

IN RE: PETITION FOR RECONSTITUTION OF ORIGINAL COPY OF CERTIFICATE OF TITLE NO. 120402 OF THE REGISTER OF DEEDS OF QUEZON CITY FREDDIE D. ARRADAZA, PETITIONER-APPELLEE, VS. REPU...

Ponente: BATO, JR., J.

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BATO, JR., J.:

This is an appeal from the Decision[1] dated December 8, 2010 of the Regional Trial Court of Quezon City, Branch 220, in LRC Case No. Q-28260 (09), the dispositive portion of which reads:

“WHEREFORE, premises considered, instant petition is hereby GRANTED. The Register of Deeds of Quezon City is hereby ordered to reconstitute the original Transfer Certificate of Title No. 120402 on the basis of the original owner's duplicate copy in the custody and possession of the petitioner, which shall contain an annotation that it is hereby issued in lieu of the lost/destroyed one and shall have the same faith and credit as the lost/destroyed title.

Furnish the petitioner, counsel, the Office of the Solicitor General, the Registry of Deeds of Quezon City, the Land Registration Authority, the Office of the City Prosecutor, and the City Attorney's Office with a copy of this Decision.

SO ORDERED.”[2]

The factual antecedents:

On October 26, 2009, petitioner-appellee filed a Petition for the Reconstitution of the original copy of Transfer Certificate of Title No. 120402. He alleged therein: that he bought a property covered by TCT No. 120402 [herein subject property] from its original owner, Evangeline Arradaza; that after he had paid the capital gains tax and documentary stamp tax, the Bureau of Internal Revenue issued a Certificate Authorizing Registration; that he brought these documents to the Register of Deeds of Quezon City to transfer the subject property in his name; that he was informed that the original copy of TCT No. 120402-PR47576 which was in its custody could not be located in its record; that upon his request, the Register of Deeds issued a certification stating that the title was not included among those saved during the fire that razed the Quezon City Hall on June 11, 1988; that the Register of Deeds advised him to file a petition to reconstitute the burned original copy of TCT No. 120402 in order to effect the transfer of title in his name. In support of his petition, he attached the following documents: (1) the Deed of Absolute Sale[3] executed by and between Evangeline Arradaza and petitioner-appellee on July 28, 2009; (2) a photocopy of the owner's duplicate certificate of TCT No. 120402-PR47576;[4] and (3) a Certification[5] issued by the Register of Deeds of Quezon City.

The petitioner-appellee was thereafter required by the court a quo to submit the names and addresses of the owners of the adjacent properties as certified to by the Quezon City Assessor's Office.[6] In compliance thereto, petitioner-appellee submitted a Certification[7] from the Quezon City Assessor's Office enumerating the adjacent lots and adjoining owners based on the boundaries reflected in the tax map. Thus, an Order[8] was issued by the

court a quo setting the initial hearing of the petition. Per the Sheriff's Return,[9] copies of the petition and its annexes were personally served upon the following: Office of the Solicitor General (OSG), Registry of Deeds of Quezon City, Land Registration Authority (LRA) Commissioner, Director of the Land Management Bureau, City Prosecutor and City Attorney of Quezon City, and two adjoining owners. Copies of the petition were posted at the lobby of the court a quo, at the main entrance and at the Bulletin Board of the Quezon City Hall. In addition, a copy thereof was published in the Official Gazette on July 12 and 19, 2010.[10]

The OSG entered its appearance and deputized the Office of the City Prosecutor of Quezon City to appear in its behalf.[11] Subsequently, a declaration of general default was ordered by the court a quo since there was no opposition interposed during the hearing held on September 7, 2010 and petitioner-appellee was allowed to present evidence before the branch clerk of court.[12] Petitioner-appellee presented his evidence on September 21, 2010 and formally offered the same on October 12, 2010.[13]

On December 8, 2010, the court a quo rendered the assailed Decision granting the petition for reconstitution. The Republic of the Philippines [herein oppositor-appellant], through the OSG, filed a Motion for Reconsideration[14] and mainly argued that the petitioner-appellee was not able to present a valid source for reconstitution because he only presented a mere photocopy of the owner's duplicate copy of TCT No. 120402. Petitioner-appellee opposed the motion and asserted that he presented the original thereof during the ex parte presentation of evidence. The court a quo denied the motion for reconsideration in an Order[15] dated May 18, 2011.

The OSG filed a Notice of Appeal[16] which was granted by the court a quo. Petitioner-appellee filed a Motion to Re-Open[17] which was denied by the court a quo on the ground that it has already lost its jurisdiction when it granted the notice of appeal. Hence, this appeal by the oppositor-appellant with this sole assignment of error, to wit:

“THE TRIAL COURT ERRED IN GRANTING THE PETITION FOR RECONSTITUTION OF TRANSFER CERTIFICATE OF TITLE (TCT) NO. 120402.”[18]

In its brief, oppositor-appellant contends that the court a quo erred in granting the petition for reconstitution as the petitioner-appellee failed to adduce sufficient evidence for the reconstitution of TCT No. 120402. It points out that what was offered by petitioner-appellee was a photocopy of the owner's duplicate of TCT No. 120402, a mere secondary evidence. The same is not admissible since the petitioner-appellee failed to sufficiently explain the existence, loss and reason for the non-production of the original. Meanwhile, the Certification of the Register of Deeds of Quezon City failed to state the name of the registered owner or the description of the subject property and merely stated that TCT No. 120402 was not among those saved titles during the fire that razed the Quezon City Hall. Further, it argues that the Tax Clearance Certifications are not reliable sources for reconstitution since they do not prove prior existence of TCT No. 120402. In the same vein, the Deed of Absolute Sale cannot be used as a basis because the same did not emanate from the Registry of Deeds of Quezon City but from the petitioner-appellee himself.

The appeal is impressed with merit.

Reconstitution of a certificate of title, in the context of Republic Act No. 26,[19] denotes the restoration in the original form and condition of a lost or destroyed instrument attesting the title of a person to a piece of land.[20] R.A. No. 26 confers jurisdiction or authority on the Regional Trial Court to hear and decide petitions for judicial reconstitution and provides the special requirements and procedure that must be followed before the court can properly act, assume and acquire jurisdiction or authority over the petition and grant the reconstitution prayed for.[21] The petition for reconstitution must allege certain specific jurisdictional facts as prescribed under Section 12, to wit:

SECTION 12. Petitions for reconstitution from sources enumerated in sections 2(c), 2(d), 2(e), 2(f), 3(c), 3(d), 3(e) and/or 3(f) of this Act, shall be filed with the proper Court of First Instance, by the registered owner, his assigns, or any person having an interest in the property. The petition shall state or contain, among other things, the following: (a) that the owner's duplicate of the certificate of title had been lost or destroyed; (b) that no co-owner's, mortgagee's, or lessee's duplicate had been issued, or, if any had been issued, the same had been lost or destroyed; (c) the location, area and boundaries of the property; (d) the nature and description of the buildings or improvements, if any, which do not belong to the owner of the land, and the names and addresses of the owners of such buildings or improvements; (e) the names and addresses of the occupants or persons in possession of the property, of the owners of the adjoining properties and all persons who may have any interest in the property; (f) a detailed description of the encumbrances, if any, affecting the property; and (g) a statement that no deeds or other instruments affecting the property have been presented for registration, or, if there be any, the registration thereof has not been accomplished, as yet. All the documents, or authenticated copies thereof, to be introduced in evidence in support of the petition for reconstitution shall be attached thereto and filed with the same: Provided, That in case the reconstitution is to be made exclusively from sources enumerated in section 2(f) of 3(f) of this Act, the petition shall be further accompanied with a plan and technical description of the property duly approved by the Chief of the General Land Registration Office, or with a certified copy of the description taken from a prior certificate of title covering the same property.

A comparison between the above-quoted requirements and petitioner-appellee's allegations in his petition shows that he failed to fully comply with Section 12. There was only a substantial compliance with item (c) considering that while he failed to specify the location, area and boundaries of the subject property in his petition, his allegations referred to the annexes attached to the petition – Deed of Absolute Sale and a photocopy of the owner's duplicate certificate of TCT No. 120402. However, he failed to allege in the petition that the owner's duplicate of the certificate of title had been lost or destroyed; that no co-owner's, mortgagee's, or lessee's duplicate had been issued, or, if any had been issued, the same had been lost or destroyed; the nature and description of the buildings or improvements, if any, which do not belong to the owner of the land, and the names and addresses of the owners of such buildings or improvements; the names and addresses of the occupants or persons in possession of the property, of the owners of the adjoining properties and all persons who may have any interest in the property; a detailed description of the encumbrances, if any, affecting the property; and a statement that no deeds or other instruments affecting the property have been presented for registration, or, if there be any, the registration thereof has not been accomplished, as yet. In fact, it was only upon the court a quo's directive that the petitioner-appellee submitted the list of adjacent lots and adjoining owners of the subject property.

We cannot stress enough that our jurisprudence is replete with rulings regarding the mandatory character of the requirements of R.A. No. 26.[22] It bears emphasis that a liberal construction of the rules does not apply to land registration cases.[23] To further underscore the mandatory character of these jurisdictional requirements, the Rules of Court do not apply to land registration cases.[24] Evidently, petitioner-appellee's non-compliance with the requirements prescribed in Section 12 is fatal and not merely technical. Apropos, in all cases where the authority of the courts to proceed is conferred by a statute, and when the manner of obtaining jurisdiction is prescribed by a statute, the mode of proceeding is mandatory, and must be strictly complied with, or the proceeding will be utterly void.[25] Hence, all the proceedings before the court a quo, including its order granting the petition for reconstitution, are void[26] since it never acquired jurisdiction over the reconstitution proceedings.

More importantly, the court a quo erred in granting the petition for reconstitution since the petitioner-appellee failed to adduce a competent source of reconstitution. Section 3 of R.A. No. 26 enumerates the sources upon which the reconstitution of transfer certificates of title shall be based:

Sec. 3. Transfer certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:

(a) The owner's duplicate of the certificate of titles;

X X X

X X X

X X X

(f) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost destroyed certificate of title.

In the instant case, the petitioner-appellee formally offered the following: photocopy of TCT No. 120402 (marked as Exhibit "I" but erroneously referred to as TCT No. 28260), Certification issued by the Register of Deeds of Quezon City, Tax Clearance Certifications, and Deed of Sale dated July 28, 2009. He likewise offered the Judicial Affidavit of his attorney-in-fact, Neil John U. Alva.

Among the sources enumerated in Section 3 of R.A. No. 26, the owner's duplicate of the transfer certificate of title under Section 3(a) is given primacy because such document is, by all accounts, an exact reproduction of the original copy of the transfer certificate of title. It is required, however, that the owner's duplicate certificate itself, and not a mere photocopy thereof, be presented to the court. This is to preclude any question as to the genuineness and authenticity of the owner's duplicate certificate and bar the possibility of reconstitution based on a fraudulent or forged owner's duplicate certificate.[27] In the case at bar, petitioner-appellee claimed in his Opposition to oppositor-appellant's motion for reconsideration that he presented the original owner's duplicate of TCT No. 120402 during the ex parte presentation of evidence on September 21, 2010. The pertinent portion of the Transcript of Stenographic Notes reads:

"Q:

What proof can you show that you are the registered owner of the parcel of land covered by TCT No. 120402?

A:

I have the original owner's duplicate certificate of TCT No. 120402 showing that I am the registered owner of the land covered by the said title.

Q:

I am showing you this document, what is the relation of the title you just mentioned, Mr. Witness?

A: This is the same document I am referring, sir.

ATTY. SANTILLAN:

Your Honor, this original owner's certificate copy has already been marked as Exhibit "G", Your Honor." [28]

Nonetheless, a perusal of petitioner-appellee's formal offer shows that the evidence marked as Exhibit "G" was the petition for reconstitution and that what was marked and formally offered as Exhibit "I" was a "Photocopy of

Transfer Certificate of Title (TCT) No. 28260 (09)”.^[29] As aptly noted by the OSG, the City Prosecutor neither admitted the genuineness and authenticity of the alleged duplicate copy of the title nor manifested that the photocopy thereof which was marked and offered as evidence was a faithful reproduction of the original.^[30] Notably, the court a quo failed to issue an order regarding the admissibility of the evidence formally offered by the petitioner-appellee. It also failed to discuss in the body of the assailed decision as to whether the original of the owner's duplicate of TCT No. 120402 was presented before it and whether the photocopy thereof which was formally offered was a faithful reproduction of the original. The court a quo merely stated in the dispositive portion that “[t]he Register of Deeds of Quezon City is ordered to reconstitute the original Transfer Certificate of Title No. 120402 on the basis of the original owner's duplicate copy in the custody and possession of the petitioner x x x.”^[31] We had also observed that the court a quo did not pass upon the admissibility of the photocopy of the owner's duplicate of TCT No. 120402 in its Order dated May 18, 2011 even as the OSG specifically raised this issue in oppositor-appellant's motion for reconsideration.

In the case of *Republic vs. Versoza*,^[32] the Supreme Court declared that if a photocopy of the owner's duplicate of title is presented to court, the petition for reconstitution may be considered as having been filed under Section 3(f) of R.A. No. 26. Be that as it may, the photocopy is still considered secondary evidence. As such, it is inadmissible unless petitioner-appellee proves any of the exceptions provided in Section 3, Rule 130 of the Rules of Court and establishes the conditions for its admissibility under Section 5 of the same rule.^[33] In this case, the petitioner-appellee failed to prove that the original of the owner's duplicate of TCT No. 120402 has been lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror; that it is in the custody or under control of the oppositor-appellant whom the evidence is offered, and the latter fails to produce it after reasonable notice; that it consists of numerous accounts or other documents which cannot be examined in court without great loss of time; and that it is a public record in the custody of a public officer or is recorded in a public office. The petitioner-appellee also failed to establish the conditions for the admissibility of the photocopy under Section 5 – existence, execution, loss, and contents.

The Certification of the Register of Deeds of Quezon City cannot be considered as a conclusive evidence of the prior existence and subsequent loss of TCT No. 120402. It merely states that “the original of TCT No. 120402 PR-47576 allegedly registered under the name of Evangeline Arradaza married to Mar Geraldo Arradaza was not included among those saved titles during the fire that razed the Quezon City Hall Building last June 11, 1998 x x x.” In the case of *Republic vs. Heirs of Julio Ramos*, it was held that the certification of the Registry of Deeds that a title “is not among those salvaged records of this Registry as a consequence of the last World War,” did not necessarily mean that it once formed part of its records.^[34] Here, the statement that the original of TCT No. 120402 was not included among those saved titles does not necessarily establish that it once formed part of the records of the Registry of Deeds of Quezon City. Indeed, it cannot be deduced therefrom that TCT No. 120402 was actually issued and kept on file in its office.

The Tax Clearance Certifications also failed to establish the existence of the original of TCT No. 120402. A perusal thereof shows that the same covered only the taxable year 2009 and obviously, it had no bearing with what occurred prior to the alleged loss of the original of TCT No. 120402. More importantly, the certifications did not mention that the property declared for taxation by Evangeline Arradaza was registered under TCT No. 120402 and it merely shows the details of the last tax payment made on the subject property. Besides, the Supreme Court ruled in *Republic vs. Heirs of Julio Ramos*:^[35]

“Anent the tax declaration submitted, the same covered only taxable year 1998. Obviously, it had no bearing with what occurred before or during the last world war. Besides, a tax declaration is not a reliable source of

reconstitution of a certificate of title. As we held in *Republic of the Philippines v. Santua*, a tax declaration can only be prima facie evidence of claim of ownership, which, however, is not the issue in a reconstitution proceeding. A reconstitution of title does not pass upon the ownership of land covered by the lost or destroyed title but merely determines whether a re-issuance of such title is proper.” [Citation omitted]

In the present case, the OSG correctly argued that the Tax Clearance Certifications may not be used as competent sources of reconstitution as the tax declaration was prepared by the alleged owner himself.[36] Indeed, since the Tax Clearance Certifications were issued pursuant to the tax declaration by petitioner-appellee, the same are not reliable sources of reconstitution of title.

Lastly, We find that the Deed of Absolute Sale executed by and between Evangeline Arradaza and petitioner-appellee on July 28, 2009 did not establish the prior existence of TCT No. 120402. The OSG correctly noted that the same is a self-serving evidence as it emanated from petitioner-appellee himself. In addition, there was no showing that the same was previously registered with the Register of Deeds of Quezon City.

It should be pointed out that reconstitution of title denotes a restoration of the instrument which is supposed to have been lost or destroyed in its original form or condition.[37] The purpose thereof is to have the same reproduced, after observing the procedure prescribed by law, in the same form they were when the loss or destruction occurred.[38] That cannot be done without proof that such certificate of title had once existed.[39] Considering that reconstitution presupposes the existence of an original certificate of title, or original transfer certificate of title in this case, which was lost or destroyed,[40] the failure of the petitioner-appellee to prove that the original of TCT No. 120402 previously existed is fatal to his cause. It is also worthy to note that the Certification of the Registry of Deeds of Quezon City, Tax Clearance Certifications, and the Deed of Absolute Sale dated July 28, 2009, do not support the presentation of secondary evidence and that they are not among the enumerated sources of reconstitution under Section 3 of R.A. No. 26. In sum, We are not convinced that the petitioner-appellee had adduced competent evidence to warrant reconstitution of the allegedly lost original of TCT No. 120402.

WHEREFORE, the appeal is GRANTED. The Decision dated December 8, 2010 of the Regional Trial Court of Quezon City, Branch 220, in LRC Case No. Q-28260 (09), is hereby REVERSED and SET ASIDE. The Petition for Reconstitution is DISMISSED.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Zalameda and Diy, JJ., concur.

[1] Rollo, pp. 43-44.

[2] Rollo, p. 44.

[3] Records, pp. 5-6.

[4] Records, p. 7.

- [5] Records, p. 8.
- [6] Records, p. 9.
- [7] Records, p. 12.
- [8] Records, pp. 15-16.
- [9] Records, pp. 17-18.
- [10] Records, p. 25.
- [11] Records, p. 19.
- [12] Records, p. 24.
- [13] Records, pp. 40-45.
- [14] Records, pp. 48-59.
- [15] Records, p. 75.
- [16] Records, pp. 76-78.
- [17] Records, pp. 80-82.
- [18] Rollo, p. 31.
- [19] An Act Providing a Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed.
- [20] Republic vs. Zoomak R.P.C., Inc., G.R. No. 181891, December 5, 2012.
- [21] Cabello vs. Republic, G.R. No. 142810, August 18, 2005.
- [22] Castillo vs. Republic, G.R. No. 182980, June 22, 2011.
- [23] Castillo vs. Republic, G.R. No. 182980, June 22, 2011 citing Section 6, Rule 1 of the 1997 Rules of Civil Procedure
- [24] Castillo vs. Republic, G.R. No. 182980, June 22, 2011 citing Section 4, Rule 1 of the 1997 Rules of Civil Procedure.
- [25] Castillo vs. Republic, G.R. No. 182980, June 22, 2011 citing Caltex Filipino Managers & Supervisors Ass'n. v. CIR, 131 Phil. 1022, 1030 (1968).
- [26] Castillo vs. Republic, G.R. No. 182980, June 22, 2011 citing Allama vs. Republic, G.R. No. 88226, February 26, 1992
- [27] Republic vs. Versoza, G.R. No. 173525, March 28, 2008.
- [28] TSN, pp. 5-6, September 21, 2010.
- [29] Records, p. 43.
- [30] Rollo, p. 36.
- [31] RTC Decision, p. 47.

[32] Supra.

[33] Republic vs. Versoza, supra. Citing Department of Agrarian Reform vs. Republic, G.R. No. 160560, 29 July 2005

[34] Republic vs. Heirs of Julio Ramos, G.R No. 169481, February 22, 2010.

[35] Supra.

[36] Rollo, p. 39.

[37] Republic vs. Holazo, et al., G.R. No. 146846, August 31, 2004.

[38] Ibid. citing Heirs of the late Pedro Pinote vs. Judge Dulay, 187 SCRA 12 (1990); Lee vs. Republic of the Philippines, 366 SCRA 524 (2001); Alipoon vz. Court of Appeals, 305 SCRA 118 (1999).

[39] Republic vs. Catarroja, et al., G.R. No. 171774, February 12, 2010.

[40] Republic vs. Tuastumban, G.R. No. 173210, April 24, 2009.

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