

GERONIMO MIRAFLOR, PETITIONER VS. HON. ELADIO R. LEAÑO, ETC., AURELIA MLRAFLOR, AND HERMENEGILDA TAN, RESPONDENTS.

G. R. No. L-6097. July 13, 1953

Ponente: REYES, J.

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REYES, J.:

Vicente Miraflor of Santa Cruz, Zambales, died intestate in 1927. He was survived by his second wife, Hermenegilda Tan, an only child with her, Aurelia Miraflor, and an only child (named Antero Miraflor) with his deceased first wife. Before his death, Vicente Miraflor had commenced in the court of first instance of the province case No. 140, G. L. R. O. record No. 32440 for the registration of a parcel of land with an area of 60,775 square meters acquired by him during the lifetime of his first wife; but as he was already dead when the case was terminated, registration was decreed in favor of his two children above-named and original certificate of title No. 2889 was thereafter issued in their name.

Antero Miraflor having died without issue in 1941, his half-sister Aurelia Miraflor and the latter's mother filed a petition on May 15, 1951, in said case No. 140, G. L. R. O. record No. 32440, alleging that the deceased Antero Miraflor had left no heir except the petitioner Aurelia Miraflor, that there existed no known claim against the estate of the deceased, and that she was willing to have his property adjudicated unto her. Invoking section 112 of Act No. 496, the petition prayed that original certificate of title No. 2889 be cancelled and a new one issued in the name of the petitioner Aurelia Miraflor.

Acting upon the above petition, the court had the same set for hearing, and after hearing rendered an order, dated August 10, 1951, ordering the cancellation of the certificate of title in question and the issuance in its place of a new certificate in the name of Aurelia Miraflor, subject to the claims mentioned in section 4, Rule 74, of the Rules of Court as well as to the usufructuary right of Hermenegilda Tan, the surviving spouse of Vicente Miraflor.

On September 10, 1951, one Geronimo Miraflor appeared and filed a motion, alleging that Antero Miraflor, who died without issue, was survived by an only ascendant, Catalina del Fierro, the deceased's grandmother, who, should be the one to succeed to his inheritance to the exclusion of his half-sister Aurelia Miraflor; that as sole heir of the deceased Antero Miraflor; Catalina del Fierro had already sold her share in the parcel of land covered by original certificate of title No. 2889 to the movant Geronimo Miraflor, as evidenced by a deed dated July 3, 1946, attached to the motion; that neither Catalina del Fierro nor movant Geronimo Miraflor was notified by publication or otherwise of the petition of Aurelia Miraflor and Hermenegilda Tan for the issuance of a new title; and that it was only in early September, 1951, that the movant learned of the order granting the petition. The movant, therefore, prayed that the said order be reconsidered and set aside, and a new order entered for the registration of the deed of sale in his favor and the issuance of the corresponding transfer certificate of title in his name.

The court denied the above motion in its order of September 21, 1951, holding that the question raised therein could not be determined in the registration case, so that what the movant should do was to file the proper action in

court for the protection of his rights, if he had any. To contest this ruling as well as the order of August 10, 1951, and others ancillary thereto, the movant filed the present petition for certiorari, which has been certified to this Court by the Court of Appeals as involving a question of jurisdiction, the petition alleging that the said order of August 10, 1951, was issued without jurisdiction "due to the absence," so the petition says, "of the notices to all parties in interest and the publication in accordance with law and jurisprudence.

It is obvious from the record that, as alleged in the petition for certiorari, the petition of respondents Aurelia Miraflor and Hermenegilda Tan to have the original certificate of title No. 2889 cancelled and a new one issued in the name of said Aurelia Miraflor, was heard and decided without publication or notice to all parties whose interest might be affected thereby. But it is contended that the court had jurisdiction to hear and determine said petition without notice to any adverse claimant of whose existence the court was not aware, and as authority for this proposition, respondents cite the case of *Government of the P. I. vs. Serafica et al.*, (61 Phil., 93), where resort to section 112 of Act No. 496 to effect the transfer of title to land from the registered owners, who were already dead, to their heirs was sanctioned. It should be noted, however, that in the case cited there was no controversy among the heirs, who, instead of instituting intestate proceedings in court with a view to the final distribution of the estate of the deceased, had preferred to resort to section 112 of Act No. 496 by filing a petition in the registration case where title to the property in question was "issued, to have the said title cancelled and a new one issued in the name of the heirs. And this court there expressed the opinion that a petition of that kind came within the scope of section 112 of the Land Registration Law, which provides, among other things, that " * * * Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that any 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 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 * * * or grant any other relief upon such terms and conditions, requiring security if necessary, as it may deem proper: * * *," the petition to be filed and entitled in the original case in which the decree of registration was entered. As the heirs in that case were in agreement, the transfer to them of the registered title of the deceased owners presented no controversial question, and—probably for that reason—this court saw no need for the institution of an ordinary civil action and considered the case on the same footing as a petition for the transfer of title from the vendor to the vendee of registered land, which, in the absence of any serious controversy, may without doubt be disposed of through the summary procedure contemplated in the land registration law. It should be noticed, however, that despite its approval of that procedure, this court nevertheless set aside the order granting the petition for the transfer of title in that case because the petition had not been published as required by law to give notice to those who might be affected thereby. This fact is important because in the case before us it is not disputed that notice—by publication or otherwise—was not given to all parties whose interest might be affected by the petition for the transfer of title.

As it did not involve any controversy at all, the case cited is no authority for the application of section 112 of Act No. 496 to the present case where a substantial controversy has arisen because of the claim of ownership asserted by the petitioner Geronimo Miraflor, who appears to be the son and grantee of Catalina del Fierro, alleged sole heir of Antero Miraflor, co-owner of the land in dispute. That is a controversy that pertains to an ordinary civil action. It is not a mere incidental or routinary matter that could summarily be disposed of by the Court of First Instance in the exercise of its special and limited jurisdiction as a land registration court under the section cited. As was said in the case of *Castillo et al. vs. Ramos et al.*, [*] 45 Off. Gaz. 183, the remedy provided for in that section "is summary and not adequate for the litigation of issues pertaining to an ordinary civil action."

In view of the foregoing, we think the lower court should have revoked its order authorizing the transfer of title to the respondent Aurelia Miraflor once it was shown that not all interested parties had been notified and that this

respondent's claim to the inheritance of her deceased half-brother was not free from controversy and could not, therefore, be disposed of under the summary procedure contemplated in section 112 of Act No. 496.

Wherefore, the petition is granted and the orders complained of are hereby annulled without prejudice to the right of the parties to institute the proper action or proceeding for the enforcement of their respective rights. Without special pronouncement as to costs.

Paras, C. J., Pablo, Bengzon, Tuason, Montemayor and Labrador, JJ., concur.

[*] 78 Phil., 809.

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