

**FELIX YUSON AND MARIA DE GUZMAN, PETITIONERS, VS.
ANACLETO DIAZ, JUDGE OF THE COURT OF FIRST INSTANCE OF
THE SIXTH JUDICIAL DISTRICT, MARIANO LIBUNAO, ANDRES
HIZON, AND LAZARO G...**

G. R. No. 17557. July 22, 1921

Ponente: VILLAMOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-17557/>

VILLAMOR, J.:

This is an original petition instituted in this court, asking for the issuance of a peremptory writ of mandamus against the respondent judge, ordering him to issue a writ of possession in order to oust the other respondents, Mariano Libunao, Andres Hizon, and Lazaro Geronimo from the land occupied by them within the boundaries mentioned in the certificate of transfer No. 563.

The petitioners allege that they acquired the parcel of land, as stated by the certificate of transfer No. 563, from Saturnino Lopez and Mercedes Tombo, to whom certificate of title No. 999 of the registry of property of Nueva Ecija was issued, as applicants in case No. 290 of the Court of First Instance of said province; and that when the petitioners took possession of the parcel of land purchased they found the respondents, Mariano Libunao, Andres Hizon, and Lazaro Geronimo, in possession of part thereof which part they had been in possession of for three years and on which are located their houses, and who, upon being asked to leave the parcel of land in question, refused to do so. It is also alleged by the petitioners that the respondent judge failed to comply with a duty imposed by law, in refusing to issue the writ of possession prayed for by them, they having acquired, in good faith and for a valuable consideration, the absolute ownership of all the parcel of land within the limits expressed in the certificate of transfer No. 563 and all the rights and actions which the vendors had to enjoy said land free from all incumbrance, according to section 39 of Act No. 496.

The respondents Mariano Libunao, Andres Hizon, and Lazaro Geronimo admit in their answer that they are in possession of the parcel claimed by the petitioners but they allege that they have acquired it by purchase in good faith from one Graciano Garcia, justice of the peace of the municipality, that they have been occupying it in the belief that they are the owners thereof, cultivating and spending great sums of money to improve it, and that at the time they had a growing crop thereon. They maintain that, in view of the right of possession which they claim to have acquired over the parcel of land, they cannot be dispossessed thereof by means of a simple motion, as that presented by the petitioners and overruled by the court.

It being admitted by the parties that the court, at the petition of the applicants in said registration case No. 290, issued in favor of them on March 29, 1919, a writ of possession and that the officer in charge of enforcing the writ certified that on May 14 of said year he had placed the petitioner Saturnino Lopez in possession of the land described in said writ, the question which arises in this case is whether the successors in interest of the applicants, that is, the petitioners, can acquire possession of said parcel of land actually occupied by the respondents by means of a petition asking for a writ of possession.

As already stated, the petitioners, in asking the court by means of a motion to issue a writ of possession, rely upon section 39 of the Registration Law. The meaning of the words "free of all incumbrance" used in section 39 of Act No. 496, has been interpreted by this court in the case of *De Jesus vs. City of Manila* (29 Phil., 73). In the syllabus of that case it is stated among other things:

"It was the purpose of the Land Registration Act to guarantee that every purchaser of registered land for value should take and hold the same free and clear from any and all prior claims, liens, and incumbrances except those set forth in the decree of registration and those expressly mentioned in the Act as having been preserved against it.

"A title obtained by registration under the Land Registration Act is an indefeasible title and in order to preserve that character, the title is cleaned anew with every transfer for value; and when lands the title to which is registered under the Land Registration Act are transferred for value, the purchaser takes them free and clear from all taxes that might have been assessed on said lands but which were not assessed by reason of an erroneous declaration for taxes made by his vendor whereby they escaped taxation in his hands."

There is nothing to indicate that adverse possession constitutes a charge, lien, or burden within the meaning of said article or that it authorizes the court to issue the writ of possession prayed for by the petitioners.

In the case of *Hart vs. Revilla*, Judge of First Instance of Pampanga, R. G. No. 16498, decided by this court in December 18, 1920 [not reported], the following are the facts found:

"Jose Legarda is the owner of a parcel of land registered under Torrens title No. 213, issued on June 19, 1917, in a proceeding had in accordance with the Land Registration Law. Subsequently a cadastral proceeding was instituted with respect to the same parcel of land and it was decided in favor of the same Jose Legarda. On July 20, 1918, Jose Legarda and W. C. Hart executed a contract of lease on this parcel of land for the period of ten years. On March 25, 1920, W. C. Hart presented this contract to the registrar of property, but, for reasons not stated, it was not registered. On the 29th of the same month, Patrick McCrann presented in turn to the registrar a contract of sale of this land by Jose Legarda to him. On the 27th of the following month, April, W. C. Hart presented in the Court of First Instance of Pampanga an action against Jose Legarda, Patrick McCrann and the registrar of deeds of Pampanga, Augusto A. Reyes, for the purpose, among others, of compelling the registrar, Augusto A. Reyes, to register the contract of lease entered into between Jose Legarda and W. C. Hart, a preliminary injunction having also been asked against the registrar Augusto A. Reyes to prevent him from registering any document bearing on this land, unless he first should register the said contract of lease between Jose Legarda and W. C. Hart. The court, by order of April 27, 1920, issued the writ of preliminary injunction asked. On the 29th of the same month of April, Patrick McCrann appeared in the cadastral case, to which reference has already been made, and, alleging that he had purchased the land from Jose Legarda, asked that possession thereof be delivered to him. The court granted this petition and by order of the 30th of the same month of April, 1920, ordered the issuance of a writ of possession in favor of Patrick McCrann. It was held: That the Court of First Instance of Pampanga has no jurisdiction to issue that writ of possession in favor of the purchaser Patrick McCrann."

The fact that in that case it was neither alleged nor proved that the contract of sale between Legarda and McCrann was registered, does not affect our conclusion in the case at bar. It is beyond question that sections 38 and 39 of Act No. 496 invest Torrens titles, issued after the necessary judicial proceedings, with an absolute and conclusive character. Section 38 declares that "the decree of registration" which the court enters shall bind the land and shall be "conclusive upon and against all persons." In section 39 certificates of title issued "in pursuance to the decree of registration" are declared to be conclusive. (*De los Reyes vs. Razon*, 38 Phil., 480.) By virtue of section 17 of the Land Registration Law, as amended by section 5 of Act No. 1108, the Court of Land Registration may, in cases falling within its jurisdiction, enforce its orders, judgments or decrees in the same manner as Courts of First Instance, and in this connection it may issue writs of possession, ordering the governor or sheriff of any province

or of the City of Manila to place the petitioner in possession of the property included in the decree of the court rendered in his favor. (*Pasay Estate Co. vs. Del Rosario*, 11 Phil., 391.) Such was the case here. But when other persons have subsequently taken possession of the property, claiming the right of possession thereto, the owner of the registered land, or his successors, cannot dispossess them by merely asking the court for a writ of possession. The Land Registration Law (sec. 46) provides that title to registered land in derogation of that of the registered owner can not be acquired by prescription or adverse possession. Nevertheless, in order to recover the ownership or possession of land possessed by a third person, it is absolutely indispensable to resort to the proceedings established by law. This court has repeatedly declared that it is sufficient for a person to be in possession in order that he may be respected in the possession enjoyed by him of a real property, so long as no other claimant appears who has and proves a better right. (*Dancel and Mina vs. Ventura*, 24 Phil., 421.) He who believes himself entitled to deprive another of the possession of a thing, so long as the possessor refuses delivery, must request the assistance of the proper authority. (Art. 441, Civ. Code.) In other words, he who believes himself entitled to deprive another of the possession of real property must come to the courts of justice, instituting, as the case may be, an action for unlawful entry or detainer under section 80 of the Code of Civil Procedure, or the revindictory action authorized by article 348 of the Civil Code.

From what has been said we are of the opinion and so hold that it is not proper to issue the peremptory writ of mandamus in the present case and the petition is therefore denied, with costs against the petitioners. So ordered.

Mapa, C. J., Johnson, Araullo, Street, and Avancena, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.