

IN RE: PETITION TO RECONSTITUTE ORIGINAL CERTIFICATE OF TITLE NO. 1110,

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GONZALES-SISON, M., J.:[*]

This is an appeal interposed under Rule 41 of the Rules of Court by the Republic of the Philippines, through the Office of the Solicitor General, assailing the Decision[1] of the Regional Trial Court, Branch 37, Baloc, Sto. Domingo, Nueva Ecija, granting the petition for reconstitution of Original Certificate of Title (OCT) No. 1110 allegedly owned by herein petitioner-appellee Hilario Q. Mengala in Cad. Case No. SD (08) 491.

This case involves a parcel of land (Lot No. 607 of Muñoz Cadastral 166, Case 2) situated in the Barrio of Gabaldon, Municipality of Muñoz, Province of Nueva Ecija consisting of 11.9949 hectares bounded on the Northeast by the property claimed by Bibiano Bagayoga; on the Southeast by Sapang Sunulatan; on the Southwest by properties claimed by Francisco Ortuda and Luciano De Vera; and on the Northwest by property claimed by Elinio Oranza.

On April 15, 2008, Hilario Q. Mengala, claiming to be the lawful owner in fee simple of the subject property, filed with the Regional Trial Court of Baloc, Sto. Domingo, Nueva Ecija[2] a petition to reconstitute OCT No. 1110 of the Register of Deeds of Nueva Ecija. Attached to the petition are: a) Certification from the Register of Deeds of Nueva Ecija to the effect that the original copy of OCT No. 1110 was lost; b) Photocopy of Tax Declaration and Official Tax Receipt issued by the Science City of Muñoz, Nueva Ecija; c) Certification from the Office of the City Treasurer of Science City of Muñoz, Nueva Ecija; d) Photocopy of the Second Owner's Duplicate copy of OCT No. 1110; and Photocopies of Deeds of Sale.

On June 18, 2008, the Regional Trial Court (RTC) of Baloc, Sto. Domingo, Nueva Ecija, Branch 37, issued an Order giving due course to the petition and is set for hearing on October 7, 2008 at 8:30 o'clock in the morning. In the same Order, the RTC directed any interested person or persons to appear on such date and time to show cause, if any, why the said petition should not be granted. Likewise, the RTC directed that the said Order be published in the Official Gazette twice in successive issues at the expense of the petitioner and the same be posted in the bulletin boards of the Provincial Treasurer's Office of Nueva Ecija, the City Treasurer's Office, Science City of Muñoz, Nueva Ecija and at the place where the land is situated for the information of all concerned. The RTC further directed that copies of the said Order and the Petition be furnished the Solicitor General, the Administrator of the Land Registration Authority, Quezon City, the Regional Executive Director, DENR, Region 3, the Register of Deeds of Talavera, Nueva Ecija, and the adjacent owners who are also ordered to file their comment and/or opposition thereto on or before the scheduled hearing.

In compliance with the said RTC Order, the Office of the Provincial Treasurer (Revenue Operations Division) of Nueva Ecija, the Barangay Captain of Brangay Pandalla, Science City of Muñoz, Nueva Ecija, the Office of the City Treasurer of Science City of Muñoz, Nueva Ecija, and the Office of the Registrar of Deeds of Talavera, Nueva Ecija issued their individual certification to the effect that copies of the said Order and the Petition had been posted in the bulletin boards of their respective offices.

The scheduled hearing of the petition on October 7, 2008 was cancelled for failure of the petitioner and his counsel to appear. Hence, the hearing was reset to December 2, 2008 at 8:30 o'clock in the morning.

Meanwhile, on November 18, 2008, the Solicitor General entered her appearance as counsel for the Republic of the Philippines, and at the same time authorizing the Provincial Prosecutor of Nueva Ecija to appear in this case although, as the Solicitor General, she retains supervision and control of the representation in this case.

On December 2, 2008, the RTC issued another Order resetting the hearing of this case to February 3, 2009 at 8:30 o'clock in the morning in view of the absence of petitioner's counsel who was attending the MCLE seminar at Cabanatuan City.

On December 16, 2008, petitioner thru counsel, filed a "Motion to Amend Order" praying that the Order dated June 18, 2008 be amended and the scheduled hearing on February 3, 2009 be postponed and be re-set to another date on the ground that the petitioner has not yet complied with the publication of the said Order with the Official Gazette. Correspondingly, on February 19, 2009, the RTC issued an Amended Order with exactly the same tenor as the Order of June 18, 2008, with the exception that the hearing of the Petition was set on June 30, 2009 at 8:30 o'clock in the morning. However, on the newly scheduled hearing on June 30, 2009, both the petitioner and his counsel failed to appear despite due notice. Hence, in an Order dated 6 April 2010, the RTC issued an Order dismissing the petition on the ground that, up to that time, neither the petitioner nor his counsel has signified any intention of pursuing the petition.

Petitioner filed a Motion for Reconsideration of the April 6, 2010 Order which was granted by the RTC in its Order dated September 6, 2010 even if the reason stated in the said motion is not meritorious, but if only to accommodate the petitioner. Accordingly, a second Amended Order for publication dated September 14, 2010 was issued by the RTC.

Again, in compliance with the second Amended Order of the RTC, the Office of the Provincial Treasurer (Revenue Operations Division) of the Province of Nueva Ecija, City of Palayan, the Office of the City Treasurer, Science City of Muñoz, Nueva Ecija, the Registry of Deeds of Talavera, Nueva Ecija, and the Office of the Barangay Chairman of Pandalla, Science City, Nueva Ecija issued their certification to the effect that copies of the Petition and the second Amended Order of the RTC had been posted in the bulletin boards of their respective offices.

On April 11, 2011, Atty. Feliciano Buenaventura, counsel for the oppositors, filed a Motion to Intervene and/or Opposition. On May 13, 2011, petitioner, through counsel, filed his Comment/Opposition to the Motion to Intervene and/or Opposition. During the hearing on August 3, 2011, Atty. Feliciano Buenaventura prayed that he be given until August 17, 2011 within which to file his Reply to petitioner's comment, which was granted by the RTC. Subsequently, Atty. Buenaventura informed the RTC that he is withdrawing their opposition, but reiterated that they be allowed to intervene in the petition and submitted the following documents in support of their intervention, to wit:

Exhibit "1"

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Special Power of Attorney executed by Rolando Lumibao, Angel Lumibao and Jesus Lumibao in favor of Honorio Lumibao;

Exhibit "2"

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Revocation of Deed of Sale executed by Adriano Lumibao on October 2, 1983;

Exhibit “3”

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Position Paper submitted by Honorio Lumibao to the DARAB, Talavera in DARAB Case No. 1250;

Exhibit “4” -

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Realty Property Tax Receipt No.0042004 dated October 15, 2009 issued by the City Treasurer of Science City of Muñoz, Nueva Ecija.

On the other hand, for the purpose of establishing the jurisdictional requirements of the petition, petitioner, through counsel, was allowed to mark his documentary exhibits, to wit:

Exhibit “A”

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Notice of appearance of the Solicitor General;

Exhibit “B”

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Delegation of Authority;

Exhibit “C”

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Certificate Of Posting issued by the Provincial Treasurer of Palayan City;

Exhibit “D”

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Certificate of Posting issued by the Office of the City Treasurer, Science City of Muñoz dated October 6, 2008;

Exhibit “E”

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Certificate Of Posting issued by the Register of Deeds, Talavera, Nueva Ecija dated October 6, 2008;

Exhibit “F”

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Certificate of Posting issued by the Office of Brgy. Pandalla, Science City of Muñoz, Nueva Ecija dated October 8, 2008;

Exhibit “G”

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Certificate of Publication dated January 21, 2011;

Exhibit “H”

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Official Gazette issue dated December 20, 2010, Volume 106, No. 51;

Exhibit “H-1”

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page 7249 thereof where the Order of the RTC was published;

Exhibit “I”

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Official Gazette issue dated December 27, 2010, Volume 106, No. 52;

Exhibit “I-1”

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page 7389 thereof where the Order of the RTC was published.

After due hearing, the RTC rendered its assailed Decision the dispositive portion of which reads as follows:

“WHEREFORE, judgment is hereby rendered:

ORDERING the Registry of Deeds, Talavera, Nueva Ecija, after payment of the prescribed fees, to reconstitute OCT No. 1110 utilizing as basis thereof the Owner's duplicate Copy of OCT No. 1110 presently in the possession of the petitioner, which reconstituted title shall have the same legal force and effect as the original prior to its loss, subject to such encumbrances as may be subsisting thereon; provided further, that no other certificate of title covering the same parcel of land exists in the Office of the Registry of Deeds, Talavera, Nueva Ecija.

SO ORDERED.”

Hence, the present appeal with the lone assignment of error, viz:

THE COURT A QUO ERRED IN TAKING COGNIZANCE OF THE PETITION FOR RECONSTITUTION OF THE ORIGINAL CERTIFICATE OF TITLE (OCT) NO. 1110 DESPITE PETITIONER-APPELLEE'S FAILURE TO COMPLY WITH THE JURISDICTIONAL REQUIREMENT OF SECTION 13 IN RELATION TO SECTION 12 OF REPUBLIC ACT NO. 26.

The Solicitor General argues that petitioner-appellee failed to comply with Section 13 of Republic Act No. 26 as the latter failed to submit any proof that the notice of the petition on places stated therein was ever posted. Accordingly, this is a total disregard of the law. Hence, the petition is deficient, which is fatal to the jurisdiction of the Court.

Furthermore, the Solicitor General argues that the 19 February 2009 Order of the RTC indicates that it failed to state the information required to be published as provided in Section 13 of R.A. 26. The Solicitor General asseverates that while petitioner-appellee alleges that several deeds of absolute sale were executed in his favor by the heirs of Matias Lumibao, the registered owner, such deeds, however, were not annotated in the owner's duplicate copy of the subject OCT. Thus, the failure to state the heirs of the registered owner in the petition, as well as in the 19 February 2009 Order of the RTC, being interested parties in the reconstitution case is likewise fatal.

Notably, petitioner-appellee failed to file his Appellee's Brief, despite the show cause order by this Court why this case should not be deemed submitted for decision sans Appellee's Brief. Hence, this decision.

We find that there is no merit in the present appeal.

Section 110 of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, as amended by Republic Act No. 6732, allows the reconstitution of lost or destroyed original Torrens title, to wit:

“Sec. 110. Reconstitution of lost or destroyed original of Torrens title. - Original copies of certificates of titles lost or destroyed in the offices of Register of Deeds as well as liens and encumbrances affecting the lands covered by such titles shall be reconstituted judicially in accordance with the procedure prescribed in Republic Act No. 26 insofar as not inconsistent with this Decree. The procedure relative to administrative reconstitution of lost or destroyed certificate prescribed in said Act may be availed of only in case of substantial loss or destruction of land titles due to fire, flood or other force majeure as determined by the Administrator of Land Registration Authority: Provided, That the number of certificates of titles lost or damaged should be at least ten percent (10%) of the total number in the possession of the Office of the Register of Deeds: Provided, further, that in no case shall the number of certificates of titles lost or damaged be less than five hundred (500).”

Based on the foregoing, reconstitution of a lost or destroyed certificate of title may be done judicially, in accordance with the special procedure laid down in Republic Act No. 26; or administratively, in accordance with the provisions of Republic Act No. 6732. By filing the Petition for Reconstitution with the RTC, docketed as CAD Case No. SD(08)-491, Hilario Q. Mengala sought judicial reconstitution of Original Certificate of Title (OCT) No. 1110, governed by Republic Act No. 26.

The nature of the action for reconstitution of a certificate of title under Republic Act No. 26, entitled “An Act Providing a Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed,” denotes a restoration of the instrument, which is supposed to have been lost or destroyed, in its original form and condition.[3] The purpose of such an action is merely to have the certificate of title reproduced, after proper proceedings, in the same form it was in when its loss or destruction occurred.[4] The same Republic Act No. 26 specifies the requisites to be met for the trial court to acquire jurisdiction over a petition for reconstitution of a certificate of title.

Some of these requirements are enumerated in Sections 12 and 13 of Republic Act No. 26, viz:

“Sec. 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 [Regional Trial Court], 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 building 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 possessions of the property, of the owners of the adjoining properties and of 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) or 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.”

“Sec. 13. The court shall cause a notice of the petition, filed under the preceding section, to be published, at the expense of the petitioner, twice in successive issues of the Official Gazette, and to be posted on the main entrance of the provincial building and of the municipal building of the municipality or city in which the land is situated, at least thirty days prior to the date of hearing. The court shall likewise cause a copy of the notice to be sent, by registered mail or otherwise, at the expense of the petitioner, to every person named therein whose address is known, at least thirty days prior to the date of hearing. Said notice shall state, among other things, the number of the lost or destroyed certificate of title, if known, the name of the registered owner, the names of the occupants or persons in possession of the property, the owners of the adjoining and all other interested parties, the location area and boundaries of the property, and the date on which all persons having any interest therein must appear and file their claim or objections to the petition. The petitioner shall, at the hearing, submit proof of the publication, posting and service of the notice as directed by the court.” (Emphasis supplied)

As held by the Honorable Supreme Court in *Ortigas & Co. Ltd Partnership v. Velasco*,^[5] failure to comply with any of these jurisdictional requirements for a petition for reconstitution renders the proceedings null and void. Thus, in obtaining a new title in lieu of the lost or destroyed one, Republic Act No. 26 laid down procedures which must be strictly followed in view of the danger that reconstitution could be the source of anomalous titles or unscrupulously availed of as an easy substitute for original registration of title proceedings.

Perusal of the records of this case, for the purpose of verifying whether the strict and mandatory requirements of Republic Act No. 26, particularly Section 13 thereof, have been faithfully complied with, would reveal that petitioner-appellee, contrary to the Solicitor General's contention, submitted proof of the posting and service of the notice as directed by the trial court, in faithful compliance with the strict and mandatory requirements of the law.

Indeed, the trial court in its September 14, 2010 second Amended Order, which gave due course to the petition for reconstitution and set for hearing on February 22, 2011 at 8:30 o'clock in the morning, clearly indicates that the notice and copy of the said Order was published in the Official Gazette twice in successive issues at the expense of the petitioner and the same were posted in the bulletin boards of the RTC, the Provincial Treasurer's Office of Nueva Ecija, the City Treasurer's Office of Science City of Muñoz, Nueva Ecija and at the place where the land is situated.^[6] Records also clearly show that the notice of hearing had been sent to the owners of the adjoining properties, as well as the heirs of the registered owner, Matias Lomibao. In fact, the heirs of said registered owner filed their “Motion to Intervene and/or Opposition,” but later on withdrew their opposition albeit reiterated that they be allowed to intervene in the petition.

Furthermore, perusal of the petitioner-appellee's petition reveals that it contains the required information under Section 12 of RA 26, such as: a) that the owner's duplicate copy of the original certificate of title which used to be kept in the custody of the Register of Deeds of Nueva Ecija had been lost while a second owner's duplicate copy thereof is in possession of the petitioner;^[7] b) that there are no buildings or improvements existing on said land which do not belong to the petitioner, except to some houses erected by his tenants;^[8] c) the location, area and boundaries of the property;^[9] d) the names and addresses of the owners of the adjoining properties, as well as of other persons who may or might have interest in the property;^[10] e) that the property is free from all liens and encumbrances of any kind whatsoever;^[11] and f) that there exists no deeds or instruments affecting the property which have been presented for and pending registration with the Register of Deeds of Nueva Ecija.^[12] Hence, we find no merit in oppositor-appellants submission that the failure or omission to state the heirs of the registered owner in the petition, as well as in the 19 February 2009 Order, is fatal.

Clearly then, the requirements and procedure of actual notice in Section 13 in relation to Section 12 of RA 26 having been faithfully complied with, the RTC had jurisdiction to take cognizance of the petition for reconstitution and, therefore, the proceedings taken thereon are valid.

In fine, we are convinced that petitioner-appellee had adduced competent evidence to warrant reconstitution of the allegedly lost original certificate of title.

WHEREFORE, the instant appeal is hereby DENIED. Accordingly, the March 21, 2013 Decision of the Regional Trial Court, Branch 37, Baloc, Sto. Domingo, Nueva Ecija in Cad. Case No. SD(08)491 is AFFIRMED.

SO ORDERED.

Ybañez, E.A.[**] and Sorongon, E.D., JJ., concur.

[*] Vice J. Carandang per Office Order No. 485-14 RSF dated November 24, 2014.

[**] Vice J. Gonzales-sison per Office Order No. 485-14-RSF dated November 24, 2014.

[1] Penned by Judge Nelson A. Tribiana, dated March 21, 2013.

[2] Branch 37, docketed as Cad. Case No. SD(08) 491.

[3] Strait Times, Inc. v. Court of Appeals, 356 Phil. 217, 230 (1998).

[4] Republic of the Philippines v. Holazo, 480 Phil. 828, 838 (2004).

[5] 343 Phil. 115 (1997).

[6] See Exhibits “C”, “D”, “E”, “F”, “G”, “H”-to “H-1” and “I” -”I-1”.

[7] Paragraph 3, Petition.

[8] Paragraph 5, Ibid.

[9] Paragraph 2, Ibid.

[10] Paragraph 6, Ibid.

[11] Paragraph 7, Ibid.

[12] Paragraph 8, Ibid.

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