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the petition, and further proper proceedings thereafter as prescribed by law.

No costs.

SO ORDERED.

Teehankee (Chairman), Makasiar, Guerrero, and *Melencio Herrera, JJ.*, concur.

Fernandez, J., took no part.

FIRST DIVISION

[G.R. No. L-34007. May 25, 1979]

MARCELINO BELAMIDE, ALFREDO BELAMIDE (deceased and herein substituted by his children Rodolfo, Reynaldo, Lilian and Alfredo, Jr., all surnamed Belamide), JOSE BELAMIDE, ANTONIO BELAMIDE, MARIA BELAMIDE, LEONISA BELAMIDE and SALUD BELAMIDE, *petitioners, vs.* **THE HONORABLE COURT OF APPEALS and BIENVENIDO MONTOYA, FRANCISCA MONTOYA and GREGORIO MONTOYA,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; THERE CAN BE NO GRAVE ABUSE OF DISCRETION WHEN THE DECISION WAS MADE IN ACCORDANCE WITH LAW; CASE AT BAR.**— There can be no grave abuse of discretion by the Court of Appeals in denying petitioners' Motion for New Trial. The document alleged to be falsified was presented in the trial in the lower court. Petitioners should have attacked the same as falsified with competent evidence, which could have

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been presented, if they had exercised due diligence in obtaining said evidence, which is Annex "A" to the Motion for New Trial. It is, therefore, not a newly discovered evidence that could justify a new trial (Rule 37 [1-b], Rules of Court). The new evidence would neither change the result as found by the decision. With the law and the evidence showing with reasonable sufficiency that Hilarion Montoya from whom private respondents would derive hereditary rights over the land in question, is the legitimate son of Vicenta Montoya, the adjudication of said land by the lower court, as specified in its decision, is in accordance with law.

2. **ID.; COURTS; JURISDICTION; WHEN THE PARTIES UNANIMOUSLY CONSENTED TO, OR ACQUIESCED IN, THE EXERCISE OF JURISDICTION OF LAND REGISTRATION COURT, THE DECISION OF THE SAID COURT MAY NO LONGER BE QUESTIONED ON JURISDICTIONAL GROUND.**— In effect, there was unanimity among the parties in consenting to, or acquiescing in, the exercise of the jurisdiction of the land registration court, no matter whether same is a limited one. With this premise, and with the full opportunity given both parties to air their sides with the presentation of all evidence as they may desire in support thereof, as fully as could be done in the ordinary court with general jurisdiction, the decision of the lower court, sitting as a land court, supported as it is with sufficient evidence, may no longer be questioned on jurisdictional grounds.

APPEARANCES OF COUNSEL

Beltran Beltran & Beltran for petitioners.
Fortunato Jose for private respondents.

D E C I S I O N

DE CASTRO, *J.*:

This is a petition for *certiorari* to review the decision of the Court of Appeals (4th Division) promulgated on June 9, 1971, affirming the amended decision of the Court of First Instance of Cavite City the dispositive portion of which reads:

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"IN VIEW OF THE FOREGOING CONSIDERATIONS, the Court hereby adjudicates the parcel of land described in Plan Psu-18949 situated in the poblacion of Silang, Cavite, in favor of the applicants (Marcelino Belamide, of legal age, Filipino, married to Patrocinia de Castro, and resident of Silang, Cavite; Alfredo Belamide, of legal age, Filipino, married to Anita Velez, and resident of Silang, Cavite; Jose Belamide, of legal age, Filipino, married to Elisea Quiamzon, and resident of Silang Cavite; Antonio Belamide, of legal age, Filipino, single, and resident of Silang, Cavite; Maria Belamide, Filipino, of legal age, married to Sofronio Bayla, and resident of Silang, Cavite; Leonisa Belamide, of legal age, married to Fulgencio Reyes, and resident of Silang, Cavite; and Salud Belamide, of legal age, Filipino, married to Conrado Menchavez, and resident of Silang, Cavite) and the oppositors (Bienvenido Montoya, Gregorio Montoya and Francisco Montoya, Filipinos, of legal age, married and residents of Silang, Cavite) in the following proportions:

"Three-fourths (3/4) undivided share belongs to the applicants, and one-fourth (¼) undivided share belongs to the oppositors.

"Once this decision becomes final, let the corresponding decree of registration be issued upon proof that the corresponding estate and inheritance taxes have been paid, or certificate of tax exemption has been issued."

Petitioners herein were the applicants for the registration of the parcel of land involved in this case. The private respondents were the oppositors allowed on Motion for a New Trial, to file an opposition even after a decision has already been rendered by then Judge Felix V. Makasiar, after hearing, following the issuance of a general default order. (pars. 1-3, Petition).

From the amended decision rendered after the new trial, both parties appealed to the Court of Appeals which found the essential facts as narrated in the decision appealed thereto as duly established by the evidence, and quoted the same approvingly as follows:

"The next question that presents itself is when and by whom was the land in question acquired. The oppositors allege that the acquisition was made during the first marriage of Vicenta Montoya to Martin Montoya, whereas the applicants maintain that such land was acquired during the marriage (second marriage) of Vicenta

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Montoya to Jose Velardo. Both contentions are not supported by any document. However, the fact that Susana Velardo Belamide sold a portion of the land in question (Exh. 6) to the Municipality of Silang, Cavite (for widening of the street) on May 1933 without the intervention of, or opposition from, Hilarion Montoya who died on December 2, 1955 (Exh. 3), coupled with the fact that Susana Velardo Belamide has possession of the property since the death of her mother (Vicenta Montoya) in 1931 after she sold the same to the herein applicants on July 20, 1951 (Exh. B), convince the Court that said property was acquired during the coverture of Jose Velardo and Vicenta Montoya. Consequently, upon the death of Jose Velardo in 1888, the one-half (½) undivided portion of the property passed by inheritance to Susana Velardo Belamide and the other one-half (½) undivided portion went to Vicenta Montoya as her share of the conjugal estate. Upon the death of the latter on February 28, 1931, her undivided one-half (½) share of the property should be divided equally between Susana Velardo Belamide and Hilarion Montoya, that is, each is entitled to one-fourth (¼) undivided share. Hence, Susana Velardo Belamide's share is three fourths (3/4) while Hilarion Montoya's share passed by inheritance to his children, the herein oppositor. For this reason, the sale made by Susana Velardo Belamide in favor of the applicants (Exh. B) is null and void only with respect to the one-fourth (¼) undivided portion of the property (the share of the herein oppositors) who did not consent to the sale)."

As earlier stated, the Court of Appeals affirmed the amended decision of the Court of First Instance, this time rendered by Hon. Jose P. Alejandro, and denied a Motion for Reconsideration filed by the petitioners herein on June 29, 1971 (Annex E to Petition), as well as a Motion for a New Trial (Annex F to Petition). The ground for the Motion for New Trial was that Exhibit 8 of the oppositors (private respondents herein) which was allegedly relied upon by both the Court of First Instance and the Court of Appeals is a falsified document. As recited in the petition, par. 12 thereof (p. 8, *Rollo*), the falsification consists of the following:

"According to the official records of the Civil Registrar of Silang, Cavite, the name of the father of Hilarion Montoya in the marriage column is in *blank*. But according to Exhibit 8, the name of the father of Hilarion Montoya is *Martin Montoya*. Thus, while the official record of the civil registrar shows that oppositors' father, Hilarion, had an

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unknown father, thru falsification, Hilarion's father was *made* to appear in *Exhibit 8* as *Martin Montoya*. The latter falsely became husband of Vicenta Montoya, thereby enabling private respondents to inherit 1/4 of the land in dispute from Vicenta Montoya."

It is the denial of the Motion for New Trial by the Court of Appeals which petitioners allege to be in grave abuse of discretion, and their allegation that the Court of First Instance, as a land registration court, has no jurisdiction to declare who are the heirs of Vicenta Montoya and partition the property by adjudicating ¼ *pro-indiviso* to private respondents as children of Hilarion Montoya, allegedly an unacknowledged natural child of Vicenta Montoya, and that as a consequence, the Court of Appeals, likewise, is without jurisdiction, or acted in grave abuse of discretion, in affirming the decision of the lower court, that petitioners came to this Court with the present petition.

1. There can be no grave abuse of discretion by the Court of Appeals *in denying petitioners' Motion for New Trial.* The document alleged to be falsified (Exh. 8) was presented in the trial in the lower court. Petitioners should have attacked the same as falsified with competent evidence, which could have been presented, if they had exercised due diligence in obtaining said evidence, which is Annex "A"[1] to the Motion for New Trial (Annex F to Petition).[2] It is, therefore, not a newly discovered evidence that could justify a new trial (Rule 37 [1-b], Rules of Court).

The new evidence would neither change the result as found by the decision. It might prove that Hilarion Montoya was registered at birth without his father having been given, but from the testimony of Marcelino Belamide, one of the applicants (now petitioners), Vicenta Montoya was married twice, although he did not know the first husband. Likewise, in the opposition of private respondents (pp. 30-31, Record on Appeal),[3] it is

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[1] p. 69, *Rollo.*

[2] p. 66, *Rollo.*

[3] p. 20, *Rollo.*

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there alleged that the land originally belonged *to the spouses Martin Montoya and Vicenta Montoya.* This allegation was never contradicted. The document sought to be presented by petitioners, as stated in their Motion for New Trial in the Court of Appeals, cannot effectively destroy this allegation, first, because the marriage between Martin Montoya and Vicenta Montoya could have taken place after the birth of Hilarion Montoya who was thus legitimized, and second, Martin Montoya and Vicenta Montoya evidently lived together as husband and wife, and are, therefore, presumed to have been legally married (Section 5, par. [bb], Rule 131, Rules of Court). This Court held that a man and a woman who are living under the same roof are presumed to be legitimate spouses (*Que Quay vs. Collector of Customs*, 33 Phil. 128), and in the instant case, no less than one of the herein petitioners, Marcelino Belamide, testified that Vicenta Montoya married twice. The records suggest no other husband by the first marriage than Martin Montoya, who then could have been the father of Hilarion Montoya who, undisputedly, is the son of Vicenta Montoya.

With the law and the evidence showing with reasonable sufficiency that Hilarion Montoya from whom private respondents would derive hereditary rights over the land in question, is the legitimate son of Vicenta Montoya, the adjudication of said land by the lower court, as specified in its decision, is in accordance with law.

2. The jurisdiction of the lower court as a land registration court to adjudicate the land for purposes of registration cannot, as petitioners try to do, be questioned. The applicants and oppositors both claim rights to the land by virtue of their relationship to the original owner, the late Vicenta Montoya. The Court is thus necessary impelled to determine the truth of their alleged relationship, and on the basis thereof, to adjudicate the land to them as the law has prescribed to be their successional rights. The law does not require the heirs to go to the probate court first before applying for the registration of the land, for a declaration of heirship. This would be a very cumbersome procedure, unnecessarily expensive and unreasonably inconvenient, clearly averse to the rule against multiplicity of suits.

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Furthermore, petitioners should not now be heard to complain after they have themselves gone to the lower court to have their title to the land registered in their names without having had a previous declaration of their heirship by the probate court. In filing their opposition to the application, private respondents merely went to the same court invoking its jurisdiction in exactly the same fashion as did the petitioners. In effect, there was unanimity among the parties in consenting to, or acquiescing in, the exercise of the jurisdiction of the land registration court, no matter whether same is a limited one. With this premise, and with the full opportunity given both parties to air their sides with the presentation of all evidence as they may desire in support thereof, as fully as could be done in the ordinary court with general jurisdiction, the decision of the lower court, sitting as a land court, supported as it is with sufficient evidence, may no longer be questioned on jurisdictional grounds. (See *Martin Aglipay vs. Hon. Isabelo delos Reyes, Jr.,* G. R. No. L-12776, March 23, 1960; *Franco vs. Monte de Piedad and Savings Bank,* L-17610, April 22, 1963, 7 SCRA 660; *City of Tarlac vs. Tarlac Development Corporation,* L-24557, July 31, 1968, 24 SCRA 466; *City of Manila vs. Manila Lodge No. 761*, L-24469, July 31, 1968, 24 SCRA 466; *City of Manila vs. Army and Navy Club of Manila,* L-24481, 24 SCRA 466; *Demetrio Manalo vs. Hon. Herminio C. Mariano, et al.*, L-33850, January 22, 1976, 69 SCRA, 80).

For all the foregoing, the instant petition is hereby dismissed for lack of merit. Costs against petitioners.

SO ORDERED.

Teehankee (Chairman), Santos, Guerrero, and *Melencio-Herrera, JJ.*, concur.

Makasiar and *Fernandez, JJ.*, took no part.