

THE DIRECTOR OF LANDS, PETITIONER, VS. GREGORIO ABIERA, ET AL., CLAIMANTS. FRANCISCO MERECIDO, ET AL., MOVANTS AND APPELLANTS, VS. FIDEL MERECIDO, OPPOSITOR AND APPELLEE.*G.R. No. L-11834. July 26, 1960*

Ponente: GUTIERREZ DAVID, J.

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On August 20, 1941, judgment was rendered in Cadastral Case No. 15 of the Court of First Instance of Negros Oriental, G. L. R. O. Rec. No. 358, adjudicating Lot No. 3725 of the Cadastral Survey of Sibulan, province of Oriental Negros, to Pilar Mereco. On December 11, 1942, Pilar Mereco died intestate, single, and without issue.

More than eleven years thereafter, or on July 24, 1954, after the said judgment had become final but with the corresponding decree of registration not yet issued, Francisco Mereco, a surviving brother of the deceased, for himself and in representation of his brothers, Julian, Fidel and Gerardo, as well as the children of another brother, Victorio, and of a sister, Damiana, both of whom are also deceased, filed a motion in the cadastral case praying for the amendment of the decision of August 20, 1941 so as to adjudicate Lot No. 3725 in their favor as heirs of the deceased Pilar Mereco. The motion was opposed by the three brothers aforementioned, namely, Julian, Fidel and Gerardo, as well as by Rodriga de la Cruz, one of the two children of the deceased Damiana, alleging that they had not authorized Francisco Mereco to file the motion for amendment in their behalf and that with the exception of Fidel Mereco they are no longer entitled to any portion of Lot No. 3725, Fidel being the exclusive owner thereof by virtue of a deed of sale executed by Pilar in his favor. A separate petition was, likewise, filed by Fidel Mereco alone, asking that the decision of August 20, 1941 be amended by making himself the sole adjudicatee of the property. This petition was, in turn, opposed by Francisco Mereco, who alleged that the deceased Pilar Mereco never sold the property in question.

After hearing, the trial court handed down an "Amended Decision", finding that the alleged sale of Lot No. 3725 to Fidel Mereco by the now deceased Pilar Mereco had been established by a preponderance of the evidence and ordering the amendment of the decision of August 20, 1941 in accordance with the former's prayer in his petition. A motion for reconsideration was thereafter filed by Francisco Mereco on the grounds that the evidence is insufficient to justify the decision and that the trial court, sitting as a cadastral court, had no jurisdiction to pass upon and adjudicate the issue of whether the contract of sale in dispute was really entered into. The motion having been denied, Francisco Mereco and his co-movants appealed to the Court of Appeals. In their appeal, they questioned in several assignments of error the sufficiency and admissibility of evidence regarding the alleged sale of the land in controversy, but as they also challenged the jurisdiction of the trial court, and the Court of Appeals having found that the question of jurisdiction is "one of substance" the case was certified to this Court.

We find merit in the appeal. Under section 29 of Act No. 496, as amended, the land subject of the cadastral proceedings may, prior to the issuance of the decree of title, be dealt with, and the cadastral court, at the instance

of the interested party and after notice, may order the land registered subject to the encumbrance created by the instrument relating thereto "or order the decree of registration issued in the name of the buyer or of the person to whom the property has been conveyed by said instrument." (See *Government of the Philippines vs. Abad and Molino*, 103 Phil., 725; 55 Off. Gaz. [11] 1916.) We are of the opinion, however, that the cadastral court may only order such decree of registration where there is no serious controversy between the parties as to the validity of the instrument affecting the land. This is so, because in the exercise of its jurisdiction over a cadastral case, the Court of First Instance, acting as a cadastral court or a court of land registration, has limited authority. It has no authority to adjudicate issues that should be ventilated in an ordinary civil action, such as the question of whether the contract of sale here in dispute was really entered into. As held in the case of *Government of the Philippines vs. Abad and Molino*, supra, "It cannot determine whether exhibit F reflects or not the true agreement between the parties thereto or whether the execution thereof is tainted with fraud. Much less may it render judgment for the payment of a sum of money, for the use and occupation of the land in question. Obviously, these matters should be the subject of an ordinary action and are beyond the province of the cadastral court." And in the recent case of *Rehabilitation Finance Corporation vs. Alto Surety & Insurance Co., Inc.* (107 Phil., 386), this Court said, "The proceedings provided in the Land Registration Act being, summary in nature, they are inadequate for the litigation of issues properly pertaining to ordinary civil actions; thus, questions involving ownership of or title to a real property, or relating to the validity or cancellation or discharge of a mortgage should properly be ventilated in an ordinary proceeding."

The motions for amendment filed in this case are based upon rights derived from those of the adjudicatee and not in derogation thereof. Said rights being contested, they should—following the principle laid down in the decision above cited—properly be ventilated in an ordinary civil action, leaving the judgment untouched and allowing it to proceed to the final phase of registration, namely, the entry of the decree and the issuance of the certificate of title.

Wherefore, the "Amended Decision" and the proceedings and orders complained of are hereby annulled, and the decision of August 20, 1941 reinstated. With costs against the appellee Fidel Merecido.

Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Barrera, JJ., concur.

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