

## **EUGENIA R. MENDOZA, PETITIONER AND APPELLEE, VS. SOLOMON S. ABRERA AND FRANCISCO ABRERA, OPPOSITORS AND APPELLANTS.**

*G.R. No. 10519. April 30, 1959*

Ponente: LABRADOR, J.

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### **LABRADOR, J.:**

Appeal from an order of the Court of First Instance of Isabela, sitting as a cadastral court, Hon. Pedro C. Quinto, presiding, in Cad. Case No. 3, G.L.R.O Cad. Rec. 1481 of Isabela, entitled "The Director of Lands, plaintiff, vs. Catalina Balahin, et al., defendants, Eugenia M. Mendoza, purchaser-petitioner, vs. Solomon Abrera and Francisco Abrera, oppositors."

It appears from the record that Taciana Samante, now deceased, is the registered owner of Lot No. 2187, situated in Gordon, Isabela, for which she held Original Certificate of Title No. 1-3818, issued by the Register of Deeds of Isabela. This land was mortgaged by her to the Agricultural Industrial Bank, to secure payment of a loan. On March 2, 1944, Taciana Samante and her son, Francisco Abrera, sold said land to Eugenia R. Mendoza, executing a deed of sale, Annex A to Complaint (Rec. on Appeal, pp. 6-9).

On June 28, 1954, Eugenia R. Mendoza filed a petition in court setting forth the above purchase made by her of the land of Taciana Samante, and alleging that she had paid the full amount of the loan secured by the land from the proceeds of said sale; that by reason of such payment the Agricultural Industrial Bank had cancelled the lien and delivered the deed of cancellation, owner's duplicate copy of the certificate of title, receipts of payment of taxes, tax declarations, etc. to the petitioner; that said documents were lost when the bus on which petitioner's son was riding, was robbed. She, therefore, prayed that the court declare as lost the original certificate of title covering the land, order issuance of a new one in lieu thereof, and the issuance of a transfer certificate of title in her name. This petition was supported by affidavits. Solomon and Francisco, both surnamed Abrera, sons of the deceased Taciana Samante, filed an opposition, alleging that the deed of sale had been secured by means of fraud, duress and intimidation; that petitioner's rights, if any, have already prescribed because they were not asserted within 10 years. The Rehabilitation Finance Corporation, successor of the Agricultural Industrial Bank, also filed an opposition, alleging lack of knowledge of the sale and transfer of the land to the petitioner and the payment supposedly made by her of the loan. The court, after receiving evidence for both parties, ordered the reconstitution of the original certificate of title in the name of Samante, with the lien in favor of the Rehabilitation Finance Corporation annotated at the back thereof and without prejudice to whatever action the petitioner may institute to cancel the lien, as well as to the rights in the property of the other oppositors, Solomon Abrera and Francisco Abrera. The above order was issued on September 17, 1954.

On July 14, 1955, Eugenia R. Mendoza again filed another petition, wherein she reiterated the existence of the sale in her favor and her desire to have the same registered, and alleged also that the reconstituted original certificate of title was delivered by the Register of Deeds to the Rehabilitation Finance Corporation. She prayed

that the deed of sale in her favor be registered, that the Rehabilitation Finance Corporation surrender the title, that the Register of Deeds cancel the original certificate of title and issue a transfer certificate of title in her name instead, with the same lien annotated thereon.

The Abrera brothers filed an amended opposition, claiming that the petition is now barred by the Statute of Limitations, that an ordinary action should have been filed because there is a valid and substantial opposition to said petition, that the case is barred by prior judgment, and that the sale was made without creditor's consent. The Rehabilitation Finance Corporation also filed an opposition, alleging that the action is barred by a previous order and that the sale was made without its consent. On August 31, 1955, the court, after hearing the evidence entered a decree which is as follows:

"WHEREFORE, the Court hereby decrees (a) ordering the heirs of Taciana Samante, Solomon Abrera and Francisco Abrera, to file in Court the corresponding action for the annulment of the aforementioned deed of sale within thirty (30) days from notice hereof, and within the same period file a notice of statement in this expediente that they have actually filed such action; (6) in case they fail to file such action and notice of statement, the Court hereby orders the Rehabilitation Finance Corporation to surrender to the Register of Deeds of Isabel a the new owner's duplicate of Original Certificate of Title No. 1-3818, and hereby orders the Register of Deeds, upon previous payment of all legal fees, to register the Deed of Sale executed by Taciana Samante, in . favor of the herein petitioner Eugenia R. Mendoza, and to issue in her favor the corresponding Transfer Certificate of Title transcribing at the back thereof the standing mortgage lien in favor of the then Agricultural and Industrial Bank, the Rehabilitation Finance Corporation; and (c) the Court hereby reiterates its previous order to the Rehabilitation Finance Corporation, that, in the event that it accepts payment of the mortgage obligation from the heirs of Taciana Samante, to hold in abeyance the delivery of the owner's duplicate Certificate of Title No. 1-3818, pending the final decision of the action for annulment of the deed of sale that may be filed by the heirs of Taciana Samante." (pp. 65-66, Rec. on Appeal).

Oppositors filed a motion to reconsider the above order, but the same was denied. Against the order of August 31, 1955, this appeal was prosecuted by oppositors Francisco Abrera and Solomon Abrera. The Rehabilitation Finance Corporation has not appealed.

In this appeal, it is argued that the petitioner-appellee should have filed an ordinary civil action and not the instant petition, so that the validity of the sale made by their mother could be passed upon by the court); that the court should have denied the petition on the ground of *res judicata*, taking into account the previous order of said court; that the petition should have been denied because the same has already prescribed.

On the question of *res judicata*, we find that appellants' contention is devoid of merit. The original order precisely reserved to petitioner herein Mendoza the right to file any action that she may have to cancel the lien of the Rehabilitation Finance Corporation and against the oppositors Abrera brothers. The second petition was filed in pursuance of the reservation.

The opposition to the registration on the ground that the petition was filed beyond the prescriptive period (the deed of sale was executed on March 2, 1944 and the petition for registration was filed on June 28, 1954) is also without merit. Under the provisions of Section 112 of the Land Registration Act, no limitation or period is fixed for filing a petition to annotate a deed of sale at the back of a certificate of title. 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 to consider whether the right to register or annotate a deed of sale has already lapsed. The order appealed from precisely authorizes the oppositors to file the corresponding action to obtain an annulment of the deed of sale.

It is also argued on behalf of the appellants that petitioner should have filed an ordinary civil action, not a mere

petition to cancel the original certificate of title and to issue a transfer certificate of title. Neither can we find merit in this contention. The opposition presented by the Abrera brothers did not question the existence and validity of the deed of sale; no allegation was made or proofs submitted during the trial as to the existence of fraud, duress or intimidation. The registration of the sale and the issuance of a transfer certificate of title are ministerial duties of the Register of Deeds which the Court of First Instance, sitting as a cadastral court, could order. The registration requested is in accordance with the express provisions of Sections 111 and 112 of Act 496, because there is no question as to the existence and validity of the said deed of sale (*Enriquez vs. Atienza*, 100 Phil., 1072; *Casilan vs. Espartero*, 95 Phil., 799; 50 Off. Gaz., (9) 4183; *Lagula vs. Casimiro*, 98 Phil., 102; 52 Off. Gaz., 196).

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. There was, therefore, no error on the part of the court in ordering oppositors-appellants to file the action to annul the sale within 30 days from receipt of the order.

Finding no merit in the arguments adduced by appellants against the disputed order, we hereby affirm said order, with costs against appellants.

Paras, C. J., Bengzon, Padilla, Reyes, A., Bautista Angelo, and Endencia, JJ., concur.  
Concepcion, J., concurs in the result.

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