

THIRD DIVISION

G.R. No. 255212 - EMMA C. VILLARETE, OIC CITY TREASURER OF CEBU, AND CITY OF CEBU, *petitioners, versus* ALTA VISTA GOLF AND COUNTRY CLUB, INC., *respondent*.

Promulgated: February 20, 2023

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DISSENTING OPINION

DIMAAMPAO, J.:

At the crux of the instant petition is the effectivity of the redemption made by the heirs of Benigno Sumagang (Benigno) *beyond* the one-year period. Citing a *few* of the exceptional occasions where the Court has relaxed the one-year redemption period rule, the *ponencia* grants the petition, thus upholding the right of the heirs of Benigno to redeem the property even after the lapse of the one-year period by reason of *justice* and *equity*.

With utmost respect, I dissent.

The right of redemption should be exercised within the period required by law, *i.e.*, *within one year from the date of sale*. Fixing a definite term within which a property should be redeemed is meant to avoid prolonged economic uncertainty over the ownership of the thing sold.¹

Here, petitioner City of Cebu, through the Office of the City Treasurer (petitioner), narrated the steps undertaken by the heirs of Benigno:²

May 22, 2012 – Anita Sumagang (Anita) wrote a letter to petitioner manifesting her intent to redeem the subject realty.

May 23, 2012 – Petitioner informed Anita that redemption of the subject realty must be made on or before May 28, 2012. Petitioner likewise instructed the latter to provide proof that she has legal personality to effect the redemption.

May 28, 2012 – Anita offered the payment of the full redemption price, however, she failed to furnish petitioner with proof of her descent from Benigno. Resultantly, her payment was not accepted.

¹ See *GE Money Bank, Inc. v. Spouses Dizon*, 756 Phil. 502-523, 511 (2015).

² See Petition, *rollo*, pp. 16-17.



May 30, 2012 – Anita returned, together with the required documents and paid the redemption price, interest and other charges.

June 4, 2012 – Petitioner issued a Certificate of Redemption in favor of the heirs of Benigno.

This query then leaps to the eye: *Was there a valid tender of payment in the case at bench?* Quite palpably, based on petitioner's own narration of facts, ***there was none.***

I echo with approbation the findings of the appellate court that while Anita went to petitioner on May 28, 2012 with sufficient cash to redeem the subject realty, her tender of payment was *justifiably* refused by reason of her failure to prove her identity as heir of Benigno, **despite petitioner's prompt reminder.** Indeed, *Anita has only herself to blame for the loss of her right to redeem the subject realty.*

Indeed, it is the policy of the law to aid rather than defeat the right of redemption. *I agree. However,* does a simplistic application of the liberal construction of redemption laws provide a just resolution of this case? ***I humbly think not.***

While redemption by property owners is looked upon with favor, the process of redemption is still a **statutory privilege.** Parties *must* still comply with the laws and the procedural rules on the matter.³ In *City of Davao v. Intestate Estate of Amado D. Dalisay*,⁴ the Court elucidated —

[T]he right to redeem property sold as security for the satisfaction of an unpaid obligation does not exist preternaturally. Neither is it predicated on proprietary right, which, after the sale of the property on execution, leaves the judgment debtor and vests in the purchaser. Instead, it is a bare statutory privilege to be exercised only by the persons named in the statute.

In other words, a valid redemption of property must appropriately be based on the law which is the very source of this substantive right. **It is, therefore, necessary that compliance with the rules set forth by law and jurisprudence should be shown in order to render validity to the exercise of this right.** Hence, when the Court is beckoned to rule on this validity, a hasty resort to elementary rules on construction proves inadequate. Especially so, when there are deeper underpinnings involved, not only as to the right of the owner to take back his property, but equally important, as to the right of the purchaser to acquire the property after

³ *Zomer Development Co., Inc. v. Special Twentieth Division of the Court of Appeals, Cebu City*, G.R. No. 194461, January 7, 2020, 928 SCRA 110, 132-133.

⁴ 764 Phil. 171-194 (2015).

deficient compliance with statutory requirements, including the exercise of the right within the period prescribed by law.

The Court cannot close its eyes and automatically rule in favor of the redemptioner at all times. The right acquired by the purchaser at an execution sale is inchoate and does not become absolute until after the expiration of the redemption period without the right of redemption having been exercised. “But inchoate though it be, it is, like any other right, entitled to protection and must be respected until extinguished by redemption.” Suffice it to say, **the liberal application of redemption laws in favor of the property owner is not an austere solution to a controversy, where there are remarkable factors that lead to a more sound and reasonable interpretation of the law.** [Emphases and underscoring supplied]

While I am mindful of cases where the Court had ruled in favor of the original owners, successors-in-interest or redemptioners, an assiduous perusal of the circumstances surrounding *such cases* patently shows **substantial compliance** on the part of the redemptioners —

In the 1962 case of *Castillo, et al. v. Nagtalon, et al.*,⁵ one of the judgment debtors, **on the last day of the one-year redemption period**, deposited with the deputy sheriff a sum representing 1/12 of the consideration of the execution sale, plus 1% interest thereon. The said amount was found to be insufficient to effectively release the subject properties. Nonetheless, because the **tender of payment was timely made and in good faith** (since it was based on the honest mistake that the obligation under the judgment is merely “joint”), the Court gave the opportunity to complete the redemption within 15 days from the time the decision becomes final and executory.

So, too, did this Court rule favorably of the judgment debtors in *Development Bank of the Philippines v. Garcia*,⁶ considering that on September 10, 1987, or **exactly one year after the registration of the certificate of sale** on September 10, 1986, they redeemed the subject property **by tendering to the sheriff the amount representing the purchase price** during the auction sale. A day after, they paid the interest.

Meanwhile, in *Ysmael v. Court of Appeals*,⁷ the subject realties were sold at public auction after being levied on execution. The winning bid was ₱700,000.00. **Prior to the expiration of the redemption period**, the co-owners asked for the computation of the redemption price. **The deputy sheriff and the counsel for the highest bidder, however, did not bother to reply.** Six days after the expiration of the period to redeem, the co-owners tendered cashier’s checks in the total amount of ₱784,000.00, representing the

⁵ 114 Phil. 7 (1962).

⁶ G.R. No. 207748, March 25, 2015 (Unsigned Resolution).

⁷ 376 Phil. 323 (1999).

purchase price at the execution sale and the interest thereon of 1% per month for 12-months. Since the counsel for the highest bidder refused to accept payment, the co-owners filed a motion for consignment in the trial court, which was granted. The Court ruled that there was an earnest intent to exercise the right of redemption. The tender of payment was considered an affirmation of the timely notice to redeem, even if it was made six days after the expiration of the redemption period.

Lamentably, **none** of the foregoing compelling justifications are present in the instant case so as to exempt it from the application of the general rules on redemption.

It bears highlighting that here, the very identity of the redemptioner as one of the 'Heirs of Benigno,' the registered owners, were put in issue on the last day of the redemption period. Notably, prior to such incident, she was notified of the requirement to present such proof of relationship. To my mind, *extending liberality* to the heirs of Benigno, who were *guilty of negligence or omission*, will poke a *gaping hole on the established rule anent the period to redeem*. It will permit anyone with an *ostensible* connection to the registered owner to unjustifiably *delay* the consolidation of ownership over the realty to the damage and prejudice of the winning bidder in an auction sale.

In epitome, I modestly submit that the period to redeem the subject realty **expired** on May 28, 2012 and the failure of the heirs of Benigno to validly exercise their right of redemption within the statutory period *due to their negligence or omission* resulted in the consolidation of ownership over the subject realty in favor of respondent Alta Vista Golf and Country Club, Inc.

I vote to **DENY** the Petition.


JAPAR B. DIMAAMPAO
Associate Justice