

**JUAN DULDULAO AND MODESTO DULDULAO, PETITIONERS, VS.
HON. EUSEBIO F. RAMOS, JUDGE, COURT OF FIRST INSTANCE OF
ORIENTAL MINDORO AND TOMAS SALVADOR, RESPONDENTS.**

G.R. No. L-4615. May 12, 1952

Ponente: TUASON, J.

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TUASON, J.:

This is an application for a writ of certiorari.

Juan Duldulao is the owner of a parcel of land located in the municipality of San Jose of what is now the province of Occidental Mindoro, with a homestead certificate of title. On January 26, 1951, Tomas Salvador, one of the respondents, filed a verified petition with "the Court of First Instance of Oriental Mindoro," presided over by the respondent Judge, Hon. Eusebio F. Ramos, in which he prayed for the issuance to him of a new owner's duplicate certificate, alleging that he had bought a portion of the above Parcel and that Juan Duldulao's certificate of title had been lost or destroyed. As a matter of fact Duldulao had the certificate of title in his possession.

On January 27, the respondent Judge, after the hearing, granted Salvador's petition and directed "the register of deeds of Oriental Mindoro" to issue a second owner's duplicate in the name of the registered owner, the new certificate to contain a memorandum of the fact that it was issued in lieu of the one which had either been burned or destroyed.

Juan Duldulao in the petition for certiorari is joined by Modesto Duldulao and both alleged that the deed which Tomas Salvador presented to the court was forged or otherwise invalid; that Modesto Duldulao was the transferee of all the rights and interests which his competitioner had over the property covered by the said certificate of title, by virtue of a deed of sale executed by Juan Duldulao in his (Modesto's) favor on March 13, 1950.

The present petition is based on two grounds, namely, (1) that no notice was served on the registered owner, Juan Duldulao, of Salvador's petition and of the hearing thereon; and (2) that the respondent Judge acted outside of his territorial jurisdiction.

The alleged lack of notice to Duldulao is specifically denied in the answers, thus squarely putting this question in issue. It was suggested that in view of this conflict in the pleadings, hearing might be ordered to give the parties opportunity to substantiate, if they desired, their respective allegations. The majority, however, opine that it is now too late to take evidence for this purpose; that it was incumbent upon the petitioners, before their petition was argued and submitted, to ask for such hearing, and that, having failed to do so, they are deemed to have abandoned their controverted allegation or abided by the adverse party's denial. This is the Court's ruling.

As to the territorial jurisdiction of the respondent Judge to make the order under review and the authority of the Register of Deeds of Oriental Mindoro to issue the certificate of title, a brief preliminary statement is appropriate.

Under Republic Act No. 296, known as the Judiciary Act, five judges were to be commissioned for the 8th Judicial District, one of them to preside over the Court of First Instance of Mindoro and Harindague with station

at the municipality of Calapan. By Republic Act No. 505 the province of Mindoro was divided into two separate provinces, one to be known as Oriental Mindoro and another as Occidental Mindoro. Calapan happens to be the capital of Oriental Mindoro, as it was of the old province of Mindoro, and San Jose, where the land in question is situated, has become a municipality of the segregated province. But Republic Act No. 505 makes no provisions for a new judge or new register of deeds for Occidental Mindoro nor for the disposition of the cases pertaining to the last mentioned province, pending or thereafter to be filed.

The question then is, had the respondent Judge and the Register of Deeds whose appointments were for the former province of Mindoro lost jurisdiction over the cases which by the division of that province belonged to the newly created province? Or should not those cases at least be tried within the territorial limits of Occidental Mindoro?

It is our opinion that in the absence of any provision to the contrary, the Court of First Instance Judge and the Register of Deeds of the province of Mindoro continued after its division to be the Judge and the Register of Deeds for Occidental Mindoro as well as for Oriental Mindoro. It being conceded that these officials continued to be the Judge of First Instance and the Register of Deeds of Oriental Mindoro after the passage of Republic Act No. 505, there is no valid ground for the proposition that they had ceased to be the same officials for Occidental Mindoro. Occidental Mindoro is not inferior to Oriental Mindoro in category and one had been as much a part of the abolished province as the other.

Another reason for the above conclusion is that law abhors a vacuum and that a provision not violative of any enactment or the constitution is to be read into an act to supply the omission. From this standpoint, the Judge of the Court of First Instance and the Register of Deeds of Mindoro had to be regarded as the Judge and the Register of Deeds of Occidental Mindoro if the latter province was not to be left without officials so indispensable. Indeed, the absolute silence of Republic Act No. 505 on this matter can admit only of the construction that the Congress intended to maintain the status quo in this regard for the time being. It seems unreasonable to suppose that had the legislative intent been otherwise, the enactment would have failed to so state and appropriate necessary funds for the new positions and the new court.

By the same token, Judge Ramos must be held to have lawfully acted in Calapan on his co-respondent's petition, and so must the Register of Deeds in executing the Judge's orders. There was no court personnel in Occidental Mindoro to receive the petition and issue notices, or docket in which to enter them, and there was no officer designated for Occidental Mindoro with necessary facilities to perform the duties of register of deeds; all the books, certificate of title, and other papers pertaining to Occidental Mindoro were in Calapan under the custody of the incumbent official. If sustained, the effect of the herein petitioners' contention would be no less than a complete paralyzation of judicial functions in one of the two new provinces. Obviously, the situation presented all the elements which called for the application of the principle of hold-over, to preserve the continuity in the transaction of official business and the operation of the machinery of justice.

Wherefore, the petition for certiorari must be, and it is, hereby denied, without costs, and without prejudice, of course, to the filing of an ordinary action and the taking of necessary steps authorized by the law to annul the alleged forged deed of conveyance by Juan Duldulao to Tomas Salvador, to set aside the assailed order and all actions taken in pursuance thereof, to recover or clear title to the land alleged to have been purchased by the respondent, and otherwise to obtain all appropriate remedies for the protection of the herein petitioners' alleged title, right and interest to and in that property.

The preliminary injunction heretofore issued against Tomas Salvador in these proceedings is hereby ordered dissolved.

Paras, C.J., Feria, Pablo, Bengzon, Montemayor, Bautista Angelo, and Labrador, JJ., concur.

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