

ERNESTO C. DAWSON, LOUIS P. DAWSON, JR., BENJAMIN C. DAWSON, JOSEPHINE DAWSON SOLIVEN, RALPH D. CUDILLA, ELIZA C. ISIP AND LARRY D. ISIP, PETITIONERS, VS. REGISTER OF DEEDS OF Q...*G.R. No. 120600. September 22, 1998*

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-120600/>**PANGANIBAN, J.:**

In a contract to sell, the title over the subject property vests in the vendee only upon full payment of the consideration. Where the installments agreed on have not been completely paid upon the death of the original vendee and the certificate of title was erroneously issued in his name, his heirs, who assumed his obligations and completed the payment, can resort to the summary proceedings under Section 108 of Presidential Decree (PD) 1529 to correct the manifest mistake.

The Case

Before us is a petition for review assailing the February 9, 1995 Decision and the May 29, 1995 Resolution of the Court of Appeals[1] in CA-GR SP No. 34515 entitled "Dr. Ernesto Dawson, et. al., v. Register of Deeds of Quezon City, Judge of RTC, QC, Branch 85." The assailed Decision affirmed the Resolution[2] of the trial court[3] dated December 29, 1993 in LRC Case No. Q-6403 (93), dismissing the petition for cancellation of Transfer Certificate of Title (TCT) No. RT-58706 (248057). The May 29, 1995 Resolution denied petitioners' Motion for Reconsideration.

The Facts

The undisputed facts, as summarized by Respondent Court of Appeals, are reproduced hereunder:[4]

"On October 7, 1993, the petitioners herein filed a petition with the Regional Trial Court in Quezon City alleging, inter alia, the following:

‘-- On May 2, 1967, during his lifetime. Louis P. Dawson offered to buy on installment from the SISKI DEVELOPMENT CORPORATION, per contract to sell, a parcel of land in Quezon City, consisting of 638 square meters for P27,632.00, now covered by Transfer Certificate of Title No. RT-58706 (248057);

-- On June 3, 1971, Louis P. Dawson died intestate;

-- Upon his death, the petitioners assumed the rights and obligations of deceased Louis P. Dawson in the aforementioned contract to sell, paying in full the selling price of the lot from their own funds, which payment was completed in 1978;

-- With said full payment, vendor SISKI DEVELOPMENT CORPORATION executed on March 16, 1978 a deed of absolute sale in favor of deceased Louis P. Dawson who had died seven (7) years earlier, instead of in favor of the petitioners who assumed and to whom [were] transferred the rights and obligations of deceased Louis P. Dawson upon the latter's death;

-- Because of the obvious error, Transfer Certificate of Title No. RT-58706 (248057) was issued in the name of

deceased Louis P. Dawson instead of those of petitioners -- hence, the petition for the cancellation and correction of TCT No. RT - 58706 (248057) in the name of Louis P. Dawson and the issuance of a new title in the names of herein petitioners, to wit: Dr. Ernesto C. Dawson (1/5), Louis P. Dawson, Jr. (1/5), Benjamin C. Dawson (1/5), Josephine Dawson Soliven (1/5), Ralph D. Cudilla (1/15), Eliza C. Isip (1/15) and Larry D. Cudilla (1/15);

-- this petition is filed pursuant to Section 108 of P.D. 1529 (formerly Section 112 of Act No. 496);

-- the herein petition is not without legal precedent;

-- the petition is not controversial, considering the unanimity among all the interested parties, who are all petitioners herein, being the only surviving heirs of deceased Louis P. Dawson.' (pages 1-6 of the Record).

"On December 1, 1993, the respondent court issued an Order allowing the petitioners to present ex-parte their evidence before the Branch Clerk of Court. (page 16 of the Record).

"On December 20, 1993, the respondent court rendered its first assailed Resolution (pages 36-38 thereof), the dispositive portion of which was earlier quoted.

"On February 2, 1993, the petitioner herein filed a motion for reconsideration (pages 39-48 of the Record) from the afore-quoted Resolution of the respondent court.

"Said motion was denied by the respondent court in its second assailed Order (dated March 21, 1994) which was earlier quoted."

Hence, this petition for review.[5]

Ruling of the Court of Appeals

In affirming the dismissal of the petition for cancellation of TCT No. RT-58706 (248057), the Court of Appeals held that the summary proceedings under Section 108, PD 1529, do not apply to the present case, viz.:

"Petitioners' contention that the respondent court erred in holding that Section 108 of Presidential Decree No. 1529 'does not apply' was torpedoed by the following:

--Wrong Action. Petitioners' evidence showed that their father, Louis P. Dawson, died on June 3, 1971 (Exhibit 'D'), while the deed of absolute sale for the subject parcel was executed on March 16, 1978 by the Siska Development Corporation in favor of Louis P. Dawson (Exhibit 'E'). It was on this basis that a certificate of title (TCT No. RT-58706) was issued in the name of Louis P. Dawson, which title was entered at the Office of the Register of Deeds in Quezon City on August 17, 1978. As per the tax declaration and real property tax bill, the subject parcel is still in the name of Louis P. Dawson (pages 23-24, tsn of December 8, 1993), although his wife (Soledad Dawson) died in 1988 (Exhibit 'I'). We are intrigued why the petitioners only took action by filing the petition for cancellation of the certificate of title in their father's name only on October 7, 1993. Was it designed to evade the payment of the necessary taxes to the government?

--Legal shortcut. As aptly observed by the respondent court in its assailed resolution, 'the case at bar pertains more to the partition of the estate which will in effect transfer ownership of title of the property to the petitioners as compulsory heirs of the decedent.' Hence, Section 108 of Presidential Decree No. 1529 (which calls for summary proceedings) does not apply. Certainly, to allow petitioners' move will open the floodgate [of] tax evasion[s]. Petitioners' posture can be likened to a petition seeking to change/alter one's paternity or citizenship by merely seeking the correction/revision of birth certificate. Such is not allowable -- there must be a petition for naturalization. In the case at bench, [w]e further took note of the fact that the wife of the property owner (Soledad Dawson) died in 1988, almost ten years after a certificate of title was issued by the respondent Register of Deeds in the name of Louis P. Dawson.

"With the foregoing, [w]e find no error committed by the respondent court in handing down its assailed

resolution (dated December 20, 1993) and Order (dated March 21, 1994). The law abhors shortcuts."[6]

The Issue

Petitioners submit, for the consideration of the Court, a single issue:

"The Court of Appeals erred in affirming that Section 108 of P.D. 1529 does not apply herein."

The Court's Ruling

The petition is meritorious.

Sole Issue: Applicability of Section 108, PD 1529

Section 108 of PD 1529 reads:

"SEC. 108. Amendment and alteration of certificates. - No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon and the attestation of the same by the Register of Deeds, except by order of the proper Court of First Instance. A registered owner or other person having an interest in registered property, or, in proper cases, the Register of Deeds with the approval of the Commissioner of Land Registration, may apply by petition to the court upon the ground that the registered interests of any description, whether vested, contingent, expectant or inchoate appearing on the certificate, have terminated and ceased; or that [a] new interest not appearing upon the certificate have arisen or been created; or that an omission or error was made in entering a certificate or any memorandum thereon, or on any duplicate certificate; or that the name of any person on the certificate has been changed; or that the registered owner has married, or, if registered as married, that the marriage has been terminated and no right or interest of heirs or creditors will thereby be affected; or that a corporation which owned registered land and has been dissolved has not conveyed the same within three years after its dissolution; or upon any other reasonable ground; and the court may hear and determine the petition after notice to all parties in interest, and may order the entry or cancellation of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security or bond if necessary, as it may consider proper; Provided, however, that this section shall not be construed to give the court authority to reopen the judgment or decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value in good faith, or his heirs and assigns, without his or their written consent. Where the owner's duplicate certificate is not presented, a similar petition may be filed as provided in the preceding section.

"All petitions or motions filed under this section as well as under any other provision of this Decree after original registration shall be filed and entitled in the original case in which the decree or registration was entered."[7]

Petitioners contend that, as the sole heirs of Louis P. Dawson, they assumed upon his death in 1971 the obligations under the contract to sell that he had entered into in 1967. Thus, when the contract price was fully paid by them in 1978, ownership over the property in question should have been transferred to them, and not to the deceased, Louis P. Dawson. Since the issuance of the aforesaid TCT in the name of the deceased was manifestly an error, petitioners posit that they can avail of the remedy provided under the aforecited statutory provision.

On the other hand, the Court of Appeals and the trial court ruled that petitioners could not avail themselves of the summary proceedings under the said provision, because the present controversy involved not the cancellation of a certificate of title but the partition of the estate of the deceased.

In his Comment[8] dated May 8, 1996 and Memorandum[9] dated May 5, 1998, the Office of the Solicitor General sides with petitioners and argues that, under the given factual circumstances, a resort to Section 108 of PD 1529 is proper.

We agree with both the petitioners and the solicitor general.

On May 2, 1967, Louis P. Dawson and Siska Development Corporation executed a contract to sell, the subject of which was the parcel of land in question. By the nature of a contract to sell, the title over the subject property is transferred to the vendee only upon the full payment of the stipulated consideration. Unlike in a contract of sale, the title does not pass to the vendee upon the execution of the agreement or the delivery of the thing sold. In *Salazar v. Court of Appeals*,^[10] this Court explained the distinction between a contract to sell and a contract of sale:

"In a contract of sale, the title to the property passes to the vendee upon the delivery of the thing sold; in a contract to sell, ownership is, by agreement, reserved in the vendor and is not to pass to the vendee until full payment of the purchase price. Otherwise stated, in a contract of sale, the vendor loses ownership over the property and cannot recover it until and unless the contract is resolved or rescinded; whereas in a contract to sell, title is retained by the vendor until full payment of the price. In the latter contract, payment of the price is a positive suspensive condition, failure of which is not a breach but an event that prevents the obligation of the vendor to convey title from becoming effective."

It is undisputed that Louis P. Dawson died in June 1971, without having completed the installments on the property. His heirs, herein petitioners, then took over the contract to sell, assumed his obligations by paying the selling price of the lot from their own funds, and completed the payment in 1978. Accordingly, the ownership of the lot had not been vested in Louis P. Dawson during his lifetime.

Indeed, on March 16, 1978, Siska Development Corporation could not have transferred the title over the lot, through a Deed of Absolute Sale, to Louis P. Dawson, who had died seven years earlier in 1971. In 1978, the deceased had no more civil personality or juridical capacity.^[11] "His juridical capacity, which is the fitness to be the subject of legal relations, was lost through death."^[12]

In other words, the said property did not become part of the estate of Louis P. Dawson. Necessarily, partition is not the remedy to determine ownership thereof and to consolidate title in herein petitioners.

Hence, we agree with the following assertion of the solicitor general: "Having stepped into the shoes of the deceased Louis P. Dawson upon his death in June, 1971 with respect to the said contract, and being the ones who continued the installment payments of the selling price from their own funds until its full payment in 1978, petitioners necessarily became the lawful owners of the said lot in whose favor the deed of absolute sale should have been executed by vendor Siska Development Corporation."^[13]

In view of the circumstances of this case, Section 108 of PD 1529 is clearly available as a remedy to correct the erroneous issuance of the subject TCT in the name of Louis P. Dawson. The issue is not really novel. Faced with substantially similar facts in *Cruz v. Tan*,^[14] this Court also allowed the application of Section 112 of the Public Land Act, which is identical to Section 108 of PD 1529. A translation of the said case from Spanish reads:^[15]

"Simeon de la Cruz purchased a parcel of land on a ten-year installment basis. He died in 1939 and his wife died in 1942, leaving three children. The vendor of the land executed the corresponding deed of sale over the land in 1950 upon completion of the payment. The transfer certificate of title was then issued in the name of the deceased buyer, Simeon de la Cruz. Petitioner filed this petition under the original land registration case praying that the court order the Register of Deeds to substitute the name of Regino de la Cruz, petitioner herein, for that of Simeon de la Cruz in the transfer certificate of title. Petitioner claimed that Simeon during his lifetime transferred all rights over the land to him. The petition carried the conformity of the heirs of the deceased Simeon de la Cruz. Respondent court denied the petition on the ground that the substitution of owners cannot be ordered by the court acting on its jurisdiction granted by the Land Registration Law, because Simeon de la Cruz and Regino de la Cruz are two different persons. The court also said that the petition should be brought before an ordinary court for the protection of the interested parties."

Held: The danger that respondent judge feared that other interested parties might be prejudiced of their rights is remote, considering that the heirs of Simeon de la Cruz signified their conformity to the petition. Intestate proceedings are not necessary when the heirs have amicably settled the estate among themselves and when the deceased left no debts. Section 112 of the Land Registration Law (now Section 108 of Presidential Decree No. 1529) authorizes the court upon proper petition and notification to order the cancellation of a certificate of title and substitute the name of the person who appears to be entitled to the property. The order of respondent judge is revoked and the Register of Deeds is ordered to make the necessary substitution."

Accordingly, petitioners may avail of the remedy provided under Section 108 of PD 1529. This, however, does not necessarily mean that they are automatically entitled to the relief prayed for -- the cancellation of the title issued in the name of Louis P. Dawson and the issuance of new titles. It is incumbent upon them to satisfy the requirements and conditions prescribed under the statutory provision.

Respondent Court questioned the filing of the petition for cancellation only in 1993, hinting that the remedy was "designed to evade the payment of the necessary taxes to the government." Respondent Court, however, failed to state which taxes petitioners sought to avoid. Although they are required to pay capital gains tax and, thereafter, real estate tax, there is no showing that said taxes have not been paid. Thus, we cannot withhold the relief prayed for by petitioners, merely on the basis of some speculation of improper motivation.

WHEREFORE, the petition is GRANTED and the assailed Decision is REVERSED and SET ASIDE. The Regional Trial Court of Quezon City is ORDERED to cause the cancellation of TCT No. RT-58706 (248057) issued in the name of Louis P. Dawson and to cause the issuance, in lieu thereof, of a new certificate of title in the names of the petitioners as co-owners of the subject property, after said petitioners have fulfilled the requirements stated in Section 108 of PD 1529. No costs.

SO ORDERED.

Davide, Jr. (Chairman), Bellosillo, Vitug and Quisumbing, JJ., concur.

[1] Special First Division, composed of J. Ramon Mabutas, Jr., ponente; with the concurrence of PJ Nathanael De Pano, Jr., chairman; and J. Artemon Luna, member.

[2] Penned by Judge Bernardo P. Abesamis.

[3] Regional Trial Court of Quezon City, Branch 85.

[4] CA Decision, pp. 4-5; Rollo, pp. 73-74. Petitioners agree with this narration which they also reproduced in their Memorandum signed by Atty. Manuel B. Imbong.

[5] The case was deemed submitted for resolution on May 6, 1998, upon receipt by the Court of the solicitor general's Memorandum.

[6] CA Decision, pp. 5-6; Rollo, pp. 74-75.

[7] This provision is substantially similar to Section 112 of Act 496.

[8] Signed by Solicitor General Raul I. Goco, Assistant Solicitor General Mariano M. Martinez and Solicitor Edwin C. Yan; Rollo, pp. 108-121.

[9] Signed by Assistant Solicitor General Mariano M. Martinez and Solicitor Edwin C. Yan; Rollo, pp. 155-169.

[10] 258 SCRA 317, July 5, 1996, per Davide, Jr., J.; Luzon Brokerage Co., Inc. v. Maritime Building Co., Inc.,

46 SCRA 381; *Jacinto v. Kaparaz*, 209 SCRA 246; *Visayan Sawmill Co., Inc. v. Court of Appeals*, 219 SCRA 378; *Pingol v. Court of Appeals*, 226 SCRA 118.

[11] The Civil Code provides:

"ART. 37. Juridical capacity, which is the fitness to be the subject of legal relations, is inherent in every natural person and is lost only through death. Capacity to act, which is the power to do acts with legal effect, is acquired and may be lost."

x x x

"ART. 42. Civil personality is extinguished by death."

[12] *Dumlao v. Quality Plastic Products, Inc.*, 70 SCRA 472, April 30, 1976, per Aquino, J; *Ching v. Court of Appeals*, 181 SCRA 9, January 11, 1990.

[13] Solicitor general's Comment, p. 11; *Rollo*, p. 165.

[14] 93 Phil. 348, June 17, 1953, per Pablo, J.

[15] *Noblejas and Noblejas, Land Titles & Deeds*, 1986 ed., pp. 196-197.

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