

**GRACIANO DE LOS REYES AND PRECEDES DE LOS REYES,
PETITIONERS AND APPELLEES, VS. HILARIO DE LOS REYES,
OPPOSITOR AND APPELLANT.***G.R. No. L-4116. June 30, 1952*

Ponente: PADILLA, J.

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In land registration case No. 8162, G. L. R. O. Rec. No. 33149, of the Court of First Instance of Pangasinan, the title to four parcels of land situated in the barrio of San Jose Barangobong, municipality of Natividad, province of Pangasinan, was confirmed and registration thereof decreed in the name of Graciano and his sister Precedes surnamed de los Reyes and original certificate of title No. 36580 was issued to them by the registrar of deeds in and for the province of Pangasinan. Hilario de los Reyes, an uncle of the registered owners, kept the owner's duplicate of the original certificate of title and enjoyed the possession of the four parcels of land since 1929, because Graciano de los Reyes left his town at the age of 17, went to the province of Camarines Sur, resided there for 15 years and went back to Natividad in 1943 only. After his return he called on and asked his uncle Hilario to give him the owner's duplicate of original certificate of title No. 36580, his co-owner having died leaving neither des For that reason he filed a sworn petition in the corresponding land registration case where he states all the foregoing facts and prays that Hilario de los Reyes be directed to deliver the owner's duplicate of original certificate of title No. 36580 within five days or to show cause, if tiny, why he should not do so.

The petition was objected to in a motion for reconsideration of an order dated 30 September 1949, which directed Hilario de los Reyes to deliver the owner's duplicate of the original certificate of title No. 36580, and in a petition where Hilario de los Reyes gave the reason for his refusal to surrender or deliver the owner's duplicate of the original certificate of title, to wit: that the possession of a parcel of rice land described in a private document was given him by Teodora Laña, the mother of Graciano, and her husband Juan Salamanca, Graciano's stepfather, to secure the payment of P320 and of an additional loan of P200 which was increased to P1,086.05 by P266.05 he paid to the Land Title Association of Pangasinan for survey and registration of the four parcels of land under Act No. 496 and by P300 he spent in defending the ownership of said parcels of land against the claim of Ana Villegas, and for that reason he claims an adverse right or interest for P1,086.05 against the registered owners of the four parcels of land described in original certificate of title No. 36580.

On 28 April 1950, the court entered an order holding the adverse claim of Hilario de los Reyes invalid and directing the registrar of deeds in and for the province of Pangasinan to cancel said adverse claim which in the meantime was filed and registered by means of an affidavit, end the cleric of court to deliver to Graciano de los Reyes the owner's duplicate of original certificate of title No. 36580 surrendered to him by Hilario de los Reyes upon signing a receipt therefor. From this order Hilario de los Reyes has appealed.

In the record on appeal there appears the reservation by Graciano de los Reyes to bring a separate action against his uncle Hilario de los Reyes to recover the products of the four parcels of land or their value during the time the

latter was in possession thereof. In the order appealed, from there is a pronouncement that the adverse claim not being subsequent but prior to the decree of registration cannot be registered pursuant to section 110 of the Land Registration Act, because the loan to the late mother and the late stepfather of Graciano de los Reyes was made on 5 April 1924, whereas the original certificate of title No. 36580 was issued on 28 March 1930.

We hold with the court below that the claim of Hilario being prior and not subsequent to the date of the original registration cannot be entered or registered upon the Torrens certificate of title and it does not entitle him to retain possession of said certificate of title. If he has a valid claim he should bring an action to enforce it.

The order appealed from is affirmed, with costs against the appellant.

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

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