

[G.R. No. L-8672. September 27, 1957]

JOSE A. CAOIBES, ET AL., PETITIONERS-APPELLEES, VS. MARIA C. SISON DE MARTINEZ, ET AL., OPPOSITORS-APPELLANTS.

D E C I S I O N

FELIX, J.:

The spouses Sancho Sison and Segunda Garcia acquired Lot No. 33 of the Balayan (Batangas) Cadastre by sale from Matias Caoibes, subject to the right of repurchase. As probably said spouses did not reveal the existence of this right at the cadastral hearing, said lot was adjudicated to them in a decision dated February 24, 1921, where no mention whatsoever was made of the original owner's right to repurchase said, property. Consequently, when Original Certificate of Title No. 657 was issued in the name of the spouses Sancho 'Sison and Segunda Garcia on October 27, 1922, it did not appear to be subject to any right or lien.

On May 20, 1921, or before the title was actually issued to the vendees a retro, the property was allegedly repurchased by Jose" and Magdalena Caoibes, children of Matias Caoibes, as evidenced by a private document (Exh. D), and the owner's duplicate certificate was thus delivered to them. Subsequently, they took possession of the property and regularly paid the taxes thereon.

On May 28, 1925, the Provincial Sheriff of Batangas as a result of a certain litigation, levied upon and. Sold in favor of E. Diaz y Cia. cadastral lot No. 177, belonging to the spouses Sancho Sison and Segunda Garcia and covered by Original Certificate of Title No. 1436, but although the number and technical description corresponded to Lot No. 177, the Sheriff erroneously caused the levy and sale to be annotated at the back of Original Certificate of Title No. 657 (Lot No. 33) which still was in the name of said spouses Sison. The purchaser, E. Diaz y Cia. did not procure a definitive sale from the Sheriff, and the Bank of the Philippine Islands, which seemed to be its successor in interest, obtained an alias writ of

execution and again bought at public auction cadastral lot No. 177 and T.C.T. No. 608 was consequently issued in the name of said bank.

On March 10, 1952, Jose” Caoibes and Magdalena Caoibes filed a petition with the Court of First Instance of Batangas praying that the Register of Deeds of said province be ordered to cancel the annotation erroneously entered at the back of O.C.T. No. 657 of the sale made under the writ of execution .issued in Civil Case No. 1457; to issue a copy of the owner’s duplicate of O.C.T. No. 657 in lieu of the one that was lost or destroyed during the Batangas fire in 1950; and to cancel O.C.T. No. 657 and to issue in its stead a new certificate in the name of Jose A. Caoibes and Magdalena Caoibes as joint owners. ‘

The surviving children and heirs of the deceased spouses Sancho, Sison and Segunda Garcia, Maria Sis on de Martinez and Conrado, Felicidad and Domingo, all surnamed Sison, as well as the Bank of the Philippine Islands, successor in interest of E. Diaz y Cia., were duly served with copies of the petition. The notice of hearing was also published in a newspaper of general circulation in the province of Batangas once a week for 3 consecutive weeks. Although the Sisons received the notice of said hearing as early as March 11, 1952, their counsel filed a motion for continuance dated March 21, 1952, on the ground that the nature of the case required diligent study and investigation. At the date set for hearing of the motion, the Court denied the motion for postponement in. view of the opposition offered by petitioner, and proceeded to the reception of evidence.

The oppositors were duly represented therein by counsel who offered vigorous objections and specifically contested the jurisdiction, of the court to take cognizance of the subject matter of the petition.

It may not be amiss to state at this juncture that the oppositors failed to file a written opposition to the petition, so after hearing the lower Court Issued an order dated April 23, 1952, containing the following findings of facts:

“Lot No. 33 of the Balayan Cadastre was originally owned by petitioners’ father Matias Caoibes, who sold the same to Sancho Sison with right of repurchase. At the cadastral hearing, the spouses Sancho Sison and Segunda Garcia evidently did not reveal the right of repurchase in favor of the original owner; hence, lot No. 33 was adjudicated in their names by decision dated February 24, 1921

without mentioning the right of repurchase, as evidenced by Original Certificate of Title No. 657, issued on October 27, 1922. Under the facts, the Sisons were guilty of constructive fraud (*Matabang v. Payaoan*, 44 Off. Gaz. 1833.) Petitioners having repurchased the lot from Sancho Sison on May 20, 1921, as per a private instrument, Exhibit D, the owners' duplicate of O.C.T. No. 657 was delivered to them by Sancho Sison pursuant to said exhibit. On May 28, 1925, the Provincial Sheriff of Batangas made a levy and sale of cadastral lot No. 177, of which petitioners who were in possession of Lot 33 were not notified, after posting notices of the sale on the premises of the former lot and in three public places of the Municipality of Balayan, as required by law; but although the number and technical description corresponded to Lot No. 177, the sheriff erroneously caused the levy and sale to be annotated at the back of O.C.T. No. 657, instead of O.C.T. No. 1436, issued in the names of Sancho Sison and Seguncla Garcia. Despite the lapse of twenty-seven years, the purchaser, E. Dias y Cia., has not yet procured a definitive sale from the Provincial Sheriff; and in the meantime, it secured through its successor in interest, the Bank of the Philippine Islands, an alias writ of execution and levied on and bought at public auction cadastral lot No. 177, covered by O.C.T. No. 1436 on March 19, 1928, as a result of which T.C.T. No. 60.8 was issued in the name of the Bank of the Philippine Islands. From and since the repurchase on May 20, 1921, petitioners entered into and have been in possession of Cadastral Lot No. 335 which has been continuously declared in the name of their father Matias Caoibes and land taxes thereon having been regularly paid by petitioners, and such possession has 'been continuous, adverse and in the concept of owner. In the cadastral case involving lots Nos. 2820 and 2827, which together with lot 33 were covered by the deed of repurchase (Exh. D), Sancho Sison claimed those lots in opposition to the heirs of Matias Caoibes. At the hearing in July, 1925, said heirs including petitioners, presented the original of Exhibit D and the owners' duplicate of O.C.T. No. 657 in their possession; and after they won the case in the trial Court and in the Supreme Court, the records were remanded to Batangas for execution which, however, was burned during the Batangas conflagration in February, 1950, including those exhibits".

Oppositors, thereafter, filed a motion for new trial and for relief from judgment alleging that the order was based on the total absence of evidence for the oppositors which were due to excusable negligence; that the oppositors discovered that the supposed signatures of their

predecessors in interest on the deed. Exhibit D, were false, fraudulent and forged, and such fact, which was discovered only after the hearing, might alter the result arrived at by the Court; and that the Court had no jurisdiction to cancel the title itself and to order the issuance of a new one to petitioners. It was therefore, prayed that the order of April 23, 1952, be set aside and a new trial be allowed to afford the oppositors an opportunity to present their evidence.

Petitioners tried to refute these allegations in their answer by contending, among other things, that the genuineness of the signatures of the spouses Segunda Garcia, and Sancho Sison was already put in issue and passed upon by the same Court and affirmed by the Supreme Court in G. R. No. 27399, wherein they were declared to be genuine; that the parcel of land now in controversy was included in the deed of repurchase which was declared to have been actually executed by the spouses Sison; that the Bank of the Philippine Islands knowing the result of said litigation and also aware that lot No. 33, together with lots Nos. 2820 and 2827, was covered by that deed of repurchase (Exh. D) did not proceed to obtain a definitive sale in its favor and noticing the error in annotating the levy and sale on O.C.T. No. 657 instead of O.C.T. No. 1436, said judgment creditor secured an alias writ of execution and purchased lot No. 177 at public auction; and alleging that counsel for the oppositors had filed a false verified petition, it was prayed that said counsel be declared in contempt of court and that the motion be denied. .

The Court did not immediately take action on the matter in the hope that the parties could produce the decisions of that court or that of the Supreme Court allegedly passing upon the genuineness of the deed of repurchase relied upon by petitioners, but they were not able to do so presumably because of the destruction of the judicial records during the last war and the fire that razed that courthouse on February 25, 1950. Based on the data available on record, the Court in an order dated January 6, 1953, ruled that oppositors' failure to present their evidence was not due to excusable negligence which ordinary prudence could have guarded against, considering that although they were represented by counsel during the hearing no reservation of the right to present their evidence after petitioners had rested their case was ever made; and held that the circumstances of the case preponderantly show that petitioners were the owners of the lot in question. His Honor further declared that proof of forgery of Exhibit D would not affect or change the result of the order complained of because there was evidence on record that said Exhibit D, relied upon by petitioners in the case at bar, was not the very deed evidencing the repurchase of the property by petitioners but the deed mentioned as Exhibit A in the brief filed by the Sisons with the Supreme Court in G. R. No. 27399. The motion for new trial was consequently denied.

Oppositors brought the matter on appeal to the Court of Appeals but said Tribunal certified the same to Us on the ground that it raises the question of jurisdiction of the trial court, and said case was given due course and docketed by resolution of this Court of January 14, 1955.

The oppositors in interposing this appeal ascribed to the lower Court the commission of the following errors:

1. In denying oppositors' motion for continuance in its order of April 23, 1952, and in holding its order of January 6, 1953, that oppositors' failure to present evidence was due to enexcusable neglect;
2. In declaring that-it had jurisdiction over the petition at bar; and
3. In denying oppositors¹ motion for new trial and in finding that oppositors' predecessors in interest had sold the property in question to petitioners.

Anent the first assigned error, it is an elementary, rule of procedure that the allowance or denial of a motion for postponement as well as one for new trial generally rests upon the sound discretion of the Court, and We find no abuse of this prerogative when the trial Judge issued the order complained of. There is no reason, therefore, to disturb the ruling made therein on that point.

As to the remaining questions, We will take up first the third assignment of error before proceeding to discuss the merits of the second question at issue.

In its order of January 6, 1953, the trial Court made a finding that the private instrument Exhibit D, which purported to be the deed of repurchase, was not the real deed the genuineness of which was already passed, upon and confirmed by this Court in G. R. No. 27399. Witnesses for the petitioners testified during the hearing that Exhibit D was only the carbon copy of the original deed of repurchase (Exh. A) which was submitted in G.R. No. 27399, and that the signature of Sancho Si son appearing in said Exhibit D belonged to said

person because it was signed in their presence. Disregarding these testiaonies the lower Court observed that:

“(1) While the instrumental witnesses in Exhibit A were Apolonio Bahia and Timoteo Martinez, the instrumental witnesses in Exhibit D appear to be Pio Perez and (illegible).

(2) While Exhibit A was signed by Matias Caoibes, the said signature appears nowhere in Exhibit D.

(3) While Exhibit A was not in Tagalog, Exhibit D is in Tagalog.

“These differences may be gathered by comparing Exhibit D, which is attached to the record, with Exhibit A, as the latter is discussed under the second assignment of error in the brief Exhibit E. From the significant discrepancies between the two exhibits, tile conclusion .is inevitable that Exhibit D is different from Exhibit A”,

and the records support this finding. The trial Judge went on further by declaring that:

“1. Exhibit A above-mentioned shows that the property here in question was among those repurchased by petitioners from the spouses Sancho Sison and Segunda Garcia as shown by the following testimony of Matias Caoibes at page 12 of the brief Exhibit E:

'P. Y ese titulo se refiere a un solar el Lote 33?.

R. Si, señor.

P. Y ese terreno no tiene nada que ver con los dos lotes en cuestion?

R. No, señor, perb csta inclv.ido en el rescate hecho por mis hijos.'

While it is true that the land here in question was not litigated in G.R. No. 27399, Sison vs. Caoibes et al., nevertheless the deed of repurchase Exhibit A, which includes the land here in question, was held authentic by this Court in that case, as shown by the fact that the said holding was assigned as error in the brief Exhibit E. It finally appears that the said holding, on appeal, was affirmed by the Supreme Court, as also shown by the fact that the lands there in question, Lots 2820 and 2827, are now registered in petitioners' names. From all this it follows that Exhibit A, evidencing the repurchase of the land in question by petitioners, cannot now be assailed.

"2. Corroborative of the said repurchase is the undeniable fact that the owners' duplicate of O.C.T, No. 657 !, covering Lot 33 in question, was delivered by Sancho Sison to petitioners after the repurchase was effected,' the said duplicate, however, having been burned when petitioners presented the same as an exhibit in a cadastral case which they had against Sancho Sison. Heedless to state, the owners of said certificate would not part with the same in favor of petitioners if the latter had not repurchased the said property.

“3. Since the repurchase of the said property by petitioners on May 20, 1921, they have been in the continuous possession of the same, so much so that petitioner Jose” A. Caoibes has constructed what he calls a mansion thereon, their said possession not having been disturbed or molested by the oppositors for over thirty years.

“4. That the land in question is not only assessed for taxation purposes in the name of petitioners’ father, but the petitioners have also paid the taxes thereon (Exhs. C-1 to C-4).

“5. On May 28, 1925, the Provincial Sheriff of Batangas, in a certain Civil Case No. 1457 levied upon and sold cadastral lot No. 177, covered by Original Certificate of Title No. 1436, in favor of E. Diaz y Cia., but the -said sheriff erroneously noted the said ‘ levy and sale at the back of Original Certificate of Title No. 657 covering lot 33 in question. This notwithstanding, the purchaser E. Diaz y Cia., never obtained a final decree of sale of lot 33 from the Provincial Sheriff. Instead, the said purchaser’s successor-in-interest⁵ the Bank of the Philippine Islands, secured an alias writ of execution and eventually purchased at public auction cadastral lot No. 177, and not lot 33, on March 19, 1-28, a cogent indication that the purchaser at public auction recognized petitioners’ paramount right of ownership over lot 33 here in question. For, otherwise, said purchaser would have finally bought lot 33, the levy and sale in its favor having keen-noted at the back of Original Certificate of Title ‘No. 657 covering the lot just mentioned.

The above-numbered considerations, individually and collectively, preponderantly show that petitioners are owners of lot 33 in contention, against which the forgery of Exhibit D, which is the only allegedly newly discovered evidence supporting the motion for new trial, would prove unavailing.”

We certainly met hardship in evaluating the evidence on record due to the absence of decisively important papers as the decision of this Court in G.R. No. 27399, the Exhibit A or at least a recital of its context, and pertinent date. about lot No. 33, covered by O.C.T. No. 657 the owners' duplicate copy of which was also missing. But piecing the available bits of information together, the circumstances surrounding the case as correctly observed by the trial Judge, lead Us to believe that lot No. 33 must have been also included in the deed of repurchase, Exhibit A.

Oppositors maintain that there is no evidence that the title 'to the land in question was in reality delivered by their predecessors-in-interest to the petitioners pointing that no less than 3 Caoibes offered conflicting testimonies, each claiming that the title was delivered to him by Sancho Sison.

But oppositors did not dare and omitted to state who is in possession of the title and the probabilities are that said owners' duplicate copy must have been actually delivered to one of the Caoibes.

It is also disputed that petitioners are and have been in continuous, peaceful possession of the land and paying the taxes thereon, for according to oppositors, the tax receipts offered as evidence do not coincide with the tax declaration number and description of lot No. 33. But they again failed to state who is in possession of the property, and who is paying the taxes on the same. Petitioners' positive declarations, supported by evidence, thus remain unshattered. Apart from these considerations tilting the balance in favor of petitioners, We may also say the following. We 'cannot really understand why petitioners submitted Exhibit D, which as the lower Court found out, is different from Exhibit A. But without inquiring into the motive of petitioners since We hold that lot No. 33 is included in the deed of repurchase already confirmed and the authenticity of which was passed upon by this Court, oppositors assertion of the forgery of Exhibit D does not deserve much weight. It is true that there are some visible deviation of strokes in the signature Sancho Sison appearing in Exhibit D from his alleged regular signatures used as specimens, but we have to take into account that there are many factors that lay bring about minor changes in the signature of a person. We may consider the physical condition of the person at the time the signature in question was made, his age, his temper or state of mind at the moment, the pen or writing implement used and that the party assailing the authenticity of a handwriting might have made an unfair selection of specimens to be used as basis of comparison which might be misleading. Coming now to the jurisdictional question raised by oppositors. We are confronted with the query of whether a land registration court retains jurisdiction to order the cancellation of a

certificate of title and the issuance of a new one in favor of another after the lapse of one-year period, if the ground for the cancellation does not squarely fall within the specific cases mentioned in Section 112 of the Land Registration Act No.496 of the Philippine Commission. Section 112 of Act 496, reads as follows:

SEC. 112, No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon and the attestation of the same by the clerk or any register of deeds, except by order of the Court, Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased; or that new interests have arisen or "been created which do not appear upon the certificate; or that any error, omission, or mistake was made in entering a certificate or any memorandum thereon, or on any duplicate certificate; or that the name of any person on the certificate has been changed; or that the registered owner has been married; or, if registered as married, that the marriage has been terminated; or that a corporation which owned registered land and has been dissolved had not conveyed the same within three years after its dissolution; or upon any other reasonable ground; and the court shall have jurisdiction to hear, and determine the petition after notice to all parties in interest, and may order the entry of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security if necessary, as it may deem proper; Provided, however, That this section shall, not be construed to give the court authority to open the original decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, or his heirs or assigns, without his or their written consent.

Any petition filed under this section and all petitions and motions filed under the provisions of this Act after original registration, shall be filed and entitled in the original, case in which the decree of registration was entered.

Oppositors aver that the lower Court had no jurisdiction to take cognisance of the petition in the case at bar because the allowance of the same would amount to an opening of the decree issued way back in 1922, They even made the suggestion that as the trial Court declared the spouses Sison guilty of “constructive fraud”, an ordinary civil action for the enforcement of that trust would have been proper. It must be remembered, however, that petitioners prayed for the cancellation of O.C.T. No. 657 and the issuance of a new one in their favor in accordance with Section 112 of the Land Registration Act aforequoted. and that the provision of said Section 112 is explicit, that to avail of the remedy granted therein., the petition must be filed in the original case in which the decree of registration was entered. The rationale for the law was given in the case of Cavan vs. Wislizenus, 48 Phil. 632, when this Court said:

“This procedure was adopted with an intelligent view: to allow such petitions and, motions to be filed and disposed of elsewhere would eventually lead to confusion and render it difficult to trace the origin of the entries in the registry”.

This doctrine was cited in Santos vs. Santos, G.R. No, L-4652, August 30, 1951.

Oppositors consistently maintain that the petition should properly been filed in a court of general jurisdiction, citing the case of Garcia vs. Belzunce, G.R. No. L-2413, I promulgated October 27, 1949, wherein it was held that as the intrinsic validity of the private deed of sale sought to be registered was being impugned or put in issue because of an alleged forgery and/or intimidation in the execution of the controverted deed of conveyance, it should be ventilated in an action where the issues could, be litigated and determined, and that the remedy provided in section 112 of Act 96 is summary and not adequate for the litigation of issues pertaining to an ordinary civil action.

In the case at bar, aside from the fact that Exhibit D was objected to by oppositors on the ground of forgery, it may be added that said exhibit as well as Exhibit A, which the lower Court ruled to include the conveyance of lot 33 to the Caoibes, were private documents, but We shall not forget that the question of ownership of lots 2820, 2827 and 33 have already been determined by this Court in G. R. No. 27399 above referred to.

The writer of this decision was formerly of the opinion that questions like the ones raised in

this case did not come within the specific cases mentioned in Section 112 of the Land Registration Act, but in the case of the Government of the P.I. vs. Serafica, 61 Phil. 93, this Court (probably because the Land Registration Courts are the same Courts of First Instance), held that when a land, registered under the Torrens system or under the Cadastral Act, is subdivided fry the new co-owners or co-heirs, and they filed a petition in accordance with section 112 of Act 496 for the cancellation of the old certificate of title and the issuance of new certificates corresponding to the portions into which the land has been subdivided, these petitioners are entitled to the remedy invoked by them without the necessity of a previous declaration of heirs, nor of the institution of intestate proceedings of the original owners thereof who have died. Now, if section 112 of the Land Registration Act could be made applicable in the aforementioned case of Serafica sans intestate proceedings for declaration of heirs, We can see no reason why it could not be made to operate with equal force and effect in the case at bar after this Court had considered the deed of repurchase (Exh. A), also a private document, as authentic and adjudicated to the Caoibes lots 2820 and 2827 which were then subject of litigation therein and for which titles were correspondingly issued. If petitioners were declared to be the owners of lot no. 33, covered by O.C.T. No. 657) still in the name of the spouses Sancho Sison and Segunda Garcia, this case may fall under the terms “any other reasonable grounds” recited in section 112 of the Land Registration Act. These proceedings cannot be said to open the original decree of registration for as far as the land is concerned, everything declared thereon boundary, size and nature of the property is already a decided and closed matter. Actually, there is only a transfer of registered ownership from one person to another in. order to bestow ownership on the persons entitled thereto.

WHEREFORE, the orders appealed from are hereby affirmed, without pronouncement as to costs.

IT IS SO ORDERED.

Paras, Bengzon, Padilla, Montemayor, Reyes, Bautista Angelo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

