

**GILBERT SEMON, ET AL., PETITIONERS, VS. HON. PIO E. MARCOS,
PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF BAGUIO
CITY AND THE HEIRS OF SIOCO CARIÑO, REPRESENTED BY PAULITA
C...**

G.R. No. L-22451. February 28, 1964

Ponente: DIZON, J.

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DIZON, J.:

Petition for certiorari filed by Gilbert Semon et al., against the Honorable Pio R. Marcos, Presiding Judge of the Court of First Instance of Baguio City, and the heirs of Sioco Cariño, for the annulment of an Order issued by the former denying petitioners' motion for authority to survey the lots respectively claimed by each of them and found within the perimeter of the bigger parcel sought to be registered by the other respondents.

The registration proceeding above mentioned refers to a parcel of about 100 hectares, the small lots claimed by each one of herein petitioners being, as alleged in their petition, "scattered within the said parcel of land". Petitioners, on January 9 and August 25, 1963, filed a petition for authority to survey the lots aforesaid but the same was denied by the respondent judge in the order complained of on February 8, 1963. It is now alleged that, in doing so, the respondent judge acted arbitrarily and with grave abuse of discretion.

The present petition must be, as it is hereby, denied for lack of merit.

In their amended opposition to the application for registration filed by the heirs of Sioco Cariño, petitioners alleged under oath that they had been in actual, open, continuous, exclusive, notorious, and peaceful possession of the lots respectively claimed by each of them. If this is so, it seems clear that they could make the survey at any time without asking for leave of court. Should their right to do so be impeded by force or other unlawful means, petitioners could seek Proper remedy in the competent court.

Petition dismissed.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepción, Reyes, J. B. L., Barrera, Paredes, Regala and Makalintal, JJ., concur.

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