

CASIANO CANO, PETITIONER AND APPELLEE, VS. JULIA MIRASOL. ET AL., RESPONDENTS AND, APPELLANTS.

G.R. No. 18834. March 29, 1963

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Lot No. 1152 of the cadastral survey of Cabatuan, Iloilo was originally owned by Francisca Cabanas as evidenced "by Original Certificate of Title No. 6618. It was later inherited by her nephew Jose Jiloea who on April 16, 1929 sold it to one Jacinto Ynieto. Although the deed of sale was not registered in the office of the register of deeds, the title to the property was however given to the vendee which he kept until he died on December 23, 1937.

On January 31, 1937, Ynieto sold a portion of the land having an area of 606 square meters to one Casiano Cano who took possession thereof immediately after the sale, but the heirs of Jacinto Ynieto continued keeping in their possession TCT No. 6618 and it was only on May 23, 1958 . when, they registered the sale executed in favor of their ancestor in the office of the register of deeds as a result of which Transfer Certificate of Title No. T-25564 was issued in his name.

Having learned of the registration of the sale of Lot No. 1152 in favor of Jacinto Ynieto and the issuance in his name of TCT No. T-25564, Casiano Cano demanded from his heirs that they surrender said title to the register of deeds in order that the sale made in his favor may be annotated on the back thereof, and when they refused to do so, on June 2, 1958 Cano filed a petition with the Court of First Instance of Iloilo in Cadastral Case No. 72 praying that the aforesaid heirs, be ordered to surrender to the register of deeds the title already adverted to within 5 days from receipt of the order in order that the purpose above-mentioned may be complied with. The heirs' opposed the petition disputing the genuineness and due execution of the sale of the land made by their ancestor in favor of, petitioner with the alternative argument that, even if the sale be valid, petitioner's right to ask for relief has already long prescribed so that they should be allowed to hold their owner's certificate of title free from any encumbrance or annotation.

On June 24, 1958, after, hearing both parties, the court granted the relief prayed for Respondents' motion for reconsideration having been denied,. they appealed to the Court of Appeals, but the case was certified to us on the ground that the only issue involved is one of law.

It is claimed that sometime in 1937, Jacinto Ynieto, predecessor-in-interest of respondents, sold to petitioner a portion of Lot No. 1152 covering an area of 600 square meters and that notwithstanding his repeated requests that they allow the registration of his sale on the back of its title which was then in their possession by surrendering it to the register of deeds, respondents refused, and so he filed the instant petition before the cadastral court of Iloilo in order that the relief he desires may be granted. Respondents registered their opposition to the petition and in support thereof they not only disputed the genuineness and due execution of the sale allegedly made in favor of petitioner by their predecessor-in-interest but set up the defence that, even if the sale be valid, the right of petitioner to ask for the relief prayed for has already prescribed under the provision of Articles 1144 and 2258 of

the new Civil Code. This defense was brushed aside by the court a quo, and instead issued an order granting the relief prayed for. Since the issue raised before the court a quo refers to the genuineness and due execution of the sale of a portion of Lot No. 1152 allegedly made in favor of petitioner the late Jacinto Ynieto, predecessor-in-interest of respondents, and to the prescription of the supposed right of petitioner to have his sale registered on the back of the transfer certificate of title issued in the name of the vendor, we believe it unnecessary to dwell on the merits of the controversy for the reason that the court a quo lacks jurisdiction to act thereon in its capacity as cadastral or registration court. As this Court has aptly said: "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. * * * 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." [1] (Italics supplied). We may add that, considering that the instant petition was filed apparently under the authority of Section 111 of Act 496, the court a quo also lacks jurisdiction to act thereon in view of the controversial issues raised by respondents.² Its duty is to dismiss the petition in order that said issues may be threshed out in an ordinary case before a regular court; (Tanganian vs. Republic of the Philippines, 94 Phil., 171; 50 Off. Gaz., 115; Jimenez vs. De Castro, 40 Off. Gaz., No. 3, 1st Supp. p. 80; Government of the Philippines vs. Jalaidoni, 44 Off. Gaz., 1837; Garcia vs. Belzunce, 84 Phil. 802; Mirafior vs. Leafio, 93 Phil., 466; Laguna vs. Casimiro, 98 Phil., 102; Enriquez vs. Atienza, 100 Phil., 1072, Angeles vs. Razon, 106 Phil., 384; Rehabilitation Finance Corporation vs. Alto Surety & Insurance Co., 107 Phil., 386; Government of the Republic of the Philippines vs. Laperal, 108 Phil., 860; Floriza vs. The Hon. Court of Appeals, et al., 111 Phil., 177.) Wherefore, the order appealed from is set aside. No costs.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala, and Macalintal, JJ., concur.

[1] Mendoza vs. Abrera, et al., 105 Phil., 611.

[2] This section stands on the same footing as Section 112 of the same Act.

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