

**JANUARIO L. JISON, SR., PETITIONER, VS. HON. IGNACIO DEBUQUE,
JUDGE OF THE COURT OF FIRST INSTANCE OF CAPIZ, CONCHITA DE
VERA AND THOMAS J. FORD, RESPONDENTS.***G.R. No. L-17687. December 28, 1961*

Ponente: LABRADOR, J.

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This is a petition for certiorari against an order dated September 1, 1960 of the Court of First Instance of Capiz, Hon. Ignacio Debuque, presiding, issued in Civil Case No. V-2936, entitled "Land Registration Case No. R-332, GLRO Record No. 54712, Thomas J. Ford & Januario L. Jison, applicants", and for injunction to restrain said court from proceeding with the trial and hearing of a motion dated May 14, 1956 of respondent herein Conchita de Vera.

On May 29, 1956, Conchita de Vera filed a motion dated May 14, 1956, with the Court of First Instance of Capiz, in the above-entitled land registration case. She alleged therein that she bought several real properties included in Haciendas "Carmen" and "Lucaron", situated in the Municipalities of Dumalag and Dao, Capiz, from Julio M. Santos on July 17, 1944; that Julio M. Santos, in turn, bought said properties from Januario L. Jison on March 16, 1944; that Januario L. Jison acquired said lands by purchase from the spouses Thomas J. Ford and Maria Garcia-Ford on April 21, 1936. She, therefore, prayed that the Register of Deeds be authorized to cancel the original certificate of title issued in 1941 to Januario L. Jison covering the 3 parcels of land described in the survey plans: PSU 73824; PSU 52276, Lot 2 and PSU 52276 amd. Lot 4; that Original Certificate of Title No. 0-110 covering the 10 parcels of land described in PSU 101637, Lots Nos. 1 to 5, inclusive; PSU 73839, Lots Nos. 6, 7 and 13; PCS-528, Lot No. 3 and SWO 14659 (plan PSU - 91910); and original certificate of title No. 0-111 covering PSU 73839, Lots Nos. 1, 3 and 5, both issued in the year 1952 in the name of Januario L. Jison be cancelled and in lieu thereof, to issue the corresponding transfer certificate of title in the name of the movant.

On August 8, 1957, the lower court directed the Register of Deeds of Capiz to report on the allegations of the motion of Conchita de Vera. On August 26, 1957, petitioner herein moved to set aside the order of the lower court dated August 8, 1957, because he was not notified of the motion. The lower court, however, on September 18, 1957 directed its Clerk to set the motion for hearing. On October 1, 1957, the petitioner herein filed an opposition to the motion of Conchita de Vera, claiming that the lower court has not acquired jurisdiction over the person of the oppositor and over the subject-matter because ownership is involved as a question therein. Movant Conchita de Vera replied to said opposition, and on July 9, 1960 petitioner herein moved to dismiss the motion, reiterating its objection to the lower court's exercise of jurisdiction to try and hear the motion. An opposition to said motion to dismiss was filed by movant on July 25, 1960. Acting upon said motion to dismiss, the lower court on September 1, 1960 denied the same, holding that inasmuch as the question involves only determination of whether the lands sold to movant Conchita de Vera are the same as those covered by the titles of Januario L. Jison, petitioner herein, the lower court then has jurisdiction to try and hear the motion. A motion for reconsideration of the order of denial having been denied, Januario L. Jison has filed the instant petition in this Court.

The sole issue in this petition is whether or not the lower court has jurisdiction to consider the motion of respondent Conchita de Vera.

Petitioner argues that as there is a controversy over the ownership of the lots in question, the lower court has no jurisdiction to hear respondent Vera's motion. Petitioner cites authorities to show that a question of ownership should be ventilated in a separate action to be filed in a court of general jurisdiction.

We agree with the petitioner in this respect. But the above legal principle does not apply to the case at bar. In this case petitioner himself had admitted having sold several parcels of land of said haciendas to Julio M. Santos, who, in turn, sold them to the respondent herein Conchita de Vera. These are the same lands which movant asked the lower court to order registration in her name. There is therefore no substantial controversy over the ownership of said lots. The only question is whether said lots sold to the movant are the same lots covered by the certificates of title of the petitioner herein. If these are the same lots, then the lower court has jurisdiction under the provisions of Section 112 of the Land Registration Act to order the cancellation of said titles and the issuance of new ones in the name of the movant. This is so, because, as already adverted to above, the petitioner himself does not question the existence and validity of the sale of the lots to the movant.

Wherefore, the petition is hereby denied, the order sought herein to be annulled is affirmed, and the trial court's jurisdiction to proceed with the hearing of the motion is hereby upheld. With costs against the petitioner. So ordered.

Padilla, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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