

FIRST DIVISION

[G.R. No. 119341, November 29, 1999]

**EDUARDO FONTANILLA, SR. AND ELLEN M. T. FONTANILLA,
PETITIONERS, VS. HON COURT OF APPEALS AND LUIS DUAMAN,
RESPONDENTS**

D E C I S I O N

KAPUNAN, J.:

This is a petition for review on certiorari filed by Eduardo Fontanilla, Sr. and his daughter, Ellen M.T. Fontanilla (herein petitioners), seeking the reversal of the decision, dated 19 August 1994, of the Court of Appeals in CA-G.R. CV No. 25061 and its resolution, dated 6 February 1995, denying petitioners' motion for reconsideration of said decision.

The facts of the case are not disputed. Spouses Crisanto and Feliciana Duaman were awarded a homestead patent over a parcel of land, and consequently, Original Certificate of Title No. I-2720 covering the same was issued to them. Upon their death, private respondent Luis Duaman, one of their children, inherited a four-hectare portion of the homestead. Transfer Certificate of Title No. 33441 covering the said portion was issued in his name. On 21 July 1976, in order to expedite the loan application of his two (2) sons, Ernesto and Elpidio Duaman, with the Development Bank of the Philippines, private respondent transferred to them the ownership of his share in the homestead. Accordingly, TCT No. 33441 was cancelled and in lieu thereof, TCT No. T-97333 was issued in the names of Ernesto and Elpidio.

On 8 August 1985, in view of the imminence of foreclosure of the said lot by the bank, Ernesto and Elpidio sold the two-hectare portion thereof to Eduardo Fontanilla, Sr. for P30,000.00. The vendee named in the deed of sale was Ellen M. T. Fontanilla. Pursuant to the sale, TCT No. 172520 covering the two-hectare portion (subject lot) was issued in the name of Ellen M. T. Fontanilla. Sometime later, private respondent informed Eduardo Fontanilla of his desire to repurchase the subject lot.

On 20 June 1989, private respondent instituted with the Regional Trial Court, Branch 9 of Cauayan, Isabela, an action against petitioners for the "Repurchase of the Homestead and Delivery of Title No. T-97333." Upon motion filed by petitioners, the lower court dismissed private respondent's complaint for failure to state a cause of action.

On appeal, the CA reversed the order of the lower court. Essentially, the CA held that private respondent could still exercise the right to repurchase under Section 119 of the Public Land Act (Commonwealth Act No. 141, as amended) despite the fact that it was not him but his sons who conveyed the subject lot to petitioners.

Aggrieved, petitioners filed the instant petition alleging that-

"1. The respondent CA erred when it concluded that private respondent Luis Duaman, who was not the vendor who executed the deed of sale in favor of petitioner Ellen M.T. Fontinillam, has the right to repurchase the land subject matter of the action;

2. The respondent CA erred when it concluded that the homestead applicant, his widow or his legal heirs have the right to repurchase the homestead every time the same is conveyed to a third party or sold to persons outside the family circle."^[1]

In a nutshell, petitioner contend that private respondent, not being the vendor in the sale of the subject lot to petitioners, could no longer exercise his right to repurchase under Section 119 of the Public Land Act against petitioners. Said provision of law reads:

"Sec. 119. 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."

It is well to remember that "these homestead laws were designed to distribute disposable agricultural lots of the State to land-destitute citizens for their home and cultivation."^[2] Further, the plain intent of Section 119 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."^[3]

Petitioners, however, urge this Court to deviate from this salutary principle arguing that private respondent could no longer avail himself of the right to repurchase under Section 119 because he was not the vendor of the subject lot. Only the vendor allegedly has the right to repurchase. Petitioners further argue that Ernesto and Elpidio cannot, by themselves, exercise said right as they are not "legal heirs" of the homesteader. In support of their contention, petitioners cite *Madarcos vs. de la Merced*^[4] where we held that-

"[t]he contested Lot B had been given to Francisca and it was she who executed the sale to respondent Loreto Sta. Maria in 1972. Only the vendor has the right to repurchase. As Francisca is still living, she alone can demand the reconveyance of her share, Lot B, from respondent vendee."^[5]

Petitioners' contention is bereft of merit. Our pronouncement in *Madarcos* that "[o]nly the vendor has the right to repurchase" was taken out of context by petitioners. Said pronouncement may not be sweepingly applied in this case because of a significant factual difference between the two (2) cases. In *Madarcos*, we ruled that Catain (petitioner therein) cannot repurchase the share of Francisca, his co-heir, because the homestead had already been partitioned and distributed among them as heirs. In other words, in that case, we held that Catain could not avail himself of the right granted under Section 119 because he was not entitled to repurchase the share of his co-heir in the homestead. Upon the other hand, in this