

**RE: CANCELLATION OF O.C.T.'S NOS. 1957 AND 1477 AND THE
ISSUANCE OF NEW TITLES, BISHOP OF THE MONCADIAN CHURCH
OF THE PHILIPPINES, INC., PETITIONER-APPELLANT.**

G.R. Nos. L-25543-44. July 31, 1970

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Direct appeal on a question of law from an order of the Court of First Instance of Davao denying the twin petitions of petitioner-appellant.

The twin petitions filed on August 26, 1965 seek the reconstitution and cancellation of two original Certificates of Title Nos. 1477 and 1957 issued by Register of Deeds of Davao in the names of the original owners and grantees of homestead patents and the issuance of new transfer certificates of title in the name of petitioner as alleged purchaser of the properties covered thereby, under section 112 of Act 496.

The petitioner alleged that it is a non-profit corporation with office address at Limao, Samal, Davao, with Fidel Acedillo as its Supreme Bishop and that its corporate name until after the last global war was Filipino Federation of America, Inc.

In one petition, it averred that sometime in 1939, it had bought under its former name the 19.6151-hectare of land bearing Original Certificate of Title No. 1477 (Homestead Patent No. 35597) for the sum of P1,500.00 from the registered owner, Atilano Paleño, now deceased and without any known heirs. In the other petition, it similarly asserted that sometime in 1942, it had bought under its former name the 23.5739-hectare parcel of land covered by Original Certificate of Title No. 1957 (Home-stead Patent No. 43059) for the sum of P4,500.00 from the registered owner, Tomas Doromal, now deceased and without any known heirs.

Petitioner further alleged that upon execution of the sales (a formal deed of sale in the case of the sale by Atilano Paleño, acknowledged before Notary Public Tomas Doromal and a private document in the case of the sale by said Tomas Doromal), the lands as well as all documents, including the certificates of title thereto, were delivered to it but the said documents and certificates of title were all lost in the custody of the late Gen. Camilo Moncado during the war, in Lantana, Rosario Drive, Quezon City and could not be found despite diligent efforts; and that since the sales up to the present time, it had been in peaceful, open, adverse, actual and continuous possession of the lands for a period of over twenty years and had introduced considerable improvements thereon consisting of fruit-bearing coconut and other fruit-bearing trees.

At the hearing of the petitions, on September 17, 1965, notice of which the lower court had ordered to be posted at four public places, there was, quite expectedly, no opposition filed by any person. Fidel Acedillo testified on behalf of petitioner and through his testimony and several documentary exhibits sought to support the allegations of the petitions. The principal exhibits established that petitioner had been paying all taxes due on the said lands.

The lower court thereafter issued its order of October 8, 1965 denying the petitions, specifically relying on this

Court's decision in *Zafra Vda. de Anciano vs. Caballes*.^[1] This Court therein held under facts similar to those in the case at bar that "(R)econstitution or reconstruction of title literally and within the meaning of Republic Act No. 26 denotes restoration of the instrument which is supposed to have been lost or destroyed in its original form and condition" and that the motion of movant-appellant for the issuance of a "reconstituted" title in her name as alleged vendee in lieu of the one originally issued in the name of the registered owner as alleged vendor was properly denied, since "this motion and the opposition thereto directly involved complicated questions of land ownership which can only be litigated and adjudicated in an ordinary action."

Upon petitioner's appeal reaching the Court, we required the Solicitor General to file a brief for the State as appellee.^[2] The State asks for affirmance of the dismissed order, manifesting that had it been furnished copies of the petitions in the lower court, it could have taken proper steps to assert or protect its interest or otherwise have the proceedings dismissed as improper.

Petitioner's appeal is clearly without merit.

Even conceding that petitioner has complied with the requisites of section 112 of Act 496 and that it fairly established at the hearing the allegations of its petitions, the relief sought by petitioner - reconstitution and cancellation of the original certificates of title still in the names of the original registered owners and the issuance of new transfer certificates of title in its name, when it itself admits that the deeds of sale allegedly executed in its favor were lost - cannot be availed of and granted in the summary proceedings provided in said section 112. The proceedings contemplated in said section 112 for erasure, alteration or amend-ment of entries on a duly issued certificate of title are not intended for the adjudication of questions properly pertaining to an ordinary civil action, such as those raised in the petitions at bar.

The purpose of the proceedings is to grant summary relief to a party whose title to the property that is covered by a certificate of title is clearly and incontrovertibly established and against which there can be no serious opposition.^[3] Here, petitioner is merely seeking to establish unilaterally its title to and ownership of the lands, under its claim of purchase without any supporting deeds of sale which it could otherwise have simply presented for registration and transfer of the titles to its name.

In the recent case of *Vicente vs. de los Santos*,^[4] we reminded parties -litigants and their counsels that "(T)ime and again, this Court has reiterated the well settled doctrine that summary relief under Section 112 of the Land Registration Act 'can only be granted if there is unanimity among the parties or there is no adverse claim or serious objection on the part of any party in interest; otherwise, the case becomes controversial and should be threshed out in an ordinary case or in the case where the incident properly belongs.'" Petitioner's claims of ownership of the lands by purchase require the impleading in an ordinary action of the heirs or legal representatives of the alleged vendors-registered owners, now deceased. Said heirs must be located and heard, for they may dispute the alleged sales and instead claim ownership by right of inheritance, or even if the "alleged sales by their deceased predecessors were duly established, they may have lawful defenses against the validity of the sales under section 118 of the Public Land Act e. g. nullity of the sales if executed in violation of the restrictions on alienation of lands acquired under free patent or homestead provisions of the said Act. And should the said alleged vendors be established to have left no heirs, then the State, as aptly pointed out by the Solicitor General, may have a rightful claim to succeed to their estate,^[5] and would be the proper adverse party as against petitioner's claims.

Finally, petitioner's plea that in the absence of any known heirs and with the loss of the alleged deeds of sale in its favor, it is left without any remedy except through the instant petitions is not quite correct. The Solicitor General has pointed out one recourse -- for it to institute administration proceedings for the settlement of the estates of the

deceased vendors and to prove their title to the lands in question. For another, petitioner may likewise assert and establish its claims of ownership in the escheat proceedings that may be instituted by the State.

ACCORDINGLY, the order appealed from is hereby affirmed. Without costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, and Villamor, JJ., concur.
Barredo, J., took no part.

[1] 93 Phil. 875 (1953).

[2] Resolution of Aug. 17, 1966, Rollo, p. 37.

[3] Cf. *Almirañez vs. Devera*, L-19496, Feb. 27, 1965; 13 SCRA 343.

[4] L-20351, Feb. 27, 1969, 27 SCRA 1.

[5] Art. 1011 et. seq Civil Code.

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