

**RAYMUNDO CABANGCALA, ET AL., PLAINTIFFS AND APPELLANTS,
VS. SEVERO DOMINGO, DEFENDANT AND APPELLEE.***G.R. No. L-7189. October 30, 1954*

Ponente: REYES, A., J.

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REYES, A., J.:

Alejandra Darang, registered owner of lot No. 842 of the Cadastral Survey of Rosales, Pangasinan, as evidenced by Original Certificate of Title No. 31699 in the land records of said province, died intestate in 1935, survived by her husband, Pedro Cabangcala, and five minor children. Some two years after her death, Severo Domingo filed a petition in the cadastral case (G.L.R.O. Rec. No. 706), alleging that the aforementioned lot had been sold to him by the deceased during her lifetime for P500 but her sudden death had prevented her from making good her undertaking to execute the corresponding deed for purposes of registration, and praying that, after notice by publication and after hearing, the Register of Deeds of Pangasinan be ordered to cancel Original Certificate of Title No. 31699 and issue a transfer certificate to petitioner and his wife Sofia Arreola. Acting on the petition, the court had it set for hearing on a given date and had notice of the hearing given by publication. But as no one appeared to contest the petition, the court received petitioner's evidence and granted the order prayed for, and the order was in due time implemented by the register of deeds.

About ten years thereafter, or on April 8, 1949, the children of the deceased Alejandra Darang filed an action in the Court of First Instance of Pangasinan, asking for the annulment of the order above mentioned and for reinstatement of the original certificate of title in the name of the deceased on the ground that the court that rendered the said order was without jurisdiction, this on the theory that a Court of First Instance when acting as a land registration court has no authority to adjudicate issues that should be ventilated in an ordinary civil action. Plaintiffs also prayed that they be declared owners of the land in question and that defendant be condemned to pay them damages for the occupation of the land since November 2, 1939. Maintaining the validity of the sale made to him by the deceased and the proceedings had for the transfer of title, defendant in addition pleaded prescription, alleging "that the right of action of the plaintiffs to question the sale had already expired."

Upon hearing the cause, the court rendered judgment upholding the sale and the proceeding had for the transfer of title and dismissing the complaint with costs. From this judgment plaintiffs appealed to the Court of Appeals, but that court has certified the case here on the grounds that the questions presented are legal and raise an issue of jurisdiction.

As we see it, the question of jurisdiction is decisive of the case.

Section 57 of the Land Registration Act provides that an owner desiring to convey in fee his registered land shall execute a deed of conveyance, which, for purposes of registration, the grantor or grantee may present to the register of deeds in the province where the land lies together with the grantor's duplicate certificate of title; while section 127 says that such deed of conveyance shall be signed by the person executing the same in the presence of witnesses and acknowledged before a notary public or any of the officers mentioned in that section. The Act

thus requires, for purposes of registration, a deed of conveyance in proper form. As the grantor in the present case died before she could fulfill her promise to execute the proper deed, it is obvious that the remedy of the grantee, if he wanted the sale registered and the title transferred to him, was through an action to compel the heirs to fulfill the promise. But instead of following this obvious procedure, the grantee sought to have the transfer of title made through the procedure indicated in section 112 of the Land Registration Act. As has been repeatedly declared by this court (Castillo et al., vs. Ramos,[1] 45 Off. Gaz., 183; Mirafior vs. Leano et al.,[2] G.R. No. L-6097) that procedure is not intended for the adjudication of questions properly pertaining to an ordinary civil action such as the question of whether the alleged contract of sale was really entered into or whether the same came under the Statute of Frauds. Moreover, the section requires "notice to all parties in interest," and in the present case the children of the deceased (plaintiffs herein) were not notified or even named in the petition, to say nothing of the fact that plaintiffs were then minors with no guardian ad litem having been appointed to represent them. The court thus did not acquire jurisdiction over the persons of those who should have been made parties to the case (the heirs of the deceased). For this and for like want of jurisdiction over the subject-matter of the action, the order rendered by the court was void ab initio and could be annulled at any time.

Wherefore, the judgment appealed from is reversed and the proceedings and orders complained of annulled, and the Register of Deeds of Pangasinan ordered to cancel the transfer certificate of title issued to the appellee and reinstate the original certificate of title in the name of the deceased. With costs against the appellee.

Paras, C. J., Bengzon, Padilla, Montemayor, Jugo, Bautista Angelo, Concepcion, and Reyes, J. B. L., JJ., concur.

[1]78 Phil., 809. [2]93 Phil., 466

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