

IN RE: PETITION FOR CANCELLATION OF RECONSTITUTED TRANSFER CERTIFICATE OF TITLE NO. RT-13661 (N.A.) AND NEW TRANSFER CERTIFICATE OF TITLE NO. T-50056; FOR RECONSTITUTION OF TRA...

G.R. No. L-29313. January 21, 1977

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/236ea3380eb1/>

AQUINO, J.:

This case involves the jurisdiction of the Court of First Instance, sitting as a land registration court, to resolve a petition to cancel a fraudulently reconstituted title.

On December 9, 1967 the Court of First Instance of Negros Occidental, Bacolod City branch issued an order directing the register of deeds to reconstitute the original and owner's duplicate of an unnumbered transfer certificate of title covering Lot No. 133 of the Binalbagan cadastre.

That order was issued on the basis of the ex parte verified petition of Roman Mirasol, Jr. who claimed to be the purchaser of Lot No. 133. He filed the petition for reconstitution in Cadastral Case No. 16, LRC (GLRO) Record No. 139 involving Lot No. 133, a nine-hectare land located at Barrio Enclaro, Binalbagan, Negros Occidental.

Pursuant to that order, the register of deeds issued Transfer Certificate of Title (TCT) No. RT-13661 (N.A.) in the names of Abelardo Gasataya, 1/6 share; Andres Gasataya, 1/6 share, and Agripino Reyes, 4/6 share.

Later, TCT No. RT-13661 was cancelled by TCT. No. T-49998 as a result of the registration of the declarations of heirship, covering the shares of Agripino Reyes and Andres Gasataya, and of the sale made by Abelardo Gasataya. TCT No. T-49998 was issued in the names of Bruno Reyes, Felipe Javier, Jr., Abelardo Gasataya, Victoria Gasataya, Rosario Javier, Consuelo Cuachon, Carmen Bautista, and Socorro, Emilio, Gilda, Rogelio and Carlos, all surnamed Gabile.

On February 15, 1968, by reason of the deeds of sale executed in favor of Mirasol by the registered owners, TCT No. T-49998 was cancelled and TCT No. T-50056 was issued to him. (See pars. 1 to 6 of petition of Luzon Surety admitted by Mirasol, pp. 8-10, 14, Record on Appeal).

On March 13, 1968 Luzon Surety Co., Inc. filed a petition also with the Court of First Instance of Negros Occidental at Bacolod City and in that same Cadastral Case No. 16 covering Lot No. 133 of the Binalbagan cadastre. Luzon Surety prayed for the cancellation of the reconstituted title, TCT No. RT-13661, and the title issued to Mirasol. It alleged that fraud and bad faith vitiated the reconstitution proceeding, the declarations of heirship, and the issuance of a new title to Mirasol, as shown in the following circumstances:

- (a) That Lot No. 133 was covered by TCT No. 4131, which is on file in the registry of deeds and which indicates the following deceased persons as the co-owners of the lot: Raymundo Montelibano, 2/6 share; Abelardo Gasataya, 1/6 share; Adela Gasataya, 1/6 share; Andres Gasataya, 1/6 share, and Vicente Gasataya, 1/6 share.

(b) That TCT No. 4131 was cancelled by TCT No. 4837 which indicates the following persons as the co-owners of Lot No. 133; Raymundo Montelibano, 4/6 share; Abelardo Gasataya, 1/6 share, and Andres Gasataya, 1/6 share. The original and owner's duplicate of TCT No. 4837 were lost or destroyed during the war.

(c) That Agripino Reyes and Bruno Reyes appear to be fictitious persons.

(d) That Luzon Surety acquired in 1941 the 4/6 share of Raymundo Montelibano at an execution sale conducted pursuant to a judgment in its favor in Civil Case No. 54713 of the Court of First Instance of Manila, entitled "Luzon Surety Co., vs. Angel Locsin, Sabas Locsin, and Raymundo Montelibano".

(e) That since 1941 Luzon Surety has been in possession of Lot No. 133.

(f) That Mirasol at the time he filed his petition for reconstitution offered verbally and in writing to purchase Lot No. 133 from Luzon Surety.

Luzon Surety further prayed that TCT No. 4837 be reconstituted and that, after the reconstitution, a new title be issued in the names of Luzon Surety Co., Inc., 4/6 share, and Roman Mirasol, Jr., 2/6 share.

Mirasol, who was served with a copy of the petition and who claimed to be a purchaser in good faith and for value of Lot No. 133, filed a motion to dismiss the petition on the ground of lack of jurisdiction. He contended that the issues raised by Luzon Surety could not be resolved by the lower court in the exercise of its limited jurisdiction as a land registration court. He disputed the title of Luzon Surety over the four-sixths portion of Cadastral Lot No. 133 (p. 16, Record on Appeal).

Luzon Surety contended that the lower court has jurisdiction over its petition under Republic Act No. 26 which governs the reconstitution of lost or destroyed Torrens titles.

The lower court in its order of April 20, 1968 dismissed the petition without prejudice to the right of Luzon Surety to file an ordinary action to impugn the validity of the transfer to Mirasol of the four-sixths share. In its subsequent order, denying the motion for reconsideration, the lower court specified that Luzon Surety should file its action in the Himamaylan branch of the lower court.

Luzon Surety interposed this appeal on questions of law. It argues that the lower court erred (1) in holding that its petition involves the issues of ownership and (2) in indicating that it should file its action in the Himamaylan branch. It insists that its petition is simply for the cancellation of a fraudulently reconstituted title and that such petition is within the competence of the Bacolod branch of the lower court which had ordered the issuance of the reconstituted title.

In reality, the petition of Luzon Surety is predicated, not on Republic Act No. 26, but on section 112 of the Land Registration Law which reads:

"AMENDMENT AND ALTERATION OF CERTIFICATES OF TITLE

"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 of a memorandum upon 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 or registration was entered."

For a more facile understanding of a prolix statute like section 112, a breakdown or paraphrasing of its provisions may be useful. Section 112 requires a court order for any alteration or amendment of a certificate of title. A petition may be filed by the registered owner or any interested person in the original registration case for the amendment or alteration of a certificate of title due to any of the following circumstances:

1. When registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased.
2. When new interests have arisen or been created which do not appear upon the certificate.
3. When any error, omission, or mistake was made in entering a certificate or any memorandum thereon, or on any duplicate certificate.
4. When the name of any person on the certificate has been changed.
5. When the registered owner has been married, or, registered as married, the marriage has been terminated.
6. When a corporation, which owned registered land and has been dissolved, has not conveyed the same within three years after its dissolution.
7. When there is a reasonable ground for the amendment or alteration of the title.

Section 112 provides that, after notice to all the interested parties, the court may (a) order the issuance of a new certificate, (b) order the entry or cancellation of a memorandum upon a certificate, or (c) grant any other relief upon such terms and conditions, requiring a bond if necessary, as it may deem proper.

Under section 112, the Court of First Instance, sitting as a land registration court, has no jurisdiction or authority to reopen the original decree of registration. The court cannot "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" (Santos vs. Cruz, L-28612, August 30, 1973, 52 SCRA 330).

In the instant case, Luzon Surety raised in issue the validity of the issuance to Mirasol of a new certificate of title. Its position is that Mirasol could not acquire from other persons its two-thirds share in Lot No. 133 because it is the owner of that portion.

On the other hand, Mirasol pleaded that it was a purchaser in good faith and for value. Hence, there is positively a controversy between Luzon Surety and Mirasol as to the ownership of the two-thirds portion of Lot No. 133.

Luzon Surety has taken a simplistic view of the case. Its theory is that since the fraudulently reconstituted title was issued by the lower court, sitting as a land registration court in a reconstitution proceeding under Republic Act No. 26, the said title should be annulled by the same court in the exercise of its limited jurisdiction as a land registration court.

That theory is not well-taken. The instant case is not a simple case of annulling the fraudulently reconstituted title, a "bastard" title according to Luzon Surety. It is a more complicated case. It is actually a case wherein it is necessary to determine who is the true owner of two-thirds of Cadastral Lot No. 133. Is it Luzon Surety by reason of the 1941 execution sale or is it Mirasol by reason of his purchase of the said share from the supposed registered owners (impostors according to Luzon Surety)?

Luzon Surety has not cited any specific provision of Republic Act No. 26 or any ruling under Act No. 496 that sustains its theory that such a question may be decided by the land registration court. A long catena of decided cases holds that such a question should be ventilated in an ordinary action and should be decided by the lower court in the exercise of its general jurisdiction. (*Lamera vs. Callanga*, L-30847, November 26, 1973, 54 SCRA 20 and other cases).

We hold that that controversy cannot be resolved by the lower court in the summary proceeding under section 112. It has to be adjudicated in an ordinary action. It is settled that while under section 112 any registered owner or interested person may, on certain grounds, apply by petition to the land registration court for a new certificate of title or for the entry or cancellation of a memorandum thereon, such relief can only be granted if there is no adverse claim or serious objection on the part of any interested party. If there is an opposition, the case becomes controversial. It should be threshed out in an ordinary action or in the case where the incident properly belongs (*Abella vs. Hon. Rodriguez*, 116 Phil. 1277, 1280).

Relief under section 112 can only be granted if there is unanimity among the parties, meaning that there is no serious controversy among the interested parties as to the title of the party seeking relief under that section (*Enriquez vs. Atienza*, 100 Phil. 1072).

If the objective of Luzon Surety was merely to annul the fraudulently reconstituted title, TCT No. RT-13661, then its contention that a separate action would not be necessary might be plausible. But that is not the situation in this case.

Here, Luzon Surety claims to be the owner of two-thirds of Lot No. 133. That claim is controverted by Mirasol who has a title for the entire Lot No. 133. The resolution of that claim should be made in an adversary litigation where proper pleadings can be filed and the evidence can be presented at a full-dress trial (*Vicente vs. De los Santos*, L-20351, February 27, 1969, 27 SCRA 1).

The alternative contention of Luzon Surety is that the ordinary action to annul the reconstituted as well as Mirasol's title to two-thirds of the disputed lot should be filed in the Bacolod City branch of the lower court rather than in its Himamaylan branch.

As already noted, the disputed lot is located at Binalbagan which is within the territorial jurisdiction of the Himamaylan branch. It is a fact that Mirasol filed his petition for reconstitution in Bacolod City although he was a resident of Binalbagan and the land involved is within the territorial jurisdiction of the Himamaylan branch.

Luzon Surety invokes the rule that the jurisdiction to annul a judgment of a branch of the Court of First Instance belongs solely to that branch (*J. M. Tuason vs. Torres*, L-24717, December 4, 1967, 21 SCRA 1169; *Sterling Investment Corporation vs. Ruiz*, L-30694, October 31, 1969, 30 SCRA 318). It argues that as the order of reconstitution, which it seeks to annul, was issued by the Bacolod branch, then it can file its separate action to annul the order in that same branch.

What Luzon Surety is really aiming at in its second assignment of error is for this Court to change the venue of its separate action to annul the titles in question. Although not articulated in its briefs, Luzon Surety would prefer to file the separate action in Bacolod City because it is more accessible than Himamaylan.

We rule that Luzon Surety has the option to file its separate action either in Bacolod City or in Himamaylan (See Cuenco vs. Court of Appeals, L-24742, October 26, 1973, 53 SCRA 360, 379, 381, citing Sec. 5[4], Art. X, Constitution).

With that slight modification, the lower court's order of dismissal is affirmed. No costs.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Concepcion, Jr., JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.