

PETRONILA BULAN AND ROBERTO GARCIA, PETITIONERS, VS. THE HONORABLE JUDGE HONORATO B. MASAKAYAN, GONZALO I. GUEVARA AND RAMON V. PURUGGANAN, RESPONDENTS.*G.R. No. L-24428. June 26, 1968*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3f8148478621/>**MAKALINTAL, J.:**

On December 29, 1964, Lot No. 4213-A, situated at Solano, Nueva Ecija, and covered by TCT No. T-2679, was sold by its original owners - the spouses Apolonio Laconza and Felicitas Ordonez - to herein petitioners. The deed evidencing the sale was registered and anno-tated on the back of the certificate of title on January 4, 1965, under entry No. 73830. However, it appears that there was a previous annotation of an adverse claim over the same lot against the former owners (the spouses Apolonio Laconza and Felicitas Ordonez) in favor of respondent Gonzalo I. Guevara. The adverse claim, regis-tered as early as December 3, 1964, under entry No. 73492 recites, among other things, the following:

"2. That my adverse claim consists in the fact that the aforesaid parcel of land was given to me as a collateral for an obligation in the total sum of TWO THOUSAND TWO HUNDRED TWENTY FIVE PESOS (P2,225.00) Philippine Currency, aside from some other considerations which may amount to FIVE THOUSAND PESOS (P5,000.00) Philippine Currency.

"3. That the said registered owners have refused and still refuse to execute the necessary deed, as the said property is mortgage (d) with the Development Bank of the Philip-pines and its certificate of title is with the said Bank."

Contending that from the context of the adverse claim there seemed to be no document to support it at all, thus rendering it defective for purposes of binding Lot No. 4213-A - admittedly a registered land - the purchasers filed a petition for its cancellation under section 110 of the Land Registration Act. The adverse claimant opposed and moved for dismissal of the petition on the ground that the annotation was proper and that petitioners should have instead availed of the remedy provided by article 476 of the Civil Code concerning quieting of title.

After hearing the court a quo sustained the adverse claimant and accordingly dismissed the petition in an order dated February 26, 1965. Petitioners' motion for recon-sideration having been denied, they came up here on a peti-tion for certiorari and mandamus to set aside the disputed order and to compel respondent Judge "to ascertain and determine the validity of respondent Gonzalo I. Guevara's claim, as provided by section 110 of Act 496."

We find the instant petition without sufficient basis in law.

The adverse claim sought to be cancelled was specially directed against the previous owners of Lot No. 4213-A, not against petitioners. These previous owners have not been included as parties. Petitioners bought the land subject to the adverse claim, and the question of its validity, which they would have the lower court decide, would require a determination of whether or not the previous owners really intended Lot No. 4213-A as collateral for a loan supposedly advanced by the adverse claimant. Even assuming, therefore, as petitioners now contend, that such a question, although of a contentious nature, may be considered and decided in the land registration record

and under section 110 of Act No. 496, the previous owners against whom the adverse claim was filed are indispensable parties to the case.

From the procedural point of view, the instant petition for certiorari and mandamus is not the proper remedy. The lower court did not act without or in excess of its jurisdiction, or with grave abuse of discretion, in issuing the order of dismissal so as to justify certiorari. Neither did it unlawfully neglect the performance of an act specifically enjoined upon it as a duty by law so as to be subject to mandamus. If at all the order of dismissal was an error of judgment, the remedy against which is by ordinary appeal.

In view of the foregoing, the writ prayed for is denied, with costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Sanchez, Castro, Angeles and Fernando, JJ., concur.

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