

**CATALINO MAGLASANG, PETITIONER, VS. CIRILO C. MACEREN,
ALEJANDRA CONDE, SANTIAGO TUMOLAK, MARIA DE TUMOLAK,
REYMONDA TUMOLAK, FERNANDO CAGOYONG, AGREFINO DE LA
CRUZ, CELERINA DE...**

G.R. No. L-1917. May 20, 1949

Ponente: PERFECTO, J.

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PERFECTO, J.:

Petitioner secured the registration in his name under the Torrens system of lots Nos. 8898 and 5106 of the cadastral survey of Ormoc, Leyte, He sought from the trial court a writ of possession against several persons.

Respondent judge, in an order issued on September 25, 1947, and amended in the supplementary order of September 26, 1947, ordered the issuance of a writ of possession against Alejandra Conde and Santiago Tumolak with respect to lot No. 5106, it appearing that said persons were claimants-oppositors to said lot as shown by their answer filed on April 27, 1936, and that their claims were dismissed in the decision rendered October 31, 1940, but denied the petition as regards the other persons who took possession of the lots in question after final adjudication of the same, upon the theory that said persons cannot be expelled from their possession by a mere motion unless they are brought to courts of justice by independent ordinary action, invoking to said effect the doctrine laid down by the Supreme Court in *Yumul vs. Rivera and Dizon*, 64 Phil., 13 and *Sepagan vs. Dacillo*, 63 Phil., 412.

Maglasang seeks now from us a mandatory order to compel respondent judge to issue a writ of possession against respondents regarding whom respondent judge denied the issuance of a writ of possession.

The petition is without merit. Respondent judge acted correctly in refusing to issue the writ of possession prayed for. The persons who took possession of the lots in question after the final adjudication of the same in registration proceedings cannot be summarily ousted through a writ of possession secured by mere motion. Regardless of any title or lack of title of said persons to hold possession of the lots in question, they cannot be ousted without giving them their day in court in a proper independent proceeding.

Petition denied, with costs against petitioner.

Moran, C. J., Ozaeta, Paras, Reria, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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