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The respondents' contention that the right to possess, use, or build on the lots embodied in the contract was a mere "right" and not actual possession appears to be sophistry. The records show that the Bundalians' construction equipment such as tractors, payloaders, and bulldozers were on the lots. A shop was built on the premises. Mr. Bundalian testified that from the time he purchased the property from the estate of Mrs. Virata up to the "minute" he testified, he never lost possession. The Bundalians paid the real estate taxes on the lots. As against the express provision of the contract and the actual possession by the petitioners, the private respondents come up with a far fetched argument that since the titles to the lots were in their hands, they were the ones in legal possession. Parenthetically, the titles in their hands were still in the name of the estate of Agapita Sarao Vda. de Virata, the original vendor-owner.

IN VIEW OF THE FOREGOING, the decisions of the respondent Court of Appeals and the trial court are hereby REVERSED and SET ASIDE. The deed of sale with right to repurchase is declared as an equitable mortgage. The petitioners are ordered to pay their debt to the private respondents with legal rate of interest from the time they acquired the loan until it is fully paid.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Relova, and *De la Fuente, JJ.*, concur.

[G.R. No. 56232. June 22, 1984]

FIRST DIVISION

ABELARDO CRUZ (deceased) substituted by Heirs Consuelo C. Cruz, Claro C. Cruz and Stephen C. Cruz, per Resolution, *petitioners, vs.* **LEODEGARIA CABANA, TEOFILO LEGASPI, ILUMINADA CABANA and THE HONORABLE COURT OF APPEALS*,** ***respondents.***

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* Eighth Division composed of Samuel F. Reyes, Jorge R. Coquia, *ponente,* and Mariano A. Zosa, *JJ.*

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SYLLABUS

1. **CIVIL LAW; OBLIGATIONS AND CONTRACTS; SALES; DOUBLE SALE OF REAL PROPERTY; OWNERSHIP OF PROPERTY ACQUIRED BY VENDEE WHO FIRST REGISTERS SALE IN GOOD FAITH.**— As the Court held in Carbonell *vs.* Court of Appeals, 69 SCRA 99 (1976), "it is essential that the buyer of realty must act in good faith in registering his deed of sale to merit the protection of the second paragraph of Article 1544 of the Civil Code." As the writer stressed in his concurring opinion therein, "The governing principle here is *prius tempore, potior jure* (first in time, stronger in right). Knowledge gained by the first buyer of the second sale cannot defeat the first buyer's right except only as provided by the Civil Code and that is where the second buyer first registers in good faith the second sale ahead of the first. Such knowledge of the first buyer does not bar her from availing of her rights under the law, among them to register first her purchase as against the second buyer. But *in converso* knowledge gained by the second buyer of the first sale defeats his rights even if he is first to register the second sale, since such knowledge taints his prior registration with bad faith. This is the price exacted by Article 1544 of the Civil Code of the second buyer being able to displace the first buyer; that before the second buyer can obtain priority over the first, he must show that he acted in good faith throughout (i.e. in ignorance of the first sale and of the first buyer's rights) — from the time of acquisition until the title is transferred to him by registration or failing registration, by delivery of possession. The second buyer must show continuing good faith and innocence or lack of knowledge of the first sale until his contract ripens into full ownership through prior registration as provided by law."

2. **ID.; ID.; ID.; ID.; ID.; KNOWLEDGE OF PRIOR SALE TAINTS SECOND PURCHASER'S PRIOR REGISTRATION WITH BAD FAITH; CASE AT BAR.**— When petitioner Cruz succeeded in registering the later sale in his favor, he knew and was informed of the prior sale in favor of respondents-spouses. Respondent appellate court correctly held that such "knowledge of a prior transfer of a registered property by a subsequent purchaser makes him a purchaser in bad faith and his knowledge of such transfer vitiates his title acquired by virtue of the latter instrument of conveyance which creates no right as against the first purchaser."

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APPEARANCES OF COUNSEL

Nazareno, Azada, Sabado & Dizon for petitioners.
Felixberto N. Boquiren for respondents.

DECISION

TEEHANKEE, *J.:*

The Court affirms the questioned decision of the now defunct Court of Appeals which affirmed that of the Court of First Instance of Quezon Province, but directs that the seller, respondent Leodegaria Cabana who sold the property in question twice, first to her co-respondents Teofilo Legaspi and Iluminada Cabana and later to petitioner Abelardo Cruz (now deceased), should reimburse to petitioner's heirs the amounts of P2,352.50, which the late petitioner Abelardo Cruz paid to the Philippine National Bank to discharge the mortgage obligation of said respondent Leodegaria Cabana in favor of said bank, and of P3,397.50, representing the amount paid by said Abelardo Cruz to her as consideration of the sale with *pacto de retro* of the subject property.

This is a simple case of double sale of real property. Respondent appellate court in its decision of August 13, 1980 stated the background facts and resolved the issue in favor of defendants-appellees, first buyers-respondent herein, and against plaintiff-appellant Abelardo Cruz, petitioner herein (substituted by his heirs), as follows:

"Defendants' evidence shows that on October 21, 1968, defendant Leodegaria Cabaña sold the land in question to defendants-spouses Teofilo Legaspi and Iluminada Cabaña (Exh. 1). The said defendants-spouses attempted to register the deed of sale but said registration was not accomplished because they could not present the owner's duplicate of title which was at that time in the possession of the PNB as mortgage.

"Likewise, when plaintiff tried to register the deed of sale executed by Leodegaria Cabaña on September 3, 1970, said plaintiff was informed that the owner thereof had sold the land to defendants-spouses on October 21, 1968. Plaintiff was able to register the land in his name on February 9, 1971 (Exh. A). With the admission

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of both parties that the land in question was sold to two persons, the main issue to be resolved in this appeal is as to who of said vendees has a better title to said land.

"There is no dispute that the land in question was sold with right of repurchase on June 1, 1965 to defendants-spouses Teofilo Legaspi and Iluminada Cabaña (Exh. 1). The said document 'Bilihang Muling Mabibili' stipulated that the land can be repurchased by the vendor within one year from December 31, 1966 (see par. 5, Exh. 1). Said land was not repurchased and in the meantime, however, said defendants-spouses took possession of the land.

"Upon request of Leodegaria Cabaña, the title of the land was lent to her in order to mortgage the property to the Philippine National Bank. Said title was, forthwith, deposited with the PNB. On October 21, 1968, defendant Leodegaria Cabaña sold the land by way of absolute sale to the defendants-spouses (Exh. 2). However, on November 29, 1968 defendant sold the same property to herein plaintiff and the latter was able to register it in his name.

"The transaction in question is governed by Article 1544 of the Civil Code. True it is that the plaintiff was able to register the sale in his name but was he in good faith in doing so?

"While the title was registered in plaintiff-appellant's name on February 9, 1971 (Exh. A), it appears that he knew of the sale of the land to defendants-spouses Legaspi as he was informed in the Office of the Register of Deeds of Quezon. It appears that the defendants-spouses registered their document of sale on May 13, 1965 under Primary Entry No. 210113 of the Register of Deeds (Exh. 2).

"Under the foregoing circumstances, the right of ownership and title to the land must be resolved in favor of the defendants-spouses Legaspi on three counts. First, the plaintiff-appellant was not in good faith in registering the title in his name. Consistent is the jurisprudence in this jurisdiction that in order that the provisions of Article 1544 of the new Civil Code may be invoked, it is necessary that the conveyance must have been made by a party who has an existing right in the thing and the power to dispose of it (10 Manresa 170, 171). It cannot be set up by a second purchaser who comes into possession of the property that has already been acquired by the first purchaser in full dominion (Bautista *vs.* Sison, 39 Phil. 615), this notwithstanding that the second purchaser records his title in the public registry, if the registration be done in bad faith, the philosophy

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underlying this rule being that the public records cannot be covered into instruments of fraud and oppression by one who secures an inscription therein in bad faith (Chupinghong *vs.* Borreros, 7 CA Rep. 699).

"A purchaser who has knowledge of fact which would put him upon inquiry and investigation as to possible defects of the title of the vendor and fails to make such inquiry and investigation, cannot claim that he is a purchaser in good faith. Knowledge of a prior transfer of a registered property by a subsequent purchaser makes him a purchaser in bad faith and his knowledge of such transfer vitiates his title acquired by virtue of the latter instrument of conveyance which creates no right as against the first purchaser (Reylago *vs.* Jarabe, L-20046, March 27, 1968, 22 SCRA 1247).

"In the second place, the defendants-spouses registered the deed of absolute sale ahead of plaintiff-appellant. Said spouses were not only able to obtain the title because at that time, the owner's duplicate certificate was still with the Philippine National Bank.

"In the third place, defendants-spouses have been in possession all along of the land in question. If immovable property is sold to different vendees, the ownership shall belong to the person acquiring it who in good faith first recorded it in the registry of property; and should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession (Soriano, et al. *vs.* The Heirs of Domingo Magali, et al., L-15133, July 31, 1963, 8 SCRA 489). Priority of possession stands good in favor of herein defendants-spouses (Evangelista *vs.* Abad, [CA] 36 O.G. 2913; Sanchez *vs.* Ramos, 40 Phil. 614; Quimson *vs.* Rosete, 87 Phil. 159)."

The Court finds that in this case of double sale of real property, respondent appellate court, on the basis of the undisputed facts, correctly applied the provisions of Article 1544 of the Civil Code that

"Art. 1544. If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property.

"Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

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"Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith."

There is no question that respondents-spouses Teofilo Legaspi and Iluminada Cababa were the first buyers, first on June 1, 1965 under a sale with right of repurchase and later on October 21, 1968 under a deed of absolute sale and that they had taken possession of the land sold to them; that petitioner was the second buyer under a deed of sale dated November 29, 1968, which to all indications, contrary to the text, was a sale with right of repurchase for ninety (90) days.[1] There is no question either that respondents Legaspi spouses were the first and the only ones to be in possession of the subject property.

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[1] Respondents Legaspi spouses cite in their brief "facts of record" which were not denied or disputed by petitioner, as follows:

"First. The price paid by Cruz was unconscionably small. The complaint alleged that the land with an area of 27,882 square meters had an annual income of P3,000.00 (Record on Appeal p. 8) but the vendor, Leodegaria Cabana, was paid the paltry sum of only P5,000.00 (Record on Appeal, p. 25).

"Second. Cruz bought the land without even making an inspection. The deed of sale was executed on November 25, 1968 but he visited the property only after February, 1971 or after a lapse of more than two years. (tsn Nov. 23, 1971, page 18). Surely, there must be something fishy when real estate with an income of, P3,0000.00 yearly can be had for only P5,000.00. By this fantastically low price, the buyer is already put on notice of a possible defect in seller's title and yet Cruz did not even visit the locality where he could have made appropriate inquiries.

"Third. By petitioner's own admission (brief, p. 4), the agreement between them (Cruz and Leodegaria Cabaña) was SALE WITH RIGHT OF REPURCHASE within 90 days, however, the deed prepared by Atty. Bonus, counsel of Cruz in the trial court up to the Court of Appeals, was a deed of absolute sale.

a clear premeditated circumvention of the agreement. x x x

"Fourth. the deed of sale in favor of Cruz was executed on November 29, 1968 (Record on Appeal, p. 11) but he declared the property for taxation only on April 20, 1971, or after the lapse of over two years.

an indubitable showing that Cruz was uncertain of his title and was not duty bound to pay taxes thereon. And please note that he was constrained to pay the real estate taxes only because he found in Legaspi's answer to his complaint in

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Said respondents spouses were likewise the first to register the sale with right of repurchase in their favor on May 13, 1965 under Primary Entry No. 210113 of the Register of Deeds. They could not register the absolute deed of sale in their favor and obtain the corresponding transfer certificate of title because at that time the seller's duplicate certificate was still with the bank. But there is no question, and the lower courts so found conclusively as a matter of fact, that when petitioner Cruz succeeded in registering the later sale in his favor, he knew and he was informed of the prior sale in favor of respondents-spouses. Respondent appellate court correctly held that such "knowledge of a prior transfer of a registered property by a subsequent purchaser makes him a purchaser in bad faith and his knowledge of such transfer vitiates his title acquired by virtue of the latter instrument of conveyance which creates no right as against the first purchaser."

As the Court held in *Carbonell vs. Court of Appeals*[2] "it is essential that the buyer of realty must act in good faith in registering his deed of sale to merit the protection of the second paragraph of [the above quoted] Article 1544." As the writer stressed in his concurring opinion therein, "(T)he governing principle here is *prius tempore, potior jure* (first in time, stronger in right). Knowledge gained by the first buyer of the second sale cannot defeat the first buyer's rights except only as provided by the Civil Code and that is where the second buyer first registers in *good faith* the second sale ahead of the first. Such knowledge of the first buyer does not bar her from availing of her rights under the law, among them, to register *first* her purchase as against the second buyer. But *in converso* knowledge gained by the second buyer of the first sale defeats his rights even if he is first to register the second sale, since such such knowledge taints his prior registration with bad faith. This is the price exacted by Article 1544 of the Civil Code for the second buyer being able

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the trial court that Legaspi had been paying the taxes on this property since June 1, 1969 (Record on Appeal, p. 9). Obviously, Cruz must have realized that his claim of ownership would be adversely affected by not declaring this property in his name and not paying real estate taxes."

[2] 69 SCRA 99 (1976).

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to displace the first buyer: that before the second buyer can obtain priority over the first, he must show that he acted in good faith throughout (i.e. in ignorance of the first sale and of the first buyer's rights) — from the time of acquisition until the title is transferred to him by registration or failing registration, by delivery of possession. The second buyer must show continuing good faith and innocence or lack of knowledge of the first sale until his contract ripens into full ownership through prior registration as provided by law."[3]

Petitioner's prayer for alternative relief for reimbursement of the amount of P2,352.50 paid by him to the bank to discharge the existing mortgage on the property and of the amount of P3,397.50 representing the price of the second sale are well taken insofar as the seller Leodegaria Cabaña is concerned. These amounts have been received by the said seller Leodegaria Cabaña on account of a void second sale and must be duly reimbursed by her to petitioner's heirs, but the Legaspi spouses cannot be held liable therefor since they had nothing to do with the said second sale nor did they receive any benefit therefrom. Petitioner's claim for reimbursement of the amount of P102.58 as a real estate taxes paid on the property is not well taken because the respondents Legaspi spouses had been paying the real estate taxes on the same property since June 1, 1969 [4]

ACCORDINGLY, the appealed judgment of respondent appellate court, upholding respondents-spouses Teofilo Legaspi and Iluminada Cabaña as the true and rightful owners of the property in litigation and ordering the issuance of a new title with the cancellation as null and void of Title No. T-99140 obtained by petitioner Abelardo C. Cruz, is hereby affirmed *in toto*. In accordance with the partial grant of petitioner's prayer for alternative relief as stated in the preceding paragraph hereof, the Court hereby orders and sentences respondent Leodegaria Cabaña to reimburse and pay to petitioner's heirs the total sum of P5,750.00.

Melencio-Herrera, Plana, Relova, Gutierrez, Jr., and *De la Fuente, JJ.*, concur.

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[3] *Idem*, pp. 122, 123.

[4] See footnote 1, *supra*.