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SECOND DIVISION

[G.R. No. L-29262. May 31, 1978]

SALVADOR BARENG, *petitioner-appellee*, *vs.* **SHINTOIST SHRINE & JAPANESE CHARITY BUREAU, represented by JOSE S. LAUREL, III**, *oppositor-appellant*.

[G.R. No. L-29263. May 31, 1978]

SALVADOR BARENG, *petitioner-appellee*, *vs.* **HONGWANJI CHURCH OF JAPAN, represented by JOSE S. LAUREL, III**, *oppositor-appellant*.

SYLLABUS

1. **CIVIL LAW; LAND REGISTRATION; PROCEEDINGS UNDER SECTIONS 111 AND 112 OF THE LAND REGISTRATION ACT ARE SUMMARY IN NATURE AND ARE INADEQUATE FOR LITIGATION OF ISSUES WHICH PROPERLY PERTAIN TO CIVIL ACTIONS.**— Any way, proceedings undertaken pursuant to Section 111, as those under Section 112, are summary in nature. They are inadequate for the litigation of issues properly pertaining to civil actions. (*Tomada vs. Tomada, G. R. No. L-21887, July 30, 1969, 28 SCRA 1028. Santos vs. Cruz, 52 SCRA 330.*) In other words, controversial questions, such as questions concerning the ownership of the registered property (*Tomada vs. Tomada, supra*), questions of lapse of period to register of deeds (*Mendoza vs. Abrera, 105 Phil. 611*), or any question where the issues involved have become controversial (*Register of Deeds of Iloilo vs. C. N. Hodges*, G.R. No. L-18178, January 31, 1963, 7 SCRA 149) cannot be threshed out in such proceedings. Where therefore, controversial issues are raised in proceedings brought under Section 111 or Section 112, it is the duty of the court sitting as a cadastral court or land registration court to dismiss the petition and the proper recourse open for the parties would be to bring up the said questions in an ordinary civil action, or in the proceeding where the incident properly belongs.

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2. ID.; CONTRACTS; WHEN DUE EXECUTION, VALIDITY AND ENFORCEABILITY OF THE DOCUMENTS OF SALE AS WELL AS THE NATURE OF OWNERSHIP OF A PROPERTY HAVE BEEN QUESTIONED, THE TRIAL COURT ACTING AS A LAND COURT HAS NO JURISDICTION OVER THE CASE AS THE SAME MUST BE LITIGATED IN AN ORDINARY ACTION BEFORE A COURT OF GENERAL JURSIDICTION.— In the cases at bar, oppositor-appellant, as already stated, impugned in its original opposition, the jurisdiction of the trial court acting as a land court to pass on the due execution, validity and enforceability of the documents relied upon by opposing parties. The controversial nature of these objections to the petition below should not have escaped the attention of the lower court, if only because the deeds of sale effected in favor of petitioner-appellee and sought by him to be registered under Section 111 of the Land Registration Act were executed by attorneys-in-fact or by one acting pursuant to an authority given by an attorney-in-fact, not by the registered owner of the properties themselves. Besides, in unmistakable terms, the authority of the persons who acted on behalf of the religious entities in whose names the lands in question are registered has been assailed. Thus, the objection of oppositor-appellant which touched upon the very force and effect in law of said powers of attorney may not just be discarded as unsubstantial. In effect, since the matter of who can act in the name of the artificial person or juridical entity that appear to be the registered owner is in serious dispute, an issue in the nature of ownership was before the court. In the words of now Chief Justice Castro in *Santos vs. Cruz, supra*, "clearly and unmistakably, the parties raised an issue — affecting and concerning the ownership" of the lands in dispute " — definitely a patently substantial and genuine issue — that must be ventilated in an ordinary action before a court of general jurisdiction. The proceedings spelled out by Act 496 are summary in character and are therefore inadequate for the litigation of issues properly appertaining to the ordinary courts acting under their ordinary civil jurisdiction."

APPEARANCES OF COUNSEL

Florencio Z. Sioson & Exequiel S. Consulta for oppositor-appellant.

Sybico, Fuentes & Yap for petitioner-appellee.

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DECISION

BARREDO, *J.*:

Appeal from two orders, dated February 6, 1968, of the Fourth Branch of the Court of First Instance of Manila, acting as a Land Registration Court, issued in two cases, one entitled "*Salvador Bareng vs. Shintoist Shrine and Japanese Charity Bureau*, represented by Jose S. Laurel, III" (G.R. No. L-29262) and the other, "*Salvador Bareng vs. Hongwanji Church of Japan*, represented by JOSE S. LAUREL, III" (G.R. No. L-29263), both cases having been filed in LRC (GLRO) Cadastral Record No. 158. Said orders direct the oppositor-appellants' attorney-in-fact, Jose S. Laurel, III, to surrender to the Register of Deeds of Manila the owners' duplicates of Transfer Certificate of Title (TCT) No. 42611 and Transfer Certificate of Title (TCT) No. 27552; otherwise, if said owners' duplicates of title are not surrendered, the said Register of Deeds is authorized to cancel them and issue in lieu thereof new titles in favor of petitioner-appellee Salvador Bareng.

CASE G.R. No. L-29262

On October 2, 1967, Salvador Bareng filed a petition[1] with the lower court alleging that the Shintoist Shrine and Japanese Charity Bureau is the registered owner of a parcel of land[2] situated in the district of Sampaloc, Manila, with an area of 332 square meters, more or less, and covered by TCT No. 42611 of the Registry of Deeds of Manila; that the said Shintoist Shrine, represented by its Administrator Masayuki Mori,[3] sold the property in question to Minoru Fukumitsu under a Deed of Absolute Sale (Annex A) executed and acknowledged before the consular office of the Philippines in Tokyo, Japan; that on

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[1] Pages 1-8, Record on Appeal.

[2] Particular description on property — Par. 2 of Petition.

[3] Annex B — certificate of the secretary of the Shintoist Shrine allegedly showing that Masayuki Mori is the recognized administrator thereof.

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July 29, 1958, one Francis J. Boissevain, acting by virtue of a Special Power of Attorney (Annex C) from Minoru Fukumitsu, in turn sold the property in question to petitioner under a Deed of Absolute Sale (Annex D) executed in Manila; that on September 1, 1967, petitioner filed for registration with the Register of Deeds of Manila the Deed of Sale (Annex A) executed by Masayuki Mori in favor of Minoru Fukumitsu, the Special Power of Attorney executed by said Minoru Fukumitsu in favor of Francis J. Boissevain (Annex C) and the Deed of Sale executed by said Francis J. Boissevain in favor of petitioner (Annex D) but said registration could not be completely effected nor a new certificate of title be issued in favor of petitioner because the owner's duplicate of TCT No. 42611 in the possession of Jose S. Laurel, III, who claims to be an attorney-in-fact of the registered owner was not presented for cancellation; that there appears at the back of TCT No. 42611 a notice of *lis pendens* involving a proceeding filed by Minoru Kukumitsu against the Republic of the Philippines[4] which proceeding had already been dismissed on October 21, 1958 and therefore need no longer be annotated therein. Hence, petitioner prayed (1) that the owner's duplicate of TCT No. 42611 be surrendered by the Attorney-in-fact of the Shintoist Shrine and Japanese Charity Bureau, Jose S. Laurel, III, or any person in possession thereof, and upon such surrender, the same, together with the original on file with the Register of Deeds be cancelled and a new one be issued in his (petitioner's) name; (2) that if the person so ordered refuses or fails to surrender the owner's duplicate of TCT No. 42611, the Register of Deeds shall, anyway, cancel the same and issue a new one in his (petitioner's) name; and (3) that the new title to be issued in his (petitioner's) name shall no longer bear the notice of *lis pendens* aforementioned.

On November 16, 1967, the Shintoist Shrine and Japanese Charity Bureau, represented by Jose S. Laurel, III, as oppositor, filed a written opposition[5] well within the time allowed it by the

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[4] Filed in the same cadastral proceeding, LRC (GLRO) No. 158.

[5] Pages 10-16, Record on Appeal.

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lower court, primarily attacking the validity and enforceability of the deeds of sale sought by petitioner to be registered and praying for the dismissal of the petition upon the ground that the lower court has no jurisdiction to take cognizance thereof inasmuch as the validity and enforceability of said documents are disputed. Oppositor alleged that Masayuki Mori had never been its duly authorized administrator and had no power to dispose or administer its properties; that at the time of the execution of the documents sought by petitioner to be registered, its duly authorized administrator was Rev. Hideo Yamanouchi[6] but insofar as the property in question is concerned its attorney-in-fact is Jose S. Laurel, III; that since Masayuki Mori had never been authorized by it (oppositor) to effect the transfer of the land in question, the Deed of Sale (Annex A of Petition) executed by him in favor of Minoru Fukumitsu cannot be enforced and considered binding against it, and likewise, the Power of Attorney executed by Minoru Fukumitsu and the alleged subsequent Deed of Absolute Sale executed in favor of petitioner should be considered as unenforceable and not binding against it; that the proceedings subject matter of the *lis pendens* noted at the back of TCT No. 42611 had indeed been dismissed in 1958 and such dismissal can even be considered as *res judicata* — finally settling the illegality of the transfer made in favor of Minoru Fukumitsu and the transfer to his successor-in-interest, petitioner herein.

On February 6, 1968, after Annexes "A", "B", "C" and "D" were admitted as Exhibits "A", "B", "C" and "D" of the petitioner,[7] the lower court, through then Judge, now Court of Appeals Justice Serafin R. Cuevas, issued an order granting the petition by allowing the registration of the said documents. The order reads:

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[6] Annex 1 is a copy of the affidavit of Rev. Yamanouchi attesting to the fact that he is the administrator and Annex 2 is the affidavit of one Yohei Kishizoe, a representative of the followers of oppositor attesting also to Rev. Yamanouchi's administratorship.

[7] The documents were admitted as exhibits in a hearing held on October 7, 1967. (p. 2, *Rollo*).

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"Acting upon the above-entitled petition but without passing upon the intrinsic validity of the documentary evidence presented by the petitioner consisting of a deed of absolute sale executed by the Administrator of the Philippine Shintoist Shrine and Japanese Charity Bureau represented by Masayuki Mori in favor of Minoru Fukumitsu. Exhibit 'A', a special power of attorney executed by Minoru Fukumitsu in favor of Francis J. Boissevain, Exhibit 'C', and the deed of absolute sale executed by Minoru Fukumitsu as represented by Francis J. Boissevain in favor of the petitioner, Exhibit 'D', and considering that said documents appear to be sufficient in form and substance and that the only hindrance to their registration is the non-production of the owner's duplicate of Transfer Certificate of Title No. 42611; and considering further that both parties agree that the court case subject of the notice of *lis pendens* which is annotated on said certificate of title has already been terminated, the said petition is hereby granted.

"WHEREFORE, pursuant to Section 111 of Act No. 496, Jose S. Laurel III, or any person in possession of the owner's duplicate of Transfer of Certificate of Title No. 42611 is hereby directed to surrender the said owner's duplicate certificate to the Register of Deeds of Manila within Ten (10) days from notice hereof, and said official ordered, upon such surrender and upon payment of the legal fees of his office, to cancel from said title the notice of *lis pendens* appearing thereon, and, thereafter, to proceed with the registration of Exhibits 'A', 'C' and 'D', if in his opinion, said documents may be given due course in registration.

"Should the herein oppositor or the person in possession of the owner's duplicate of Transfer Certificate of Title No. 42611 fail or refuse to comply with the terms of this order within the time specified, the Register of Deeds is hereby authorized to cancel the said owner's duplicate certificate and issue a new one in lieu thereof." (Pp. 17-19, Record on Appeal).

Oppositor filed a motion to reconsider[8] the above order, but the same was denied in an order dated March 20, 1968 thus:

"Acting upon oppositor's motion dated February 12, 1968, for the reconsideration of the order of this Court of February 6, 1968, on grounds of lack of jurisdiction and that the order was issued in

[8] Pages 19-27, Record on Appeal.

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violation of Section 111 of the Land Registration Act, and considering that this Court in acting upon the petition limited itself solely to the determination of the issue whether or not the oppositor may be compelled to surrender the Owner's duplicate of Transfer Certificate of Title No. 42611 pursuant to Section 111 of Act No. 496 and did not in anyway pass upon the effect or validity of the documents sought to be registered because resolution of such questions properly belongs to the ordinary courts; that from the documentary evidence presented by the petitioner there is substantial and adequate basis for the conclusion that the registered owner has been lawfully divested of its title over the land in question thereby warranting the surrender of the duplicate certificate in order that registration of the pertinent documents may be accomplished and the oppositor has not satisfactorily shown that the registered owner has not been lawfully divested of its title; that the deed of sale, Exhibit 'C', in favor of petitioner having been executed on July 29, 1958, antedates the power of attorney, Annex '2', in favor of Jose S. Laurel, III which was executed in August 1958; that in general, the law on registration does not require that only valid instruments shall be registered but that registration must first be allowed and validity or effect thereof litigated afterwards (*Gurbax Singh Pabla and Co. vs. Reyes*, 48 O.G. 4365), and considering further that as the authority granted to the Court by Section 111 of Act No. 496 does not constitute reopening of the decree entered as a result of proceedings *in rem* for the confirmation of imperfect titles under said Act, it cannot be deemed to contravene the purpose and aim of the Torrens system (*Rosado Ruiz vs. Paguio*, 53 O.G., 5618), the said motion for reconsideration is, as it is hereby, denied for lack of merit." (Pp. 35-37, Record on Appeal).

CASE G.R. No. L-29263

Likewise, on September 27, 1967, the same Salvador Bareng filed a petition[9] with the lower court alleging that the Hongwanji Church of Japan is the registered owner of a parcel of land[10] located in the district of Sampaloc, Manila, with an area of 1,725 square meters, more or less, and covered by TCT No.

[9] Pages 2-8, Record on Appeal.

[10] Particular description of land - Par. 2 of Petition.

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27552 of the Register of Deeds of Manila; that on July 29, 1958, a Deed of Absolute Sale (Annex C) was executed between the petitioner and the Hongwangji Church of Japan, the latter represented by Francis J. Boissevain acting by virtue of a Substitute Power of Attorney (Annex B) from the Church's attorney-in-fact Minoru Fukumitsu;[11] that on September 1, 1967, petitioner filed for registration with the Office of the Register of Deeds of Manila the said Deed of Absolute Sale (Annex C), together with the auxiliary documents (Annex A and B) but registration could not be completely effected because the owner's duplicate certificate of TCT No. 27552 in the possession of Jose S. Laurel, III, who claims to be an attorney-in-fact of the same Church, was not presented for cancellation and consequently, no new title could be issued to petitioner; that annotated at the back of TCT No. 27552 is a notice of *lis pendens* involving a petition[12] filed by Minoru Fukumitsu against the Republic of the Philippines which proceedings had already been dismissed on October 21, 1958 and therefore should no longer appear on the new title to be issued in petitioner's name. *Hence, petitioner prayed substantially (1) that the owner's* duplicate of TCT No. 27552 be surrendered by Jose S. Laurel, III, alleged attorney-in-fact of the Hongwangji Church of Japan, or by any person so possessing the same; (2) that upon such surrender, the same, together with the original on file with the Register of Deeds of Manila shall be cancelled and in lieu thereof, a new title issued in petitioner's name; (3) that should any person so ordered refuse or fail to surrender the owner's duplicate in question, an order be issued annulling the said title and in lieu thereof a new title in petitioner's favor shall be entered; and (4) that the new title to be issued in the name of petitioner shall no longer bear the notice of *lis pendens* aforementioned.

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[11] Attached as Annex A is the Power of Attorney in favor of Minoru Fukumitsu executed and acknowledged by the Administrator of the Hongwanji Church of Japan before the Consul Alejandro Wngo of the Philippines in Tokyo, Japan, on March 22, 1958.

[12] Petition was filed in the same proceedings — LRC (GLRO) Cadastral Record No. 158.

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On November 16, 1967, the Hongwanji Church of Japan, as oppositor, represented by its attorney-in-fact, Jose S. Laurel, III, filed a written opposition[13] mainly attacking the validity and enforceability of the deed of sale (Annex C) being presented by petitioner for registration and upon which the petition for issuance of a new title is anchored. Oppositor alleged that it had never issued nor authorized the issuance of a power of attorney in favor of Minoru Fukumitsu insofar as the disposition of the particular parcel of land in question; that Kenichi Yoshida who executed the Power of Attorney (Annex A) in favor of said Minoru Fukumitsu had never been its duly authorized administrator and therefore could not have validly issued a power of attorney in its behalf; that its (oppositor's) true and lawful administrator in March, 1958, when the power of attorney in question was executed, was Rev. Heido Yamanouchi,[14] and not Kenichi Yoshida; that insofar as the parcel of land in question is concerned, its lawfully appointed attorney-in-fact is Jose S. Laurel, III, whose appointment was directly given by its Board of Directors;[15] that inasmuch as Minoru Kukumitsu was not authorized to act for and in its behalf, the alleged Substitute Power of Attorney executed by him in favor of Francis J. Boissevain, as well as the alleged Deed of Sale executed by said substitute attorney-in-fact in favor of the petitioner, are not, and can never be, binding upon it (oppositor); and that the proceedings subject of the notice of *lis pendens* annotated at the back of TCT No. 27552 had indeed been dismissed and such dismissal can even be considered as *res judicata* — finally settling the matter as to the authority of Minoru Fukumitsu to represent it. Wherefore, oppositor prayed for the dismissal of the petition, the lower court having no jurisdiction to entertain

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[13] Pages 10-16, Record on Appeal.

[14] Annex 1 of Opposition — Affidavit of Rev. Heido Yamanouchi.

[15] Attached to the Opposition were copies of the Power of Attorney (Annex 2) issued by the Oppositor's Board of Directors in favor of Jose S. Laurel, III; the Resolution of said Board, dated Aug. 12, 1958, (Annex 2-A) regarding said appointment; and the Resolution confirming said previous appointment by the same Board (Annex 3).

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the same because the validity and enforceability of the documents presented for registration are disputed.

As in the other case, on February 6, 1968, the lower court issued an order[16] worded *mutatis mutandis* as the above-quoted order in regard to Transfer Certificate of Title No. 42611.

Oppositor immediately moved also for the reconsideration[17] of the foregoing order but the same was denied in another order dated also March 20, 1968 worded *mutatis mutandis* again as the other order relative Transfer Certificate of Title No. 42611. Hence these two appeals.

After having omitted to file any brief up to February 5, 1969, when the extended period he had requested had expired, on March 18, 1971, petitioner-appellee moved to dismiss[18] the appeal taken in Case G. R. No. L-29262 on two grounds: (1) that oppositor-appellant has lost his legal personality and standing in court as proper party-in-interest; and (2) that the appeal taken is now moot and academic. With regard to the first ground, it is pointed out that five of the six Directors who executed the Power of Attorney in favor of oppositor-appellant's attorney-in-fact, Jose S. Laurel, III, are now deceased and the one and only surviving Director, Mr. Jihachi Yamamoto has revoked said Power of Attorney and instead has confirmed the right of ownership of petitioner-appellee over the property in question. The death certificates of said directors as well as the deed of confirmation and ratification were attached as annexes to the motion. Anent the second ground, it is claimed that absolute right of ownership over the property in question is now conclusively vested in petitioner-appellee by virtue of the Deed of Confirmation and Ratification executed by the Executive Head of the Hongwanji Church of Japan, which Deed was attached to the said motion as an annex together with the alleged proper authentications thereof. An opposition to the dismissal

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[16] The order is of the same tenor as that issued in G. R. No. 29262.

[17] Pages 19-26. Record on Appeal.

[18] Pages 19-25. *Rollo* of G.R. No. L-29263.

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of the appeal was interposed, oppositor-appellant claiming that (1) the attempt of Mr. Jihachi Yamamoto to revoke the power of attorney of Jose S. Laurel III, is null and void; and (2) the attempt of the Nishi Hongwanji Church of Japan (Jyodo-Shinsu) to confirm and ratify the previous void disposition in favor of petitioner-appellee is also null and void.

No action has yet been taken on said motion to dismiss.

THE DECISION

The pivotal issue to be resolved in these two cases is whether or not the lower court has jurisdiction to entertain or decide the petition notwithstanding the substantial objection and opposition of oppositor-appellant disputing the validity and enforceability of the documents sought by petitioner-appellee to be registered.

Petitioner-appellee's petitions in the court below are predicated not only on Section 111 but also on Section 112 of the Land Registration Act: Act No. 496. His prayer for the surrender of TCT No. 42611 (in G.R. No. L-29262) and TCT No. 27552 (in G. R. No. L-29263) and their cancellation thereafter is based on Section 111: while his prayer for the cancellation of the notice of *lis pendens* annotated at the back of said titles is premised on Section 112. These provisions read:

"SEC. 111. In every case where the clerk or any register of deeds is requested to enter a new certificate in pursuance of an instrument purporting to be executed by the registered owner, or by reason of any instrument or proceedings which divest the title of the registered owner against his consent, if the outstanding owner's duplicate certificate is not presented for cancellation when such request is made, the clerk or register of deeds shall not enter a new certificate, but the person claiming to be entitled thereto may apply by petition to the court. The court, after hearing, may order the registered owner or any person withholding the duplicate to surrender the same, and direct the entry of a new certificate of title upon such surrender.

"If in any case the person withholding the duplicate certificate is not amenable to the process of the court or if for any reason the outstanding owners's duplicate certificate cannot be delivered up, the court may by decree annul the same, and order a new certificate

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of title to be entered. Such new certificate and all duplicates thereof shall contain a memorandum of the annulment of the outstanding duplicate.

"If in any case an outstanding mortgagee's or lessee's duplicate certificate is not produced and surrendered when a mortgage is discharged or extinguished or the lease is terminated, like proceedings may be had to obtain registration as in the case of the non-production of an owner's duplicate."

"SEC. 112. No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon and the attestation of the same by the clerk or any register of deeds, except by order of the court. 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, or that any error, omission, or mistake was made in entering a certificate, or any memorandum thereon, or on any duplicate certificate; or that the name of any person on the certificate has been changed; or that the registered owner has been married; or, if registered as married, that the marriage has been terminated; or that a corporation which owned registered land and has been dissolved has not conveyed the same within three years after its dissolution; or upon any other reasonable ground; and the court shall have jurisdiction to hear and determine the petition after notice to all parties-in-interest, and may order the entry of a new certificate, the entry or cancellation or a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security if necessary, as it may deem proper: *Provided, however*, That this section shall not be construed to give the court authority to open the 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, or his heirs or assigns, without his or their written consent.

"Any petition filed under this section and all petitions and motions filed under the provisions of this Act after original registration shall be filed and entitled in the original case in which the decree of registration was entered."

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Actually, however, the orders appealed from, both issued by the lower court on February 6, 1968, directing the attorney-in-fact of the oppositor-appellant to surrender the owner's duplicates of TCT No. 42611 and TCT No. 27552 and for the cancellation of said titles in order that the new titles may be issued in the name of petitioner-appellee were made pursuant to the above-quoted Section 111 only, which confers authority upon the land registration court, after due determination that the petition is supported by good and valid reasons, to order the surrender and thereafter the cancellation of a certificate of title. The cancellation of the annotation of *lis pendens* has been virtually agreed upon by both parties.

Anyway, proceedings undertaken pursuant to Section 111, as those under Section 112, are summary in nature. They are inadequate for the litigation of issues properly pertaining to civil actions. (*Tomada vs. Tomada, G. R No. L-21887, July 30, 1969, 28 SCRA 1028, Santos vs. Cruz, 52 SCRA 330.*) In other words, controversial questions, such as questions concerning the ownership of the registered property (*Tomada vs. Tomada, supra*), questions of lapse of period to register of deeds (*Mendoza vs. Abrera, 105 Phil. 611*), or any question where the issues involved have become controversial (*Register of Deeds of Iloilo vs. C. N. Hodges, G.R. No. L-18178, January 31, 1963, 7 SCRA 149*) cannot be threshed out in such proceedings. Where therefore, controversial issues are raised in proceedings brought under Section 111 or Section 112, it is the duty of the court sitting as a cadastral court or land registration court to dismiss the petition and the proper recourse open for the parties would be to bring up the said questions in an ordinary civil action, or in the proceeding where the incident properly belongs (*Hu Chon Sunpongco vs. Heirs of Nicolas Ronquillo, G. R. No. L-27040, December 19, 1970, 36 SCRA 395*) albeit, in *Ruiz vs. Paguio*, it was held that if the oppositor does not question the jurisdiction of the court and allows these substantive issues to be tried and decided by it, its decision can no longer be attacked in any subsequent proceeding.

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"Although the general rule is that a Land Registration Court has no power to decide cases involving issues properly litigable in ordinary civil actions, yet inasmuch as in this jurisdiction it is the courts of first instance that also functions as courts of land registration, our jurisprudence recognizes exceptions to said rule, where the *parties have acquiesced in submitting the issues for determination in the registration proceedings*, and they are given full opportunity to present their respective sides and submit their evidence. (*Aglipay vs. De los Reyes*, L-12776, March 23, 1960, and cases cited). (*Franco v. Monte de Piedad and Savings Bank*, L-17610, April 22, 1963, 7 SCRA 660; *City of Manila vs. Tarlac Development Corp.*, 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 of Manila*, L-24481, July 31, 1968, 24 SCRA 466.) (See also *Yusingco vs. Ong Hing Lian*, L-26523, Dec. 24, 1971, 42 SCRA 589.)

In the cases at bar, oppositor-appellant, as already stated, impugned in its original opposition, the jurisdiction of the trial court acting as a land court to pass on the due execution, validity and enforceability of the documents relied upon by opposing parties. The controversial nature of these objections to the petition below should not have escaped the attention of the lower court, if only because the deeds of sale effected in favor of petitioner-appellee and sought by him to be registered under Section 111 of the Land Registration Act were executed by attorneys-in-fact or by one acting pursuant to an authority given by an attorney-in-fact, not by the registered owner of the properties themselves. Besides, in unmistakable terms, the authority of the persons who acted on behalf of the religious entities in whose names the lands in question are registered has been assailed. Thus, the objection of oppositor appellant which touched upon the very force and effect in law of said powers of attorney may not just be discarded as unsubstantial. In effect, since the matter of who can act in the name of the artificial person or juridical entity that appear to be the registered owner is in serious dispute, an issue in the nature of ownership was before the court. In the words of now Chief Justice Castro in *Santos vs. Cruz*, *supra*, "clearly and unmistakably, the parties raised an issue — affecting and concerning the ownership" of the lands in

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dispute " — definitely a patently substantial and genuine issue — that must be ventilated in an ordinary action before a court of general jurisdiction. The proceedings spelled out by Act 496 are summary in character and are therefore inadequate for the litigation of issues properly appertaining to the ordinary courts acting under their ordinary civil jurisdiction." (p. 335)

In *Cano vs. Mirasol, G.R. No. L-18834, promulgated on March 29, 1963, 7 SCRA 493*, cited by oppositor-appellant in their motion for reconsideration and in their brief in this Court, We held:

"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 by the late Jacinto Yniego, 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.* x x x 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 action in an ordinary court and not before a cadastral court. (*Mendoza v. Abrera, et al.*, L-10519, April 30, 1959) (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. (This section stands on the same footing as Section 112 of the same Act.) Its duty is to dismiss the petition in order that said issues may be threshed out in an ordinary case before a regular court. (*Tangunan vs. Republic of the Philippines*, 50 O. G., 115; *Jimenez vs. De Castro*, 40 O. G., 3, 1st Supp. p. 80; *Government of the Philippines v. Jalandoni*, 44 O. G. 1837; *Garcia v. Belzunce*, L-2413, October 27, 1949; *Miraflor v. Leaño*, L-6097, July 13, 1953; *Laguia v. Casimiro*, L-7852, December 17, 1953; *Enriquez vs. Atienza*, L-9986,

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March 29, 1957; *Angeles v. Razon*, L-13679, October 26, 1959; *Rehabilitation Finance Corporation v. Alto Surety & Insurance Co.*, L-14303, March 24, 1960; *Government of the Republic of the Philippines v. Laperal*, L-14228, June 30, 1960; *Floriza v. The Hon. Court of Appeals, et al.*, L-15043, February 27, 1961)."

Subsequently, in *Puguid vs. Reyes, G. R. No. L-21311, August 10, 1967* (20 SCRA 972), a more extensive discussion of the same legal point was made by the Court thru Mr. Justice Fernando:

"The lower court acted correctly. The dismissal was in accordance with the controlling doctrine dating from *Tangunan v. Republic* (94 Phil. 171, 174-175 [1953]). Prior to this case, the requirement that there be no controversy did not appear to be inflexible (*Director of Lands vs. Abisia*, [1946] 76 Phil. 205; *Rebong vs. Ibañez* [1946] 79 Phil. 324; *Floro vs. Granada*, [1949] 83 Phil. 487; *Republic vs. Hospital de San Juan de Dios* [1949] 84 Phil. 820; *Sideco vs. Aznar* [1953] 92 Phil. 982.) As was there clearly set forth "We are of the opinion that the lower court did not err in finding that it lacks jurisdiction to entertain the present petition for the simple 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, or inchoate, have terminated and 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." (The Tangunan doctrine was subsequently followed or cited with approval in the following cases: *Enriquez vs. Atienza*, [1957] 100 Phil. 1072; *Bachoco vs. Esperancilla*, L-11785, March 31, 1959; *Angeles vs. Razon*, L-13679, Oct. 26, 1959; *Antonio vs. Rocamora*, L-13090, Nov. 27, 1959; *Rehabilitation Finance Corp. vs. Alto Surety*, L-14303, March 24, 1960; *Magdalena Estate vs. Yuchengco*, L-12963, May 30, 1960; *Republic of the Philippines vs. Laperal*, L-14228, June 30, 1960; *Asturias Central vs. Segovia*, L-15590, Aug. 31, 1960; *Balanga vs. Court of Appeals*, L-15438, Jan. 31, 1961; *Floriza vs. Court of Appeals*, L-15043, Feb. 27, 1961; *Li Yao vs. De Leon*, L-14324, April 12, 1961;

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Jison vs. Debuque, L-17687, Dec. 28, 1961; *Gonzalo Puyat and Sons vs. PNB*, L-16843, April 30, 1962; *Navera vs. Quicho*, L-19339, June 29, 1962; *Abella vs. Rodriguez*, L-17889, June 29, 1962; *Register of Deeds vs. Hodges*, L-18178, Jan. 31, 1963; *Zabaljaurregui vs. Luzon Surety Co., Inc.*, L-16251, Aug. 31, 1963; *Almirañez vs. Devera*, L-19496, Feb. 27, 1965)

"Barely four years later came the next opinion of importance reiterating and clarifying the above holding. Thus: "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. * * *. "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 he 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 he threshed out in an ordinary case or in the case where the incident belongs." (*Enriguez vs. Atienza*, [1957] 100 Phil. 1072, 1077-1078)."

"There was on March 24, 1960, a reaffirmation of the above view and a brief summary of the then current state of the law. "The court *a quo* acted correctly in denying, under the circumstances, the petition to cancel the annotation of the second mortgage at the back of the title covering the property originally owned by Eustaquio Palma. It has been consistently held by this Court, that the relief afforded by Section 112 of the Land Registration Act may only be allowed if 'there is a 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. In another case, only 'alterations which do not impair rights recorded in the decree, or alterations which, if they do prejudice such rights, are consented to by all parties concerned or alterations to correct obvious mistakes.' This doctrine is but sound and proper. The proceedings provided in the Land Registration Act being summary in nature, they are inadequate for the litigation of issues properly pertaining to ordinary civil actions. Thus, questions involving ownership of or title to a real property, or relating to the validity or cancellation or discharge of a mortgage should properly be ventilated in an ordinary proceeding." (*Rehabilitation Finance Corp. vs. Alto Surety Ins. Co., Inc.*, L-14303, March 24, 1960)

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The case of *Gurbax Singh Pabla & Co. vs. Reyes and Tantoco*, 92 Phil. 177, cited by appellee is not controlling. In that case, it was not disputed that the basis of the petition under Section 111 were genuine contracts of lease duly executed by the persons in whose names the property was registered. Said the Court:

"x x x The only issue, therefore, is whether petitioners have a right to have said deeds registered. It is not denied that the contracts have been executed by the registered owner of the land, or that they have been lawfully executed, or that they have all the qualities of registerable documents. Indeed, the owner is agreeable to the registration. The objections interposed by respondents, who are mortgagees merely, that they had no knowledge of the contract of lease, or that their mortgage has priority, or that they will be prejudiced, are beside the issue."

Here, appellant impugns the source of authority of appellee's supposed predecessor-in-interest to legally act in the premises.

The ruling in *Rosado Ruiz vs. Paguio*, 99 Phil. 474, relied upon by the trial court, to the effect that registration is only notice of adverse interest and should be allowed without prejudice to the appropriate litigation in the ordinary courts applies only to the particular circumstances of the factual setting therein. In the light of the subsequent rulings of this Court, some of which have been discussed above, We cannot say that Rosado can be invoked as a general rule, if it can still be considered as binding jurisprudence. The inconvenience and probable damage that can be caused by the outright registration of instruments that appear on their faces to be regular notwithstanding due execution thereof is squarely and substantially placed in issue, only to be later on found to have been indeed not duly authorized, make the wisdom of Rosado open to question.

Accordingly, the motion to dismiss appeal in G.R. No. L-29263 on the ground that the issues therein raised had become moot and academic, the deed of sale in favor of petitioner-appellee having been ratified, cannot be given due course. The reason is obvious — the opposition to said motion to dismiss

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again raised a controversial issue touching on their very execution, validity and enforceability of the documents relied upon, which objection were also supported with documents. Said issue must be taken together with those raised below in an ordinary action.

IN VIEW OF ALL THE FOREGOING, the impugned orders of the court of February 6, 1968 and March 30, 1968 in LRC (GLRO) Cadastral Record No. 158 affecting the lands covered by TCT Nos. 42611 and 27552, both of the Register of Deeds of Manila in the names respectively of Shintoist Shrine and Japanese Charity Bureau and Hongwanji Church of Japan are hereby set aside in order that the issues of legality and validity of the transactions and instruments respectively relied upon by the parties may be properly litigated in corresponding ordinary civil actions. Costs against appellee.

Fernando (Chairman), Antonio, Aquino, and *Santos, JJ.*, concur.

Concepcion Jr., J., is on leave.

EN BANC

[G.R. No. L-30355. May 31, 1978]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellant, vs.* **HON. UNION KAYANAN and HON. ENRIQUE AGANA, Judges of the Court of First Instance of Quezon, and PELAGIO ORGANO**, *defendants-appellees.*

SYLLABUS

1. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; GRAVE ABUSE OF DISCRETION; PALPABLY IRREGULAR AND LEGALLY ERRONEOUS CONDUCT CONSTITUTES GRAVE ABUSE OF DISCRETION. — It is grave abuse of