



**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**THIRD DIVISION**

**TEODORO  
 BALTAZAR,**

**RABAGO**

**G.R. No. 239859**

*Petitioner,*

Present:

- versus -

LEONEN, J.,  
 Chairperson,  
 HERNANDO,  
 LAZARO-JAVIER,\*  
 INTING, and  
 DELOS SANTOS, JJ.

**ROLANDO V. MIGUEL,  
 PATROCINIO H. TOBIA,  
 ANGELITO FLORES, HIPOLITO  
 RUBIO, AUREA H. BRUNO,  
 EDILBERTA ALBERTA H.  
 RUBIO and JOSE H. RUBIO,**

*Respondents.*

Promulgated:

June 28, 2021

MIS-PDCB&H

X-----X

**DECISION**

**DELOS SANTOS, J.:**

This case stemmed from an Action for Legal Redemption, under Article 1620 of the Civil Code, filed in February 2006 by petitioner Teodoro Rabago Baltazar (Baltazar) against respondents Rolando V. Miguel (Miguel), Patrocinio H. Tobia (Patrocinio), Angelito Flores (Angelito), Hipolito Rubio (Hipolito), Aurea H. Bruno (Aurea), Edilberta Alberta H. Rubio (Edilberta), and Jose H. Rubio (Jose; collectively, respondents).<sup>1</sup> The case was docketed as Civil Case No. 13663 and raffled to the Regional Trial Court (RTC) of Laoag City, Branch 12.

Baltazar, Florencio Hernando (Florencio), and Hipolita Hernando (Hipolita) are pro-indiviso co-owners of a parcel of land with an area of 750

\* Designated as additional member in lieu of Associate Justice Jhosep Y. Lopez per Raffle dated May 12, 2021.

<sup>1</sup> Rollo, p. 27.

square meters situated at Ntra. Sra. Del Rosario, Laoag City, Ilocos Norte, and covered by TCT No. T-19383. Florencio and his wife died and were survived by Patrocinio, while Hipolita and her husband also died and were survived by Angelito, Hipolito, Aurea, Edilberta, and Jose. The subject property remained unpartitioned.<sup>2</sup>

In September 2003, or subsequent to the death of Florencio and Hipolita, the respondent heirs of the said deceased co-owners, sold their rights and interests over the subject property to Miguel for ₱200,000.00 without written notice to Baltazar as a co-owner.<sup>3</sup>

Nevertheless, Baltazar offered Miguel, by way of redemption, an amount which was more than the purchase price of the subject property. Miguel, however, rejected the offer.<sup>4</sup> Thus, Baltazar filed an Action for Legal Redemption against respondents on February 2, 2006.<sup>5</sup>

Miguel filed his Answer and the other respondents adopted the same as their own. Miguel claimed that Baltazar is not entitled to the right of legal redemption. He claimed that the other respondents, as the respective heirs of Florencio and Hipolita conveyed unto him the two-thirds (2/3) portion of the subject property by virtue of a Deed of Adjudication with Sale dated September 9, 2003.<sup>6</sup>

The trial court referred the parties to mediation but no settlement was reached. The case lingered on without proceeding to pre-trial due to multiple postponements from both parties.<sup>7</sup>

In December 2016, or more than 10 years after the action was filed, and only when another judge presided in the court, respondents filed a Motion to Dismiss on the ground that Baltazar's "*non-compliance [with] a condition precedent necessarily renders the complaint as having failed to state or show a cause of action.*" Respondents were referring to Baltazar's failure to tender the redemption price or consign the same in court in a timely manner.<sup>8</sup>

Consequently, on January 20, 2017, Baltazar consigned the redemption price with the trial court in the amount of ₱200,000.00. On March 1, 2017, he filed his Comment on the Motion to Dismiss. He claimed

---

<sup>2</sup> Id. at 27-28.

<sup>3</sup> Id. at 27.

<sup>4</sup> Id. at 6 and 23.

<sup>5</sup> Id. at 6 and 28.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.

that he is entitled to a written notice of the sale and only from receipt of such notice shall the 30-day period of redemption under Article 1623 commence to run.<sup>9</sup>

### **The RTC's Ruling**

By Resolution<sup>10</sup> dated April 4, 2017, the trial court granted respondents' motion to dismiss and consequently dismissed the action for redemption, *viz.*:

WHEREFORE, premises considered, finding the grounds alleged in the Motion to Dismiss to be meritorious, the same is hereby GRANTED. Consequently, the case is hereby ordered DISMISSED.

SO ORDERED.<sup>11</sup>

The trial court held that considering that there was no tender of the redemption price nor consignation thereof within 30 days from the filing of the action, there was no valid exercise of the right of redemption. It likewise ruled that written notice to Baltazar was unnecessary since he effectively admitted that he had actual knowledge of the sale when he attached a copy of the Deed of Adjudication with Sale to his Action for Legal Redemption.<sup>12</sup>

### **The Court of Appeals' (CA) Ruling**

By Decision<sup>13</sup> dated May 29, 2018, the CA affirmed the dismissal of the case, *viz.*:

WHEREFORE, the foregoing considered, the instant appeal is DENIED. The Resolution dated 04 April 2017 of the Regional Trial Court, Branch 12, Laoag City in Civil Case No. 13663 is AFFIRMED.

SO ORDERED.<sup>14</sup>

The CA interpreted that the trial court found Baltazar's cause of action to have already prescribed. It held that when the trial court made the finding that Baltazar had admitted to having actual knowledge of the sale, it effectively stated that the period within which Baltazar should have exercised his right of redemption had already lapsed. It added that while the

---

<sup>9</sup> Id. at 29.


<sup>10</sup> Not attached to the *rollo*.

<sup>11</sup> *Rollo*, pp. 7-8.

<sup>12</sup> Id. at 32-33.

<sup>13</sup> Id. at 26-37; penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Japar B. Dimaampao and Jhosep Y. Lopez (now a Member of the Court).

<sup>14</sup> Id. at 37.



trial court could have stated the circumstance in a clear and more categorical manner, it is still an unmistakable fact that Baltazar's cause of action had already prescribed. It further held that while non-compliance with a condition precedent may be waived as a ground for the dismissal of the case, prescription may not.<sup>15</sup>

Lastly, it held that Baltazar is already barred by laches for filing the Action for Legal Redemption only almost 10 years after the sale.<sup>16</sup>

### **The Present Petition**

Baltazar now seeks affirmative relief from this Court via Petition for Review on *Certiorari* under Rule 45.

### **Issue**

Did the CA err in affirming the dismissal of the case?

### **The Court's Ruling**

The petition is meritorious.

Baltazar faults the CA for affirming the trial court's dismissal of the case. He asserts that his cause of action for legal redemption has not yet prescribed since he has not yet received any written notice of the sale from his co-owners (vendors) or Miguel (vendee).

Article 1620 of the Civil Code provides:

**Article 1620.** A co-owner of a thing may exercise the right of redemption in case the shares of all the other co-owners or of any of them, are sold to a third person. If the price of the alienation is grossly excessive, the redemptioner shall pay only a reasonable one.

Should two or more co-owners desire to exercise the right of redemption, they may only do so in proportion to the share they may respectively have in the thing owned in common.

In relation to this, Article 1623 of the same law provides:

---

<sup>15</sup> Id. at 33-34.

<sup>16</sup> Id. at 35-36.

**Article 1623.** The right of legal pre-emption or redemption shall not be exercised except within thirty days from the notice in writing by the prospective vendor, or by the vendor, as the case may be. The deed of sale shall not be recorded in the Registry of Property, unless accompanied by an affidavit of the vendor that he has given written notice thereof to all possible redemptioners.

The right of redemption of co-owners excludes that of adjoining owners.

The law indeed clearly provides that a co-owner's right of redemption shall be exercised within thirty (30) days from receipt of notice of the sale. The written notice requirement, however, has long been relaxed by this Court.

In *Etcuban v. Court of Appeals*,<sup>17</sup> the Court held:

While it is true that written notice is required by the law (Art. 1623), it is equally true that the same Art. 1623 does not prescribe any particular form of notice, nor any distinctive method for notifying the redemptioner. **So long, therefore, as the latter is informed in writing of the sale and the particulars thereof, the 30 days for redemption start running, and the redemptioner has no real cause to complain.** In the *Conejero* case, we ruled that the furnishing of a copy of the disputed deed of sale to the redemptioner was equivalent to the giving of written notice required by law in "a more authentic manner than any other writing could have done," and that We cannot adopt a stand of having to sacrifice substance to technicality.<sup>18</sup> (Emphasis added)

In another case, *Aguilar v. Aguilar*,<sup>19</sup> the Court held:

The old rule is that a written notice of the sale by the vendor to his co-owners is indispensable for the latter to exercise their *retracto legal de comuneros*. **More recently, however, we have relaxed the written notice requirement. Thus, in *Si v. Court of Appeals*, we ruled that a co-owner with actual notice of the sale is not entitled to a written notice for such would be superfluous. The law does not demand what is unnecessary.**

x x x x

**Petitioner has actual knowledge of the sale of Virgilio's share to Angel in 1989. As provided by Article 1623, he has thirty days from such actual knowledge within which to exercise his right to redeem the property.** (Emphases added)

---

<sup>17</sup> 232 Phil. 471, 475 (1987).

<sup>18</sup> *Bayan v. Bayan*, G.R. No. 220741, August 14, 2019.

<sup>19</sup> 514 Phil. 376, 382-383 (2005).

The Court, based on these cases, has relaxed the strict requirement of notice of sale and held that written notice is unnecessary when the party is established to be with actual notice of the sale.

In the present case, We note that before Baltazar filed his Action for Legal Redemption on February 2, 2006, he offered Miguel, by way of redemption, an amount which is more than the purchase price of the subject property. And it was after Miguel rejected the offer that he finally filed the action. Moreover, Baltazar even attached to his Action for Legal Redemption a copy of the Deed of Adjudication with Sale which conveyed unto Miguel the 2/3 portion of the subject property. Being in possession of a copy of the Deed of Adjudication with Sale, the Court concludes that Baltazar was effectively with notice of the sale in the form of such copy of the Deed and thus he has actual knowledge of the sale.

The Court therefore agrees with the trial court and the CA in finding that Baltazar had actual knowledge of the sale of the subject property to Miguel. It was however not established when exactly before the filing of the action petitioner had actual knowledge of the sale. The Court then can only reckon this actual knowledge, at most, from the date Baltazar filed his Action for Legal Redemption with an attached copy of the Deed of Adjudication with Sale, when his actual knowledge of the sale appeared certain.

Applying the pronouncement in *Aguilar v. Aguilar*, Baltazar had 30 days from his actual knowledge – date of the filing of the Action for Legal Redemption, within which to exercise his right to redeem the sold 2/3 portion of the subject property.

We are now confronted with the question “did Baltazar timely and validly exercise his right of legal redemption under Article 1623 in relation to Article 1620 of the Civil Code when he filed his Action for Legal Redemption on February 2, 2006 and consigned the redemption price only on January 20, 2017?”

We find in the affirmative, considering the failure of Miguel to timely question Baltazar’s failure to consign the redemption price.

We note that Miguel raised Baltazar’s failure to consign the redemption price only in December 2016, or more than 10 years after the action was filed and after previously filing an answer to said action without raising such failure as an affirmative defense.

In *Lee Chuy Realty Corp. v. Court of Appeals*,<sup>20</sup> the Court ruled that the filing of the action for legal redemption coupled with the consignment of the redemption price, which is equivalent to a formal offer to redeem, is a condition precedent to the valid exercise of the right of legal redemption. **What constitutes a condition precedent is either a formal offer to redeem or the filing of an action in court together with the consignment of the redemption price within the reglementary period.**<sup>21</sup>

The period of legal redemption is not a prescriptive period but a **condition precedent to the exercise of the right of redemption**. It is a period set by law to restrict the right of the person exercising the right of legal redemption. It is not one of prescription.<sup>22</sup>

Baltazar filed the Action for Legal Redemption on February 2, 2006, while he consigned the redemption price with the trial court only on January 20, 2017, after Miguel filed a Motion to Dismiss. Even if We reckon Baltazar's notice or knowledge of the sale only on the date of his filing of the action for legal redemption, the conclusion would still be that he failed to completely and validly exercise his right of legal redemption within the period of 30 days from notice or knowledge in this case. Otherwise stated, he failed to comply with the condition precedent of consigning the redemption price within the reglementary period.

Section 1, Rule 16 of the 1997 Rules of Court provides for the grounds that may be raised in a motion to dismiss a complaint, *viz.*:<sup>23</sup>

Section 1. *Grounds.* - Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

- (a) That the court has no jurisdiction over the person of the defending party;
- (b) That the court has no jurisdiction over the subject matter of the claim;
- (c) That venue is improperly laid;
- (d) That the plaintiff has no legal capacity to sue;
- (e) That there is another action pending between the same parties for the same cause;

---

<sup>20</sup> 321 Phil. 185 (1995).

<sup>21</sup> *Id.* at 191.

<sup>22</sup> See *Hermoso v. Court of Appeals*, 360 Phil. 703, 725 (1998).

<sup>23</sup> *Lansangan v. Caisip*, 838 Phil. 252, 256-257 (2018).

(f) That the cause of action is barred by a prior judgment or by the statute of limitations;

(g) That the pleading asserting the claim states no cause of action;

(h) That the claim or demand set forth in the plaintiff's pleading has been paid, waived, abandoned, or otherwise extinguished;

(i) That the claim on which the action is founded is unenforceable under the provisions of the statute of frauds; and

**(j) That a condition precedent for filing the claim has not been complied with.** (Emphasis and underscoring supplied)

Meanwhile, Section 12, Rule 8 of the 2019 Amendments to the 1997 Rules of Civil Procedure provides:

Section 12. Affirmative defenses. – (a) A defendant shall raise his or her affirmative defenses in his or her answer, which shall be limited to the reasons set forth under Section 5(b), Rule 6, and the following grounds:

1. That the court has no jurisdiction over the person of the defending party;

2. That venue is improperly laid;

3. That the plaintiff has no legal capacity to sue;

4. That the pleading asserting the claim states no cause of action; and

**5. That a condition precedent for filing the claim has not been complied with.**

**(b) Failure to raise the affirmative defenses at the earliest opportunity shall constitute a waiver thereof.** (Emphasis and underscoring supplied)

As a general rule, the **listed grounds must be invoked by the party-litigant at the earliest opportunity, as in a motion to dismiss or in the answer; otherwise, such grounds are deemed waived.** As an exception, however, the courts may order the *motu proprio* dismissal of a case on the grounds of lack of jurisdiction over the subject matter, *litis pendentia*, *res judicata*, and prescription of action, pursuant to Section 1, Rule 9 of the 1997 Rules of Court, as retained in the 2019 Amendments to the 1997 Rules of Civil Procedure under Section 1, Rule 9, *viz.*:<sup>24</sup>

---

<sup>24</sup> Id.



Section 1. *Defenses and objections not pleaded.* - Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim.

In *Alvarado v. Ayala Land, Inc.*,<sup>25</sup> the Court discussed:

Two (2) categories of motions to dismiss may be recognized under the 1997 Rules of Civil Procedure: **first, those that must be filed ahead of an answer, and second, those that may be entertained even after an answer has been filed.** Motions to dismiss under the first category may plead any of the 10 grounds under Rule 16, Section 1. Those under the second category may only plead four (4) of Rule 16, Section 1's 10 grounds: lack of jurisdiction over the subject matter, *litis pendentia*, *res judicata*, and prescription. In addition to these four (4) grounds, motions to dismiss under the second category may also plead lack of cause of action and other grounds that may only be made known after the answer was filed.<sup>26</sup> (Emphasis supplied)

We now proceed to determine whether failure to comply with the condition precedent of tender or consignment of the redemption price is jurisdictional in nature.

The purpose for the requirement of tender of the redemption price or its consignment in court is to guaranty to the buyer that the offer to redeem is one made seriously and in good faith. A buyer cannot be expected to entertain an offer of redemption without attendant evidence that the redemptioner can, and is willing to, accomplish the repurchase immediately. A different rule would leave the buyer open to harassment by speculators or crackpots, as well as to unnecessary prolongation of the redemption period, contrary to the policy of the law. Consignation of the tendered price is not always necessary because legal redemption is not made to discharge a pre-existing debt but a valid tender is indispensable for the reasons already stated. Of course, consignation of the price would remove all controversy as to the redemptioner's ability to pay at the proper time.<sup>27</sup>

**The requirement does not appear to be jurisdictional in nature**, its purpose being merely to guaranty to the buyer that the offer to redeem is one made seriously and in good faith. Being a mere procedural imperfection, it does not affect the jurisdiction of the court.

---

<sup>25</sup> 818 Phil. 595 (2017).

<sup>26</sup> *Id.* at 598-599.

<sup>27</sup> See *Villegas v. Court of Appeals*, 530 Phil. 671, 696 (2006), citing *De Conejero v. Court of Appeals*, 123 Phil. 605, 612-613 (1966).

Moreover, it appears that Miguel himself contributed to the delay or prolongation of the case. Postponements of the proceedings before the trial court were equally initiated or made by both parties. Also, Miguel raised Baltazar's failure to comply with a condition precedent only 10 years since the action was filed. It appears that the delay that the condition precedent sought to avoid was partly caused by Miguel himself here.

With the tender or consignment of the redemption price, not being a jurisdictional requirement but a mere condition precedent to the valid exercise of the right of legal redemption, Miguel was required under Section 1 of Rule 16 (Section 12, Rule 8 of the 2019 Amendments to the 1997 Rules of Civil Procedure) to raise or assert Baltazar's non-compliance with a condition precedent, at the earliest opportunity, either by filing a motion to dismiss on such ground or raising the same in his answer. Unfortunately, Miguel raised Baltazar's non-compliance with a condition precedent only after filing his answer and more than 10 years after the action was initiated by Baltazar which rendered such ground for dismissal deemed waived.

Moreover, even if we assume that the period for Baltazar to validly consign the redemption price had not yet expired at the time Miguel filed his answer, and thus failure to comply with a condition precedent was not yet an actual ground for the dismissal of the case at the time, Miguel is just the same barred from raising the subsequent non-compliance only 10 years later when estoppel by laches had already set in.

Laches, in a general sense, is failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it. The doctrine of laches or of "stale demands" is based upon grounds of public policy which requires, for the peace of society, the discouragement of stale claims and, unlike the statute of limitations, is not a mere question of time but is principally a question of the inequity or unfairness of permitting a right or claim to be enforced or asserted.<sup>28</sup>

In the present case, Miguel filed an answer without raising the issue on petitioner's failure to consign the redemption price with the court. He had likewise allowed the case to linger on for 10 years before he filed a motion to dismiss based on Baltazar's failure to consign the redemption price. More importantly, he failed to put forward any good and valid reason for the delay. Basically, he failed for an unreasonable and unexplained length of time to ask for the denial of the action based on the ground available to him.

---

<sup>28</sup> *Tijam v. Sibonghanoy*, 131 Phil. 556, 563-564 (1968).

Miguel's neglect to assert the subject ground for the dismissal of the action within a reasonable time translated into his intention to abandon his right to anymore ask for the dismissal of the action on the ground of petitioner's non-compliance with a condition precedent, if not his acquiescence to the correctness, timeliness and completeness of the action.

On the other hand, Baltazar cannot be said to have been barred by laches from enforcing his substantive right of redemption. Miguel did not deny that no written notice of the sale was given to Baltazar as the co-owner of the subject property. Moreover, he also failed to establish when Baltazar had actual knowledge of the sale so as to conclude that the latter's action for legal redemption was already barred by laches.

Verily, it was error for the trial court to dismiss the case, upon the motion of Miguel, on the ground that there was no valid exercise of the right of redemption for lack of tender of the redemption price or its consignment when such failure to comply with a condition precedent as a ground for the dismissal of the case had already been waived by Miguel after he failed to raise or assert the same at the earliest opportunity, or when he filed his answer. The CA therefore committed a reversible error in affirming the trial court's Resolution dated April 4, 2017, and in holding that petitioner's cause of action had already prescribed. The CA likewise committed a reversible error in treating the 30-day reglementary period under Article 1623 of the Civil Code as a prescriptive period when it is merely pre-emptory or a condition precedent in legal redemption cases under the Civil Code.

**WHEREFORE**, the petition is **GRANTED**. The assailed Decision dated May 29, 2018 of the Court of Appeals in CA-G.R. CV No. 109422 is hereby **REVERSED** and **SET ASIDE**. The case is **REMANDED** to the Regional Trial Court of Laoag City, Branch 12 for further proceedings.

**SO ORDERED.**



**EDGARDO L. DELOS SANTOS**  
Associate Justice

**WE CONCUR:**



**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice  
Chairperson



**RAMON PAUL L. HERNANDO**  
Associate Justice




**AMY C. LAZARO-JAVIER**  
Associate Justice



**HENRI JEAN PAUL B. INTING**  
Associate Justice

**ATTESTATION**

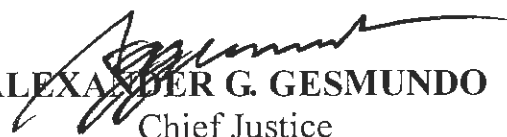
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice  
Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ALEXANDER G. GESMUNDO**  
Chief Justice