

**CAPITOL SUBDIVISION, INC., AND MONTELIBANO SUBDIVISIONS,
MOVANTS AND APPELLEES, VS. ALFREDO LOPEZ MONTELIBANO
AND CONCEPCION MONTELIBANO HOJILLA, OPPOSITORS AND
APPELLANTS.***G.R. Nos. 13389-90. September 30, 1960*

Ponente: PADILLA, J.

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These are appeals from two orders entered by the Court of First Instance of Occidental Negros, acting as land registration court, in Cadastral Case No. 9, LRC (GLRO) Rec. No. 86.

G. R. No. L-13389

On 10 April 1957, the Capitol Subdivision, Inc. and Montelibano Subdivisions filed a motion in the above mentioned court and cadastral case alleging that Lot No. 21 of subdivision plan No. Psd-12392, a part of Lot No. 77 of the Silay Cadastre, registered in the names of Alfredo Montelibano and Alejandro M. Montelibano, share and share alike, covered by TCT No. T-5979, was sold to Corazon J. Lacson of Silay, Occidental Negros, payable by installment; that prior to the sale, sometime in August 1947, the vendors mortgaged the said parcel of land together with other properties of the petitioners to the Philippine National Bank, Bacolod Branch, to secure the payment of an obligation, which mortgage was duly noted at the back of TCT No. T-5979 under entry No. 4999; that on 24 September 1954 the vendee paid in full the agreed price of the parcel of land and on the same date the vendors executed the deed of sale in her favor; that on 29 January 1957 the mortgagee executed a deed of release of real estate mortgage on the parcel of land in question; that on 12 March 1957 Alfredo L. Montelibano and Concepcion Montelibano Hojilla brought an action against Alfredo Montelibano in the Court of First Instance of Occidental Negros (civil case No. 4274) and, pursuant to the provisions of section 79, Act No. 496, as amended, and section 24, Rule 7, of the Rules of Court, caused a notice of lis pendens to be annotated in the title to all the realties of the defendant in the province of Occidental Negros, including that sold to Corazon J. Lacson; and that the vendee was an innocent purchaser. They prayed that the Register of Deeds of the province of Occidental Negros be directed to cancel the notice of lis pendens annotated on the back of TCT No. T-5979, insofar as it affects Lot No. 21, and issue the corresponding transfer certificate of title in favor of Corazon J. Lacson free from the annotation of the notice of lis pendens. On 10 May 1957 the Court, presided over by Hon. Jose F. Fernandez, entered an order dated 27 April 1957 granting the petitioners' motion. On 22 May 1957 the oppositors Alfredo L. Montelibano and Concepcion Montelibano Hojilla filed a motion for reconsideration. On 3 June 1957 the petitioners filed an objection thereto. On 11 November 1957 the Court denied their motion. Hence this appeal interposed by the oppositors.

G. R. No. L-13390

On 6 May 1957 the same petitioners filed a motion in the same court and cadastral case alleging that Lot No. 28 of the same subdivision plan, registered also in the names of Alfredo Montelibano and Alejandro M. Montelibano,

share and share alike, covered by TCT No. T-5986, was sold to Marcelino Lalantakan of Silay, Occidental Negros, payable by installment; that on 29 of June 1936 the vendee paid in full the agreed price of the parcel of land and on the same date the vendors executed the deed of sale in his favor; that the said parcel of land together with other realties of the petitioners was among those mortgaged by the vendors to the Philippine National Bank to secure the payment of a loan of P81,900; that on 17 January 1957 the mortgagee executed a deed of release of real estate mortgage on the parcel of land in question; that on 12 March 1957 Alfredo L. Montelibano and Concepcion Montelibano brought an action against Alfredo Montelibano in the Court of First Instance of Occidental Negros (civil case No. 4274), and cause a similar notice of lis pendens mentioned in the first case to be annotated in the title to all the realties of the defendant in the province of Occidental Negros, including that sold to Marcelino Lalantakan; and that the vendee was an innocent purchaser. The petitioners prayed the same relief as that asked in the first case. On 24 May 1957 the same oppositors filed an objection to the motion to cancel the notice of lis pendens. On 30 May 1957 the petitioners filed an answer thereto"; On 14 November 1957 the Court, presided over by Hon. Jose S. de la Cruz, entered an order granting the petitioners motion. Hence this appeal interposed by the oppositors.

In the first case, the deed of sale in favor of Corazon J. Lacson, executed by the vendors on 24 September 1954, was registered in the office of the Register of Deeds on 9 May 1957 (entry No. 48590), after the notice of lis pendens had been noted on the back of the title to the property on 12 March 1957. In the second case,, the deed of sale in favor of Marcelino Lalantakan execute by the vendors on 29 June 1936 was not registered at all.

The parcels of land in question covered by transfer certificates of title Nos. 5979 and 5986 were registered in the names of Alfredo Montelibano and Alejandro M. Montelibano, share and share alike.

In the brief filed jointly in these two cases, counsel for the appellants quotes the prayer of their complaint in civil case No. 4274, as follows:

- a) Declaring null and void the Project of Partition, "Annex "B", and the order approving the same, Annex "C", hereof, and ordering a new partition, among the plaintiffs Concepcion Montelibano and Alfredo L. Montelibano, and the defendant Alfredo M. Montelibano, on the basis of $\frac{1}{2}$ % each, of the properties left by the deceased spouses Alejandro Montelibano and Gliceria Montelibano, as listed and specified on pages 1 to 3 of the Project of Partition, Annex "B" hereof, minus the share already given to Alejandro M. Montelibano;
- b) In the alternative, for the plaintiff Concepcion Montelibano, ordering the defendant to transfer to her (Concepcion Montelibano) in full ownership of one-fourth of the urban lots which he received as his share under the Project of Partition, Annex "B" hereof;
- c) In the alternative, also, ordering the herein defendant to transfer in full ownership one-half of all the properties which he received under the Project of Partition, Annex "B" hereof, and specified on pages 3 to 6 thereof, to the plaintiff Alfredo L. Monteirbano;
- d) Sentencing the defendant to pay the plaintiffs Concepcion Montelibano and Matias Hojilla damages in the sum of not less than P100,000.00, and the plaintiff Alfredo L. MonteUbano damages in the sum of not less than P200,000.00, both with the legal rate of interest from the time of the filing of this complaint until full payment; and
- e) Sentencing the defendant to pay the herein plaintiff as attorney's fees, the sum of f50,000.00 (Pp. 2-3, appellants' brief.)

Although an unrecorded sale of a parcel of land registered under the Torrens System is binding upon the parties, yet "The act of registration shall be the operative act to convey and affect the land * * *." [1] Such being the law any acquired right in a registered land is effective as between and binding upon the parties and their privies but

not as to third parties. The sale made of the two lots by the registered owners to Corazon J. Lacson and Marcelino Lalantakan, respectively, not having been registered, such sales do not affect third parties. The lots continue or remain the property of the registered owners. And when the latter are sued by a party concerning or involving or affecting the lots thus sold by the registered owners and the suing party causes a notice of *lis pendens* to be noted on the back of the certificates of title to the lots sold, such notice cannot be cancelled upon motion of the vendors or vendees predicated upon the fact that the vendees had acquired the lots prior to the noting of the notice of *lis pendens*. If judgment is rendered in favor of the plaintiffs in the action brought against the registered owners, the unrecorded right acquired by the vendees in the lots sold to them is subject or subordinate to the right of the plaintiffs in whose favor judgment is rendered. If judgment is rendered against the plaintiffs in the action, the notice of *lis pendens* noted on the certificate of title to the lots loses its efficacy or is *ipso facto* cancelled.

The orders appealed from are reversed, with costs against the petitioners and appellees.

Paras, C. J., Bengzon, Labrador, Reyes, J. B. L., Barrera, Guitierrez David, Paredes, and Dizon, JJ., concur.

[1] Section 50, Act No. 496.

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