for the illegal strike, and that said strike cannot in any way affect their present status as laborers or any demands by them either pending or future. With this understanding, we decline to pass upon the legality or illegality of the strike declared on March 12, 1952, against the cement company, regarding the same as immaterial, if not moot.

In view of the foregoing, the order appealed from is hereby affirmed, with costs.

Paras, C.J., Pablo, Bengzon, Padilla, Alex Reyes, Bautista Angelo, Jugo, Labrador, Concepcion and *J. B. L. Reyes, J.J.*, concur.

VIII

Urbano Casillan, Petitioner-Appellee, vs. Francisca E. Vda. De Espartero, et al., Oppositor-Appelants, No. L-6902, September 16, 1954, Reyes, A., J.

LAND REGISTRATION; JURISDICTION OF LAND REGISTRATION COURT TO ORDER RECONVEYANCE OF PROPERTY ERRONEOUSLY REGISTERED IN ANOTHER'S NAME; REMEDY OF LANDOWNER. — The Court of First Instance, in the exercise of its jurisdiction as a land registration court, has no authority to order a reconveyance of a property erroneously registered in another's name. The remedy of the landowner in such a case should the time allowed for the reopening of the decree have already expired — is to bring an ordinary action in the ordinary courts of justice for reconveyance, or for damages if the property has passed into the hands of an innocent purchaser for value.

Manuel G. Alvarado for the oppositors and appellants.
Manuel G. Manzano for petitioner and appellee.

D E C I S I O N

REYES, A., *J.*:

On December 19, 1950, Urbano Casillan filed a verified petition in the Court of First Instance of Cagayan in Cadastral Case No. 26, Record No. 2, G.L.R.O. No. 1390, alleging that he was the owner of Lot No. 1380, filed a claim therefor in said case and paid all cadastral costs, but that by mistake title was issued to Victorino Espartero, who never possessed or laid claim to the said lot. Petitioner, therefor, prayed that "in the interest of equity and under Section 112 of Act 496," the court order the heirs of Victorino Espartero — the latter having already died — to reconvey the lot to the petitioner, or merely order the correction of the certificate of title by substituting his name for that of Victorino Espartero as registered owner.

Opposing the petition, the heirs of Victorino Espartero filed a motion to dismiss on the ground, among others, that section 112 of Act 496 did not authorize the reconveyance or substitution sought by petitioner; but the court declared the section applicable. And having found, after hearing, that the lot belonged to petitioner and that title thereto was issued in the name of Victorino Espartero as a consequence of a clerical error in the preparation of the decree of registration, the court ordered the reconveyance prayed for. From this order, oppositors have appealed to this Court and one of the questions raised is that section 112 of Act 496 did not authorize the lower court to order such reconveyance.

Stated another way, appellants' position is that the Court of First Instance, in the exercise of its jurisdiction as a land registration court, had no authority to order a reconveyance in the present case. The appeal thus raises a question of jurisdiction.

In view of our decision in the case of Director of Lands vs. Register of Deeds et al., 49 Off. Gaz., No. 3, p. 935, appellants' contention must be upheld. In that case, the court of land registration had confirmed title in the Government of the Philippine Islands to a parcel of land situated in Malabon, Rizal, but the corresponding decree and certificate of title were issued, not in the name of the Philippine Government, but in that of the municipality of Malabon. Years after, the Director of Lands filed in the original land registration case a petition for an order to have the error corrected and the certificate of title put in the name of the Republic of the Philippines. Acting on the petition, the Court of First Instance of Rizal issued the order prayed for on the authority of section 112 of the Land Registration Act. But upon appeal to this Court, the order was reversed, this Court holding that the lower court, as a land court, had no jurisdiction to issue such order, as the section cited did not apply to the case. Elaborating on the scope of said section, this Court 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 alterations which, if they do prejudice such rights, are consented to by all the parties concerned, or alterations to correct obvious mistakes. By the very fact of its indefeasibility, the Court of Land Registration after one year loses its competence to revoke or modify in a substantial manner a decree against the objection of any of the parties adversely affected. Section 112 itself gives notice that it 'shall not be construed to give the court authority to open the original decree of registration,' and section 38, which sanctions the opening of a decree within one year from the date of its entry, for fraud, provides that after that period 'every decree or certificate of title issued in accordance with this section shall be incontrovertible'.
>
> "Under the guise of correcting clerical errors, the procedure here followed and the appealed order were virtual revision and nullification of generation-old decree and certificate of title. Such procedure and such order strike at the very foundation of the Torrens System of land recording laid and consecrated by the emphatic provisions of section 38 and 112 of the Land Registration Act, *supra*. In consonance with the universally-recognized principles which underlie Act No. 496, the court may not, even if it is convinced that a clerical mistake was made, recall a certificate of title after the lapse of nearly 30 years from the date of its issuance, against the vigorous objection of its holder. As was said in a similar but much weaker case than this (Government vs. Judge, etc., 57 Phil., 500): 'To hold that the substitution of the name of a person, by subsequent decree, for the name of another person to whom a certificate of title was issued (five years before) in pursuance of a decree, effects only a correction of a clerical error and that the court had jurisdiction to do it, requires a greater stretch of the imagination than is permissible in a court of justice.' (Syllabus.) It should be noticed that in that case, as in this case, the later decree 'was based on the hypothesis that the decree of May 14, 1925, contained a clerical error and that the court had jurisdiction to correct such error in the manner aforesaid'.
>
> "The sole remedy of the land owner whose property has been wrongfully or erroneously registered in another's name is, after one year from the date of the decree, not to set aside the decree, as was done in the instant case, but, respecting the decree as incontrovertible and no longer open to review, to bring an ordinary action in the ordinary court of justice for reconveyance or, if the property has passed into the hands of an innocent purchaser for value, for damages."

In line with the ruling laid down in the case cited, the order herein appealed from must be, as it is hereby, revoked, without prejudice to the filing of an ordinary action in the ordinary courts of justice for reconveyance, or for damages if the property has passed into the hands of an innocent purchaser for value. Without costs.

Paras, Pablo, Bengzon, Padilla, Montemayor, Jugo, Bautista Angelo, Concepcion, and *J. B. L. Reyes, J.J.*, concur.

IX

Josefa De Jesus, Pilar De Jesus and Dolores De Jesus, Plaintiffs-Appellants, vs. Santos Belarmino and Teodora Ochoa De Juliano, Defendants-Appellees, G. R. No. L-6665, June 30, 1954, Bautista Angelo, J.

1. SALES; VENDEE WITH ACTUAL OR CONSTRUCTIVE

KNOWLEDGE OF MISTAKE IN AREA OF LAND BOUGHT, NOT PURCHASER IN GOOD FAITH. - Where the triangular portion of the lot bought by plaintiffs' predecessors-in-interest was erroneously included in the lot bought by one of the defendants, and the latter, having actual or constructive knowledge of such mistake, never claimed any right of ownership or of possession of said portion until after the issuance of the certificate of title in their favor, they can not claim to be purchaser in good faith of the portion in question even if they had paid the consideration therefor with the sanction of the Bureau of Lands.

2. COMPLAINTS; DISMISSAL BY MOTION; SUFFICIENCY OF MOTION, TESTED BY ALLEGATIONS OF FACTS IN COMPLAINT; TEST OF SUFFICIENCY OF FACTS ALLEGED TO CONSTITUTE CAUSE OF ACTION. — Where the complaint was dismissed not because of any evidence presented by the parties, or as a result of the trial on the merits, but merely on a motion to dismiss filed by the defendants, the sufficiency of the motion should be tested on the strenght of the allegations of facts contained in the complaint, and on no other. If these allegations show a cause of action, or furnish sufficient basis by which the complaint can be maintained, the complaint should not be dismissed regardless of the defenses that may be averred by the defendants. The test of the sufficiency of the facts alleged in a complaint, to constitute a cause of action, is whether or not, admitting the facts alleged, the court could render a valid judgment in accordance with the prayer of said complaint.

Nicolas Belmonte and *Delfin Aprecio* for plaintiffs and appellants.

Angel V. Sanchez and *Conrado T. Santos* for defendants and appellees.

DECISION

BAUTISTA ANGELO, *J.*:

Plaintiffs brought this action in the Court of First Instance of Laguna to recover a parcel of land containing an area of 7,396 sq. m. claimed to have been erroneously included in Transfer Certificate of Title No. T-129 of the land records of said province issued in the name of defendant Santos Belarmino.

The principal allegations of the complaint, as amended, are as follows: On July 1, 1910, the Bureau of lands sold to Timoteo Villegas Lot No. 400 of the Calamba Estate containing an area of 83,579 sq. m. situated in barrio Parian, Calamba, Laguna, at a price payable in 20 annual installments. Since then, Villegas has been in possession of said lot.

On January 11, 1915, Villegas sold his right and interest in said lot to Petrona Quintero by virtue of a certificate of sale which was duly approved by the Bureau of Lands. The purchase price of the lot was paid in full on September 30, 1931.

Petrona Quintero died in 1933 leaving as heirs her daughters Josefa de Jesus and Pilar de Jesus and her granddaughter Dolores de Jesus, who became the owners by succession of the lot. These heirs are now the plaintiffs herein.

Santos Belarmino, one of the defendants herein, also purchased from the Bureau of Lands on installment basis a portion of the same estate known as Lot No. 3211 containing an area of 61,378 sq. m., which was adjoining Lot No. 400 purchased by Timoteo Villegas. When the cadastral survey of the property covered by the Calamba Estate was ordered, a relocation was made of Lot No. 400 and Lot No. 3211 with the result that the latter was subdivided into Lot No. 3211-N, Lot No. 4639, and Lot No. 4640, but in making the subdivision a triangular portion with an area of 7,896 sq. m. which originally formed part of Lot No. 400 was erroneously included in the plan and description of Lot No. 4639. Said triangular portion was not part of the lot sold by the Bureau of Lands to Santos Belarmino but of the lot sold by said Bureau to Timoteo Villegas.

Without any judicial proceedings or court order, the Register of Deeds of Laguna issued Transfer Certificate of Title No. T-129 covering the lot originally bought from the Bureau of Lands by Santos Belarmino which, as above stated, erroneously included the triangular portion referred to in the preceding paragraph, and said transfer certificate of title was issued in the name of Santos Belarmino as to 21,776 sq. m. and of Epifania Amaterio as to 8,000 sq. m.

When the two lots mentioned above were sold by the Bureau of Lands to Timoteo Villegas and Santos Belarmino as above stated, the Government did not have any certificate of title specifically covering said lots, its only title being Original Certificate of Title No. 245 which covers the Calamba Estate, so when Transfer Certificate of Title No. T-129 was issued to Santos Belarmino and Epifania Amatorio, the Bureau of Lands did not rely on any title other than Certificate of Title No. 245 covering the Calamba Estate.

When Epifania Amatorio died, her interest was inherited by Teodora Ochoa de Juliano, who is now in actual possession of the portion of 8,000 sq. m. which was inherited by her, but defendant Santos Belarmino is in possession of the portion adjoining the triangular portion now in question and he alone claims right to said triangular portion. Santos Belarmino and his co-defendant Teodora Ochoa de Juliano never exercised any right of ownership nor possession over said triangular portion because the same had always been in the continuous, open, public, notorious, and adverse possession of the predecessors-in-interest of the plaintiffs as exclusive owners thereof.

The complaint further alleges that the herein defendants, or their predecessors-in-interest, know all the time that the triangular portion in question was not part of the lot sold by the Bureau of Lands to Santos Belarmino, but on the contrary they know that said portion always formed part of the land sold to the predecessors-in-interest of the plaintiffs, and that defendant Santos Belarmino never claimed any interest in said portion except sometime in March, 1952 when said defendant claimed for the first time that said portion was included in the certificate of title issued in his favor by the Register of Deeds.

Because of the error above pointed out, plaintiffs pray that they be declared as owners of the triangular portion above adverted to and that Certificate of Title No. T-129 issued in favor of Santos Belarmino be rectified by excluding therefrom said triangular portion. And making the Director of Lands as party defendant, plaintiff also pray that he be ordered to take the necessary steps to have a certificate of title issued in their favor covering the lot originally purchased by their predecessors-in-interest, since the purchase price thereof had been paid in full, and in the event that the triangular portion in dispute be not included in said title, the Director of Lands be ordered to pay to the plaintiffs the amount of P7,396 as value thereof, plus the costs of action.

Defendant Santos Belarmino filed a motion to dismiss alleging in substance that, assuming that a portion of the land owned or occupied by plaintiffs predecessors-in-interest was erroneously included in the title issued to the defendants when the latter bought a portion of the Calamba Estate owned by the Government, the defendants should not be blamed for that mistake there being no showing that they were instrumental or an accomplice in the commission of that mistake, aside from the fact that the title issued to them as grantees of public land is as indefeasible or incontrovertible as a title issued under the Land Registration Law.

The lower court uphold this contention and in an order issued on October 30, 1952, it held that the complaint does not state a cause of action because the defendants are holders of a certificate of title issued by the Government and as such they should be considered as third parties who acquired the property in good faith and for consideration, and so it dismissed the complaint without pronouncement as to costs. Plaintiffs have taken the present appeal.

It is our opinion that the complaint, as amended, contain facts sufficient to constitute a cause of action or to serve as basis for granting the relief prayed for by the plaintiffs. A cursory read-

ing of the complaint will show that both Timoteo Villegas, predecessor-in-interest of the plaintiffs and Santos Belarmino, one of the defendants, purchased from the Bureau of Lands two lots each, the former Lot No. 400 containing an area of 83,579 sq. m., and the latter Lot No. 3211 containing an area of 61,578 sq. m.; that Lot No. 400 included the triangular portion now in question, and not Lot No. 3211, and that since the date of its sale to Timoteo Villegas, the latter had been in possession of Lot No. 400, including the triangular portion; that, in a re-survey made of those lots in accordance with the cadastral law, Lot No. 3211 was subdivided into lots 3211-N, 4639, and 4640; that the original area of Lot No. 3211 was 61,578 sq. m., but after its subdivision into three lots, their total area was increased to 67,808 sq. m., or a difference of 6,230 sq. m., with the result that the area of Lot No. 400 became 76,591 sq. m. instead of its original area of 83,579 sq. m.; that defendants know all the time that the triangular portion in question was included in the sale made way back in 1910 by the Bureau of Lands to Timoteo Villegas and not in the sale made in the same year by said Bureau to Santos Belarmino, as they likewise well knew that the lot bought by Timoteo Villegas, including the triangular portion, had always been in continuous, open, public, notorious, and adverse possession of the plaintiffs and their predecessors-in-interest as exclusive owners.

The foregoing facts unmistakably show: (1) that the lot bought by plaintiffs' predecessors-in-interest included the triangular portion in dispute; (2) that said triangular portion was erroneously included in the lot bought by Santos Belarmino in a re-survey made by the Bureau of Lands years later; (3) that defendants knew, or had actual or constructive knowledge, of such mistake; and (4) defendants never claimed any right of ownership or of possession of said portion until after the issuance of the title issued to them in 1952. Under these facts, it is obvious that defendants cannot claim to be purchasers in good faith of the portion in question even if they had paid the consideration therefor with the sanction of the Bureau of Lands. (Cui & Joven v. Henson, 51 Phil. 606; Legarda & Prieto, 31 Phil. 590; Angeles v. Samia, 66 Phil. 444.) It should be borne in mind that the complaint was dismissed not because of any evidence presented by the parties, or as a result of the trial on the merits, but merely on a motion dismiss filed by the defendants. Such being the case, the sufficiency of the motion should be tested on the strength of the allegations of facts contained in the complaint, and on no other. If these allegations show a cause of action, or furnish sufficient basis by which the complaint can be maintained, the complaint should not be dismissed regardless of the defenses that may be averred by the defendants. It has been said that the test of the sufficiency of the facts alleged in a complaint, to constitute a cause of action, is whether or not, admitting the fats alleged, the court could render a valid judgment in accordance with the prayer of said complaint. (Paninsan v. Costales, 28 Phil. 487; Blay v. Batangas Transportation Co., 45 O. G. Supp. to No. 9, p. 1.) In our opinion, the allegations of the instant complaint are of this nature, and so the lower court erred in dismissing it.

Wherefore, the order appealed from is set aside. The Court orders that this case be remanded to the lower court for further proceedings, without pronouncement as to costs.

Paras, Pablo, Bengzon, Padilla, Montemayor, A. Reyes, Jugo, Labrador and *Concepcion*, J.J. concur.

X

Teodoro Vaño, Petitioner, vs. Hipolito Alo, as Judge of the Court of First Instance of Bohol, Pedro Dumadag and Esmenio Jumamuy, Respondents, G. R. No. L-7220, July 30, 1954, Labrador, J.

1. PARTIES; IMPLEADING OF REAL PARTIES, APPLICABLE TO PARTIES PLAINTIFF ONLY. — The rule requiring real parties to be impleaded is applicable to parties plaintiffs, not to parties defendant.

2. ID.; ID.; PLAINTFF CAN CHOOSE CAUSE OF ACTION AND PARTIES HE DESIRES TO SUE WITHOUT IMPOSITION BY COURT OR ADVERSE PARTY. — It is the absolute prerogative of the plaintiff to choose the theory upon which he predicates his right of action, or the parties he desires to sue, without dictation or imposition by the court or the adverse party. If he makes a mistake in the choice of his right of action; or in that of the parties against whom he seeks to enforce it, that is his own concern as he alone suffers therefrom.

3. ID.; ID.; REMEDY OF OFFICERS SUED WHO DESIRE TO IMPLEAD MEMBERS OF UNREGISTERED CORPORATION—THIRD PARTY COMPLAINT. — Where the plaintiff sued the officers alone, and the latter desire to implead the members of the unregistered corporation and make them equally responsible in the action, their remedy is by means of a third party complaint, in accordance with Rule 12 of the Rules of Court. But they can not, compel the plaintiff to choose his defendants. He may not, at his own expense, be forced to implead any one who, under adverse party's theory, is to answer for the defendants' liability. Neither may the court compel him to furnish the means which defendants may avoid or mitigate their liability.

4. ID.; ID.; ID.; INDISPENSABLE PARTY AND PARTY JOINTLY OR ULTIMATELY RESPONSIBLE FOR OBLIGATION WHICH IS SUBJECT OF ACTION, DISTINGUISHED. —Where the complaint specifically alleged that the defendants, purporting to be the president and general manager of an unregistered corporation, entered into the contract by themselves, the presence of the members of the association is not essential to the final determination of the issue presented, the evident intent of the complaint being to make the officers directly responsible. (Article 287, Code of Commerce, *supra*). The alleged responsibility of the members for the contract to the officers, who acted as their agents, is not in issue and need not be determined in the action to fix the responsibility of the officers to plaintiff's intestate, hence said members are not indispensable in the action instituted.

Roque R. Luspo for the petitioner.

Victoriano Tirol for the respondents.

DECISION

LABRADOR, *J.*:

Petitioner instituted this action of certiorari to reverse an order of the Court of First Instance of Bohol refusing to admit his fourth amended complaint. The record discloses the following facts and circumstances as a background for the petition:

Around the year 1947 respondents herein Pedro Dumadag and Esmenio Jumamuy, purporting to be the president and general manager, respectively, of an unregistered corporation or association denominated APBA Cinematographic Shows, Inc., leased certain theatrical equipments from the late Jose Vaño at an agreed monthly rental of ₱200. Jose Vaño having died, his administrator, the present petitioner, filed an action in the Court of First Instance of Bohol for the return of the theatrical equipments and the payment of the agreed rentals. The original complaint was filed in September, 1947. Upon the filing of this complaint the association was dissolved. Counsel for the defendants below, respondents herein, appears to have insisted that all the members of the association should be made parties defendants, but petitioner was not inclined to do so. On January 28, 1953, the court ordered petitioner's counsel to submit a fourth amended complaint. This complaint in part alleges:

2. That in or about February 1947, defendant purporting to be the president and general manager respectively of the so-called "APBA" Cinematographic Shows Inc., leased from the late Jose Vaño, the aforementioned Theatrical Equipments at an agreed monthly rental of TWO HUNDRED (200.00) PESOS, and that he (Jose Vaño) shall pay the expenses in the installation, for the same shall be returned on his demand;

3. That said Theatrical Equipments mentioned in para-