

DOMITILA ANGELES, PETITIONER AND APPELLANT, M PEDRO RAZON, ET AL., OPPOSITORS AND APPELLEES.*G. R. No. 13679. October 26, 1959*

Ponente: BAUTISTA ANGELO, J.

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On August 31, 1955, Domitila Angeles filed a verified petition in Cadastral Case No. 11, Record No. 18 of the Court of First Instance of Pampanga, under the provisions of Section 112 of the Land Registration Act, wherein she alleged that she be declared the only heir of spouses Santiago Angeles and Anastacia Guevarra; that on June 20, 1929, said spouses bought Lot 848 of the Cadastral Survey of Bacolor from Paulina Angeles, wife of Eulalio Razon, in whose names said lot was registered under Original Certificate of Title No. 8168; that the heirs of Eulalio Razon upon his death were Pedro, Felix, Bernardina, Maria, Paula, Antonina, Lorenza, Gaudencio and Antonino, all surnamed Razon, the first five being his children by his first wife and the last four his children by his second wife; that said heirs sold their rights, shares and interests in said lot to Ignacio Angeles who in turn ceded verbally all his rights to his nephew Santiago Angeles, father of Domitila; that Domitila Angeles has been in possession of said lot and the house erected thereon for the last thirty (30) years. In said petition, Domitila Angeles prayed that Original Certificate of Title No. 8168 in the name of Eulalio Razon be cancelled and in lieu thereof a transfer certificate of title be issued in her name.

On September 23, 1955, Pedro Razon, Bernardina Razon, Marcela Ordoñez, Leonora Ordonez, Mercedes Ordoñez, Jose Ordoñez, Maria Olalia, Francisca Maglalang, Pastor Maglalang, Crisanta Maglalang, and Anselma Maglalang filed an opposition claiming that they are the only children and direct descendants of Eulalio Razon; that the latter was the original and exclusive owner of said lot No. 848; that they are the owners of 5/6 of said lot while the remaining 1/6 is the only share of petitioner Domitila Angeles; that Eulalio Razon is already dead and is survived by six children, to wit: Felix, Bernardina, Maria, Justa, Pedro, and Paula, all surnamed Razon; that Felix Razon is also dead but is survived by his son Pedro Razon, one of the oppositors herein; that Maria Razon is also dead but is survived by four legitimate children, Marcela, Leonora, Mercedes, and Jose, all surnamed Ordonez, who are also oppositors herein; that Justa Razon is also dead but is survived by her only daughter Maria Olalia, also oppositor herein; that Pedro Razon is also dead but is survived by his five children whose names were not stated in the opposition for the reason that Pedro Razon already sold his 1/6 share to Ignacio Angeles; and that Paula Razon is now dead but is survived by her four children, Francisca, Pastor, Crisanta and Anselma, all surnamed Maglalang, also oppositors herein. The opposition was based on the claim that the deed of donation executed in favor of Pedro Razon by his brothers and sisters and on which petitioner bases her right of ownership over the property in question is null and void because it was not contained in a public instrument, did not contain the signature of the alleged donors, nor was it accepted by the donee as required by law.

During the hearing, the parties presented documentary evidence and submitted the case for decision. However, on October 21, 1955, oppositors filed a motion to dismiss impugning the jurisdiction of the court over the subject-matter for the reason that the ownership of the lot of which petitioner claims to be the absolute owner and

for which she asks that a new title be issued in her favor is seriously disputed and, therefore, the same can only be threshed out in an ordinary action. The trial court sustained the motion and dismissed the petition accordingly. After petitioner has taken the case on appeal to the Court of Appeals, the latter certified the case to this Court on the ground that only questions of law are involved.

There is no dispute that the petition in question was filed in the Court of First Instance of Pampanga in its capacity as cadastral court because its purpose is to ask for the cancellation of Original Certificate of Title No. 8168 issued in the name of Eulalio Razon and the issuance of a new transfer certificate of title in the name of petitioner under the provisions of Section 112 of the Land: Registration Law. Such being the case, it is evident that the trial court has no jurisdiction to act thereon it appearing that the ownership of the property covered by the Torrens title is controverted and under our law and jurisprudence should be threshed out in an ordinary action.

Thus, this Court has held that "the lower court did not err in finding that it lacks jurisdiction to entertain the present petition for the simple reason that it involves a controversial issue which takes this case out of the scope of section 112 of Act No. 496. While this section, among, other things, authorizes a person in interest to ask the court for erasure, alteration, or amendment of a certificate of title 'upon the ground that registered interests of any. description, whether vested, contingent, expectant, or inchoate, have terminated and ceased' and apparently the petition comes under its scope, such relief can only be granted if there is unanimity among the parties, or there is no adverse claim or serious objections on the part of any party in interest; otherwise the case becomes controversial and should be threshed out in an ordinary case or in the case where the incident properly belongs.

Thus, it was held that 'It is not proper to cancel an original certificate of Torrens title issued exclusively in the name of a deceased person, and to issue a new certificate in the name of his heirs, under the provisions of section 112 of Act No. 496, when the surviving spouse claims right of ownership over the land covered by said certificate.' Jimenez, vs. Castro, 40 Off. Gaz., [G. R. No. 3,1st Sup.], p. 80.) And, in another case, where there was a serious controversy between the parties as to the right of ownership over the properties involved, this court held 'that following the principle laid down in the decision above cited, the issues herein should be ventilated in a regular action, as was done in the case of Montilla vs. Jalandoni (TA-R. G. No. 3133) above mentioned.' (Government of the Philippines vs. Jalandoni, 44 Off. Gaz., 1837.)" (Tanganan vs. Republic of the Philippines 94 Phil., 171; 50 Off. Gaz., No. 1, p. 115).

Wherefore, the decision appealed from is affirmed, with costs against appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Labrador, Endencia, Barrera, and Gutierrez David, JJ., concur.

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