

TEODORO ALMIROL, PETITIONER-APPELLANT, VS. THE REGISTER OF DEEDS OF AGUSAN, RESPONDENT-APPELLEE.

G.R. No. L-22486. March 20, 1968

Ponente: CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/e1e09296568c/>

CASTRO, J.:

On June 28, 1961 Teodoro Almirol purchased from Arcenio Abalo a parcel of land situated in the municipality of Esperanza, province of Agusan, and covered by original certificate of title P-1237 in the name of "Arcenio Abalo, married to Nicolasa M. Abalo." Sometime in May, 1962 Almirol went to the office of the Register of Deeds of Agusan in Butuan City to register the deed of sale and to secure in his name a transfer certificate of title. Registration was refused by the Register of Deeds upon the following grounds, inter alia, stated in his letter of May 21, 1962:

"1. That Original Certificate of Title No. P-1237 is registered in the name of Arcenio Abalo, married to Nicolasa M. Abalo, and by legal presumption, is considered conjugal property;

"2. That in the sale of a conjugal property acquired after the effectivity of the New Civil Code it is necessary that both spouses sign the document; but

"3. Since, as in this case, the wife has already died when the sale was made, the surviving husband can not dispose of the whole property without violating the existing law (LRC Consulta No. 46 dated June 10, 1958).

"To effect the registration of the afore-said deed of absolute Sale, it is necessary that the property be first liquidated and transferred in the name of the surviving spouses and the heirs of the deceased wife by means of extrajudicial settlement or partition and that the consent of such other heir or heirs must be procured by means of another document ratifying this sale executed by their father."

In view of such refusal, Almirol went to the Court of First Instance of Agusan on a petition for mandamus (sp. civ. case 151), to compel the Register of Deeds to register the deed of sale and to issue to him the corresponding transfer certificate of title, and to recover P5,000 in moral damages and P1,000 attorney's fees and expenses of litigation. It is Almirol's assertion that it is but a ministerial duty of the respondent to perform the acts required of him, and that he (Almirol) has no other plain, speedy and adequate remedy in the ordinary course of law.

In his answer with counterclaim for P10,000 damages, the respondent reiterated the grounds stated in his letter of May 21, 1962, averred that the petitioner has "other legal, plain, speedy and adequate remedy at law by appealing the decision of the respondent to the Honorable Commissioner of Land Registration," and prayed for dismissal of the petition.

In its resolution of October 16, 1963 the lower court, declaring that "mandamus does not lie * * * because the adequate remedy is that provided by Section 4 of Rep. Act 1151", dismissed the petition, with costs against the petitioner.

Hence the present appeal by Almirol.

The only question of law tendered for resolution is whether mandamus will lie to compel the respondent to re-gister the deed of sale in question.

Although the reasons relied upon by the respondent evince a sincere desire on his part to maintain inviolate the law on succession and transmission of rights over real properties, these do not constitute legal grounds for his refusal to register the deed. Whether a document is valid or not, is not for the register of deeds to determine; this function belongs properly to a court of competent jurisdiction.[1]

"Whether the document is invalid, frivolous or intended to harass, is not the duty of a Re-gister of Deeds to decide, but a court of com-petent jurisdiction." (Gabriel vs. Register of Deeds of Rizal, et al, G.R. No. L-17956, Sept. 30, 1963)

"* * * the supposed invalidity of the con-tracts of lease is no valid objection to their registration, because invalidity is no proof of their non-existence or a valid excuse for denying their registration. The law on registration does not require that only valid in-struments shall be registered. How can parties affected thereby be supposed to know their in-validity before they become aware, actually or constructively, of their existence or of their provisions? If the purpose of registration is merely to give notice, then questions regard-ing the effect or invalidity of instruments are expected to be decided after, not before, registration. It must follow as a necessary consequence that registration must first be allowed, and validity or effect litigated af-terwards." (Gurbax Singh Pablo & Co. vs. Re-yes and Tantoco, 92 Phil. 182-183)

Indeed, a register of deeds is entirely precluded by section 4 of Republic Act 1151 from exercising his personal judgment and discretion when confronted with the problem of whether to register a deed or instrument on the ground that it is invalid. For under the said section, when he is in doubt as to the proper step to be taken with respect to any deed or other instrument presented to him for registration, all that he is supposed to do is to submit and certify the question to the Commissioner of Land Registration who shall, after notice and hearing, enter an order prescribing the step to be taken on the doubtful question. Section 4 of R.A. 1151 reads as follows:

"Reference of doubtful matters to Commissioner of Land Registration. - When the Register of Deeds is in doubt with regard to the proper step to be taken or memorandum to be made in pursuance of any deed, mortgage, or other instrument presented to him for registration, or where any party in inte-rest does not agree with the Register of Deeds with reference to any such matter, the question shall be submitted to the Commissioner of Land Registration either upon the certification of the Register of Deeds, stating the question upon which he is in doubt, or upon the suggestion in writing by the party in interest; and thereupon the Commissioner, after consideration of the mat-ter shown by the records certified to him, and in case of registered lands, after notice to the par-ties and hearing, shall enter an order prescrib-ing the step to be taken or memorandum to be made. His decision in such cases shall be conclusive and binding upon all Registers of Deeds: Provided, fur-ther, That when a party in interest disagrees we ruling or resolution of the Commissioner and the issue involves a question of law, said decision may be appealed to the Supreme Court within thirty days from and after receipt of the notice thereof."

The foregoing notwithstanding, the court a quo correctly dismissed the petition for mandamus. Section 4 above-quoted provides that "where any party in interest does not agree with the Register of Deeds * * * * the question shall be submitted to the Commissioner of Land Registration," who thereafter shall "enter an order prescribing the step to be taken or memorandum to be made", which shall be "conclusive and binding upon all Registers of Deeds." This administrative remedy must be re-sorted to by the petitioner before he can have recourse to the courts.

ACCORDINGLY, the Resolution of the lower court of October 16, 1963 is affirmed, at petitioner's cost.

Reyes, Acting C.J., Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.

Concepcion, C.J., on leave.

[1] In re Consulta filed by Francisco on behalf of Cabantog, 67 Phil. 222, 228; Smith Bell & Co., Ltd. vs. Register of Deeds of Davao, 96 Phil. 53, 61; Register of Deeds, Pasig, Rizal vs. Heirs of Hi Caiji, et al., 99 Phil. 25, 29-31; Mendoza vs. Abrera, et al., G.R. No. L-10519, April 30, 1959; Agricultural Credit Cooperative Association of Hinibiran vs. Yulo Yusay, et al., G.R. No. L-13313, April 28 1960; Dulay, et al. vs. Her-rera, G.R. No. L-17084, August 30, 1962.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.