

**CARLOS B. SIY, PETITIONER AND APPELLEE, VS. TAN GUN GA, ELISA SY, SANTIAGO SIY, ET AL., OPPOSITORS AND APPELLANTS.***G.R. No. L-19096. February 29, 1964*

Ponente: LABRADOR, J.

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In a petition dated June 15, 1961 Carlos B. Siy prayed the court that an order be issued directing the Register of Deeds of Manila to delete from the face of Transfer Certificate of Title No. 60008 the words "for the land; and 2. Tan Gun Ga, widow, Elisa Siy, single, Santiago Siy, single, Lopez Siy Uy, single, Ofelia Siy, single, Chinese citizens, for the Improvement", and to annotate at the back of said title the fact that the improvements existing thereon belong to the above-named persons, Chinese citizens. Petitioner is the registered owner of the parcel of land, known as Lot 12, Block 1865, District of San Nicolas, Manila, covered by said Transfer Certificate of Title No. 60008 of the Register of Deeds of Manila, On the face of the said title after the words "is registered in the name of appear the following statement or words:

"1. CARLOS B. SIY, married to Hon Sran Ty, Filipino citizen, for the land; and 2. TAN GUN GA, widow, Elisa Siy, single, SANTIAGO SIY; single, LOPEZ SIY UY, single, OFELIA SIY, single, Chinese citizens, for the Improvements;"

It is alleged as a reason for the petition that the appearance of the names of the owners of the improvements on the face of the title is misleading; so he prayed that the names of the owners of the improvements, as such, be annotated at the back of the title.

The petition was set for hearing on July 15, 1961. It contained, at the bottom, a statement that copy of the petition was furnished to all parties by registered mail. On the day set for the hearing the owners of the improvements did not appear. After the hearing the court declared the petition meritorious and granted it. So it ordered the Register of Deeds to delete the words indicated in the petition from the face of the title and to annotate at the back of said title the fact that the improvements existing in the land belong to the persons named as owners thereof on the face of the title. This order is dated July 22, 1961. On July 28, 1961 the owners of the improvements moved for the reconsideration of the order, alleging that they were not given timely notices of the petition, because they received notice of the petition only on July 14, whereas the hearing was held on July 15; and that the petition is groundless and unnecessary. This motion for reconsideration was denied; so the oppositors appealed from the order granting the petition.

The motion for reconsideration is under oath and it is to the effect that the oppositor-appellant Tan Gun Ga who had been receiving all papers relative to the case received copy of the notice for the hearing only on July 14, 1961, one day before the hearing. He and his co-oppositors-appellants, therefore, did not have the three days notice of all motions, there being no fact of record showing otherwise. On this ground alone the order appealed from is subject to reconsideration.

As to the merits of the petition and the objection thereto, we find that the opposition to the petition is

well-founded. In the first place, the back of a certificate of title under the Torrens system is intended, as the heading at the back expressly states, for the Memorandum of Encumbrances. A building on a piece of land is not an encumbrance of the land. What is considered an encumbrance is a mortgage existing on the land, or' any other obligation for which the land is made to respond.

Furthermore, a building on a land is, under the Civil Law, real property itself, and if attached permanently on the land becomes part of the land. The face of the certificate of title is, therefore, the place on which the names of the owners of the building or improvement should be stated, not the back of the title which is reserved for the encumbrances.

Wherefore, the order appealed from is hereby reversed and set aside and the petition denied. With costs against petitioner-appellee.

So ordered.

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

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