

EUSEBIO ESPINELI AND ANASTACIA MOJICA, PETITIONERS VS. HON. JUDGE AMADO S. SANTIAGO, AND MAGDALENA VDA. DE RAMIREZ, RESPONDENTS.*G.R. No. 14434. April 28, 1960*

Ponente: CONCEPCION, J.

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This is an original action for a writ of prohibition to restrain respondent, Hon. Amado S. Santiago, as Judge of the Court of First Instance of Pangasinan, from taking cognizance of Civil Case No. U-152 of said court.

It appears that on February 6, 1958, Magdalena Vda. de Ramirez, the main respondent herein, instituted said civil case against the Magdalena Estate, Inc.—hereafter referred to as the corporation—for the purpose of requiring the same to deliver and surrender transfer certificate of title No. 6947, of the Office of the Register of Deeds of Quezon City, covering Lot No. 34, Block No. I of Subdivision Plan PSD-14422, situated in Cubao, Quezon City, and to recover damages and attorney's fees. In her complaint, Mrs. Ramirez alleged that on April 6, 1936, her now deceased husband, Vedasto Ramirez, and said corporation entered into a contract whereby the latter promised, in consideration of a sum of money then paid by him, to sell the aforementioned Lot No. 34, to Mr. Ramirez, at a given price payable on installments; that Mr. Ramirez died on November 14, 1940, hut payment, of the full price of said Lot No. 34 was completed by his widow, Mrs. Ramirez, on July 3, 1956; that she then paid, also, the expenses for the issuance of a transfer certificate of title in her favor; and that, despite repeated demands, the corporation refused to deliver to her the certificate of title covering said lot.

On February 26, 1958, the corporation filed an answer alleging that its refusal to deliver the certificate of title to Mrs. Ramirez was due to the adverse claim thereto of petitioners herein, the spouses Eusebio Espineli and Anastacia Mojica, who had similarly demanded delivery of said certificate of title, upon the ground that, by virtue of a deed of absolute sale, executed, on December 23, 1946, by Rosita Ramirez and Julio Ramirez—as the alleged only children and sole heirs of the deceased Vedasto Ramirez and one Maria Famendalan, alias Maria Posting, alias Faustina de Ramirez, who died on July 17, 1945—said petitioners had acquired, for the sum of P1,000 by them paid to Rosita and Julio Ramirez, their rights in and to said Lot No. 34; that, since December 1946, the Espinelis, had been paying the corresponding monthly installments, as the same fell due; and that they had thus paid the full price of said lot.

In fact, on February 28, 1958, the Espinelis filed a motion, in said Civil Case No. U-152, praying that they be allowed to intervene therein as party defendants, for the reason that, on August 2, 1951, the corporation had, for a valuable consideration, approved the above mentioned assignment in their favor of the rights of Mr. Ramirez to the lot in question; that, thereafter, the Espinelis continued making payments on account of the price of said lot, and, upon full satisfaction thereof, asked the corporation that the corresponding certificate of title be issued in their name; and that they have, accordingly, a clear legal interest in the matter in litigation, as against both parties therein. This motion having been granted, the Espinelis filed a motion to dismiss the complaint, upon the ground

"that venue is improperly laid," the property in dispute being located in Quezon City. By an order dated August 21, 1958, the court denied the motion and required the Espinelis to file their answer, upon the theory that said Case No. U-152 involved a personal action, not a real action, the main relief therein sought being the delivery of the certificate of title to Lot No. 34. Hence the present special civil action for a writ of prohibition against the aforementioned respondent Judge and Mrs. Ramirez.

Section 3, Rule 5 of the Rules of Court provides:

"Real action—Actions affecting title to, or for recovery of possession, or for partition or condemnation of, or foreclosure of mortgage on, real property shall be commenced and tried in the province where the property or any part thereof lies."

Under the facts set forth in the complaint and in the motion to intervene filed in said Civil Case No. U-152, the issue therein is, who, as between Mrs. Ramirez, on the one hand, and the Espinelis on the other, has a better right to the aforementioned Lot No. 34, which is situated in Quezon City. The main relief sought therein by Mrs. Ramirez—the delivery of the certificate of title covering said Lot—is entirely dependent upon the aforesaid issue. Thus, it is not possible for the Court of First Instance of Pangasinan to decide the case, without passing upon the claim of the parties with respect to the title and possession of said Lot No. 34, which claim shall be determined—pursuant to the above-quoted provision—"in the province where" said "property or any part thereof lies."

Wherefore, respondent Judge can not entertain the aforementioned case No. U-152 over the objection of petitioners herein, as intervenors therein, and, accordingly, the writ of prohibition prayed for is hereby granted, with costs against respondent, Magdalena F. Vda. de Ramirez.

It is so ordered.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Barrera, and Gutierrez David, JJ., concur.
Padilla, Reyes, J.B.L., and Endencia, JJ., took no part.

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