

FELIPA ENRIQUEZ, ET AL., PETITIONERS, VS. VICENTA E. DB ATIENZA AND HON. PABLO VILLABOS, JUDGE, C. F. I., ZAMBOANGA CITY, RESPONDENTS.*G. R. No. 9986. March 29, 1957*

Ponente: PARAS, C.J.

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This is a petition for certiorari with preliminary injunction seeking to annul the orders of the respondent court dated February 2 and October 15, 1955, and to restrain said court from further proceeding with the case at bar. The records bear out the following facts: On August 23, 1947, respondent Vicenta E. de Atienza filed a motion in original Cadastral Case No. 7880 of the Court of First Instance of Zamboanga, praying for the confirmation of her rights of ownership over the greater portion of a registered parcel of land and for the consequential cancellation of its title and the issuance of another in her favor, under Section 112 of Act 496. The petitioners registered their opposition to the motion on January 22, 1949, claiming title to one-half of the land. After the parties had submitted their respective evidence, the respondent court rendered its decision in favor of respondent Atienza on October 16, 1952. The petitioners filed a motion for reconsideration on November 20, 1952, which was granted, and additional evidence in support of their opposition was presented. Two years later, or on October 28, 1954, the petitioners filed a motion to dismiss the entire proceedings on the ground of lack of jurisdiction. Pending resolution of their motion to dismiss, the petitioners continued presenting evidence. After the motion to dismiss was denied on February 2, 1955, the petitioners again proceeded with the presentation of their evidence. Seven months thereafter, or on October 7, 1955, they moved for a reconsideration of the order denying their motion to dismiss. The last motion having been denied on October 15, 1955, the petitioners instituted the present petition.

The following issues are raised: I. Has the Court of First Instance, sitting as a Court of Land Registration, jurisdiction to grant the relief prayed for under Section 112 of Act 496 when there exists no unanimity among the parties? II. May jurisdiction over the subject matter be waived?

The parties cannot agree on the import of the phrase "unanimity among the parties". The petitioners contend that it means the non-existence of a controversial issue among the parties; the absence of any adverse claim or serious objection on the part of any party in interest to the title of ownership of the movant under section 112 of Act 496. Thus it is argued that the court acquires jurisdiction only where none of the parties concerned has adverse claims, opposed to that of the petitioner and prejudiced by the alteration or correction of mistake in the title.

The respondents on the other hand claim that "Unanimity among the parties" refers to procedural matters; i.e., that as long as all the parties, some of whom may have serious objection or adverse claim against the petitioner under section 112, agree to submit to the court (before which the case under section 112 is filed), the matter of the adverse claim, the same court may take cognizance of the opposition and proceed with the summary proceedings of alteration or correction of title. A contrary interpretation, according to respondent Atienza, would frustrate the ends of justice by leaving the efficacy of this remedy dependent upon the opposition, in all cases. In other words,

to prejudice a petitioner and to block the jurisdiction of the Land Registration Court, it would be sufficient for an interested party to interpose even a baseless protest or adverse claim. It is accordingly argued that lack of unanimity consists in the presence of serious objection by interested parties to the relief sought, coupled with the indispensable requisite of absence of conformity of all the parties to submit the matter involved to the court acting in the land registration case; and that the petitioners, entering into a protracted trial and presenting evidence, impliedly acquiesced in and submitted themselves to the jurisdiction of the respondent court over the adverse claim. The motion that gave rise to the instant case was based on section 112 of Act 496 which provides:

***** Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; * * * and the court shall have jurisdiction to hear and determine that petition after notice to all parties in interest, and may order the entry of a new certificate, or grant any other relief upon such terms and conditions, requiring security if necessary, as it may deem proper; provided, however, That this action shall not be construed to give the court authority to open original 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 and in good faith, of his heirs or assigns, without his or their written consent."

The proceedings under the foregoing provision have been, aptly described as summary in nature, and are allowed when a scrutiny of the allegations discloses that the issues presented by the pleadings need not be tried because they are so patently unsubstantial as not to be genuine issues. Said proceedings are filed in the original case in which the decree of registration was entered.

While the respondent court was aware of the decision in the case of *Tanganan, et al., vs. Republic of the Philippines* (94 Phil., 171, 50 Off. Gaz., 115), and made in its order denying the motion to dismiss, the following pertinent pronouncements:

"The lower court is correct in holding that it lacks jurisdiction to entertain the present petition for cancellation of the annotation for the 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 any erasure, alteration or amendment of a certificate of title, upon the ground that registered interests of any description, whether vested, contingent, expectant, inchoate, have terminated or 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 objection 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."

it construed said ruling as follows:

"The present case is an expediente 7880 in which 'El Gobierno de las Islas Filipinas, representada por el Director de Terrenos' is the applicant. In other words, it is a cadastral case and there is a unanimity among the parties to submit to the jurisdiction of the Court as shown that the petitioner have presented already her evidence. It should be taken into consideration the fact that for the first time the oppositors raised their opposition on the ground that the Court has no jurisdiction when on November 20, 1952, they filed their motion for reconsideration of the decision of this Court, which ordered the dismissal of this case. If their intention is not to submit to the jurisdiction of this Court, it is strange that they have accepted the hearing or trial with unanimity, with the petitioner even trying to present their evidence. If this practice or procedure followed by the oppositors is granted then the trial of this case should again begin when the other case is filed by the petitioner in an ordinary case. Why did the oppositors not file the corresponding motion to dismiss when this case was called for hearing for the first time, there is no reason. And why cause a 'waste of time in hearing this case, there also is no jurisdiction. Therefore, this Court is of the opinion that in the light of the decision of

the Supreme Court above quoted, the Court can still take cognizance of the case when the parties submit to the jurisdiction of this Court, otherwise, the Supreme Court would not have established the doctrine that when there is unanimity among the parties the Court can have jurisdiction to try the case irrespective whether it is an ordinary case or any other case where the inci-

A review of all the decisions dealing with the application of Section 112 reveals that by "unanimity among the parties" is meant the absence of serious controversy between the parties in interest as to the title of the party seeking relief under said section. This concept was made clear when in the case of *Casilan vs. Espartero* (95 Phil., 799, 50 Off. Gaz., [9] 4183), we said: "Roughly, section 112, on which the Director of Lands relies and the order is planted, authorizes, in our opinion, only alterations which, do not impair, rights recorded in the decree or which, if they do prejudice such rights, are consented to by all the parties concerned, or alterations to correct obvious mistakes." And the case of *Lagula vs. Casimiro* (52 Off. Gaz., 196), is to the following effect: "There is however some divergence of opinion of disagreement as to the lots actually adjudicated to some heirs . . . They do not entirely agree with the subdivision and so they want to be heard. In fact this is another ground by which they disputed the jurisdiction of the court. On this score the movants are not devoid of reason for it has been held that relief under section 112 of Act No. 496 can only be granted if there is unanimity among the parties, or there is no adverse claim or serious objection 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 belongs."

"Unanimity among the parties" is not a mere matter of procedure as the respondents have tried to show, and does not exist simply because the parties have entered into trial and presented their evidence. The unanimity contemplated refers to the subject matter over which the jurisdiction of a court cannot be waived by agreement of the parties. Such jurisdiction is determined by law and cannot be acquired by the court by consent or submission of the parties. As ably pointed out by the petitioners, a distinction should be made between jurisdiction over the persons of the litigants and that over the subject matter. All that the respondent court acquired in the instant case by the appearance of the petitioners was jurisdiction over their persons,—certainly not jurisdiction over the subject matter. It is lamentable that the motion to dismiss was filed after considerable delay. Nonetheless, the question of jurisdiction may be raised at any time and even on appeal.

In view of the foregoing, the orders complained of are hereby set aside, and the writ of preliminary injunction heretofore issued against the respondent court is made permanent. So ordered with costs against respondent Atienza.

Bengzon, Padilla, Reyes, A., Bautista Angelo, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

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