

**MARIA ROSADO RUIZ, ET AL., PLAINTIFFS AND APPELLANTS, VS.
LOURDES T. PAGUIO, ET AL., DEFENDANTS AND APPELLEES.***G.R. No. L-7466. June 30, 1956*

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/581384cab468/>**PADILLA, J.:**

Amparo Davila Vda. de Barrera was the registered owner of lots Nos. 18 and 20-B, Block No. 29, of the Cadastral Survey of Manila, the first containing an area of 444.20 sq. m. and the second, 31.60 sq. m. On 30 January 1946 the two lots were conveyed to Maria Rosado Ruiz and transfer certificates of title Nos. 78878 and 78879 were issued in her name but the latter failed to declare in her name the lots for assessment purposes, as provided for in section 2484 of the Revised Administrative Code. For failure to pay the taxes due on said lots for 1947 amounting to ₱88.71, the City Treasurer of Manila advertised the two lots for sale at public auction to satisfy the taxes due and penalties pursuant to section 2498 of the Revised Administrative Code. On 27 November 1947, the City Treasurer of Manila sold the two lots at an auction sale to Lourdes T. Paguio for the sum of ₱100.67 representing the total tax due and unpaid, the penalty therefor and costs as of that date. On 7 April 1948 the City Treasurer issued to Lourdes T. Paguio a certificate of sale of said lots (section 2498, Revised Administrative Code). After the expiration of one year, or on 11 May 1949 the City Treasurer issued in favor of Lourdes T. Paguio a final and absolute deed of sale of said lots pursuant to section 2500 of the Revised Administrative Code. Alleging and claiming that all the steps taken leading to the public auction sale of the two lots were fraudulently concealed by Lourdes T. Paguio from Maria Rosado Ruiz; that the certificate of sale and the final and absolute deed of sale executed by the City Treasurer in favor of Lourdes T. Paguio were not registered in the office of the Register of Deeds; that the sale at public auction was not in accordance with the procedure prescribed by law; that the advertisement by posting of a notice as required by law was not complied with; that the publication of the notice of sale was made in the Bagong Balita, an unknown paper and not of general circulation; that the notice of sale did not state the name of the declared owner and tax declarant Amparo Davila Vda. de Barrera or the true owner Maria Rosado Ruiz, the said sale having been advertised in the name of Amparo Davila Vda. de Barrera; that the City Treasurer sold both lots or parcels of land when the sale of a portion thereof would have been sufficient to satisfy the tax due; that the purchase price of ₱100.67 was grossly inadequate and clearly unconscionable, taking into consideration the fact that the assessed value of the lots was ₱5,188 and the market value at the time the lots were sold at public auction was ₱14,000; that Lourdes T. Paguio bid in bad faith at the public auction sale because she knew at the time she made her bid for the two lots that they no longer belonged to Amparo Davila Vda. de Barrera; that after securing the deed of sale for the two lots from the City Treasurer as provided for in section 2500 of the Revised Administrative Code, Lourdes T. Paguio filed a petition in G. L. R. O. Cad. Rec. No. 154, Court of First Instance of Manila, praying that Maria Rosado Ruiz be ordered to surrender the owner's duplicate transfer certificates of title Nos. 78878 and 78879 for cancellation; and that acting upon that petition the cadastral court denied the petition but that on appeal the Supreme Court reversed the order and granted the petition of Lourdes T. Paguio,¹ Maria Rosado Ruiz and her husband, the plaintiffs' pray that the sale at public auction and the judgment in G.L.R.O. Cad. Rec. No. 154, G. R. No. L-5301, supra, be declared null and void and

of no force and effect; that Lourdes T. Paguio and her husband be ordered to deliver the two lots in question to them (the plaintiffs) upon payment or reimbursement by the latter to the former of the sum of P100.67 plus interest due thereon or to grant to the plaintiffs the right to redeem the lots within such period and under such terms as the Court may justly determine and require on equitable grounds; and for such further relief as equity and justice may warrant.

Lourdes T. Paguio and her husband, the defendants, filed a motion to dismiss on the ground that the action brought by the plaintiffs against them is barred by a prior judgment. Holding that the judgment rendered by the Supreme Court in *Paguio vs. Ruiz*,^[1] G. R. No. Lr-5301, 30 May 1953, 50 Off. Gaz., 156, constitutes *res judicata* and bars the present action, the Court dismissed the complaint without pronouncement as to costs. The plaintiffs have appealed.

Section 111 of the Land Registration Act, Act No. 496, partly provides:

In every case where the clerk or any register of deeds is requested to enter, a new certificate in pursuance of an instrument purporting to be executed by the registered owner, or by reason of any instrument or proceedings which divest the title of the registered owner against his consent, if the outstanding owner's duplicate certificate is not presented for cancellation when such request is made, the clerk or register of deeds shall not enter a new certificate, but the person claiming to be entitled thereto may apply by petition to the court. The court, after hearing, may order the registered owner or any person withholding the duplicate to surrender the same, and direct the entry of a new certificate upon such surrender. (*Italics supplied.*)

When Lourdes T. Paguio filed a petition in the land registration court (G.L.R.O. Cad. Ree. No. 154) praying that Maria Rosado Ruiz, the registered owner, be directed to surrender the owner's duplicate transfer certificates, of title Nos. 78878 and 78879 issued in her name, the latter filed an objection thereto, stating that she had not been notified of the tax delinquency nor of the sale for delinquency by the City Treasurer; that Amparo Davila Vda. de Barrera having ceased on 27 November 1947 to be the owner of the two lots, Lourdes T. Paguio, the then petitioner, did not acquire any right thereto under the auction sale and was not in possession of the two lots; and that she (Maria Rosado Ruiz) was in possession thereof and could not be deprived of her rights and interest therein without due process of law.

The authority of the court in land registration cases to order the registered owner to surrender his duplicate certificate of title, pursuant to section 111 of the Land Registration Act (Act No. 496), must be predicated upon the validity and legality of the claim of the petitioner that he is entitled to such surrender so that a new certificate of title may be issued to him, because the registered owner had been lawfully divested of his title to the registered land. To such petition the registered owner may object, as Maria Rosado Ruiz did object to the petition for surrender, but failed to object to the jurisdiction of the cadastral court. In order that the court may order the registered owner to surrender his owner's duplicate certificate of title it has to determine upon the evidence presented by the parties whether the registered owner had been lawfully divested of his title thereto. That, of course, requires and involves determination of the question of title to the registered property. As the authority granted to the Court by section 111 of the Land Registration Act (Act No. 496) does not constitute reopening of the decree entered as a result of proceedings *in rem* for the confirmation of imperfect titles under the said Act, it cannot be deemed to contravene the purpose and aim of the Torrens system. In these circumstances we cannot say that the cadastral court did not have jurisdiction to pass upon and decide the issues raised by the parties upon a petition for surrender of the owner's duplicate certificates of title. Even if we were to hold that the land/registration court had no jurisdiction to pass upon and decide the objection and grounds therefor raised by Maria Rosado Ruiz, still under the ruling in *Sinapilo vs. Gracia*, 28 Phil., 269; *Nolan vs. Montelibano*, 29 Phil., 236; *Amor vs. Krummer*, 76 Phil., 481; and *Amor vs. Gonzales*, 76 Phil., 484; and section 11, Rule 40, that "A case

tried by an inferior court without jurisdiction over the subject matter shall be dismissed on appeal by the Court of First Instance. But instead of dismissing the case, the Court of First Instance in the exercise of its original jurisdiction, may try the case on the merits if the parties therein file their pleadings and go to the trial without any objection to such jurisdiction," the Court may be deemed to have entered on the exercise of its original and general jurisdiction. The trial court decided against the petitioner upon the authority of the ruling in *Lopez vs. Director of Lands*, 47 Phil., 23, to the effect that proceedings in the sale of properties for delinquency in the payment of real estate taxes are in personam and not in rem. On appeal the respondent Maria Rosado Ruiz reiterated her objection and reasons therefor against the surrender of her certificates of title but this Court reversed the order of the trial court appealed from.[1] In view of the statement made in his brief by counsel for the plaintiffs-appellants to the effect that the then petitioner, now defendant-appellee Lourdes T. Paguio, objected to the jurisdiction of the land registration court to take cognizance of the question of title to the two lots involved in the petition for the surrender of the owner's duplicate certificates of title, we went over again the record on appeal in the case of *Lourdes T. Paguio vs. Maria Rosado Ruiz* * G. R. No. L-5301, 30 May 1953, and found that the petitioner-appellant" did not object to the exercise by the Court of its jurisdiction to decide the question of title to the two lots involved in the petition for surrender of the owner's duplicate certificates of title but only on appeal to secure the reversal of the order appealed from.

The point of misjoinder of parties is without merit. The lots were registered in the name of Maria Rosado Ruiz alone. The certificate of sale and deed of sale were in the name of Lourdes T. Paguio alone.

We reiterate our sympathy for the appellants, as we did in the previous case; but courts have no choice, as we said in that case, but to apply the law.

The order dismissing the complaint is affirmed, without pronouncement as to costs..

Paras, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

[1] *Paguio vs. Ruiz*, 93 Phil., 306, 50 Off. Gaz., 156.

[1] *Paguio vs. Ruiz*, *supra*.

[*] 93 Phil., 306.

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