

**IRENEO CASTILLO AND HILARIA MANYUCAT, PETITIONERS, VS.
ANACLETO B. RAMOS, JUDGE OF FIRST INSTANCE OF QUEZON, AND
THE AGRICULTURAL AND INDUSTRIAL BANK, RESPONDENTS.***G.R. No. L-1031. July 31, 1947*

Ponente: HILADO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/39f2ac679358/>**HILADO, J.:**

This is a petition for mandamus to compel the respondent judge to grant the reliefs prayed for in the petition, annex 1 thereof. Said petition annex 1 was filed within cadastral case No. 12, G.L.R.O. Cadastral Record No. 557, alleging that Ireneo Castillo and Hilaria Manyucat, petitioners, were the registered owners of lots Nos. 299, 300, 306, 307, and 540 of said cadastral case under original certificate of title No. 24568 of the Registry of the Province of Tayabas (now Quezon); that on or about April 24, 1940, they encumbered the said certificate of title by way of mortgage to the Agricultural and Industrial Bank for the sum of P1,200, said mortgage having been duly registered; that the loan to secure which the said mortgage was executed was completely paid to the creditor bank through the Philippine National Bank as shown by a receipt issued by said bank (reference seems to be made to the Philippine National Bank) in favor of petitioners and numbered 655979; and that "due to the condition of tilings then prevailing" the said creditor bank could not execute the proper deed of release. The petition ended with the prayer that the Court of First Instance in said cadastral case "declare that the said mortgage executed by the herein petitioners * * * is cancelled and now is of no force and effect and that the said creditor bank be ordered to return to the herein petitioners Ireneo Castillo and Hilaria Manyucat the owner's duplicate of said original certificate of title No. 24568 of the mortgaged property." That petition bears date July 23, 1946.

In behalf of the Agricultural and Industrial Bank, the Government Corporate Counsel filed an opposition (Annex 3 of petition herein) dated August 12, 1946, to the aforesaid petition, alleging "by way of affirmative defense" that the Agricultural and Industrial Bank had not received any communication from the Philippine National Bank to the effect that the amount of the loan had been paid "through that office," and "that even if it is true that payment of the mortgage in question was made by the petitioner, it is apparent from the facts alleged in his petition that said payment was made during the war." The bank's opposition concludes with the prayer that the Court of First Instance deny the petition of Ireneo Castillo and Hilaria Manyucat for the cancellation of the mortgage in question.

Under date of August 21, 1946, petitioners filed a reply (Annex 4 of petition herein) to the opposition of the creditor bank, wherein counsel directly discusses the validity of the payment allegedly made by their clients, the petitioners, during the Japanese occupation, of the pre-war obligation contracted by them in favor of the creditor bank in the amount of P1,200.

The Court of First Instance of Tayabas, the Honorable Anacleto B. Ramos presiding, under date of August 26, 1946, entered an order denying the aforesaid petition upon the ground that it was of opinion that it had no jurisdiction to order within that cadastral case what was sought by the petitioners, because the question involved

in their petition should rather be the subject of an ordinary case to compel the Agricultural and Industrial Bank to execute a deed of release of the above-mentioned mortgage.

We are of opinion that the lower court was right. Such a transcendental question as whether payment during the war with Japanese military notes of a pre-war obligation in Philippine genuine money is valid or not, is clearly beyond the special and limited jurisdiction of a Court of First Instance acting as a Court of Land Registration under our laws. The special and limited character of this jurisdiction is apparent from the provisions of section 2 of Act No. 496, as amended, as well as those of the Cadastral Act (No. 2259). The proceedings under both acts are in rem against the land and the buildings and improvements thereon, and the decrees entered operate directly on the land and the buildings and improvements thereon. (Act No. 496, sec. 2, as amended; Act No. 2259, sec. 10; *Director of Lands vs. Roman Catholic Archbishop of Manila*, 41 Phil., 120, 123.) Under both laws, the whole world is made a party to the proceedings. While in a case between creditor and debtor concerning the validity of an alleged payment made by the latter to the former, and the consequent decision of the question of whether or not the creditor should be made to execute a deed of release, or whether or not the debt should be declared paid and its mortgage security cancelled, is purely a personal action between them.

In the case of *Bank of the Philippine Islands vs. Ty Camco Sobrino* (57 Phil., 801), two parcels of land had been originally mortgaged to the Philippine National Bank with the encumbrance duly noted on the certificates of title, with an express provision in the mortgage contract that the mortgagor shall not, during the existence of the mortgage, among other things, encumber the property with a second mortgage without the written consent of the mortgagee. Contrary to this stipulation, the debtor later executed a second mortgage in favor of two persons upon the same, parcels of land. The Philippine National Bank filed in the Court of First Instance of Pangasinan a petition praying that the annotation or inscription of the second mortgage be declared null and void and ordered cancelled. The Bank of the Philippine Islands was later substituted in place of the Philippine National Bank as petitioner on the ground that it had acquired by purchase all the rights, interests and actions of the latter in the first mortgage. The Court of First Instance held that the petition of the bank was equivalent to questioning the validity of the second mortgage, which, in its judgment, could only be done in an ordinary action, and not under section 112 of the Land Registration Act. This Court, passing upon that petition of the Bank of the Philippine Islands, among other things, said:

"While our practice is not as clear as it should be, we believe the Court of First Instance of Pangasinan to be correct in its holding that the cancellation of the second mortgage on the registry of property involves the validity of the second mortgage, a question not within the purview of the register of deeds. * * *" (P. 804 of cited volume.)

If the question of the validity of the above-mentioned second mortgage was not within the purview of the jurisdiction of the Court of First Instance acting as a Court of Land Registration, for similar reasons, if not stronger ones, the question of the validity of the payment with Japanese military notes during the war of the pre-war mortgage indebtedness in Philippine genuine money herein involved, should be held, as we hold it, to be without the special and limited jurisdiction of the Court of First Instance acting as a Court of Land Registration.

In *Cavan vs. Wislizenus* (48 Phil., 632), a motion for the cancellation of a certificate of title and the issuance of a new certificate in its place was filed within civil case No. 3998 of the Court of First Instance of Cebu, an ordinary civil case, wherein the petitioner had obtained a sheriff's deed of sale of the piece of land covered by the said title, as a result of a public auction under a writ of execution therein. It was held by this Court that the Court of First Instance exceeded its jurisdiction in granting the motion within the ordinary civil action, holding that under section 78 of the Land Registration Act and under section 112 thereof, the petition should have been filed and decided within the land registration case, for the entry of a new certificate to the vendee. That case was the

converse of *Bank of the Philippine Islands vs. Ty Camco Sobrino*, supra. In the course of its decision this Court had this to say:

"* * * Land registration proceedings are as separate and distinct from ordinary civil actions as are the latter from criminal actions, and it will probably not be contended that our courts have jurisdiction in civil actions to convict persons of criminal offenses." (P. 636 of cited volume.)

If there is such a clear separation and distinction between land registration proceedings and ordinary civil actions, what properly pertains to the general jurisdiction of the courts in ordinary civil actions should not be brought to them as courts of land registration with the limited and special jurisdiction characteristic of such courts. When our land registration laws were enacted our Courts of First Instance already possessed jurisdiction over cases such as that which has arisen between the parties herein respecting the validity of an alleged payment by a debtor of his debt to his creditor. Specifically, if a case of the nature of the one now existing between the instant litigants had arisen just before the enactment of Act No. 496, there could be no doubt that it would have come under the original jurisdiction of the proper Court of First Instance. And there is absolutely nothing in said Act nor in the subsequent ones amending or supplementing the same to divest such court of that original jurisdiction in order to transfer it to the Court of Land Registration established by said Act No. 496, later to the Court of First Instance acting as such court by virtue of the provisions of section 10 of Act No. 2347.

We are clearly of opinion that the respondent court rightly refused to grant the aforesaid petition within the cadastral proceeding.

However, where a petition concerning the cancellation of any encumbrance noted on a Torrens certificate of title is filed within the record of the land registration case in which the basic decree was entered and there is no substantial controversy in regard thereto between the petitioner and any other interested party, such petition may be considered as a mere incidental matter in such land registration case and may therein be acted upon by the proper court.

Writ denied, petitioners to pay the costs. So ordered.

Moran, C.J., Paras, Feria, Pablo, Bengzon, Hontiveros, Padilla, and Tuason, JJ., concur.

DISSENTING

PERFECTO, J.:

The reasons adduced in the majority opinion in support of the denial of the petition appear to us to be unconvincing. The hair-splitting distinctions in which they indulge appear to have a more appropriate place in an assembly of scholastic philosophers, debating on abstruse chapters on metaphysics or theology, for example, whether an angel may stand on and dance at the point of a needle, than in giving a practical and sensible solution, based on the teachings of experience, to a practical problem demanding a fair settlement from a court of justice.

The distinction made between the court of first instance, acting as such, and the same court acting as a court of land registration, upon which the majority opinion relies, is just purely academic, abstract, or ideological. Whether the legal questions raised by petitioners are submitted to respondent judge, as judge of first instance, or to the same judge, acting as a judge of a court of land registration, no difference can be seen except what the play of words may convey.

As a matter of fact, what the majority calls a court of land registration does not exist at all. Courts of first instance are sometimes designated as probate courts, civil courts, cadastral courts, and others, but all such designations do

not change their nature nor their jurisdiction as such courts of first instance, where cases are ordinarily initiated for the first time, and those names are only metaphoric expressions to distinguish the different cases on which the court may take cognizance.

We are of opinion and so we vote, that the petition must be granted and the respondent court be ordered to proceed with the hearing of the petition filed by petitioners with the lower court on July 24, 1946.

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