

ELEVENTH DIVISION

[CA-G.R. CV NO. 76957, May 05, 2006]

**ROGELIO L. MADRIGAL AND GRACIA MADRIGAL PASTORES,
PLAINTIFFS-APPELLANTS, VS.SPOUSES MANUEL DE CASTRO
AND EVANGELINE QUITAIN, DEFENDANTS-APPELLEES.**

DECISION

PERLAS-BERNABE, E., J.:

Before Us is an appeal from the Decision^[1] dated April 10, 2002 of the Regional Trial Court (RTC), Branch 39, Calapan City, dismissing the complaint for redemption and consignation, docketed as Civil Case No. R-4486, filed by plaintiffs-appellants against defendants-appellees.

The facts of the case, as succinctly summarized by the court *a quo*, are as follows:

"The subject matter of this complaint is a portion of the property registered under the names of Luciano Lopez and Felisa Martinez, who had two-thirds share of the said property, and Juan Martinez (married to Consolacion Laguerta), who had one-third share of the same. This property was registered under Original Certificate of Title No. RO-128 (6658). On 18 March 1986, Original Certificate No. RO-128 (6658) was cancelled and Transfer Certificate of Title No. T-32996 for Lot A was issued in favor of defendants Manuel A. De Castro and Evangeline Quitain after they bought the one-third share of Juan Martinez. Transfer of (*sic*) Certificate of Title No.T-32997 for Lot B, covering the two-thirds share of the whole property was thereafter issued in favor of spouses Luciano Lopez and Felisa Martinez. The said spouses Luciano Lopez and Feisa Martinez died intestate sometime in 1919 and 1921, respectively.

The spouses Luciano Lopez and Felisa Martinez were survived by their children Angel M. Lopez and Remedios Lopez Madrigal. Angel M. Lopez and Remedios Lopez Madrigal also died sometime in 1978 and 1995, respectively. Remedios Lopez Madrigal was survived by the plaintiffs while Angel M. Lopez was survived by her (*sic*) daughter, Angeline G. Lopez. Hence, plaintiffs, being grandchildren of the spouses Luciano Lopez and Felisa Martinez, and Angeline G. Lopez, are considered by operation of law as co-owners of the subject property.

Thereafter, Elisa Gois (mother of Angeline G. Lopez), the predecessor-in-interest of the defendants petitioned the Court to allow the will of Angel M. Lopez to be probated. Despite the opposition of Remedios Lopez, Rogelio Madrigal and Gracia Madrigal, the will of Angel Lopez was allowed by the Court in Special Proceedings Case No. R-3125 dated 3 October 1983. Subsequently, said allowance of the will of Angel M. Lopez by the

Court was affirmed by The Court of Appeals in its Decision dated 29 March 1988.

Sometime later, Elisa Gois, being the administratrix of the estate of Angel M. Lopez, sold a portion of the subject property (half of TCT No. T-32997 which corresponds to the share of Angeline Lopez of the said property) to herein defendant spouses. xxx"[2]

Record shows that, on April 29, 1996, plaintiffs-appellants filed a Complaint^[3] for ejectment, docketed as Civil Case No. 1373 before the Municipal Trial Court (MTC), Calapan, Oriental Mindoro, against defendants-appellees claiming that the Spouses Luciano and Felisa Lopez leased the subject property to George Teng, who erected thereon the Mabuhay Bakery; that, upon the death of the Spouses Luciano and Felisa Lopez, the lease was continued by their children, Remedios Lopez Madrigal and Angel Lopez; that, subsequently, George Teng sublet the facilities of the bakery business to the adjacent Halina Bakery owned by defendants-appellees; that the lease contract expired on December 31, 1995 without being renewed; that, on January 25, 1996, George Teng waived all his rights to the improvements on the subject property in favor of plaintiff-appellant Rogelio L. Madrigal; and that, despite demand, defendants-appellees refused to vacate the property.

In answer^[4] to the foregoing, defendants-appellees alleged that they had already acquired the subject property, consisting of 101.5 square meters, from Elisa Gois, in her capacity as executrix of the estate of Angel Lopez, for a total consideration of P300,000.00, pursuant to the "*Kasulatan ng Bilihan ng Lupa*"^[5] executed on July 1, 1989.

Claiming that neither they nor their mother, Remedios Lopez Madrigal, ever received any written notice informing them of the alleged sale and that it was only on May 23, 1996, upon receipt of defendants-appellees' answer to the ejectment case, that they learned of such sale, plaintiffs-appellants filed the complaint^[6] *a quo*, on June 20, 1996, seeking to exercise their right of redemption under Article 1620 of the Civil Code. On the same day, plaintiffs-appellants deposited to the court Far East Bank & Trust Company Check No. FE-001172 for P300,000.00, as evidenced by Official Receipt^[7] No. 9933630.

In refuting the foregoing claim, defendants-appellees averred^[8] that, on February 9, 1993, a letter was sent to Mr. and Mrs. Rogelio Madrigal by Atty. Edgardo C. Aceron, counsel for Elisa Gois, informing them of the intention of the latter to sell the subject property in favor of the defendants-appellees. The said letter^[9] is reproduced hereunder:

"February 9, 1993

Mr. & Mrs. Rogelio Madrigal
4155 Sampaguita Street
Sun Valley Subdivision
Parañaque, Metro Manila

Dear Mr. & Mrs. Madrigal,

Please take notice that Elisa Gois, in her capacity as testatrix of the will of the deceased Angel Lopez, will sell the latter's share in Lot No. 236-B, Psd-04-017304 covered by TCT No. T-32997, in favor of the spouses Manuel de Castro and Evangeline Quitain.

In connection with the preparation of the Deed of Absolute Sale and registering the same with the Registry of Deeds, please lend us the owner's duplicate of TCT No. T-32997 in the name of Luciano Lopez and Felisa Martinez.

Thank you."

They likewise submitted in evidence a letter^[10] dated April 12, 1993 signed by Crisanto S. Cornejo, as counsel for Mr. and Mrs. Rogelio Madrigal, which reads in full as follows:

"Dear Atty. Acheron:

Your February 9, 1993, letter was forwarded by my clients, Mr. and Mrs. Rogelio Madrigal for Reply, requesting for a copy of the TCT T-32997.

As there is no finality in your claim that Elisa Gois 'as testatrix' of the will of the deceased Angel Lopez intending to sell his share of the land to spouses Manuel de Castro and Evangeline Quitain, you are admonished and advised NOT to proceed with your plans until FINALITY of the decision. You are cautioned to hold further action as your illegal possession of lands belonging to the Lopez estate is illegal per se, until ownership is actually vested in favor of your client as we are still questioning before the proper forum your alleged claim of ownership of the estate in favor of Elisa Gois as 'testatrix' alleged in your letter.

To simplify issues and avoid court litigations, please wait for the opportune time when we may accede to your request. In the meantime, please refrain from encumbering or alienating the remaining Lopez estate until ownership is finally awarded and adjudicated in favor of your client."

Defendants-appellees further claimed that, upon the death of the Spouses Luciano and Felisa Lopez, George Teng leased the subject property "from Angel Lopez alone to the exclusion of Remedios Madrigal", and that it was Elisa Gois who collected the rentals therefrom, upon the death of Angel Lopez;^[11] and that, having bought the one-third share from the successors-in-interest of Juan Martinez, they are likewise co-owners of the entire lot, Lot No. 236, originally covered by OCT No. RO-128 (6658) and are legally entitled to acquire the share pertaining to Angeline Lopez.^[12]

After trial on the merits, the court *a quo* rendered judgment dismissing the complaint for redemption and consignment upon a finding that the correspondence between Attorneys Acheron and Cornejo constituted substantial compliance with the notification requirement of the law such that, as early as 1993, plaintiffs-appellants already had constructive notice of the sale. The court considered, however, that plaintiffs-appellants were not yet co-owners during that time, and only became so upon the death of their mother, Remedios Lopez Madrigal, on September 21, 1995. Thus, the court held that plaintiffs-appellants only had thirty (30) days from the said