

**IN RE PETITION FOR THE SURRENDER OF THE OWNER'S
DUPLICATE OF ORIGINAL CERTIFICATE OF TITLE NO. RO-3552 (4853).
LUISA OCOL, PETITIONER-APPELLANT, VS. THE HEIRS OF MARIANO
RIVERA...**

G.R. No. L-25161. August 31, 1976

Ponente: ANTONIO, J.

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ANTONIO, J.:

Appeal by certiorari from the Orders, dated June 14 and July 12, 1965, of the Court of First Instance of La Union, in Administrative Case No. 909.[1]

On April 8, 1965, Luisa Ocol filed a petition with the Court of First Instance of La Union under section 111 of the Land Registration Act for the issuance of an Order requiring the respondents to surrender to the Register of Deeds of La Union the owner's duplicate of Original Certificate of Title No. RO-3552 (4853), registered in the names of "Maria Rivera, single, Marcela de Guzman, widow, and Heirs of Carlos Nipa". The purpose of the petition is to enable petitioner to register a Deed of Sale ("Escritura de Compra-Venta") covering Lot No. 1820, in Sto. Tomas, La Union, executed on June 17, 1930 by Marcela de Guzman, widow of Carlos Nipa, Mariano Rivera, and Tito Nipa, as one of the heirs of Carlos Nipa and in representation of his co-heirs, in favor of the spouses Anastacio Bilog and Evarista Mabalot. Petitioner, who appears to have purchased the property from Evarista Mabalot and Maximino Bilog, widow and son of the late Anastacio Bilog, alleges that this document was duly presented twice, i.e., November 14, 1949 and April 8, 1965, to the Register of Deeds of La Union for registration, but said document could not be annotated in the owner's duplicate of said original certificate of title due to respondents' refusal to surrender the same.

The respondents were duly served, on April 26, 1965, with copies of the petition which was set for hearing on May 3, 1965.[2] On this scheduled date of hearing, none of the respondents appeared, hence on May 10, 1965, the lower court issued an Order granting the petition by directing "the respondents to deliver to the Register of Deeds of La Union, within ten (10) days from receipt of said Order, the owner's copy of Original Certificate of Title No. RO-3552 (4853) which is in their possession, for the purpose of registering thereon the deed of sale mentioned in the petition." [3]

On May 21, 1965, the respondents moved to reconsider the aforesaid Order, alleging that the lower court did not acquire jurisdiction over the persons of the respondents as there was no summons issued to them by said court; that the petition is without basis as Mariano Rivera, who appeared as one of the vendors mentioned in the deed, has no interest in said property; [4] and "Tito Nipa whose signature also appeared in such instrument denies the authenticity of such signature and maintains that such is a forgery", per his affidavit attached to said motion.

On June 7, 1965, petitioner filed her opposition to the motion for reconsideration, alleging, among others, that the petition was filed pursuant to section 111 of Act No. 496 and copies thereof, containing the date of hearing, were sent "to all the respondents, heirs of Mariano Rivera, by registered mails with return cards, which were all

submitted to the Court as proof of service of the petition", in the manner provided by section 113 of the afore-mentioned Act No. 496; that although one of the registered owners, "Maria Rivera" had not signed the document in question, the same is still registerable in view of the fact that the other registered owners, such as "Marcela de Guzman" and the "heirs of Carlos Nipa, represented by Tito Nipa" are signatories and parties to the instrument; that the validity of the document sought to be registered, as well as the authenticity of the signatures appearing therein are not in issue, since aside from the circumstance that the document sought to be registered is more than thirty (30) years old and, therefore, evidence of its execution and authenticity need not be given, petitioner contended that on the authority of *GurbaxSingh Pabla & Co., et al., v. Reyes and Tantoco*,^[5] questions regarding the validity or invalidity of an instrument which is sought to be registered can only be litigated after, and not before, the registration of the instrument in question.

On June 14, 1965, the lower court granted the motion for reconsideration and set aside its Order of May 10, 1965, on the following grounds:

"After considering the motion for reconsideration, the Court believes and is of the opinion that the same is meritorious. This is so because the petition filed by Luisa Ocol is not merely an incident to an action or a special proceeding but it partakes of the nature of a civil action asking the Court to order the surrender of the said certificate of title. The petition is not a mere application or motion for an interlocutory order contemplated in Section 1, Rule 15, of the Rules of Court, but is an action seeking for the final resolution or disposition of the issue of whether or not said certificate should be surrendered. As such ordinary action, it should be governed by Rule 7 of the Rules of Court, which requires that upon filing of the complaint, the clerk of court should issue the corresponding summons to the defendant. After the issuance of such summons, the respondents are entitled to a period of 15 days to file a petition to dismiss or an answer. These requirements were not complied with, so that any order issued by the Court can be assailed on jurisdictional grounds.

"And even Section 111 of Act No. 496 which provides that the registered owner or any other person withholding the duplicate title may be ordered by the Court to surrender the same, does not convey the idea that the court proceeding for said surrender is summary in nature because the issuance of such order is predicated on the proposition that a hearing shall take place to decide the said question of surrender. Such hearing is contemplated to afford the respondents to question the surrender as it may affect the rights that they may have in the property in question. With more reason, the Court believes that a hearing should be held in the present case because the deed which is sought to be annotated was executed by Mariano Rivera, who is not the same Maria Rivera, one of the registered owners. Maria Rivera appears to be the wife of Mariano Rivera."

On June 24, 1965, petitioner moved to reconsider the aforementioned Order, but the motion was denied by the trial court on July 12, 1965, reiterating its stand that the failure of the Clerk of Court to issue the corresponding summons on respondents precluded the court from acquiring jurisdiction over their persons, as the service of the copies of the petition to them is not a sufficient compliance with the requirements of Rule 14 of the Rules of Court.

Not satisfied with the aforesaid Order, petitioner Luisa Ocol appealed directly to this Court, contending that the lower court erred: (1) in issuing the Order, dated June 14, 1965, granting the respondents' motion for reconsideration and setting aside its Order of May 10, 1965, as there was service of copies of the petition with notice of hearing, in accordance with section 113 of Act No. 496; and (2) in not re-setting the petition for hearing after ordering the Clerk of Court to serve copies of the petition upon the respondents.

We find the appeal devoid of merit.

The continuing jurisdiction of a Land Registration Court or Cadastral Court over registered lands for the purpose of the summary proceeding under sections 111 and 112 of Act No. 496 is special and limited. A Court of First

Instance, acting as a Land Registration Court in a cadastral proceeding for the cancellation of an encumbrance under section 112 of Act No. 496, has no jurisdiction over the case where the creditor opposes the petition and questions the validity of an alleged payment made by the debtor to the former, such a case being purely a personal action between them which should be ventilated in an ordinary civil action. The special and limited character of the jurisdiction of a Land Registration Court is apparent from the provisions of section 2 of Act No. 496, as amended. However, when there is no substantial controversy as to the petition for cancellation, such petition may be considered as a mere incidental matter in such land registration case and may therein be acted upon by the proper court.[6] In *Miraflor v. Miraflor and Tan*, [7] it was likewise held that the procedure provided for in section 112 of Act No. 496 is summary and not adequate for the litigation of issues pertaining to an ordinary civil action and, therefore, where a substantial controversy exists between the person seeking the cancellation of the original certificate of title and the issuance of a new one under section 112 of Act No. 496 and the other heirs of the registered owner on the rights of ownership of the parties to said registered property, then the question is not "mere incidental or routine matter that could summarily be disposed of by the Court of First Instance in the exercise of its special and limited jurisdiction as a land registration court under the section cited." And in *Cano v. Mirasol, et al.*, [8] this Court reiterated the rule enunciated in previous cases, thus:

"* * * As this Court has aptly said: 'If any party claims that a person registering a deed of sale can no longer do so, because the deed was executed more than 10 years before, such objection must be raised in an ordinary civil action, for a cadastral court lacks jurisdiction whether the right to register or annotate a deed of sale has already lapsed. * * * For the same reasons stated above, the claim made by the oppositors against the sale, i.e., that it was tainted with fraud and duress, can also be ventilated only in an ordinary civil action in an ordinary court and not before a cadastral court.' (*Mendoza vs. Abrera, et al.*, 105 Phil., 611) (Italics supplied). We may add that, considering that the instant petition was filed apparently under the authority of Section 111 of Act 496, the court a quo also lacks jurisdiction to act thereon in view of the controversial issues raised by respondents. (This section stands on the same footing as Section 112 of the same Act.) Its duty is to dismiss the petition in order that said issues may be threshed out in an ordinary case before a regular court. (*Tanganan vs. Republic of the Philippines*, 94 Phil., 171; 50 Off. Gaz., 115; *Jimenez vs. De Castro*, 40 Off. Gaz., No. 3, 1st Supp. p. 80; *Government of the Philippines vs. Jalandoni*, 44 Off. Gaz., 1837; *Garcia vs. Belzunce*, 84 Phil., 802; *Miraflor vs. Leaño*, 93 Phil., 466; *Laguia vs. Casimiro*, 98 Phil., 102; *Enriquez vs. Atienza*, 100 Phil., 1072; *Angeles vs. Razon*, 106 Phil., 384; *Rehabilitation Finance Corporation vs. Alto Surety & Insurance Co.*, 107 Phil., 386; *Government of the Republic of the Philippines vs. Laperal*, 108 Phil., 860; *Floriza vs. The Hon. Court of Appeals, et al.*, 111 Phil., 177.)" (pp. 510--511.)

The case of *Gurbax Singh Pabla & Co. v. Reyes, et al.*, supra, invoked by petitioner-appellant is inapplicable. It should be noted that in the aforesaid case, it is "not denied that the contracts have been executed by the registered owner of the land, or that they have been lawfully executed, or that they have all the qualities of registerable documents. Indeed, the owner is agreeable to the registration. The objections interposed by respondents, who are mortgagees merely, that they had no knowledge of the contract of lease, or that their mortgage has priority, or that they will be prejudiced, are beside the issue." Hence, this Court declared therein that the purpose of registering the instrument pursuant to section 51 of Act No. 496, is to give notice thereof to all persons of such "registering, filing or entering", [9] and it is not intended to "destroy or otherwise affect already registered rights over the land, subsisting or existing at the time of registration. The rights of these parties, who have registered their rights, are not put in issue when an instrument is subsequently presented for registration; nor are its effects on other instruments previously registered put in issue by the procedure of registration." Consequently, this Court held that the objections of the mortgagees that they had no knowledge of the contract of lease before the property was mortgaged to them, or of the amendment of said contract of lease, or that the lease violates the contract of mortgage, are not issues that should be decided in the application for the registration of the contract of lease, but "shall be decided in the proper suit or proceeding when the opportune occasion arises."

Here, the very validity of the so-called "Escritura de Compra-Venta" is directly in issue. Tito Nipa, one of those who purportedly signed the deed of sale in representation of all the heirs of Carlos Nipa, deceased, now claims under oath that his purported signature thereon is a forgery. It has also been shown that "Mariano Rivera", who appears to be one of the vendors in the said deed of sale, is not one of the registered owners of the property appearing on the face of the Torrens title. They, therefore, involved issues which cannot be litigated and decided by the Land Registration Court in a summary manner in the exercise of its special and limited jurisdiction under section 111 of Act No. 496. As they involve a substantial controversy between the parties, the matter should be ventilated in an ordinary civil action before a regular court.

WHEREFORE , the appealed orders are hereby affirmed, with costs against petitioner-appellant.

Fernando, Acting C.J., Barredo, (Acting Chairman), Aquino, and Concepcion, Jr., JJ., concur.

[1] Entitled "In Re Petition for the Surrender of the Owner's Duplicate of Original Certificate of Title No. R0-3552 (4853). Luisa Ocol, Petitioner, versus The Heirs of Mariano Rivera (Deceased), name-ly, Ramon, Teresita, Remegio and Teodorico, all surnamed Rivera, Respondents."

[21] Exhibits "A", "B", "C", and "D".

[3] Record on Appeal, pp. 9 - 11.

[4] Ibid., pp. 11-15.

[51] 92 Phil. 177.

[6] Castillo and Manyucat v. Ramos, 78 Phil. 809.

[71] 93 Phil. 466.

[8] 117 Phil. 508.

[9] Section 51, Act No. 496.

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