child of the spouses Jose Balilo and Juana Villarama, and that the latter died on August 30, 1946. He prayed that, after due proceedings, judgment be rendered in his favor, thus:

WHEREFORE, it is most respectfully prayed that an order be issued requiring the Defendant to resell the said Lot No. 1649, Pls-33, situated in San Jose, Occidental Mindoro, to the herein Plaintiff upon tender to the herein Defendant the sum of SEVEN HUNDRED FIFTY (P750.00) PESOS, Philippine Currency, or any such sum as this Honorable Court finds just and fair, and requiring said Defendant to deliver possession of said homestead land to the herein Plaintiff.

Plaintiff further prays for other relief as may be deemed just and proper in the premises.^[4]

Jovencio amended the complaint and impleaded Placido Robles as party-defendant, on his claim that the latter purchased a five-hectare portion of the property before the complaint was filed. On November 8, 1966, the CFI rendered judgment dismissing the complaint. The CFI ruled that Jovencio had no right to repurchase the property, the five-year period under Section 119 of Commonwealth Act No. 141 having long expired. Jovencio failed to appeal the decision.^[5]

On March 3, 1987, Purificacion Balilo-Montero filed a complaint with the Regional Trial Court (RTC) of San Jose, Occidental Mindoro, Branch 46, against the respondents, Eugenia Septimo, the surviving spouse of Jose Septimo, and the spouses Placido Robles and Consuelo Robles, for recovery of possession of the said property. However, despite the allegation in his complaint in Civil Case No. R-159 that he was the only legitimate child of Jose Balilo, she impleaded Jovencio Balilo as party-plaintiff.

The complaint alleged, *inter alia*, that the parties were the children and only legal heirs of the late Jose Balilo who, before his death, was the owner of Lot No. 1649 covered by OCT No. 3014 located in San Jose, Occidental Mindoro; only a year before the complaint was filed, Purificacion learned that she was one of the co-owners of the property; that the respondents claimed ownership over the property and installed tenants thereon; and despite their demands, the respondents and their tenants refused to do so.

Jovencio and Purificacion prayed that, after due proceedings, judgment be rendered in their favor:

WHEREFORE, it is respectfully prayed of this Honorable Court that judgment be rendered for the plaintiffs and against the defendants:

1. Restoring possession of the landholdings in question unto the plaintiffs;
2. Ordering defendants to reimburse plaintiffs the rentals on the landholdings to be determined by this Honorable Court;
3. Ordering the defendants to pay the plaintiffs the sum of P20,000.00 as attorney's fees and litigation expenses;
4. Ordering the defendants to pay the costs of suit; and
5. Extending unto the plaintiffs such other reliefs to which they may be entitled in law and equity.^[6]

The summons and complaint were served on respondents Eugenia Septimo and Consuelo Robles. As per the return of the sheriff, Placido Robles was already dead.

In her answer to the complaint, respondent Eugenia Septimo alleged that her late husband Jose Septimo had purchased the property from Jovencio Balilo, through his guardian, and that the sale was approved by the CFI of Pampanga in Special