

THE DIRECTOR OF LANDS, PETITIONER, VS. THE COURT OF APPEALS AND DEMETRIA STA. MARIA VDA. DE BERNAL, RESPONDENTS, GREENFIELD DEVELOPMENT CORP., INTERVENOR, ALABANG DEVELOPMENT CO...

G.R. No. L-45168. January 27, 1981

Ponente: GUERRERO, J.

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GUERRERO, J.:

Petition for Review on certiorari pursuant to Rule 45, Rules of Court, in relation to Republic Act 5440 and/or a Special Civil Action of Certiorari under Section 1, Rule 65, Rules of Court, petitioner claiming no appeal nor any other plain, speedy and adequate remedy in the ordinary course of law.

Petitioner prays this Court to reverse the decision dated October 1, 1976 of respondent Court of Appeals[1] in CA-G.R. No. 56729-R entitled "Demetria Sta. Maria Vda. de Bernal, petitioner-appellant, versus Director of Lands, Pedro dela Peña, Leodegario R. Alba, Jr., Aurora R. Favila, Democrito R. Favila, Eufracia R. Favila and Angel Cruz, oppositors-appellants" Re: Petition for Reconstitution of Original Certificate of Title No. T-42449, Rizal Registry of Deeds and in lieu thereof to dismiss the petition for reconstitution of title, to declare null and void the Resolution dated November 11, 1976 denying petitioner's Motion for a New Period or Extension of Time to File a Motion for Reconsideration and further denying the Motion to Admit Motion for Reconsideration.

In a petition dated and filed June 6, 1970 in the Court of First Instance of Rizal, private respondent Demetria Sta. Maria Vda. de Bernal sought the reconstitution of the original of Transfer Certificate of Title No. 12/T-79 of the Registry of Deeds of Rizal covering two (2) parcels of land located in Barrio San Dionisio, Municipality of Parañaque, Province of Rizal (now the Municipality of Muntinlupa, Province of Rizal) containing an aggregate area of 143.5062 hectares, more or less. Attached to the petition are the photostat copy of the supposed owner's copy of Transfer Certificate of Title No. 12/T-79, the plan of the property together with the technical description thereof, approved by the Chief of the Survey Division of the Bureau of Lands.

The petition for reconstitution was set for hearing on November 28, 1970 at 8:30 A.M. after due publication of the required notice was made. The required notice of hearing was duly published in two successive issues of the Official Gazette, Vol. 66, No. 31, pp. 7226-7227, Aug. 3, 1970, and Vol. 66, No. 32, p. 7493, Aug. 10, 1970, as follows:

"REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF RIZAL
SEVENTH JUDICIAL DISTRICT
BRANCH XIII

Petition for Reconstitution of TCT No. 12/T-79,
Land Records of Rizal

DEMETRIA STA. MARIA VDA. DE BERNAL, Petitioner

NOTICE OF HEARING

In her verified petition, Demetria Sta. Maria Vda. de Bernal prays for the reconstitution of TCT No. 12/T-79 covering Lots 1 and 3 of plan II-4374 situated in San Dionisio, Parañaque (now Muntinlupa) Rizal with an area of 1,866,979 square meters registered in her name.

She alleges, among others, that the original of the aforesaid title in the custody and possession of the Registry of Deeds of Rizal was either lost or destroyed during the last war and diligent efforts to locate the same proved futile; that the owner's copy of said certificate of title, however, had been preserved by petitioner; that her owner's duplicate of TCT No. 12/T-29 has never been encumbered and that the technical descriptions of said lots are as follows:

Lot 1, II-4374

"A parcel of land (Lot 1 of plan II-4374, LRC Record No.), situated in the Barrio of San Dionisio, Municipality of Parañaque (now Muntinlupa), Province of Rizal. Bounded on the E., and N., along lines 1-2-3-4-5 by Public Lands; on the NW., along lines 5-6-7-8-9 by property of Manuela Aquial (Lot 2 of plan II-4374) on the W., and S., along lines 9-10-11 by public lands; on the SE., SW., and SE., along lines 11-12-13-14-15 by property of Olimpia B. Santamaria (Lot 3 of plan II-4374); on the SE., SW., along lines 15-16-1 by property of Manuela Aquial (Lot 4 of plan II-4374). Containing an area of seven hundred seventeen thousand five hundred twenty-three (717,523) square meters."

Lot 3, II-4374

"A parcel of land (Lot 3 of plan II-4374, LRC Record No. ____), situated in the Barrio of San Dionisio, Municipality of Parañaque, Province of Rizal. Bounded on the NW., and NE., along lines 1-2-3-4 by property of Manuela Aquial (Lot 4 of plan II-4374); on the NW., NE., and NW., along lines 4-5-6-7-8 by property of Olimpia B. Sta. Maria (Lot 1 of plan II-4374); and on the NW., SW., SE., and E., along lines 9-10-11-12-13-14-15-16-17-1 by Public Land. Containing an area of seven hundred seventeen thousand five-hundred thirty-nine square meters (717,539)."

Wherefore, notice is hereby given that said petition will be heard before this Court at Pasig, Rizal on November 28, 1970 at 8:30 A.M. at which place, date and hour aforesaid, all interested persons are hereby cited to appear and show cause, if any they have, why said petition should not be granted.

Let this notice be published once a week for 3 consecutive weeks in the "Daily Mirror," as well as twice in successive issues of the "Official Gazette." Likewise, copies of this notice must be posted in the bulletin board of the Provincial Capitol of Rizal, Municipal Building of Muntinlupa, Rizal, and on Lot 1 and 3 before the hearing. Furthermore, let copies of this notice be sent by registered mail to Manuela Aquial, Olimpia B. Sta. Maria, The Director of Lands, the Land Registration Commissioner, the Register of Deeds of Rizal, the Provincial Fiscal of Rizal and the Office of the Solicitor General.

Witness the Hon. Pedro A. Revilla, Judge of this Court, this 18th day of July, 1970 at Pasig, Rizal.

(Sgd.) MAXIMO C. CONTRERAS
Branch Clerk of Court"

Before the hearing of the case on its merits, however, the Court required the Registry of Deeds to submit his report regarding the status of Certificate of Title No. 12/T-79, the original of which was sought to be reconstituted. In his report, Atty. Jose D. Santos, the Register of Deeds, indicated that Transfer Certificate of Title No. 12/T-79 is not filed in Registry Book No. T-79; that Certificate of Title No. 12 according to the records is under Registration Book No. T-1 issued in the name of Edwin Warnes and that said title refers to a property situated in Pasay City; that said Transfer Certificate of Title No. 12 was already cancelled by Transfer Certificate of Title No. 19, Book II of the Registry of Deeds of Rizal. The report also stated that Registration Book No. T-79 embraces Transfer Certificates of Title with numbers of five (5) digits; and that there are no available records of the Registry of Deeds which might indicate whether or not there is such Transfer Certificate of Title No. 12/T-79 in the name of petitioner (Demetria Sta. Maria Vda. de Bernal). (See Decision, CFI, pp. 67-68, Record on Appeal)

In view of the report of the Register of Deeds of Rizal cited above, private respondent Demetria Sta. Maria Vda. de Bernal was allowed by the Court on November 12, 1970 to file an amended petition wherein the number of her Transfer Certificate of Title No. 12/T-79 was changed to Transfer Certificate of Title No. 42449 of the Registry of Deeds of Rizal. The amended petition reads as follows:

"(CAPTION & TITLE OMITTED)

Petitioner, thru counsel, respectfully alleges:

- 1.- That petitioner is of legal age, widow, Filipino citizen, and resident of and with postal address at 102 Sixto Antonio St., Bo. Rosario, Parañaque, Rizal;
- 2.- That she is the owner of certain parcels of land located at Barrio San Dionisio, Municipality of Parañaque, before, now Muntinlupa, Province of Rizal as evidenced by Transfer Certificate of Title No. 42449 of the Land Records of Rizal, which property is described as follows:

Lot I
II-4374

"A parcel of land (Lot I of plan II-4374 LRC Record No.), situated in the Barrio of San Dionisio, Municipality of Parañaque, (now Muntinlupa), Province of Rizal. Bounded on the E., and N., along lines 1-2-3-4-5 by Public Land; on the NW., along lines 5-6-7-8-9 by property of Manuela Aquial (Lot 2 of plan II-4374); on the W., and S., along lines 9-10-11 by Public Land; on the SE., SW., and SE., along lines 11-12-13-14-15 by property of Olimpia B. Santamaria (Lot 3 of plan II-4374); on the SE., SW., along lines 15-16-1 by property of Manuela Aquial (Lot 4 of plan II-4374). Containing an area of SEVEN HUNDRED SEVENTEEN THOUSAND FIVE HUNDRED TWENTY THREE (717,523) SQUARE METERS."

Lot 3, II-4374

"A parcel of land (Lot 3 of plan II-4374, LRC Record No.), situated in the Barrio of San Dionisio, Municipality of Parañaque, Province of Rizal. Bounded on the NW., and NE., along lines 1-2-3-4 by property of Manuela Aquial (Lot 4 of plan II-4374); on the NW., NE., and NW., along lines 4-5-6-7-8 by property of Olimpia B. Santamaria (Lot 1 of plan II-4374), and on the NW., SW., and SE., along lines 9-10-11-12-13-14-14-16-17-1 by Public Lands. Containing an area of SEVEN HUNDRED SEVENTEEN THOUSAND FIVE HUNDRED THIRTY NINE (717,539) SQUARE METERS."

3.- That on the occasion of the military operations during the last world war, the original of the above-mentioned Transfer Certificate of Title No. 42449 in the Office of the Register of Deeds was either lost or destroyed and despite diligent efforts exerted, proved to no avail; however, the Owner's Duplicate of said Transfer Certificate of Title had been preserved by the herein petitioner and could be the basis of this petition;

4.- That the boundary owners of the property above-described are as follows: Manuela Aquial, Olimpia B. Sta. Maria and Public Land, with known residence at Parañaque, Rizal;

5.- That the aforesaid Transfer Certificate of Title does not appear to have been encumbered/ except to those persons who might in the future appear to have interest during the pendency of this petition;

6.- That the following documents are hereto attached as an integral part hereof, to wit:

Four (4) photostat copies of Transfer Certificate of Title No. 42449 in the name of Demetria Sta. Maria Vda. de Bernal.

Four (4) copies in white print of plan II-4374, which is a survey approved on July 25, 1911.

Four (4) copies of the Technical Description of Lots 1 and 3 of plan II-4374.

(Other documents which may be required will be submitted during the proceedings.)

WHEREFORE, it is respectfully prayed that after due notice and hearing, an order be issued to the Register of Deeds of the Province of Rizal to reconstitute the Original Copy of Transfer Certificate of Title No. 42449 in the name of the herein petitioner; that petitioner be granted such other relief which may be just and equitable in the premises.

Manila, for Pasig, Rizal, Philippines, Nov. 12, 1970.

(Sgd.) CESAREO A. FABRICANTE
Counsel for the Petitioner
Suite 413 Shurdut Bldg.
Intramuros, Manila"

(Verification by Petitioner Omitted)

The above amended petition was admitted by the Court in its Order of December 7, 1970 and it directed the Publication of Notice in the following order:

"Considering the motion for permission to amend petition, the Court resolves to grant the same provided all the requisites for publication and posting of notices be complied with it appearing that the amendment is quite substantial in nature.

IN VIEW THEREOF, the amended petition dated November 12, 1970 attached to the motion is hereby admitted; and the Branch Clerk of this Court is directed to cause the publication of the notice once a week for three consecutive weeks in the Daily Mirror as well as twice in successive issues of the Official Gazette; and to post the same notices in the bulletin board of the Provincial Capitol Building; Municipal Building of Muntinlupa; and lots 1 and 3; and to serve copies of the same by registered mail to the alleged boundary owners, namely, Manuela Aquial, Olimpia B. Sta. Maria, Director of Lands, Director of Forestry, Atty. Casiano P. Laquihon, and Atty. Josefina Nepomuceno.

SO ORDERED.

Pasig, Rizal, December 7, 1970.

(Sgd.) PEDRO A. REVILLA
Judge"

Pursuant to the Order of the Court quoted above, the Deputy Clerk of Court ordered the following Notice published:

"In her verified petition, Demetria Sta. Maria Vda. de Bernal prays for the reconstitution of TCT No. 42449 covering Lots 1 and 3 of plan II-4374 situated in San Dionisio, Parañaque (now Muntinlupa) Rizal with an area of 1,866,979 square meters registered in her name.

She alleges, among other things, that the original of the aforesaid title in the custody and possession of the Registry of Deeds of Rizal was either lost or destroyed during the last war and diligent efforts to locate the same proved futile; that the owner's duplicate copy of said certificate of title however, had been preserved by petitioner; that her owner's duplicate of TCT No. 42449 has never been encumbered and that the technical descriptions of said lots are as follows:

Lot 1, II-4374

A parcel of land (Lot 1 of plan II-4374, LRC Record No.), situated in the Barrio of San Dionisio, Municipality of Parañaque (now Muntinlupa), Province of Rizal. Bounded on the E., and N., along lines 1-2-3-4-5 by Public Land; on the NW., along lines 5-6-7-8-9 by property of Manuela Aquial (Lot 2 of plan II-4374) of the W., and S., along lines 9-10-11 by public land; on the SE., SW., and SE., along lines 11-12-13-14-15 by property of Olimpia B. Santamaria (Lot 3 of plan II-4374); on the SE., and SW., along lines 15-16-1 by property of Manuela Aquial (Lot 4 of plan II-4374). Containing an area of SEVEN HUNDRED SEVENTEEN THOUSAND FIVE HUNDRED TWENTY THREE (717,523) SQUARE METERS.

Lot 3, II-4374

A parcel of land (Lot 3 of plan II-4374, LRC Record No.), situated in the Barrio of San Dionisio, Municipality of Parañaque, Province of Rizal. Bounded on the NE., and NW., along lines 1-2-3-4 by property of Manuela Aquial (Lot 4 of plan II-4374); on the NW., NE., and NW., along lines 4-5-6-7-8 by property of Olimpia B. Sta. Maria (Lot 1 of plan II-4374); and on the NW., SW., SE., and E., along lines 0-10-11-12-13-14-15-16-17-1 by Public Land. Containing an area of SEVEN HUNDRED SEVENTEEN THOUSAND FIVE HUNDRED THIRTY NINE (717,539) SQUARE METERS.

WHEREFORE, notice is hereby given that said petition will be heard before this court at Pasig, Rizal on March 22, 1971 at 8:30 A.M. at which place, date and hour aforesaid, all interested persons are hereby cited to appear and show cause, if any they have why said petition should not be granted.

Let this notice be published once a week for 3 consecutive weeks in the "Daily Mirror", as well as twice in successive issues of the "Official Gazette." Likewise, copies of this notice must be posted in the bulletin board of the Provincial Capitol of Rizal, and on Lots 1 and 3 before the hearing.

WITNESS the Hon. Pedro A. Revilla, Judge of this Court, this 7th day of December, 1970 at Pasig, Rizal.

(Sgd.) MAXIMO C. CONTRERAS
Branch Clerk of Court"

On November 9, 1970, oppositors Pedro de la Peña and Leodegario R. Alba, Jr. filed an opposition which they amended on April 12, 1971 by adopting the opposition of the Director of Lands, but was later withdrawn on June 15, 1973, approved by the Court on January 23, 1974.

On June 20, 1970, Angel Cruz also filed an opposition alleging:

"1.- That he specifically denies the allegations of paragraphs 1 to 6 the truth of the matter being that below stated as:

- a. That petitioner is not a widow, she being the spouse of herein Oppositor Angel Cruz;
- b. That the Certificate of Title mentioned in the petition is fake together with all evidences mentioned in said petition;
- c. That the oppositor is the true owner of the parcel of land whose certificate of title is sought to be reconstituted.

WHEREFORE, it is respectfully prayed that the petition be dismissed.

Quezon City for Pasig, Rizal, December 20, 1970."

Oppositor Cruz, however, never appeared at the hearing and abandoned his opposition.

Oppositors Aurora Favila, et al. also filed an opposition which was amended on April 1, 1971 but after Demetria Sta. Maria Vda. de Bernal presented part of her evidence, said oppositors abandoned their opposition and never appeared at subsequent hearings.

On March 16, 1971, the Director of Lands filed the opposition in behalf of the government, which was adopted as the Opposition also to the Amended Petition for Reconstitution. The Opposition alleges:

"1.- That Demetria Sta. Maria Vda. de Bernal of Rosario, Pasig, Rizal seeks the reconstitution of the Original Transfer Certificate of Title No. 12/T-79 or 42449, covering two (2) parcels of land situated in Barrio San Dionisio, Parañaque, Rizal, and which is shown in Plan II-4374, allegedly approved on July 25, 1911 by the Director of Lands and described in the Technical Descriptions also allegedly issued by the Surveys Division, Bureau of Lands, under Accession No. 195551, and containing an area of 143.5062 hectares, more or less and which said plan and technical descriptions are attached to the petition;

2.- That by reconstituting the Original Transfer Certificate of Title No. 12/T-79, now 42449 in the name of the Petitioner using the said Owner's Transfer Certificate of Title as the basic source, is not feasible, because:

(A) The genuineness and authenticity of the Owner's duplicate copy of the title is seriously of doubtful origin.

(B) That the said Transfer Certificate of Title was issued by the Registry of Deeds of the City of Manila and not by the Registry of Deeds of Rizal Province, who is authorized by law to issue the same and who at the time of the issuance was holding his Office at Pasig, Rizal;

(C) That the basic Original Certificate of Title No. 12 which was cancelled by the alleged Transfer Certificate of Title No. 12/T-79, was registered in the Registry of Deeds of Rizal Province in the name of Edwin Warnes and Company, and the property is situated in Pasay City, contrary to the statements in the said Transfer Certificate of Title No. 12/T-79 of petitioner;

(D) That the said Transfer Certificate of Title was issued under Judicial Form No. 140-D, GLRO Form No. 68-D and not the revised Judicial Form No. 41, GLRO Form No. 109, which was being used ever since 1931, hence, said title is patently irregular, if not spurious;

(E) That the Owner's Duplicate Transfer Certificate of Title No. 12/T-79 does not reflect the NUMBER of the SALES PATENT upon which the Original Certificate of Title was derived from;

(F) That the Bureau of Lands during the year 1941-1944 (Japanese Occupation) had only an skeleton force at work and did not issue patents or patent-titles;

(G) That Transfer Certificate of Title No. 12/T-79 in the name of the petitioner does not contain the imprint of the Official Seal of the Registry of Deeds of the City of Manila where the same was issued;

(H) That Book No. T-79 of the Registry of Deeds of Rizal Province contains only Transfer Certificates of Title Nos. 19453 to 19700, Series of 1931 and does not show that Transfer Certificate of Title No. 12/T-79 was duly registered therein;

(I) That the Owner's Duplicate Transfer Certificate of Title No. 12/T-79 is partially damaged, so much so that some of the bearings and distances are missing or could not be read;

3.- That Plan II-4374 in the name of the petitioner and the Technical Descriptions could not be the basis for the reconstitution of the Original Transfer Certificate of Title No. 12/T-79 nay 42449 on the following grounds:

(A) That the Original Plan II-4374 is not subsisting in the files and records of the Bureau of Lands, hence petitioner's plan cannot be considered official reproduction copy of the same;

(B) That there is no basis for the issuance of the Technical Descriptions covering Lots Nos. 1 and 3, Plan II-4374;

(C) That the Director of Lands who supposedly approved plan II-4374 on July 25, 1911, is not the same Director of Lands during the same period;

(D) That the public official who signed the controverted Technical Descriptions was not duly authorized to sign and issue the same;

(E) That the Accession No. 195551, appearing in the Technical Descriptions of Lots Nos. 1 and 3 of plan II-4374 is fake, because it pertains to Plan II-4005, the land being the property of the Municipality of Liloan, Island of Pandan, Province of Leyte, containing an area of 3838 square meters, surveyed on December 19, 1910 and approved on February 7, 1911; obviously Plan II-4374 is also a fake; and

(F) That plan II-4374 as described in the alleged Technical Descriptions when projected in cadastral maps falls outside Parañaque Cadastre, Parañaque, Rizal.

4.- That the aggregate areas of Lots Nos. 1 and 3, Plan II-4374 is 143.5062 hectares and it is not improbable that it will encroach other titled properties including roads, public highways and even the Municipal Hall of Muntinlupa, Rizal; hence a relocation survey is necessary to establish the metes and bounds of the controverted lands and its relative position in the locality;

5.- That as alleged by the petitioner's counsel in his "Motion for Permission to Amend Petition" dated November 12, 1970, that the Owner's Duplicate Transfer Certificate of Title No. 12/T-79 was tampered and that the real number appearing on the same is 42449, only creates the impression that both alleged titles are fake, together with the plan and technical descriptions, much more so that the said Transfer Certificate of Title No. 42449 is not attached and made part of the petition in the expediente;

6.- That the petition for reconstitution of the Original Transfer Certificate of Title No. 12/T-79 nay 42449 is not in accordance with the provisions of Section 3, Republic Act No. 26.

WHEREFORE, it is respectfully prayed of this Honorable Court that the Petition to Reconstitute Transfer Certificate of Title No. 12/T-79 now 42449, be denied with costs against the petitioner.

Manila, for Pasig, Rizal, March 16, 1971."

On September 11, 1972, Demetria Sta. Maria Vda. de Bernal prayed the Court for the withdrawal of the photostat copy of TCT No. 12/T-79 and copies of the Daily Mirror together with the affidavit of publication found on pages 22-25 inclusive of the expediente, for having become irrelevant, immaterial and of no further use in the proceedings.

In a Manifestation dated September 11, 1972, counsel for Demetria Sta. Maria Vda. de Bernal manifested that at the time of the filing of the petition for reconstitution of her duplicate Owner's Certificate of Title No. 42449 of the land records of Rizal Province, said certificate was considered lost and its whereabouts could not be ascertained; that said certificate has been finally recovered recently and is now in her possession; that according to information furnished her by the Register of Deeds Office of Rizal after some query, the original of petitioner's duplicate TCT No. 42449 is among those missing in the Book of Certificates of Titles turned over by the Register of Deeds of Manila to the Register of Deeds of Rizal. Counsel thereupon prayed that the petition be treated as one for the reconstitution of petitioner's Original Certificate of Title No. 42449.

The Court having ordered on November 16, 1972 the examination of the genuineness of the signature of Mariano Villanueva, Register of Deeds of Manila, in the Owner's duplicate copy of Transfer Certificate of Title No. 42449 of petitioner by the National Bureau of Investigation, the NBI submitted on November 24, 1972 to the court "Questioned Documents Report No. 166-1172," finding that the signature of Mariano Villanueva appearing in TCT No. 42449 of petitioner is genuine.

On November 10, 1973, the Court issued its Order denying reconstitution of petitioner's Original Transfer Certificate of Title No. 42449. The Court, dwelling on the change in the number of Demetria Sta. Maria Vda. de Bernal's Certificate of Title from No. 12/T-79 to TCT No. 42449, said:

"During the hearing of this case, petitioner Demetria Sta. Maria Vda. de Bernal explained the circumstances leading to the erroneous title sought to be reconstituted under her original petition. She testified that she and her husband, Angel Cruz, were separated. During the time that they were living together, she entrusted to her husband the owner's copy of the title covering this property. Sometime after their separation, she demanded from her estranged husband the owner's copy of her title over the property allegedly owned by her at San Dionisio, Parañaque, Rizal (now Muntinlupa). She did not notice that the title delivered to her by her alleged husband was fake. As a matter of fact, she caused a photostat copy thereof to be attached to the original petition. After discovering that the title given to her by her husband is spurious, she again demanded from her husband the delivery of the title which she had entrusted to him. After much effort, she was able to retrieve from her husband Transfer Certificate of Title No. 42449 which is now the subject of her amended petition. Petitioner is now sure that this is the same title which she had left in the custody of her erstwhile husband Angel Cruz.

A comparison of the technical descriptions appearing in the original title No. 12/T-79 and Transfer Certificate of Title No. 42449 shows that the parcels of land described in both titles are exactly the same."

And analyzing the evidence for Demetria Sta. Maria Vda. de Bernal, the Court continued:

"The evidence of the petitioner tended to show that the property embraced by Transfer Certificate of Title No. T-42449, was originally covered by a sales patent, Original Certificate of Title No. 42392 in the name of

Olimpia Sta. Maria, the mother of the present petitioner; that the said property was sold to petitioner for the sum of P10,000.00 during the Japanese time and that in consequence of said sale, Transfer Certificate of Title No. T-42449 was issued in her name by the Register of Deeds of Manila since the location of the property involved was comprised within the Greater Manila area during the Japanese Occupation; it was also testified to that the copy of the deed of sales was lost during the fire which occurred in Pasig during the occupation where petitioner was then residing; petitioner also claimed that she and her mother were and are presently in possession of the property which is planted to palay and fruitbearing trees; that Transfer Certificate of Title No. 42449 was delivered to the Register of Deeds of Rizal Province by the Register of Deeds of Manila (Exhibits J, J-1, J-2 and K) and that this original title was allegedly lost in the office of the Register of Deeds of Rizal (Exhibits D and D-1).

The signature of Mr. Mariano Villanueva appearing at the bottom of Transfer Certificate of Title No. 42449 (Exhibit "C") was attested by an NBI document examiner, Atty. Narciso Peña, former Register of Deeds of the City of Manila and Mr. Ricardo Obispo, an oldtimer in the office of the Registry of Deeds of Manila to be the authentic signature of Mr. Mariano Villanueva who was the Register of Deeds of Manila during the occupation.

The petitioner sought to establish the correctness of the technical descriptions appearing in Transfer Certificate of Title No. T-42449 from the minutes of the reading of the microfilm of the plan of the property at the Bureau of Lands on November 25, 1972 signed by Engineer Modesto Eloriaga, Chief, Reproduction Section of the Bureau of Lands, Atty. Pedro Flores for the Director of Lands, and Atty. Fortunato de Leon, counsel for the petitioner (Exhibits G, G-1, G-2 and N). Offered in evidence also by the petitioner were the tax declarations of the property under the name of the petitioner together with tax receipts evidencing payment of the same (Exhibits L, L-1, M, M-1 and M-2).

Mr. Oscar T. Eusebio in his capacity as Register of Deeds of Rizal vigorously opposed the petitioner and in the course of his testimony, he identified his written report in pursuance to an order of this court. He testified that according to their records Transfer Certificate of Title No. 42449, Book T-214 (pre-war records) was issued in the name of Esmeralda Pabustan covering a property located at Pasay City; that this certificate of title was forwarded to the Register of Deeds of Manila sometime on September 14, 1943 as evidenced by a receipt signed by Mr. Mariano Villanueva, Register of Deeds of Manila. Eusebio testified that Transfer Certificate of Title No. 42449, Book T-489 of post-war vintage existing in their files is under the name of Pilar Paterno covering a property situated in sitio Ibayong Malaque, Las Piñas, Rizal, with an area of 2,450 square meters which was cancelled by Transfer Certificate of Title No. 56515, Book T-559.

In spite of the impressive array of the evidence presented by the petitioner both oral and documentary, there are circumstances in this case which impel the Court to deny the present petition.

To begin with, it appears that there are three (3) transfer certificates of title allegedly covering the two (2) lots under consideration viz. (1) Transfer Certificate of Title No. 12/T-79 in the name of herein petitioner Demetria Sta. Maria Vda. de Bernal attached to the original petition; (2) Transfer Certificate of Title No. 42449 which is the subject of the amended petition in this case, also in the name of the petitioner; and (3) Transfer Certificate of Title No. T-76 under the name of petitioner's estranged husband Angel V. Cruz attached to another Reconstitution Case (No. 70) filed by one Jose Polinag, alleged attorney-in-fact of Angel V. Cruz, estranged

husband of petitioner Bernal, before Branch XXV of this Court and of which case this Court has taken judicial notice of. In Reconstitution Case No. 70, it is noted that the Presiding Judge of said Court granted the petition of Jose Polinag notwithstanding the opposition and motion to dismiss filed by the herein petitioner Demetria Sta. Maria Vda. de Bernal. It is apparent, therefore, that if this Court were to grant the present petition, there may be more than one (1) title issued under different names for the same lots. While Demetria Sta. Maria Vda. de Bernal claims that Transfer Certificate of Title No. T-76 is fake, her husband Angel V. Cruz who filed an opposition in the case at bar although he did not pursue the same under this proceeding, alleged that Transfer Certificate of Title No. 42449 sought to be reconstituted by his wife Bernal is also fake.

In the instant case, Transfer Certificate of Title No. 42449 in the name of the petitioner is sought to be reconstituted by petitioner Bernal. There is not a scintilla of evidence presented by the petitioner to show that this Transfer Certificate of Title No. 42449 issued during the Japanese time was ever received by the Register of Deeds of Rizal Province. What the records of the Registry of Deeds disclose is that Transfer Certificate of Title No. 42449 (pre-war records) was issued in the name of Esmeralda Pabustan, covering a property located at Pasay, Rizal Province. After the war, Transfer Certificate of Title No. 42449, Book T-489 was issued in the name of Pilar Paterno on January 6, 1956, covering a property situated in sitio Ibayong Malaque, Las Piñas, Rizal with an area of 7,450 square meters and which was cancelled by Transfer Certificate of Title No. 56515, Book T-559. On the other hand, Certificate of Title No. 42392 from which Transfer Certificate of Title No. 42449 (Exhibit C) of the petitioner appears to have been derived from does not exist in the files of the Register of Deeds of Rizal although there is in the records of the Register of Deeds, Transfer Certificate of Title No. 42392 in the name of Paz Bravo de Perfecto covering a property located at San Felipe Neri, Mandaluyong, Rizal.

Among the exhibits presented by the petitioner are Exhibits J, J-1 and J-2. Exhibit J purports to show a list contained in eleven (11) photostatic sheets of titles supposedly transmitted by the Register of Deeds of Manila to the Register of Deeds of Rizal Province wherein is listed among the titles supposedly sent to Pasig, Transfer Certificate of Title No. 42449 and Original Certificate of Title No. 42392.

The Court has noted certain glaring irregularities in these exhibits which were not explained during the hearing of this case. For example, under Volume T-342 where Exhibit J-1, Title No. 42449 is listed, the number of the titles appearing thereunder are all of five (5) digits beginning with the number 4, whereas under Volume T-343 the numbers of the titles listed thereunder are also of five (5) digits but beginning with the number 1. The Court finds it strange if not irregular why an earlier volume should embrace higher numbered titles than a later volume (see page 10 of Exhibit J, last column).

A close scrutiny of pages 10 and 11 of Exhibit J will show that the last columns of the list of titles appearing thereon were typed with a different typewriter from that used with respect to the other columns listed on the same pages. It will be noted that the spacing of the figures shown on page 10 of Exhibit J is narrower than those of the figures appearing in the other columns of said page. On the other hand, the last column on page 11 shows that the figures appearing on the last column are of larger print than the figures of the other columns on the same page. By a strange coincidence or otherwise, both the titles sought to be reconstituted by the petitioner as well as the alleged mother title thereof are listed in the last columns of pages 10 and 11 of Exhibit J.

While almost all of the titles listed in this exhibit does not bear the names of the registered owners, Title No. 42449 shows in handwriting the name of Demetria Sta. Maria Vda. de Bernal (Exhibit J-1) and after Original Certificate of Title No. 42392 there appears the handwritten name of Olimpia Sta. Maria, the alleged predecessor-in-interest of the petitioner (Exhibits J-1 and J-2). There is no testimony in the record to explain who made these intercalations. The person who certified that the eleven photostatic copies constituting Exhibit J are reproductions of the original existing in the files of the Register of Deeds was not presented as a witness. The Court, therefore, cannot attach much weight to these exhibits.

The original of this list contained in Exhibit J was never presented in Court and it has not been shown that the original of this list is not available in the office of the Register of Deeds of Rizal where said Exhibit J is alleged to have been forwarded on April 5, 1949. The certifying employee of the Manila Register of Deeds was not presented to verify whether the list attached to his certification has not been tampered.

Transfer Certificate of Title No. 42449 which is the subject of this reconstitution (Exhibit C) appears to have been signed by Register of Deeds Mr. Mariano Villanueva of Manila for the Register of Deeds of Rizal Province. This alleged title was supposed to have been signed by the Register of Deeds of Manila on the 19th day of November in the year 1943, when the Municipality of Parañaque where the land covered by the above-described title is located was part of Greater Manila. The Court finds it rather unusual why the Register of Deeds of Manila should sign the said title for and in behalf of the Register of Deeds of Rizal when the property covered by said title was within the radius of the Greater Manila area. That the Register of Deeds of Manila did not affix his signature in such capacity during the Japanese time is a matter which is capable of verification.

Tax Declaration No. 7046, Exhibit L, which purports to have been issued sometime in 1943 does not bear the signature of the Provincial Assessor. Transfer Certificate of Title No. 42449 shows on its face that the lots described therein were originally registered on the 29th day of September, 1942 by virtue of a sales patent issued on September 15, 1942 under Act 141. Exhibit H which appears to be an official receipt representing payment for real estate taxes corresponding to Tax Declaration No. 7046 is supposed to be in payment of the taxes for the property in question for the period from 1941 to 1946. On the basis of the title relied upon by the petitioner, the original title therefor was issued only on September 29, 1942 and yet petitioner claims by this document, Exhibit H to have paid the taxes corresponding to this property for the year 1941 before her predecessor-in-interest had allegedly acquired the same in 1942. Tax Declaration No. 15340 (Exhibit L-1) on the other hand shows that said tax declaration is new and began only in the year 1970. It did not supersede any previous tax declaration.

IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, the Court finds the evidence submitted by the petitioner insufficient to warrant the reconstitution of Transfer Certificate of Title No. 42449 (Exhibit. C) and, therefore, hereby denies instant petition.

SO ORDERED.

Pasig, Rizal, November 19, 1973.

(Sgd.) PEDRO A. REVILLA
Judge"

On September 11, 1973, Demetria Sta. Maria Vda. de Bernal filed a Motion for Reconsideration and New Trial with supporting affidavit of merits within the reglementary period, based on the following grounds, to wit:

"A.- That the order is not supported and is at variance with the evidence and is contrary to law;

B.- That petitioner has newly-discovered evidence consisting of material facts discovered after the trial which could not have been discovered even with due diligence at the time, and that such evidence is of such a nature as to alter the result of the case in favor of your petitioner, and are not merely cumulative;

C.- That petitioner is a victim of excusable negligence and mistake engendered by oppositors who interposed no objection to various exhibits during their presentation leading her to believe they were already admissible in evidence at their face value without further proof; that oppositors interposed no objection when offered in evidence and petitioner rested her case."

In support of the Motion for Reconsideration and New Trial, counsel for Demetria argued that TCT No. 12/T-79 and TCT No. 42449 are one and the same certificate of title covering the same identical property of Demetria Sta. Maria Vda. de Bernal; that what is fake and false is merely No. 12/T-79 which was the product of machination of Angel Cruz, the estranged husband of Demetria and oppositor in the case who did not pursue his opposition and instead filed a petition for reconstitution of TCT T-12 before Branch XXV in Reconstitution Case No. 70; that TCT T-76 being reconstituted in Reconstitution Case No. 70 before Branch XXV is definitely a fake title and that it overlaps some 8 hectares of Demetria's property covered by TCT 42449; that TCT No. 42449 issued by the Register of Deeds of Greater Manila was delivered and received by the Register of Deeds of Rizal; that there are many TCT Nos. 42449 is borne by the practice of the office before the war, during the Japanese occupation, and after liberation for the simple reason that each Register of Deeds Office carries separate series from No. 1 up so that the same identical number of TCT may be issued by different Register of Deeds covering different properties in the name of different persons in different provinces.

Counsel for Demetria further argued that discussion about TCT No. 12/T-79 is beside the point of issue; that the only issue is whether there is TCT No. 42449 to be reconstituted; that the seeming irregularities noted by the Court are natural consequences of reconstitution records; that the Court committed the error of considering records of Reconstitution No. 70; that the Court's fear that more than one certificate of title for the same property will be issued is without foundation in fact.

The alleged newly-discovered evidence which may alter the result of the decision is recited in the affidavit of merit of Demetria Sta. Maria Vda. de Bernal, thus:

"2.- That subsequent to the trial of this case, she discovered the following new evidence, which briefly stated will establish the following facts to wit: that the property supposedly covered by OCT No. 76 involved in the decision of Judge Reynaldo P. Honrado in Reconstitution Case No. 70 is different from her property covered by TCT No. 42449, object of this reconstitution proceedings; (h)ow the fake Number TCT No. 12/T-79 was superimposed through fraudulent series of copying; newly-discovered approved plan of the Land Registration Commission showing petitioner's properties described in TCT No. 42449 has no conflict; reconstitution and

plotting by an expert surveyor that the properties covered by TCT No. 42449 is different than that represented in TCT No. 12/T-76 in Reconstitution Case No. 70; and others;"

Considering the grounds set forth in the Motion for Reconsideration and New Trial and in view of the manifestation of Atty. Pedro Flores of the Bureau of Lands that they have no objection to the motion and there being no objection on the part of the other oppositors, the Court on January 14, 1974, set aside its Order of November 19, 1973 and set the case for reception of additional evidence on the part of Demetria Sta. Maria Vda. de Bernal on February 21, 1974.

Meantime, the Court on March 14, 1974 issued an Order directing the NBI to examine the genuineness of the signature of Jose Pueblo in the receipt Exhibit "J" for the reason that Jose Pueblo can no longer remember whether or not the signature is his signature (he died in the course of the hearing on new trial) and accordingly, on May 3, 1974, the NBI submitted its "Questioned Document Report No. 396-374" finding said signature to be genuine.

Hearings were conducted and thereafter, on September 18, 1974, the Court denied reconstitution of Demetria Sta. Maria Vda. de Bernal's Original Transfer Certificate of Title No. T-42449. In its denial order, the Court said:

"Fundamentally, the additional evidence presented by petitioner in support of their motion for new trial failed to augment their original proof to warrant the reconstitution of Transfer Certificate of Title No. 42449. It merely clarified certain aspects surrounding the transmittal of various certificates of title from the Register of Deeds of Manila to the Register of Deeds of Rizal in Pasig. There is still no clear and convincing evidence to establish or to prove that the original of Transfer Certificate of Title No. 42449 in the name of petitioner which is sought to be reconstituted actually existed. The Court still entertains a grave and serious doubt as to the authenticity of Transfer Certificate of Title No. 42449, Exhibit C, submitted by petitioner to support their stand. The lists of certificates of title supposedly received by the Register of Deeds of Rizal from the Register of Deeds of Manila on its face appears to be subject to question. Two (2) receipts were produced in Court to show the alleged receipt. One receipt in the possession of the Register of Deeds of Manila signed by Jose Pueblo, a former employee of the Register of Deeds of Rizal (Exhibit J), and another receipt in the possession of the Register of Deeds of Rizal signed by the Register of Deeds himself, Gregorio Velasquez (Exhibits 5, 5-A to 5-G). While in the receipt, Exhibit J, there is listed therein a certificate of title with number "42449" which petitioner claims to cover their certificate of title, the receipt in the possession of the Register of Deeds of Rizal does not contain this number. The reliability of the two (2) receipts cannot be assumed in view of this existing variance. The findings and conclusion of this Court in its order dated November 19, 1973 remain unchanged. The Court still entertains doubt as to the authenticity and genuineness of Transfer Certificate of Title No. 42449 (Exhibit C) which is sought to be reconstituted.

FOR THE FOREGOING REASONS, the Court is constrained to deny the instant petition and to maintain its order of November 19, 1973.

SO ORDERED.

Pasig, Rizal, September 18, 1974.

(Sgd.) PEDRO A. REVILLA

Judge"

Demetria Sta. Maria Vda. de Bernal appealed to the Court of Appeals on ten (10) assigned errors, to wit:

Error I.- The Trial Court erred in expressing doubt as to the existence of the Original of Transfer Certificate of Title No. 42449 of the Register of Deeds of Rizal and the authenticity of the owner's copy of said TCT No. 42449 Exhibit "C" contrary to the overwhelming evidence of record, and in not finding categorically that the original of said TCT No. 42449 was lost in the Register of Deeds' Office of Rizal, and that the owner's copy of said TCT No. 42449, Exhibit "C" is genuine and authentic.

Error II.- The Trial Court erred in not accepting at its face value the authenticity of Owner's Transfer Certificate of Title No. 42449, Exhibit "C", and Exhibit "J" of petitioner-appellant and in not ordering the reconstitution of the original of TCT No. 42449 on the face of overwhelming evidence establishing their authenticity and genuineness, pursuant to the provisions of Republic Act No. 26.

Error III.- The Trial Court erred in considering the original petition in its order of November 19, 1973 which is revived in its final order of September 18, 1974 when same was amended and proceedings was had on the basis of the Amended Petition of petitioner, and in drawing unwarranted adverse conclusions on the basis of the original petition without any evidentiary support.

Error IV.- The Trial Court erred in denying petitioner-appellant's petition to withdraw all annexes to the original petition after the admission of the Amended Petition which replaced the original filed by her former counsel.

Error V.- The Trial Court erred in not sustaining petitioner-appellant's Motion to Dismiss all Oppositions and in not holding that the Director of Lands has neither interest in the case nor legal personality to oppose the reconstitution of petitioner's lost original Transfer Certificate of Title No. T-42449 of the Rizal Registry.

Error VI.- The Trial Court erred in admitting over petitioner's objection Exhibits "I" to "5-C", inclusive of lone oppositor Director of Lands and in drawing conclusions therefrom adverse to herein petitioner-appellant.

Error VII.- The Trial Court erred in taking judicial notice of Reconstitution Case No. 70 for reconstitution of a supposed lost TCT No. T-76 of Angel V. Cruz, estranged husband of herein appellant, before Branch XXV, Judge Reynaldo P. Honrado, presiding, of the Court of First Instance of Rizal, in its original order of November 19, 1973 and its final order of September 18, 1974, when same was never involved in the hearing of this case; and in undertaking a private investigation of the case in violation of appellant's constitutional right to due process, and settled jurisprudence on the matter.

Error VIII.- The Trial Court, by the series of its unwarranted actuations in the case at bar has abused its judicial power and discretion to the great damage and prejudice of herein petitioner-appellant.

Error IX.- The Trial Court erred in making various unwarranted conclusions adverse to herein petitioner-appellant without basis in fact and in law in its two challenged orders subject of this appeal.

Error X.- The Trial Court erred in concluding petitioner's evidence is insufficient and in not ordering the Register of Deeds of Rizal to reconstitute petitioner-appellant's lost original Certificate of Title No. T-42449 of the Rizal Registry pursuant to the provisions of Republic Act No. 26.

The Court of Appeals in its decision promulgated October 1, 1976 reversed and set aside the orders of the lower Court issued November 19, 1973 and September 18, 1975, and ordered the Register of Deeds of the Province of Rizal to reconstitute the original of Transfer Certificate of Title No. 42449 in the records of this Office in the name of Demetria Sta. Maria Vda. de Bernal based upon her duplicate copy of said title marked as Exhibit "C", taking into consideration the technical descriptions of the two (2) parcels of land therein covered by and marked as Exhibits "F" and "F-1" respectively.

The respondent Court of Appeals reversed the lower Court on the principal issue of whether petitioner has adduced sufficient and convincing evidence to warrant the reconstitution of the original of Transfer Certificate of Title No. T-42449 under the provisions of Republic Act No. 26. Said the appellate Court:

"The evidence shows that sometime in November, 1943, during the Japanese Occupation, the petitioner purchased from her mother, Olimpia Bautista Vda. de Sta. Maria, now deceased, the two parcels of land mentioned and described in Transfer Certificate of Title No. 42449 of the Office of the Register of Deeds of Rizal (Exhibit C, Folder of Exhibits, p. 7) for the sum of P10,000.00. Her mother's title to the two parcels of land was evidenced by Original Certificate of Title No. 42392. The deed of sale, which her mother executed in her favor was destroyed in a fire which occurred during the fight for the liberation of Pasig, Rizal. The two parcels of land was assessed in 1943 at P16,950.00 (Exhibit L, Ibid., p. 21) and she paid realty taxes and penalties thereon (Exhibits L-2 and M, Ibid., p. 24). This assessment was later revised at P313,140.00 (Exhibit L-1, Ibid., p. 22) on which she paid realty taxes (Exhibits M-1 and M-2, Ibid., pp. 25-26). She discovered subsequently that her husband, Angel V. Cruz, with whom she has been estranged for many years, did not pay the subsequent taxes on the lands with the money she had given him.

Her suspicion having been aroused, petitioner demanded the return of her title which happened to be in her husband's possession. He gave her a photostat of Transfer Certificate of Title with No. 12/T-79. This was the copy she attached to her original petition. It turned out that this was the wrong title. She threatened her husband with a criminal prosecution for bigamy if he did not return her the real title to her aforesaid property. She succeeded and her husband returned to her Transfer Certificate of Title No. 42449. She then amended her original petition for re-constitution by annexing to her amended petition a photostat of Transfer Certificate of Title No. 42449 (exhibit C, Ibid., p. 7).

In the hearing in the court below, the petitioner presented documents and witnesses, most of whom were former and present government officials and employees of the offices of the Register of Deeds of Manila and Rizal to prove her claim that the original of TCT No. 42449 was lost in the Office of the Register of Deeds of Rizal and that her duplicate copy of said title (Exhibit C) is genuine.

Narciso Peña, former Deputy Register of Deeds of Manila, then Acting Register of Deeds of Manila and

Assistant Commissioner of the Land Registration Commission, testified that the signature of Register of Deeds Mariano Villanueva on Transfer Certificate of Title No. 42449, Exhibit C, is genuine and authentic. Narciso Peña declared that he was familiar with the signature of Mariano Villanueva; that the signatures appearing on the front and dorsal sides of Exhibit C were those of Mariano Villanueva; that the initial "P" to the left of Mariano Villanueva's signature belonged to the chief typist of the Office by the name of Padilla; that during the Japanese Occupation, the Office of the Register of Deeds of Manila issued certificates of title for lands outside the territorial limits of Manila so long as they are within Greater Manila, like Parañaque, Rizal, which was incorporated within Greater Manila; that when Transfer Certificate of Title No. 42449 was issued, the form and type of certificates of title issued by the Register of Deeds of Manila was the same as the form and type of Transfer Certificate of Title No. 42449; that the certification of Mariano Villanueva appearing at the back of Transfer Certificate of Title No. 42449 (Exhibit C), shows that the certificates of title covering properties in Greater Manila, which were outside of Manila proper, were, on the date appearing therein, i.e., April 5, 1949, transmitted after liberation to their respective places, in this case, Pasig, Rizal. (t.s.n., September 25, 1972, pp. 1-7 and 10-16)

On November 16, 1972, during the hearing of this case, the trial court itself ordered the examination of the genuineness of the signatures of Mariano Villanueva appearing in the owner's duplicate copy of Transfer Certificate of Title No. 42449 (Exhibit C) by the National Bureau of Investigation. On November 24, 1972, the National Bureau of Investigation submitted to the court below Report No. 166-1172 (Exhibit I, Folder of Exhibits, pp. 16-17, also Exhibits H and H-1 in separate covers.) In view of its importance, we copy in full the pertinent "findings" and "conclusions" of the Questioned Documents Division of the National Bureau of Investigation, as follows:

'FINDINGS:

Comparative examination between the questioned and the standard signatures MARIANO VILLANUEVA under the stereoscopic binocular microscope, hand lens and with the aid of enlarged photographs reveals the existence of significant identifying habit writing characteristics between them, to wit:

1. Writing strokes are made in careless, free and unconscious movement.
2. The absence of fraudulent tremors, retouching and/or patching and addition of strokes on the lines.
3. The existence of natural variation characteristics of natural writing.
4. The presence of flying starts and vanishing points in careless manner.
5. The existence of natural gradual evolution of development of the signatures as years passed.
6. The existence of natural pen pressures and shadings.
7. The idiosyncracies of proportion of the letters as to size, height and lateral spacing.
8. The habitual tendency of the letter designs to decrease their sizes as they approach the terminus of the signatures.
9. The consistent general proximity of the typewritten name.
10. And other more significant similarities that may be amplified while in the witness stand.

CONCLUSION:

In view of the foregoing, the inevitable scientific conclusion that can be arrived at, is that the two (2) questioned signatures MARIANO VILLANUEVA marked 'Q' and 'Q-1' respectively, appearing in Exhibit 'C' ARE GENUINE.'

The transmittal of the original copy of Transfer Certificate of Title No. 42449 by the Register of Deeds of Manila to the Register of Deeds of Rizal is shown by the certification of Mariano Villanueva appearing on the dorsal side of Transfer Certificate of Title No. 42449 (Exhibit C), as follows:

I hereby certify that the original of Transfer Certificate of Title No. 42449 which covered by Two (2) parcels of land (Lots 1 and 3) of Plan II-4374 located at San Dionisio, Parañaque, Rizal, in the name of Demetria Sta. Maria Vda. de Bernal was among those certificates of titles which had been forwarded to the Office of the Register of Deeds of the Province of Rizal, on April 5, 1949.

Manila, Philippines, 15th day of July, 1949.

(Sgd.) MARIANO VILLANUEVA
(Register of Deeds / pmr)'

Moreover, Lorenzo C. Gella, Register of Deeds of Manila, issued on November 6, 1970 a certification that the document consisting of eleven photostat pages attached to his certificate are the 'true and correct copies of the original of the lists of titles in the files of this office which were delivered to the Pasig Registry, and received by said Registry on April 5, 1949 by one Mr. Jose Pueblo.' (Exhibit J, Folder of Exhibits, p. 18; t.s.n., February 21, 1974, pp. 3 and 4, 8-9).

Exhibit J was admitted by the trial court without any objection from the Government lawyers (t.s.n., April 5, 1973, pp. 18-19, 28-29). Among the numerous certificates of title covered by the certification is TCT No. 42449 and opposite it is the name "Demetria Sta. Maria Vda. de Bernal," the herein petitioner (Exhibit J-1, Ibid., p. 18-J). This is further bolstered by another certification issued by the above-named Register of Deeds of Manila on November 12, 1970, that Transfer Certificate of Title No. 42449 'was among those Certificates of Title forwarded to the Office of the Register of Deeds of the Province of Rizal on April 1949.' (Exhibit K, Ibid., p. 19). Even Original Certificate of Title No. 42392 in the name of petitioner's mother, Olimpia B. Sta. Maria, from whom petitioner purchased the two parcels of land covered by Transfer Certificate of Title No. 42449, was among those forwarded by the Register of Deeds of Manila to the Register of Deeds of Rizal on April 5, 1949 (Exhibit J-2, Ibid., p. 18-K).

As evidence of the fact that Transfer Certificate of Title No. 42449 and Original Certificate of Title No. 42392 were actually received by the Register of Deeds of Rizal, Dioscoro S. Dumalaog, former vault keeper in the Office of the Register of Deeds of Manila, identified the signature of Jose Pueblo and testified that the latter personally received the said titles for and in behalf of the Register of Deeds of Rizal, together with the other certificates of title mentioned in the list, Exhibit J (t.s.n., May 17, 1974, pp. 4-5).

Testifying in court even while he was weak (and died soon after), Jose Pueblo stated that he was formerly an employee in the Office of the Register of Deeds of Rizal at the time Gregorio Velasquez was the Register of Deeds thereat; that he was authorized to receive certificates of title from the Register of Deeds of Manila for the Register of Deeds of Rizal and to receipt for them; that all the certificates of title delivered to him by the Register of Deeds of Manila for the Register of Deeds of Rizal were in turn delivered by him to the Office of the Register of Deeds of Rizal; that he signed a receipt for the certificates of title he received from the Register of Deeds of Manila; that he was the sole representative of the Register of Deeds of Rizal for that purpose. (t.s.n., March 11, 1974, pp. 5-7, 8-9, 19-20).

To obviate any doubt as to the genuineness of the signature of Jose Pueblo on Exhibit J, the lower court itself issued an order on March 14, 1974 (Record on Appeal, pp. 124-125) directing the National Bureau of Investigation to examine Jose Pueblo's signature for its genuineness. The National Bureau of Investigation submitted to the court below its report, dated May 3, 1974 (Exhibit U, Folder of Exhibits, pp. 28-30 and Exhibits S, S-1 to S-7 under separate covers), the pertinent portions thereof are copied in full because of their importance, as follows:

'FINDINGS:

Scientific comparative examination between the questioned and the standard signatures under stereoscopic microscope, had (sic) lens and with the aid of enlarged photographs (Comparison Chart) reveals the existence of significant identifying habit writing characteristics between them as follows:

1. Pictorial letter designs;
2. Presence of natural variations;
3. Pen pressures, from light to heavy and vice-versa and approximate location;
4. Careless vanishing lines;
5. Slant, normal lateral spacing and proportion of size and height of letter designs as well as base alignment;
6. Presence of habitual embellishments peculiar characteristic of the signature;
7. Proportion of loops in relation to their size and slant and length; and
8. Direction of writing movement in relation to the process of constructing letter designs and embellishments.

Thorough scientific analysis and comparison likewise reveals no earmarks of forgery of whatever kind in said questioned signature.

CONCLUSION:

In view of the foregoing, the scientific conclusion arrived at is that the questioned signature JOSE P. PUEBLO appearing in the aforementioned RECEIPT dated April 1, 1949 is GENUINE.'

Notwithstanding all these disinterested testimonial and documentary evidence regarding Exhibit J, the trial court still doubted its genuineness and authenticity because of the existence of another alleged 8-page receipt of certain certificates of title in the possession of the Register of Deeds of Rizal Gregorio Velasquez (Record on Appeal, p. 128). But we find that the original of the photostat copies of the alleged 8-page receipt was not presented in court and no explanation was given as to the absence of the said original and neither was the purpose for its admission given. On the other hand, the original of the 11-page receipt of certificates of title delivered to the Pasig Registry covered by Exhibit J was produced and exhibited twice in open court and the xerox copies of the eleven pages of said receipt were duly admitted by the government counsel without any objection (t.s.n., April 5, 1973, pp. 18-19), aside from the fact that Jose Pueblo's signature thereon evidencing receipt was found genuine and authentic by the Questioned Document Division of the National Bureau of Investigation. It must also be noted that no evidence has contradicted the aforesaid reports of the handwriting experts of the National Bureau of Investigation.

In order to verify and confirm the genuineness and correctness of the plan (Exhibit G, Folder of Exhibits, p. 14) presented by the petitioner for the two lots covered by her Transfer Certificate of Title No. 42449, and pursuant to the order of the lower court dated November 10, 1972, the parties referred on November 25, 1972 to the Office of Modesto Eloriaga, Chief of the Reproduction Section, Bureau of Lands, for the express purpose of reading Microfilm Reel No.-560, covering the plan of the property of Olimpia B. Sta. Maria, petitioner's mother, from whom petitioner had purchased the lots covered by the latter's Plan (Exhibit G) and Transfer Certificate of Title No. 42449 (Exhibit C). The following specific findings appear in the certified minutes of said proceedings, to wit:

'The film encased in cardboard bearing No.-560, was taken from the steel cabinet housing other microfilms of the Bureau of Lands by Mr. Cana, employee of the Bureau, detailed at the Reproduction Section; fitted to the apparatus and rolled by Mr. Eloriaga in the presence of everybody in the room. The film shows clearly the plan of the property except the upper left hand corner where the data of the different lots appear listed which was a little blurred. The legend of the plan among others, is very clear. The name of the party for whom the survey was made - "OLIMPIA B. STA. MARIA ET AL.;" the area of all lots surveyed - '186,6979 sq. m.'; the date of survey - 'July 25, 1911'; location of property - 'Barrio of San Dionisio, Municipality of Parañaque, Province of Rizal, Island of Luzon'; the position and boundary lines of the various lots; the accession number - 'No. 385637'; and the signatures of the Director of Lands at the time, were all clear from the screen.

Atty. Flores manipulated the lever of the Reader in various positions, intending apparently to discover any possible irregularity, but nothing unusual in a plan projected in similar microfilm appeared in the picture. Otherwise, the plan as reflected in the picture thru Microfilm Reel No. -560 appear regular and in order. And the plan, Exhibit 'G' which was signed and certified true and correct by Chief Modesto Eloriaga of the Reproduction Section of the Bureau of Lands in his testimony of November 10, 1972, reflected the true, correct and faithful reproduction of the film as shown in the Reader. The proceedings were over at 11:50 A.M.' (Exhibit N, Ibid., pp. 26A 26B).

On January 16, 1974, Commissioner Gregorio Bilog, Jr. of the Land Registration Commission issued his report (Exhibit R, Ibid., p. 27), duly identified by witness Rizardo Arandilla, an employee thereat, which, in view of its importance to the present case, we have also decided to quote in full, as follows:

'COMES NOW the undersigned Commissioner of Land Registration and in connection with the request of petitioner, through counsel, for this Commission to render a report relative to the above-entitled case, to this Honorable Court respectfully reports -

That the amended petition filed in the above-entitled case has been forwarded to this Commission for the purpose of having the plan and technical description of Lots 1 and 3, Plan II-4374, approved pursuant to the provisions of Section 12 of Republic Act No. 26.

That after verification and examination, it has been found out that the plan submitted by the petitioner represents Lots 1 and 3, Plan II-4374, and has therefore been approved under plan (LRC) PR-2887.

That by way of further elucidation, it appears that the amended petition is based principally on the owner's duplicate of Transfer Certificate of Title No. 42449, the genuineness and authenticity of which has been passed upon by the National Bureau of Investigation as per its Questioned Documents Report No. 166-1172, dated November 24, 1972.

WHEREFORE, said plan of Lots 1 and 3, plan II-4374, together with its corresponding technical descriptions having been approved pursuant to Section 12 of Republic Act No. 26, and there being no conflict as plotted, this Commission interposes no objection to the reconstitution of Transfer Certificate of Title No. 42449.'

In the case at bar, even the trial court admitted that 'the petitioner has presented an impressive array of evidence, both oral and documentary.' (Record on Appeal, p. 73) We are of the same mind. The petitioner has strongly and satisfactorily proven the aforesaid requirements of Section 15 of Republic Act No. 26 to warrant the issuance of an order of reconstitution. There is no other party claiming the same property covered by petitioner's TCT No. 42449. Her estranged husband tried to file his own petition for reconstitution though not clearly covering the same land. But his petition was ordered "archived". (LRC No. 72, See Appendix "A" of Appellant's Brief.) Frankly, we don't share the fear of the court below that 'there may be more than one title issued under different names for the same lots if the instant petition was granted.' (Record on Appeal, p. 74) There is simply no basis for this apprehension and anxiety. The other Reconstitution Case No. 70, filed with another branch of the Court of First Instance of Rizal by the petitioner's estranged husband does not deal with the property involved in the present case. The technical descriptions of the two lots covered by Transfer Certificate of Title No. 42449 are very different from the technical descriptions and areas of the lots covered by Original Certificate of Title No. T-76, the subject matter of Reconstitution Case No. 70 (See Appellant's Brief, p. 11). Besides, the former oppositors to the instant petition had either withdrawn or abandoned their respective claims, leaving only the Director of Lands

as the sole oppositor.

The Director of Lands, however, did not adduce any testimonial evidence, except the report dated December 13, 1972, of Oscar T. Eusebio, Register of Deeds of Rizal, to the effect:

'1. That a verification of our records show that T.C.T. No. 42449, Book T-214 (Pre-War Records) was issued in the name of Esmeralda Fabustan, covering a property located at Pasay, Rizal.

2. That said certificate of title is not on file in our Registration Book, but according to a receipt dated September 14, 1943, signed by Mariano Villanueva, Register of Deeds of Manila, same was forwarded to Manila.

3. Transfer Certificate of Title No. 42449, Book T-489 (Postwar Records) existing in our records was issued in the name of Pilar Paterno on January 6, 1956, covering a property situated in Sitio Ibayong Malaque, Las Piñas, Rizal, with an area of 7,450 square meters and which was cancelled by T.C.T. No. 56515, Book T-559.

4. That the allegations in our previous report dated August 24, 1970 on T.C.T. No. 12, Book T-79 is hereby incorporated as part of this report.' (Exhibit 1-Register of Deeds.)

The fact that two transfer certificates of title bear the same number 42449 is not unusual under the very facts of Oscar T. Eusebio's report. The transfer certificate of title in the name of Esmeralda Fabustan covered a piece of property located in Pasay, Rizal, and her title is found in Book T-24 which belongs to the "Pre-War Records" of the Registry. On the other hand, the transfer certificate of title in the name of Pilar Paterno covered a property in Sitio Ibayong Malaque, Las Piñas, Rizal, and her title is found in Book T-489 which belongs to the "Post-War Records" of the Registry. But herein petitioner's transfer certificate of title was issued on November 19, 1943 and the original certificate of title on September 15, 1942, both during the Japanese Occupation. Hence, neither of them is of "pre-war" or "post-war" vintage. As explained by witness Narciso Peña, the jurisdiction of Manila during the Japanese Occupation was expanded to cover the Greater Manila area, which included the Municipality of Parañaque, Rizal; and that the Register of Deeds of Manila was issuing during the Japanese Occupation the type and form of title as TCT No. 42449 in the name of the petitioner. There is nothing surprising about the two certificates of title bearing the same number but in the names of different owners, covering properties in different places, and issued at different periods of time, as in the case at bar. On this point, Oscar T. Eusebio himself, testifying as a witness for the court, admitted on cross-examination that there is nothing unusual about this situation. He testified:

"ATTY. DE LEON (cross-examination of Reg. of Deeds Eusebio):

Q- Mr. Witness, is it not a fact that each province before, during and after the war are carrying numbers of certificates of titles with serial (numbers) so that a title bearing 1000 issued in Rizal may have a title issued in Manila bearing the same number, and another title in Bataan bearing the same number?

A- Yes.

x x x x

Q- Is it not also a practice in the office of the Register of Deeds of Rizal, when titles are missing from the book they list those numbers of title missing in the book?

A- Yes. (t.s.n., pp. 22-23, Sept. 10, 1973)

Q- I am showing you this cover of Book T-214, Register of Deeds' Office and the face of the hard back cover there appears the following annotation: Missing titles 42449, which for purposes of identification I request to be marked Exhibit 'L'. We will invite counsel that we agree that on the face of the back cover of Book 214 of the Register of Deeds' Office, there appears among missing titles, Title No. 42449.

FISCAL:

We will have no objection, your Honor to the proposed stipulation, but we would like, however, to make it of record that in the so-called list of missing titles there are twenty four (24) others corresponding to titles indicated and below is date 12-10-47, index verified May 26, 1961.

ATTY. FLORES:

Same manifestation. (t.s.n., September 10, 1973, pp. 30, 31)

If the original copy of petitioner's transfer certificate of title was lost in the Office of the Register of Deeds, it having been amply proven that the said original title was transmitted from Manila to Rizal, then, that is not the fault of the petitioner and she should not be made to bear the burden.

We do not see any reason to doubt the credibility of petitioner's witnesses. There is no showing whatsoever that they are biased or prejudiced, or that they testified to favor the petitioner for any ulterior motive. They were, as stated before, mostly former and present government officials and employees of the Offices of the Registers of Deeds of Manila and Rizal and of the Bureau of Lands. Neither do we see any reason to doubt the credibility of the petitioner who simply wanted to reconstitute the lost original of her transfer certificate of title and be entitled to the protection and benefits thereof as the absolute and exclusive owner of the parcels of land therein described. The selfish interest of her husband Angel V. Cruz, with whom the petitioner has been separated for many years, is apparent and his attempt to confuse and mislead her as well as the courts, by previously returning to her a certificate of title with number T-12/T-79 is obvious. While we have said it before, we repeat it here for emphasis that her documents, as supported by parol evidence, are indeed more than sufficient to warrant the reconstitution of the lost original of Transfer Certificate of Title No. 42449 issued in her name. She has correctly invoked the pertinent provisions of Republic Act No. 26. She is entitled to the benefits prescribed therein."

Copy of the above decision of the Court of Appeals was received by the Solicitor General on October 5, 1976 and the 15-day period after which judgment becomes final expires October 20, 1976. It was, however, only on October 21, 1976 that the Solicitor General filed a Motion for New Period to File Motion for Reconsideration alleging that the trial attorney, Antonio G. Castro, had prepared on October 19, 1976 a Motion for Extension of Time to File Motion for Reconsideration but unfortunately, the said Motion for Extension was not actually filed with the Court of Appeals as it was inadvertently attached to other papers, as per the affidavit dated October 21 of said trial attorney, attached to the Motion for New Period.

A Motion to Admit Motion for Reconsideration was also filed by the Solicitor General in behalf of the Director of Lands on November 2, 1976 on the following grounds:

I. Transfer Certificate of Title No. 42449 is not authentic.

II. It was not proven that the original of Transfer Certificate of Title No. 42449 of the Registry of Deeds of Manila was transmitted to the Registry of Deeds of Rizal; and

III. The owner's duplicate of the Transfer Certificate of Title No. 42449, marked Exhibit "C", cannot be the basis for judicial reconstitution.

In the Resolution dated November 11, 1976, the Court of Appeals denied the Motion for a New Period of 30 days to file a Motion for Reconsideration for lack of merit, same having been filed beyond the reglementary period and the reason advanced being frail and unsubstantial, and accordingly the Motion to Admit Motion for Reconsideration was likewise denied.

Hence, the instant petition for review and/or a special civil action of certiorari under Rule 65, Section 1, Rules of Court, there being no appeal, nor any other plain, speedy and adequate remedy in the ordinary course of law.

In the Resolution of December 13, 1976, the Supreme Court resolved to require respondents to comment on the petition which the latter filed on January 24, 1977. Petitioner Director of Lands filed his Reply on March 17, 1977 and on April 22, 1977, the Supreme Court resolved to give due course to the petition. Private respondent moved to reconsider which We also denied for lack of merit in Our Resolution of June 11, 1977.

After numerous extensions, the Solicitor General filed the Brief for the Director of Lands on November 28, 1977

on the following assignments of errors:

I. The respondent court erred in holding that private respondent's copy of Transfer Certificate of Title No. 42449 of the Registry of Deeds of Rizal, marked Exhibit "C", was proven to be authentic.

II. The respondent court erred in holding that the original of said Transfer Certificate of Title No. 42449 was proven to have been transmitted to and received by the Registry of Deeds of Rizal.

III. The respondent court erred in granting the reconstitution of private respondent's Transfer Certificate of Title No. 42449 of the Registry of Deeds of Rizal despite the absence of any finding that said title was in force at the time it was allegedly lost.

IV. The respondent court committed grave abuse of discretion in denying petitioner's Motion for a New Period to File Motion for Reconsideration and the Motion for Reconsideration subsequently filed.

Private respondent filed her Brief on Dec. 27, 1977, the Solicitor General his Reply Brief on May 11, 1978. Private respondent thereafter filed an Urgent Petition to Strike All Annexes and/or Consider Same Stricken Out dated May 20, 1978 followed by "Additional and Supplemental Argument in Support of Petition to Strike" filed May 25, 1978 contending that petitioner's Annexes A to B-18 inclusive present purely questions of fact and are forgotten evidence and should not be considered in the decision of this case on the merits.

We noted the above Urgent Petition to Strike and in Our Resolution of June 14, 1978, We resolved to declare the case submitted for decision.

On December 7, 1978, a Motion for Leave of Court to Intervene was filed by Intervenor Greenfield Development Corp. alleging inter alia, the following:

"1. That intervenor Greenfield Development Corporation is a corporation duly organized and existing under the laws of the Philippines with office address at IRC Building, 82 E. de los Santos Avenue, Greenhills, Mandaluyong, Metro Manila;

2. That intervenor is the registered owner of seven (7) parcels of adjoining land, situated in the Barrio of Cupang, Municipality of Muntinlupa, Province of Rizal (now, portion of Metro Manila), with an aggregate area of 783,367 square meters, certified xerox copies of the certificates of titles, covering and embracing the said parcels of land and issued in the name of the intervenor are attached to and made an integral part hereof as follows:

Annex "1" - T.C.T. No. 366292

Annex "2" - T.C.T. No. S-38660

Annex "3" - T.C.T. No. S-38661

Annex "4" - T.C.T. No. S-43229

Annex "5" - T.C.T. No. S-43230

Annex "6" - T.C.T. No. 93980

3. That the land covered by the foregoing certificates of titles was originally registered on the 20th day of September, 1913, in the Registration Book of the Office of the Register of Deeds of Rizal, Volume A-7, page 84, as Original Certificate of Title No. 684, pursuant to Decree No. 4552 issued on August 27, 1910; in the name of the "Government of the Philippine Islands" covering and embracing the land otherwise known as the "Muntinlupa Estate"; a copy of said O.C.T. No. 684 is attached hereto as Annex "7";

4. That the intervenor and their predecessors-in-interest have been in actual, open, continuous, adverse, notorious, peaceful and uninterrupted possession of the parcels of land registered in its name since time immemorial up to the present time;

5. That respondent, Demetria Sta. Maria Vda. de Bernal, is seeking reconstitution of an allegedly lost original T.C.T. No. T-12/T-79 later amended to reconstitution of lost original T.C.T. No. T-42449 which was allegedly a transfer from O.C.T. No. 42392 issued by virtue of a sales patent issued on September 29, 1942 in the name of Olimpia Sta. Maria, mother of the respondent;

6. That the land supposedly covered by the certificate of title sought to be reconstituted appears to consist of two (2) parcels of land located in Barrio San Dionisio, Parañaque, Rizal, with an aggregate area of 143 hectares, more or less, and designated as Lots 1 & 3 of plan II-4374, the technical descriptions of which are set forth in the alleged T.C.T. No. 42449;

7. That upon comparison of said technical descriptions with those described in the certificates of title, Annexes "1" to "6" of the herein intervenor, it appear that the land supposedly covered by the certificate sought to be reconstituted overlap and include substantial portions of Intervenor's land covered by the certificates of title, Annexes "1" to "6"; the location and extent of the overlapping, as platted on the basis of the respective technical descriptions referred to, is shown on the plan, marked Annex "8", which is attached hereto and made an integral part hereof;

8. That intervenor, therefore, has a substantial, material, proprietary, and legal interest in the subject matter of these proceedings which will be directly and adversely affected should the petition for reconstitution of the respondent be granted;

9. That intervenor, as well as other owners and possessors of lands not only adjacent to, but in fact overlapped by, the land supposedly covered by the title sought to be reconstituted, were entitled to personal notice of the petition for reconstitution; such requirement of notice is jurisdictional, being mandated by Section 13, of Republic Act No. 26, and the consequence of failure to comply therewith is that the court never acquires jurisdiction to entertain and

hear the petition or render valid judgment thereon.

'The salient feature of this method of judicial reconstitution under Republic Act No. 26 is a petition and a hearing after two successive insertion in the Official Gazette of the notice of hearing. It partakes of the nature of an original registration proceedings, personal service of the notice of hearing to the adjoining owners and occupants being essential, as well as posting of the notice in main entrance of the Provincial and Municipal Buildings where the land lies at least thirty days prior to the date of hearing. (Ponce, the Philippine Torrens System, p. 272)

And when the jurisdictional foundation is absent, there is also absent jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is conferred by the Constitution or by the law. It cannot be fixed by the will of the parties; it cannot be acquired through, or waived, enlarged or diminished by any act or omission of the parties. Neither is it conferred by acquiescence of the court. Congress cannot delegate its power to apportion jurisdiction of the courts (De Jesus, et al. vs. Garcia, et al., G.R. No. L-26816, Feb. 28, 1967)

10. That the failure of the respondent to give notice to the herein intervenor and to the other owners and possessor of the land overlapped by and adjacent to the land supposedly covered by the title to be reconstituted militates against the existence of the title sought to be reconstituted and cast serious doubts as to whether the title really existed or not;

11. That among those overlapped by and adjacent to the land supposedly covered by the title to be reconstituted, aside from the intervenor, are the residences within the Alabang Hills Subdivision, Cielito Homes Subdivision, Tahanan Village, portion of the South Superhighway, Meralco substation, factories, as well as roads and infrastructures, the existence of which cannot be denied by the respondent, and their omission to name them in their petition, and to give notice to, is by all indications by deliberate design to conceal such facts and mislead the court in granting their petition;

12. The gravity and inexcusable conduct of the respondent made manifest by the fact that for several years now these residences, subdivisions, Meralco substation, factories, as well as roads and infrastructures, have been visible to all, and it is inconceivable that respondent who hold herself out as actual possessor of the property involved could have omitted the existence of these facts;

13. That the title sought to be reconstituted purports to have been originally issued pursuant to a sales patent granted by the President of the Philippines on September 15, 1942, and it is highly doubtful whether the government will issue a patent over a parcel of land which is within "Muntinlupa Estate" and already covered by Original Certificate of Title No. 684 issued way back in 1913, and hence no longer a part of the public domain. Proceedings for the acquisition of a patent are not in rem and when a patent is issued the same is deemed to be

subject to any and all vested and accrued rights, this doctrine having been held to mean that a patent which purports to convey land which is no longer public land at the time of its issuance does not vest any title at all in the patentee as against the true owners. (PNB vs. Ruiz XXXVIII Off. Gazette 1650).

14. That a very disturbing note in the instant proceeding is the lapse of considerable length of time from the date the alleged title was lost or destroyed during the last war and the date the petition was filed in court sometime in 1970, a period of twenty five (25) long years! Why did it take the respondent so long a time to file the petition? Why did she not take any steps when the government built the South Superhighway and took a sizable portion of her land? Why did she not take steps to protect her land, easily worth millions of pesos, when people begun constructing residences, factories, roads, and infrastructures inside her property? There can only be one conclusion, -- that the title sought to be reconstituted does not exist at all, and the petition for reconstitution should be denied;

15. That even granting arguendo, but not admitting, that the title sought to be reconstituted really existed, the same cannot prevail over the earlier title of the herein intervenor. Respondent's alleged title was originally issued on September 29, 1942, while the title of the intervenor was originally issued on September 20, 1913, and undoubtedly, the intervenor's certificate of title was issued very much earlier than that of the respondent. And because these two certificates of title purports to include the same land, the earlier certificate of the intervenor should prevail over the later certificate of the respondent, as decided by the Supreme Court in the leading case of *Legarda vs. Saleeby*, 31 Phil. 595-596:

'In successive registration, where more than one certificate is issued in respect of a particular estate or interest in the land, the person claiming under the prior certificate is entitled to the estate or interest; and that person is deemed to hold under the prior certificate who is the holder of, or whose claim is derived, directly or indirectly from the person who was the holder of the earliest certificate issued in respect thereof. While the acts in this country do not expressly cover the case of the issue of two certificates for the same land, they provide that a registered owner shall hold the title, and the effect of this undoubtedly is that where two certificates purport to include the same registered land, the holder of the earlier one continue to hold the title.'

16. That if reconstitution is granted, the intervenor and other title holders and possessors overlapped by the land covered by the title sought to be reconstituted stand to be deprived of their property and suffer irreparable injury in their proprietary rights. But the greater injury shall be inflicted in the Torrens System of registration, for there will be two holders of certificates of title overlapping each other, thus, the very purpose of the Torrens System of Registration shall be negated. The indefeasibility and stability of the Torrens System will be in peril. And when this happened, the chaos that it will create will be unimaginable."

Another Motion for Leave of Court to Intervene was likewise filed on December 29, 1978 by Intervenor Alabang Development Corporation and Ramon D. Bagatsing on the following grounds:

"I. That the Honorable Court a quo has no jurisdiction to grant the Petition for Reconstitution;

II. That granting arguendo, that the title sought to be reconstituted is valid, which it is not, the same cannot prevail over the earlier title of herein intervenors or their predecessors-in-interest;

III. That intervenors stand to be divested of their property and thereby suffer special, immediate, direct and irreparable injury in their proprietary right, if reconstitution is granted."

Private respondent opposed both motions for intervention. In the Resolution of September 25, 1978, the Supreme Court granted the intervention sought for and ruled in the dispositive portion, thus:

"PREMISES CONSIDERED, in view of the higher and greater interest of the public and in order to administer justice consistent with a just, speedy and inexpensive determination of the respective claims of the parties and their numerous successors-in-interest, the motions for intervention are hereby granted.

The Court directs the Chief of the Survey Division of the Bureau of Lands or his duly authorized representative with due notice to the parties and in their presence or that of their duly authorized representatives to conduct a relocation of the respective boundaries of the properties claimed by the movants and the private respondent within 90 days after notice and his fees shall be borne equally by the parties and thereafter to submit to this Court the result of such relocation survey, indicating therein such overlapping as he may have found and determined and the location of such industries, factories, warehouses, plants and other commercial infrastructures, residential buildings and other constructions, public or private roads, and other landmarks found within the areas concerned.

SO ORDERED."

Private respondent's Motion for Reconsideration of the Resolution referred to above was denied by Us for lack of merit on October 15, 1979.

Pursuant to said Resolution of September 25, 1978, the Chief of the Surveys Division, Bureau of Lands, informed intervenor Ramon D. Bagatsing that the relocation-verification survey will be conducted on October 18, 1979 and to furnish the geodetic engineer all pertinent information in his possession relating to said survey. Similar notices were likewise sent to Atty. Dennis Angeles, counsel for intervenor Greenfield Development Corp., and to Atty. Fortunato de Leon and Associates as counsel for private respondent. The latter, however, informed the Supreme Court in his "Exception and Manifestation" filed October 24, 1979 that private respondent "is financially incapable for the present to share in the expenses of the survey because of tremendous expense incurred by her already and trouble during all these years that the case had been pending and that no question on the identity of her property was ever raised and so far as she is concerned, there is no need of a survey or relocation after the Land Registration Commission had verified the plan and certified that there is no conflict."

On November 4, 1979, the Officer In-Charge, National Capital Region, Bureau of Lands, Metro Manila filed in behalf of the Director of Lands a Report to the Supreme Court informing that the Director of Lands issued a directive to the Chief, Surveys Division, NCR, Bureau of Lands, Manila, for the relocation survey of the properties involved in the case which was implemented by the Chief, Technical Service Division, who submitted

a project profile thereon; that Atty. Fortunato de Leon, counsel for the private respondent, was advised to remit the amount of P24,000.00 to the Regional Officer as survey deposit and also to furnish the Survey Team with all pertinent information which may be used in connection with the survey, but Atty. de Leon replied, stating that they are not interested in the matter as the property of his client has been properly surveyed and the survey has been duly approved by the Land Registration Office.

Under date of December 19, 1979, a Motion for Leave to Intervene was filed by Maglana & Sons Management Corporation and Francisco G. Artigo, alleging to have legal interest in the matter in litigation in the above-entitled case and in the success of the private respondent who is their vendor and are situated as to be adversely affected by the claim of intervenors, Alabang Development Corp. and Ramon D. Bagatsing. The motion was opposed by private respondent Demetria Sta. Maria Vda. de Bernal and in Our Resolution of March 19, 1980, We denied the Motion for Intervention as well as the Motion for Reconsideration.

A Final Report dated February 25, 1980 was submitted to the Supreme Court by Amante R. Dumag, Officer In-Charge, NCR, Bureau of Lands, Manila, in compliance with Our Resolution of September 25, 1979. Said Final Report states:

"FINAL REPORT"

COMES NOW the Officer-in-Charge, National Capital Region, Bureau of Lands, Manila, and unto this Honorable Court in compliance with the Resolution dated September 25, 1979 respectfully submit his following final report:

1. That this report supplements the previous report he has submitted to the Honorable Court dated November 10, 1979;
2. That as so directed in the resolution of the court the private respondent Demetria Sta. Maria Vda. de Bernal, thru the counsel, was notified and assessed of her corresponding share of the surveying fees prescribed by the rules and regulation of the Bureau of Lands, but notwithstanding the notice sent to her she failed to deposit the required fees;
3. That while making a research on the survey data of the lands involved in this case the surveyors of the Bureau of Lands found out that the properties claimed by private respondent Demetria Sta. Maria Vda. de Bernal consisting of Lots 1 and 3, Plan II-4374, does not have an original copy of a plan in the Records Division of the Bureau of Lands. Attached with this Report is a certified photo copy of a letter dated January 30, 1978 marked as Annex "A" to form an integral part of this Report sent by the Staff Supervisor for Technical Plan and Standards, Bureau of Lands, Manila, addressed to the Officer-in-Charge, Region IV, Bureau of Lands, Metro Manila informing the latter of the non-existence of the original copy of plan II-4374. However, he further informed that there exist a microfilm copy of plan II-4375 with Accession No. 385637, but he expressed his doubts as to its source and authenticity, and give his reasons for his apprehension in his aforementioned letter dated January 30, 1978 to the Officer-In-Charge of Region IV, Metro Manila;

4. That all the parties in the above-entitled case were notified by the Bureau of Lands Survey Teams of the date and time of the verification/relocation survey of the lands involved, but only Greenfield Development Corporation and Alabang Development Corporation, thru their representatives, attended the field survey being conducted. Private respondent Demetria Sta. Maria Vda. de Bernal did not appear as requested during the survey;

5. That attached also with this Report are the certified photo copies of the survey reports dated December 28, 1979 and January 2, 1980 marked as Annexes "B" and "C" respectively submitted by the two Survey Teams of the Bureau of Lands, National Capital Region, Manila, and white print copies (2 sheets) of verification survey plans Vs-04-000153 duly approved by the Bureau of Lands marked as Annex "D" submitted also by the Survey Teams of the Bureau of Lands, showing the relative positions of subdivision plans Pcs-5878, Pcs-12745, Lot 398-B-2-A-2-A, Psd-55942, Lot 398-B, Psd-49864, Lot 2 (LRC) Pcs 12618, Lot 1-D (LRC) Psd-231231, Lot 1-C (LRC) Psd-230231, Lot 1 (LRC) Pcs-19806, Lot 1 and 3 (LRC) Pcs-19807 and Lot 398-B-2-B (LRC) Psd-16651 and Lots 1 and 3 plan II-4374 to form as integral parts of this Report;

6. That it was ascertained during the verification survey that the lands known as Lots 1 and 3, plan II-4374 claimed by private respondent Demetria Sta. Maria Vda. de Bernal does not actually exist on the ground;

7. That the properties claimed by private respondent Sta. Maria Vda. de Bernal consisting of Lots 1 and 3, Plan II-4374, were platted on the plan Vs-04-000153 using the xerox copies of uncertified technical descriptions furnished by the Office of the Solicitor General;

8. That as directed by this Honorable Court, the location of industries, factories, warehouses, plants and other commercial infrastructures, residential buildings, public or private roads and other landmarks found inside the areas concerned are properly indicated on the white print copies of plan Vs-04-000153 (Annex "D").

WHEREFORE, this Report is respectfully submitted in compliance with the Resolution of the Honorable Court dated September 25, 1979.

Manila, Philippines, February 25, 1980.

(Sgd.) AMANTE R. DUMAG
Officer-in-Charge,
National Capital Region,
Bureau of Lands,
Plaza Cervantes
Manila"

ANNEX "A"

"SUBJECT: Plan II-4374
Demetria Sta. Maria Vda. de Bernal
Parañaque, Rizal

30 January 1978

Mr. Amante Dumag
Officer-in-Charge
Region IV, Metro Manila

Anent your Memorandum of 17 January 1978 requesting for an authenticated plan of II-4374 Lot 1 and Lot 3 situated in Parañaque, Metro Manila, please be informed of the following:

1. Inventory record book of the maps and plans salvaged after the last world war and subsequently microfilmed during the Booz, Allen and Hamilton Consultancy, clearly shows that Plan II-4374 was not among those salvaged. Indeed, there is no copy of this plan in the file of Technical Reference Section which records were recently turned over to the Records Division. A perusal of the folder of the case in the Records Division also shows that on July 17, 1972 Mr. Gabriel Sansano, the then Chief of the records division certified that his division (Survey Records Section in particular) has no copy of II-4374 (page 183 of the folio).

2. A further perusal of the records (pages 1 and 2) shows that on May 15, 1970 Mr. Angel Sogueco, retired surveyor, issued technical descriptions of Lots 1 and 3 of II-4374 allegedly approved on July 25, 1911. This record was submitted to the Court. Stated therein is the alleged source of data Accession No. 195551. This record turns out to be Plan II-4005 approved on February 7, 1911 and the land is the property of Municipality of Liloan, island of Pandan, Province of Leyte.

3. Apparently because of this finding, on November 5, 1971, Mr. Anselmo Almazan, then Chief of Reconstruction Section upon request of the interested party, issued technical descriptions for Lots 1 and 3 of II-4374. (This document was submitted to the Court as part of the petition for reconstitution of title (pp. 1 and 2 of folio). As to how the data were reconstituted by the then Chief of Reconstruction Section in the absence of the original copy of the plan is not known. This is not our standard operating procedure since we always issue technical descriptions based on available approved survey records.

4. It appears in the records of the case that later Mr. Modesto Eloriaga, then Chief, Reproduction Section, certified a copy of the microfilm enlargement of a frame with Accession No. 385637 which frame bears the survey number II-4374. As to how a record that was not salvaged after the war got microfilmed is a mystery. Furthermore, as to how this frame is pinpointed without the locator card indeed confound us. We are not now privy to the testimonies made in Court regarding this microfilm.

5. We are surprised to learn that Reel No. 560 now bears II-4374. For this reason, we caused the preparation of

an enlargement of said microfilm for further examination and evaluation.

6. A closer examination of said microfilm enlargement showed the following significant discrepancies and deviations from similar survey plans on record:

a) The data of approval appears to be July 25, 1911 and the signature appearing as the approving official (Director of Lands) of the alleged plan II-4374 is not the same official approving plans during the period. Samples of surveys and inventoried original survey plans on file in this Bureau clearly show that on July 25, 1911 or thereabouts the Acting Director of Lands and therefore proper approving official for survey plans was John R. Wilson. The following original plans (partial list) available in our records and approved within the month of July 1911 or thereabouts all bear the signature of Acting Director of Lands John R. Wilson.

Survey No.

Accession No.

Date of Approval

1. I-1817a

369826

July 25, 1911

2. II-4142

385736

-do-

3. II-4141

385735

-do-

4. II-4110g

385833

-do-

5. II-4110j

385832

-do-

6. II-4110e

385834

-do-

7. II -4110d

385830

-do-

8. II -4110c

385829

-do-

9. II -4110b

385828

-do-

10. II -4897

186222

-do-

11. II -41696

July 11, 1911

12. II -4172c

July 5, 1911

13. I-1415

379513

July 25, 1911

14. II -1410

446936

Aug. 22, 1911

b) Authentic plans like that of II-4858 (original copy on file) approved on December 19, 1911 show the BL Form No. 52 and the format then in use during the period. Likewise, this plan (marked O) shows the signature of the Director of Lands at that time, Chas H. Sleeper as Director of Lands on the microfilm of II-4374 appears to be very far from the genuine signature of Chas H. Sleeper appearing on original plans on file. Chas H. Sleeper was the incumbent Director of Lands from November 1, 1905 up to October 15, 1913. However, during his term of office, the then Assistant Director of Lands in the person of John R. Wilson had occasion to assume duties as Acting Director of Lands as evidenced by the above-listed survey plans mostly approved on

July 25, 1911 by Acting Director of Lands John R. Wilson. Considering the fact that on various dates within the month of July 1911, specifically those of July 25, 1911, the original survey plans available in the file show John R. Wilson as the approving official in his capacity as Acting Director of Lands, and the observation that the signature appearing on microfilm II-4374 is very far from the genuine signature of the incumbent Director of Lands Chas H. Sleeper, the appearance now of the microfilm of II-4374 purportedly approved on July 25, 1911 showing Chas H. Sleeper as the approving official is highly questionable. For this reason and the facts stated elsewhere in this memorandum, we cannot certify authenticity of the microfilm copy of II-4374.

c) The form used for the questionable plan II-4374 differs from the standard survey plans approved during the time (year 1911) in the following respects:

(1) Authentic plans during the time are prepared on B.L. Form No. 52 which is on upper left hand corner; the questionable plan (II-4374) was prepared on B.L. Form No. 52-A which appears on upper left hand corner and on upper center which is unusual.

(2) Authentic plans indicate the name of the surveyor immediately below the line that shows the date of survey, followed by the designation (surveyor) and thereunder Bureau of Lands; the questionable plan, on the other hand, does not conform with the said format.

(3) Authentic plans do not contain the paragraph "The original field notes, x x x" as in the case of the questioned plan II-4374 but immediately "Bureau of Lands" below the surveyor's name is "Approved: (date) followed by the title and signature of the approving official.

7. Considering the discrepancies and deviations of the microfilm enlargement of the frame that purports to be that of survey plan II-4374 bearing Accession No. 385637, our conclusion is that said plan is not authentic and does not and has never represented any parcel of land properly surveyed and approved by this Bureau.

8. Nevertheless, our investigation is still continuing purposely to find out how the frame of such microfilm got inserted into microfilm Reel No. 560 of this Bureau.

9. Records of the Case show that this was handled by the late Atty. Pedro Flores in collaboration with Assistant Solicitor General Ricardo L. Pronove, Jr. and Trial Attorney Antonio G. Castro. This pertains to the petition of Demetria Sta. Maria Vda. de Bernal for the reconstitution of T.C.T. (12/T-79) 42449 (Sales Patent) covering area of 143.5062 hectares. The case is opposed in the sala of CFI, Seventh Judicial District, Branch XIII of Rizal by the Director of Lands and Aurora R. Favila, et al. In cases like this, we take action in close collaboration with the Legal Division.

10. Enclosed for your ready reference are

- a) Enlargement copy of alleged II-4374 whose original copy was not inventoried as salvaged after the war;
- b) Microfilm copies of Authentic Plans;

c) Xerox copies of relevant papers in the Folio:

- 1) Certification of Mr. Gabriel Sansano, dated 17 July 1972
- 2) Petition for Reconstitution of Title (filed with the Court)
- 3) Opposition of the Director of Lands
- 4) Motion to dismiss the petition for reconstitution of title filed by the other oppositors.

For the Director of Lands:

(Sgd.) PRIVADI JG. DALIRE
Staff Supervisor for
Technical Plans & Standards"

ANNEX "B"

"SUBJECT: Verification - Relocation Survey of the boundaries claimed by the movant and private respondent as per resolution of the Supreme Court, First Division, Metro Manila under G.R. No. L-45168 dated 15 September 1979.

28 December 1979

The Regional Director
Thru the OIC, Surveys Division
Bureau of Lands, NCR, Metro Manila

S i r :

With reference to your Office Memo dated 5 October 1979 as per survey order dated 4 October 1979, issued by the Director of Lands pursuant to the Order of the Supreme Court, this team was directed to execute the verification-relocation survey of the lots involved relative to the above-noted subject, has the honor to submit its activities, findings and report to wit:

1. That immediately after receiving the Office Memo dated 6 October 1979, the data needed were gathered and researched in order to determine the survey deposit to be shouldered by the private respondent and intervenors.
2. That on 11 October 1979, Atty. Dennis E. Angeles, Counsel for Greenfield Development Corporation, Atty. Ramon D. Bagatsing, Sr. and Associates, Counsel for Alabang Development Corporation and Fortunato de Leon and Associates were notified to deposit their share to be incurred in the execution of verification-relocation survey.
3. That on 16 October 1979, Greenfield Development Corporation deposited their share of survey deposit to the National Capital Region, Bureau of Lands, Metro Manila, likewise, Alabang Development Corporation also deposited their share of survey deposit. However, the private respondent failed to deposit any amount to this Region as of this date.
4. That on 19 October 1979, the private respondent and intervenors were notified by letter as to the time and date, this survey team shall commence its actual field verification survey. It is noted that only Atty. Reynaldo B. Tatoy of Alabang Development Corporation who acts as representative was present together with Atty. Dennis E. Angeles, Counsel for Greenfield Development Corporation. In this instance, no representatives of the private respondent were present to witness our verification and relocation survey. Due to this, the Alabang Development

Corporation and Greenfield Development Corporation properties were surveyed and verified as per their claim pinpointed by them.

5. That the verification-relocation survey was executed in accordance with the existing rules and regulations of the Philippine Land Surveyor's Manual.

6. That the survey was tied to a reference point of known geographic positions. Solar observation were observed to get the true direction of the tertiary traverse stations which control the different properties affected by Lots 1 & 3, II-4374.

7. That the survey was started last October 24, 1979 and was finished last December 24, 1979.

8. However, that Lots 1 & 3, II-4374 were also surveyed and verified even without the presence of the movant or any of her authorized representatives to pinpoint the extent of her properties. And as per our verification survey, it was ascertained in the premises that the parcels of land described in the technical descriptions of Lots 1 & 3, II-4374 could not be located in the locality by all technical means.

9. That Lots 1 & 3, II-4374, were plotted basing only on the typewritten and xerox copies of uncertified technical descriptions furnished to this Office by the Office of the Solicitor General.

10. That the complete survey returns is in progress and will be submitted for final approval.

Very truly yours,

(Sgd.) ANACLETO S. VILLONES
Chief, Tech. Services Section"

ANNEX "C"

SUBJECT:

Final Report on the Relocation-
Verification Survey of
Greenfield Development Corporation
Properties subject of G.R. No.
L-45168, dated 25 Sept. 1979.

2 January 1980

The Officer-in-Charge
National Capital Region
Bureau of Lands
Plaza Cervantes, Manila
(The OIC, Surveys Division)

S i r :

I have the honor to render the following report of my findings relative to the relocation-verification survey of Lot 2, Pcs-125618; Lot 1-D, (LRC) Psd-230231; Lot 1-C, (LRC) Psd-230231; Lot 1, (LRC) Pcs-19806; Lot 1, (LRC) Pcs-19807; Lot 3, (LRC) Pcs-19807 and Lot 398-B-2-D, (LRC) Psd-16651 which comprise the Greenfield Development Corporation properties subject of G.R. No. L-45168, dated 25 September 1979.

The aforesaid relocation-verification survey was conducted on October 25 to December 24, 1979 simultaneously with the relocation/verification survey of Alabang Development Corporation properties situated in the same

locality and also subject of the aforementioned Supreme Court Resolution, which was undertaken by another survey party headed by Engr. Anacleto Villones, also of NCR, Bureau of Lands. The work was successfully carried out as per the attached Operation Plan of Activities previously prepared and strictly in accordance with the provisions of the Philippine Land Surveyors Manual.

At the start, the two survey parties adopted a common tertiary traverse line where all succeeding necessary traverses had to start. Also in the computation of the subject lots a common system was adopted for Greenfield Development Corporation and Alabang Development Corporation. It was also agreed that the verification-relocation survey of the alleged Lots 1 & 3, II-4374 had to be undertaken by the survey team headed by Engr. Villones. During the survey of Greenfield Development Corporation properties, Atty. Dennis Angeles appeared on behalf of the corporation.

With respect to the instruction of indicating whether infrastructure and other developments/improvements there are within the area subject of the survey, the undersigned found out that aside from two concrete buildings, one a school house and the other a factory, all the rest of the area is either cogonal or planted to sugar cane.

All the lots comprising the Greenfield Development Corporation properties are adjacent to each other and as a whole it is delineated along the western, northern and eastern boundaries and a portion of its southern boundary by concrete walls.

It is to be mentioned also that during the survey no hostile interruption of whatever kind or manner had been experienced by anyone in the survey party. To this, we humbly express our sincere appreciation.

Very truly yours,

(Sgd.) HENRY G. BRIONES

Sr. Geodetic Engineer"

Thereafter, We required the parties, and intervenors to comment on the aforesaid Final Report. On April 14, 1980, private respondent Demetria Sta. Maria Vda. de Bernal commented that they "had nothing to do with the survey, refused to be bound thereby and objected from the beginning to share in the expense as in their opinion she should not be made to spend for something unnecessary after the certification of the Land Registration Commission that there is no conflict whatsoever insofar as her property is concerned and that the final report of the survey and all prior reports of which respondent were not furnished, are mere scraps of paper and deserve no consideration for the reason that it is not proper evidence duly presented at the hearing and therefore, not passed upon by the trial court and the Court of Appeals which reviewed this case."

Intervenor Greenfield Development Corporation, also commenting on said Report, manifested that the report of the Bureau of Lands confirms the intervenor's claim that the land supposedly covered by the Certificate of Title sought to be reconstituted overlap substantial portions of the land registered in the name of said intervenor, as well as the Alabang Hills Subdivision, Ignacio H. Liwag Subdivision, ICS Realty Corporation, Pacific Malayan Subdivision, portion of South Superhighway, numerous factory sites and infrastructures, and portions of Muntinlupa Estate and Philippine National Railways' right of way. Said intervenors emphasize that the owners of these affected areas are indispensable parties to this proceedings and should have been impleaded for they have such an interest in the controversy or subject matter that a final adjudication cannot be made in their absence without affecting such interests.

Similarly, intervenors Alabang Development Corp. and Ramon D. Bagatsing, commented that said report confirms that the parcels of land of the intervenors duly registered in their names and which have been in their possession since time immemorial, actually, continuously, adversely, openly, notoriously and peacefully and for

which they have been paying realty taxes up to the present time, are overlapped by the parcels of land allegedly owned by the respondent whose title thereto is being sought to be reconstituted.

To respondent's Comment that the basis of the survey is erroneous for they were looking for the record, microfilm, and the plan in the name of Demetria Sta. Maria Vda. de Bernal, and not the original grantee Olimpia Bautista Vda. de Sta. Maria, Intervenor Greenfield Development Corp. interposed a Rejoinder, pointing out that the basis of the survey is Plan II-4374 from which the descriptions of Lots 1 and 3 were taken and made the basis of respondent's petition for reconstitution and that the name of Demetria Sta. Maria Vda. de Bernal is mentioned in the report only to identify the claimant.

Greenfield's Rejoinder also disputes respondent's claim that the Final Report is incomplete and unreliable, stressing that the continuing investigation was to find out how the forgery was committed for the report concluded that the forgery was already an accomplished fact. Greenfield also explains that the report simply means that Lots 1 and 3 of Plan II-4374 exist only on paper but when located on the ground, using the technical description as basis, will fall and overlap the land of the intervenors and other parties. Furthermore, the protest of respondent Sta. Maria that her property was platted "using the xerox copies of uncertified technical description furnished by the Office of the Solicitor General," is unfounded for the simple reason that the technical description furnished by the Solicitor General is but a plain copy of Exhibits G and G-2 (Annexes 2 and 3).

The basic and primary legal principle upon which the validity and legality of all the proceedings taken and conducted upon the filing of the original petition for reconstitution of the alleged lost Certificate of Title No. TCT 12/T-79 which was subsequently amended to change the number of the said certificate of title to TCT No. 42449 is jurisdiction - the power of the court to act on said petition for reconstitution. The question of jurisdiction is always fundamental; it is basically one of law, involving the determination by the court of its right to proceed with the litigation or petition. Jurisdiction is the authority to hear and determine a cause - the right to act in a particular case. Its existence does not depend upon the regularity of its exercise or upon the correctness or righteousness of the decision or ruling made by the court (*Palma & Ignacio vs. Q. & S., Inc. and Jose F. Ureta*, No. L-20366, May 19, 1966, 17 SCRA 97). Jurisdiction may be challenged at any stage of the proceedings except where sound public policy dictates that to do so would be to speculate on the fortunes of litigation (*Crisostomo, et al. vs. CA, et al.*, L-21766, March 25, 1970, 32 SCRA 54). Jurisdiction likewise cannot be conferred by laches, estoppel or even consent of the parties (*Otibar & Otibar vs. Hon. Demetrio Vinson, et al.*, L-18023, May 30, 1962, 5 SCRA 270, 273).

Jurisdiction over the subject matter is conferred only by the Constitution or law. It cannot be fixed by will of the parties; it cannot be acquired through, or waived, enlarged or diminished by, any act or omission of the parties, neither is it conferred by acquiescence of the court. (*Molina vs. de la Riva*, 6 Phil. 12, 15-16; *Manila Railroad Company vs. Attorney-General*, 20 Phil. 523, 531; see also Concurring opinion of Justice Pablo in Resolution on Motion for Reconsideration in *Avelino vs. Cuenco*, 83 Phil. 17, 74; *Squillantini vs. Republic*, 88 Phil. 135, 137; *Cruzcosa vs. Concepcion*, 101 Phil. 146, 150; *Lumpay vs. Moscoso*, L-14723, May 29, 1959; *Espiritu vs. David*, L-13135-36, May 31, 1961).

In *Manila Railroad Co. vs. Attorney-General*, supra, the Supreme Court speaking thru Justice Moreland elucidates the very fine distinctions on the concept of jurisdiction, thus:

"Certain statutes confer jurisdiction, power or authority. Others provide for the procedure by which that power or authority is projected into judgment. The one class deals with the powers of the court in the real and substantive sense; the other with the procedure by which such powers are put into action. The one is the thing

itself; the other is the vehicle by which the thing is transferred from the court to the parties."

To ascertain whether a court has jurisdiction or not, the provisions of the law should be inquired into (*Auyong vs. Hon. Court of Tax Appeals*, L-25181, Jan. 11, 1967, 19 SCRA 10). In cases where the authority of the courts to proceed is conferred by a statute and when the manner of obtaining jurisdiction is mandatory and must strictly be complied with, or the proceedings will be utterly void (*Caltex, et al. vs. CIR, et al.*, L-28472, April 30, 1968, 23 SCRA 492). So that where there is defect of publication of petition, such defect deprives the court of jurisdiction (*Po vs. Republic*, L-27443, July 19, 1971, 40 SCRA 37). And when the court a quo lacks jurisdiction to take cognizance of a case, the same lacks authority over the whole case and all its aspects (*Development Bank of the Phils. Employees Union vs. Juan Perez*, L-22584 and L-23083, May 30, 1972, 45 SCRA 179, 187). Further, absent jurisdiction the court cannot pass upon the merits of the petition (*Pinza vs. Aldovino*, 25 SCRA 220, 224).

In the case at bar, the jurisdiction or authority of the Court of First instance is conferred upon it by Republic Act 26 entitled "An act providing a special procedure for the reconstitution of Torrens Certificates of Title lost or destroyed," approved on September 25, 1946. The Act specifically provides the special requirements and mode of procedure that must be followed before the court can act on the petition and grant to the petitioner the remedy sought for. These requirements and procedure are mandatory. The petition for reconstitution must allege the jurisdictional facts; the notice of hearing must also be published and posted in particular places and the same sent to specified persons. Specifically, the requirements and procedure are set forth in detail under Sections 12 and 13 of the Act which read as follows:

"Sec. 12. Petitions for reconstitution from sources enumerated in sections 2(c), 2(d), 2(e), 2(f), 3(c), 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 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 municipality or city in which the land is situated, at the provincial building and of the municipal building 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 properties 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."

Earlier, We had quoted in full the Amended Petition for reconstitution. As to the original petition, the original records and the Record on Appeal do not contain nor include said original petition. We have also reproduced in full the Notice of Hearing of the original petition as published in the Official Gazette, Vol. 66, No. 31, pp. 7226-7227, Aug. 3, 1970; and Vol. 66, No. 32, p. 7493, Aug. 10, 1970 as well as the Notice of Hearing of the amended petition published in the Official Gazette, Vol. 67, Nos. 5 and 6, with date of issue of Feb. 1, 1971 and Feb. 8, 1971, respectively, purposely to check and verify whether the strict and mandatory requirements of the law have been complied with by the petitioner, now the respondent Demetria Sta. Maria Vda. de Bernal. It is Our finding that in the Notice of Hearing of the original petition the following were listed to be notified by registered mail, namely: Olimpia B. Sta. Maria, The Director of Lands, The Land Registration Commissioner, The Register of Deeds of Rizal, The Provincial Fiscal of Rizal, and The Office of the Solicitor General. According to the Notice, copies were required to be posted in the bulletin board of the Provincial Capitol of Rizal, the Municipal Building of Muntinlupa, Rizal, and on Lots 1 and 3.

In the Notice of Hearing of the amended petition, copies of the Notice were required to be posted only in the bulletin board of the Provincial Capitol of Rizal and on Lots 1 and 3. The Notice now omits the Municipal Building of Muntinlupa, Rizal which the Court order of December 7, 1970 had specifically directed. Likewise, in said Notice of Hearing of the Amended Petition, no person was named to whom copies of the Notice should be sent by registered mail so that the names of Manuela Aquial, Olimpia B. Sta. Maria, the Director of Lands, the Land Registration Commissioner, the Register of Deeds of Rizal, the Provincial Fiscal of Rizal, and the Office of the Solicitor General were now omitted, whereas the order of the Court required notices to the alleged boundary owners, namely: Manuela Aquial, Olimpia B. Sta. Maria, Director of Lands, Director of Forestry, Atty. Casiano P. Laquihon, and Atty. Josefina Nepomuceno.

We also find that the Amended Petition does not state or contain the nature and description of the buildings or improvements on the land not belonging to Demetria Sta. Maria Vda. de Bernal. It also does not state or contain 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 and the names and addresses of the owners of the adjoining properties are not also stated in the petition.

And since the above data do not appear in the Amended Petition, the same data does not also appear in the Notice of Hearing of the petition published in the Official Gazette. Patently, the provisions of Section 12 which enumerates mandatorily the contents of the Petition for Reconstitution and Section 13 which similarly require the contents of the Notice have not been complied with. In view of these multiple omissions which constitute noncompliance with the above-cited sections of the Act, We rule that said defects have not invested the Court with the authority or jurisdiction to proceed with the case because the manner or mode of obtaining jurisdiction as prescribed by the statute which is mandatory has not been strictly followed, thereby rendering all proceedings utterly null and void. We hold that the mere Notice that "all interested parties are hereby cited to appear and show cause if any they have why said petition should not be granted" is not sufficient for the law must be interpreted strictly; it must be applied rigorously, with exactness and precision. We agree with the ruling of the trial court granting the motion to amend the original petition provided all the requisites for publication and posting of notices be complied with, it appearing that the amendment is quite substantial in nature. As We have pointed above, respondent Demetria Sta. Maria Vda. de Bernal failed to comply with all the requirements for publication and posting of notices, which failure is fatal to the jurisdiction of the Court.

The rule on notification to the possessor or one having interest in the property whose title is sought to be reconstituted is laid down explicitly in *Manila Railroad Company vs. Hon. Jose M. Moya, et al.*, L-17913, June 22, 1965, 14 SCRA 358, thus:

"Where a petition for reconstitution would have the certificates of title reconstituted from the plans and technical descriptions of the lots involved, which sources may fall properly under section 3(e) or 3(f) of Republic Act No. 26, the possessor thereof or the one who is known to have an interest in the property should be sent a copy of the notice of the petition at the expense of the petitioner, pursuant to section 13 of the said Act.

If no notice of the date of hearing of a reconstitution case is served on a possessor or one having interest in the property involved, he is deprived of his day in court and the order of reconstitution is null and void, even if otherwise the said order should have been final and executory.

Under Section 13 of Republic Act No. 26, notice by publication is not sufficient but such notice must be actually sent or delivered to parties affected by the petition for reconstitution."

In the instant case, the change in the number of the certificate of title sought to be reconstituted from T-12/79 to TCT No. 42449 rendered at once the authenticity or genuineness of respondent's certificate of title under suspicion or cloud of doubt. And since respondent alleges that the technical descriptions under both certificates of title are identical and the same, which the trial court also finds and affirms in its Decision (Record on Appeal, p. 70), We hold that the instant petition for judicial reconstitution falls squarely under Section 3(f), Republic Act No. 26, because the Director of Lands claims that the respondent's duplicate of the Certificate of Title No. T-12/79 or TCT No. 42449 are both fake and fictitious.

The rule We have stated and quoted from *Manila Railroad Company vs. Hon. Jose M. Moya, et al.*, supra is rightly so because one who seeks the reconstitution of his title to property is duty-bound to know who are the occupants, possessors thereof, or persons having an interest in the property involved, specially where the property is so vast and situated in a suitable residential and commercial location, where buildings and improvements have been or are being constructed openly and publicly. As stated earlier, indispensable parties have appeared, claiming ownership, possession, and valuable interests in the property, which are not only numerous but also patently conspicuous that private respondent cannot feign ignorance, much less unawareness, nor blindness as to their existence on her or within her claimed property.

For the reasons stated in Our Resolution of September 25, 1979, We had directed the relocation of the respective boundaries of the properties claimed by the intervenors and the private respondent with due notice to said parties and in their presence or that of their duly authorized representatives. We required the Chief of the Survey Division of the Bureau of Lands or his duly authorized representative to conduct said relocation survey and submit to this Court the results of such relocation survey, indicating therein such overlapping as he may have found and determined and the location of such industries, factories, warehouses, plants and other commercial infrastructures, residential buildings and other constructions, public or private roads, and other landmarks found within the areas concerned.

In compliance with said Resolution, a Final Report was submitted dated February 25, 1980 by Amante R. Dumag, Officer In-Charge, NCR, Bureau of Lands, informing the Court that after notifying all the parties on October 17,

1979 and making preparations for the survey by research, computation and procurement of equipment, the actual survey started on October 24, 1979 and was finished on December 24, 1979 in accordance with existing rules and regulations of the Philippine Land Surveyor's Manual. The survey was tied to a reference point of known geographic position. Solar observation was observed to get the true direction of the tertiary traverse stations which control the different properties affected by Lot 1 and 3, II-4374. Present during the survey were Atty. Reynaldo B. Tatoy of Alabang Development Corporation and Atty. Dennis E. Angeles, counsel of Greenfield Development Corporation. No representative of private respondent Demetria Sta. Maria Vda. de Bernal attended the survey, instead, her counsel informed Director Dumag in his letter of October 18, 1979 that they were not interested to attend said survey and hence made no deposit as their share in the survey costs.

It appears from the Final Report that the relocation-verification survey of the properties of Alabang Development Corporation was undertaken by a survey party headed by Engr. Anacleto Villones, Chief, Technical Services Section, NCR, Bureau of Lands, simultaneously with the relocation-verification survey of the properties of Greenfield Development Corporation conducted by the survey party headed by Henry G. Briones, Sr., Geodetic Engineer, NCR, Bureau of Lands, particularly Lot 2, Pcs-12618; Lot 1-D, (LRC) Psd-230231; Lot 1-C, (LRC) Psd-230231; Lot 1 (LRC) Pcs-19806; Lot 1, (LRC) Pcs-19807; Lot 3, (LRC) Pcs-19807 and Lot 398-B-2-D, (LRC) Psd-16651.

The survey team reported that "the Alabang Development Corporation and Greenfield Development Corporation properties were surveyed and verified as per their claim pinpointed by them." (Annex B, p. 2 of the Final Report)

The relocation-verification survey of Lots 1 and 3 of Plan II-4374 claimed by respondent Demetria Sta. Maria Vda. de Bernal was also undertaken by the survey team headed by Engr. Villones. The result of the survey shows that "the parcels of land described in the technical descriptions of Lots 1 and 3, II-4374 could not be located in the locality by all technical means." (Annex B, p. 2 of the Final Report).

The survey report on the Greenfield properties submitted by Sr. Geodetic Engr. Henry G. Briones show that "there are within the area two concrete buildings, one a schoolhouse and the other a factory, all the rest of the area is either cogonal or planted to sugarcane. All the lots comprising the Greenfield Development Corporation properties are adjacent to each other and as a whole it is delineated along the western, northern and eastern boundaries and a portion of its southern boundary by concrete walls."

Attached to the Final Report are the survey reports of the survey teams dated December 28, 1979 and January 2, 1980 marked Annexes "B" and "C" and white print copies of verification survey plan V5-04-000153 (2 sheets) duly approved by the Bureau of Lands and marked Annex "D" showing the relative positions of subdivision plans Pcs-5878, Pcs-12745, Lot 398-B-2-A-2-A, Psd-55942, Lot 398-B, Psd-49864, Lot 2 (LRC) Pcs-12618, Lot 1-D (LRC) Psd 231231, Lot 1-C (LRC) Psd-230231, Lot 1 (LRC) Pcs-19806, Lot 1 and 3 (LRC) Pcs-19807 and Lot 398-B-2-B (LRC) Psd-16651 and Lots 1 and 3 plan II-4374.

According to the Final Report, "it was ascertained during the verification survey that the lands known as Lots 1 and 3, Plan II-4374 claimed by private respondent Demetria Sta. Maria Vda. de Bernal does not actually exist on the ground" (paragraph 6 of Final Report). On paper however, the positions of Lots 1 and 3, Plan II-4374 were platted on the verification survey plan V5-04-000153, the boundaries of which are in red line and We can see with the naked eye that their boundaries encroach and occupy big portions of the properties of Alabang Development Corporation whose boundaries are indicated in heavy purple lines and also properties of Greenfield Development Corporation which were transfers from intervenor Ramon D. Bagatsing.

On the verification survey plan V5-04-000153, We can see that Lot 1, II-4374 covers and overlaps many lots of Muntinlupa Estate like Lots 81, 82, 83, 84, 86, 88, 89, 87, 42, 1308-D, 1308-9, 1308-E, 44-C, the Manila South

Super Highway portion, Lot 2 (LRC)-Pcs- 12618 of Green field Dev. Corp., Lot 1-D (LRC) Psd-231230, a shopping center, the COMPLEX ELECT, AMSPEC IND. and others.

Lot 3, II-4374, on the same verification plan can be seen to cover and overlap among others Lot 1-D (LRC) Psd-231230 (Pacific Malayan Subd), Annie's Farm (Psd-55942, Lot 398-B-2-A-2-A, Muntinlupa Estate), ICS Realty Corp., Lots 121, 123, 124, and inside are the residence of Ramon Bagatsing, Chemical Disp., Inc., The Ideal Condominium, Don Jesus Blvd., an asphalt road and portions of the Manila South Super Highway. Among the boundary owners are Ignacio H. Liwag, the Muntinlupa Estate, and Alabang Dev. Corp.

The above visible findings on V5-04-000153 confirm the contents of Annexes "A", "A-1", "A-2" listing the properties of the Muntinlupa Estate that are encroached by Lots 1 and 3, Plan II-4374 found and attached in the Reply Brief of petitioner, pp. 28-34 wherein some 57 lots were listed as covered by Lot 1, II-4374 and some 107 lots covered by Lot 3, II-4374, prepared by Anacleto S. Villones, Chief, Technical Services Section, Bureau of Lands, Regional Office No. IV, Metro Manila.

We accept and approve this Final Report on the relocation verification survey ordered by Us on the properties in question, further admitting the same as evidence of this Court. Private respondent was given all the opportunity to attend and participate in said survey and in spite of due notice to her of the time and place of the survey, she manifested no interest in the same. On the contrary, she preferred to stand pat on the certification of the Land Registration Commissioner that there was no conflict of the boundaries as platted and besides she has no financial means to defray her share of the survey cost. We reject these objections of private respondent as without merit.

It is too late in the day for private respondent to complain that the survey report is not proper evidence for not having been presented at the trial of the case nor passed upon by the said Court and the Court of Appeals. Private respondent has waived her right to object to said report by refusing to attend and participate in the relocation and verification survey. She is now estopped to claim that they were not furnished copies of the report after the Court directed the parties to secure copies of the same at their expense. She is likewise estopped to claim that she is not bound by the results of said report. The Final Report is evidence obtained by the Supreme Court upon its own authority inherent in the exercise of its judicial function and power to ferret and establish the truth upon due notice to the litigants and to be present by person, representative or counsel in the conduct of the relocation-verification survey.

That private respondent is not financially able to share in the expenses of the survey costs is puerile, if not sham and flimsy, considering that as the records show she had disposed a large portion of the litigated property to certain parties for P200,000.00 on August 25, 1973 and thereafter she ceded 40% of the area for development to a developer corporation for P1,000.00 on August 25, 1973 and another portion for P200,000.00 to the same corporation also on August 25, 1973. Moreover, since the total area of the two lots, Lots 1 and 3, is very extensive comprising around 143 hectares, more or less, the survey cost is fair and reasonable and private respondent's share of the same is just and equitable. And more importantly, such verification relocation survey would redound to her benefit if her claim is actually correct and true.

Besides, private respondent's reliance on the report of the Commissioner of Land Registration (Exhibit "R") is misplaced, unsupported by competent official action which should have been shown to the satisfaction of the Court, such as the surveyor of the Land Registration Commission who actually verified and examined the plan submitted by private respondent, or the (LRC) Plan PR-2887 which allegedly approved Plan II-4374, Lots 1 and 3. The mere identification of Exhibit "R" by a subordinate employee of the Land Registration Commission, Ricardo Arandilla, merely authenticated the genuineness of the signature of Commissioner Bilog but not the correctness and truth of its contents. The report was made ex parte, even without the order of the Court nor with

notice and attendance of the oppositors.

Furthermore, under Section 24 of Republic Act 26, the Chief of the General Land Registration Office, now the Land Registration Commissioner, is required to issue rules, regulations, circulars and instructions, and prescribe such books and blank forms as may be necessary to carry into effect the provisions of the Act. The rules and regulations promulgated pursuant to Sec. 24, R. A. 26 explicitly provide that the petition for reconstitution of a transfer certificate of title "shall also be accompanied by any of the following documents, as a source of reconstitution, and such other documents as may constitute evidence in support of said petition:

"(j) The deed of transfer or other document, on file in the registry of deeds, containing the description of the property, or an authenticated copy thereof, showing that its original had been registered, and pursuant to which the lost or destroyed transfer certificate of title was issued. (This to serve only where the title to be reconstituted is a transfer certificate of title)." (Italic supplied; par. (j), GLRO Circular No. 17, February 19, 1947, 43 O.G. 825)." (Reply Brief of Petitioner, p. 2)

Pursuant to said regulation, the Land Registration Commissioner should have required the private respondent to submit the deed of transfer or other documents on file in the Registry of Deeds containing the description of the property or an authenticated copy thereof, showing that its original had been registered, and pursuant to which the lost or destroyed transfer certificate of title was issued. If the deed of sale executed in favor of private respondent by her mother was also lost or destroyed by reason of the war, there are authenticated copies of said deed of sale in the Registry of Deeds where the transfer certificate of title was issued based on said deed of sale. It is quite evident that private respondent has not exhausted all steps and remedies to secure certified copies of documents or papers that may be necessary in the reconstitution of her certificate of title or to corroborate, confirm and attest to her claim that a sales patent was issued to her mother, that the sales patent was forwarded to the Register of Deeds and that the latter issued the corresponding original certificate of title to the said mother.

We have noted the conflicting evidence presented in the records to prove or disprove the alleged authenticity of TCT No. 42449, the inconsistent testimonies of government officials testifying for the private respondent or for the oppositor Director of Lands, including contradictory documents presented to support the respective positions of the parties therein. These conflicts and inconsistencies may be ascribed to the failings of human memory, trying to recall events that occurred many, many years past or to the changing practice and procedure by government officials themselves including employees in the offices of the Register of Deeds of Manila and Rizal. Even reports certified by handwriting experts of the NBI are rendered doubtful integrity in the light of their own admissions that forgers possess better skills than the genuine writers themselves. Because of the long passage of time and the frailty of human recollections, much of the evidence on record are difficult to confirm and verify. Fortunately, however, there is the data of technical descriptions of the lots indicated in the survey plan which are constant and unchanging. These technical descriptions are the fundamental basis or readings of land surveys indicated by longitudinal and latitude bearings in relation to solar positions. They are, therefore, permanent and fixed and they can be and are verifiable by scientific and precision instruments using and applying the principles of geometry and trigonometry.

Upon the foregoing premises, We lay down the following findings and conclusions:

1. In the original petition for reconstitution, the Transfer Certificate of Title sought to be reconstituted by private respondent was T-12/79. Upon a report of the Register of Deeds of Rizal that said title is not filed in Registry Book T-79; that Certificate of Title No. 12 is under Registration Book No. T-1 issued in the name of Edwin Warnes and that said title refers to a property situated in Pasay City; that TCT 12 was already cancelled by TCT

No. 19, Book II of the Registry of Deeds of Rizal, private respondent alleging mistake and fraud committed by her common-law husband Angel Cruz, amended her petition changing the number of her title from T-12/79 to TCT 42449 but with the same technical description. We quote a portion of the trial court's decision in this regard, thus:

"A comparison of the technical descriptions appearing in the original title No. 12/T-79 and Transfer Certificate of Title No. 42449 shows that the parcels of land described in both titles are exactly the same." (Record on Appeal, p. 70).

Thus, at the initial stage of the petition and before the actual hearing thereof, there was patently an attempt to foist a forged and fictitious title through a fraudulent act. Law and justice always abhor fraud. Fraud and justice never dwell or exist side by side. "Fraus et jus nunquam cohabitant." Fortunately, the attempt was thwarted and foiled.

2. The data appearing in the technical descriptions of Lots 1 and 3 attached to the original petition has as its source Accession No. 195551. These technical descriptions were issued on May 15, 1970 by Angel Sogueco, a retired surveyor. But Accession No. 195551 refers to Plan II-4005 approved on February 7, 1911 and the land is the property of the Municipality of Liloan, Island of Pandan, Province of Leyte. (See Annex "A", paragraph 2, Final Report of Relocation-Verification Survey).

The opposition of the Director of Lands to the original petition for reconstitution clearly states and mentions as fake the Accession No. 195551 cited as the source of the technical descriptions, which We quote, thus:

"(E) That the Accession No. 195551, appearing in the Technical Descriptions of Lots Nos. 1 and 3 of plan II-4374 is fake, because it pertains to Plan II-4005, the land being the property of the Municipality of Liloan, Island of Pandan, Province of Leyte, containing an area of 3838 square meters, surveyed on December 19, 1910 and approved on February 7, 1911; Obviously, Plan II-4374 is also a fake;" (Record on Appeal, p. 16)

That the source of the technical descriptions allegedly issued by the Survey Division, Bureau of Lands of the two parcels of land, Lots 1 and 3 in Plan II-4374 is Accession No. 195551 was earlier mentioned and alleged by the Director of Lands in his Opposition dated March 16, 1971. (Record on Appeal, p. 12).

The Accession No. mentioned in the original petition as No. 195551 is important and vital, not only because the Record on Appeal and the original records do not contain the original petition for reconstitution but also because We find that when the petition was amended, the source of the technical descriptions became Accession No. 385637. Yet, the technical descriptions in Certificate of Title No. 12/T-79 and Transfer Certificate of Title No. 42449 are exactly the same. For the property herein involved to have the same technical descriptions but coming from different accession numbers is not only irregular but highly incredible. The technical descriptions cannot have two accession numbers as sources thereof.

3. The evidence for the private respondent tend to trace her ownership over the vast properties in question through a transfer, a deed of sale in her favor executed sometime in November, 1943 in consideration of the price of P10,000.00 paid to her mother Olimpia Sta. Maria, the original owner who bought the property from the Philippine Government under a sales patent issued on September 15, 1942 and was issued Original Certificate of Title No. 42392 on September 29, 1942. OCT No. 42392 must contain the technical descriptions of the property sold, which descriptions are copied or derived from the data contained in the Sales Patent issued by the Government. Yet, We find no proof presented by private respondent to support and corroborate the authenticity of her title or the source of her title which can be traced back to OCT No. 42392 and the Sales Patent awarded to her

mother. The number of the alleged Sales Patent is not cited by her nor any certificate showing or signed by a competent officer that a sales application was processed and approved, that a sales patent to the property in question with technical descriptions therein stated was issued to her mother, had been presented as evidence. It could have been easy for private respondent to obtain any certified copy of documents or paper that may be necessary in the reconstitution of a certificate of title under Republic Act 26 because said copies are furnished free of charge under Section 23 of the Act.

4. A close scrutiny of Exhibit "G" which is a reproduction of the Plan of property of Olimpia B. Sta. Maria, et al." gives the following data: Case No. , Court of Land Registration. Unperfected Title No. , Bureau of Lands. Situated in the Barrio of San Dionisio, Municipality of Parañaque, Island of Luzon, Province of Rizal. Containing an area of 1866979 sq. meters. Scale of 1:8000. Bearings true. Declination 0°30'E. Surveyed Jan. 9-29, 1911.

From this caption alone, it is clear that the survey was made not for the purpose of acquiring the properties by sales patent from the Government during the Japanese Occupation or in 1943. If said parcels of land were surveyed and approved on July 25, 1911, a maximum area of 16 hectares could have been legally acquired by sales patent only, pursuant to the Philippine Bill of 1902. The same maximum area of 16 hectares was allowed until 1919 when the maximum area of acquisition by sales patent was increased to 100 hectares under Act 2874, and upon the adoption of the 1935 Constitution, it was further increased to 144 hectares. Yet, the survey conducted and approved on July 25, 1911 for Olimpia B. Sta. Maria, predecessor in interest of private respondent herein, shows that the property surveyed comprises an area of 1,866,979 square meters, or 186.69 hectares, more or less. This survey, if undertaken for purposes of sales application, would not and could not have been approved by the Director of Lands because it is clearly against the law.

Under the Public Land Act (Commonwealth Act No. 41) which governs the disposition of lands of the public domain by sales patent, it is therein provided in Section 108 that no patent shall issue nor shall any concession or contract be finally approved unless the land has been surveyed and an accurate plat made thereof by the Bureau of Lands. It is simply unbelievable that the survey Plan II-4374 conducted January 9-29, 1911 and approved by the Director of Lands on July 25, 1911 was the basic survey upon which the sales patent applied for by Olimpia B. Sta. Maria was approved and issued on September 15, 1942, some 31 years thereafter.

5. The properties of the intervenors are shown to have been derived from Original Certificate of Title No. 684, originally registered September 20, 1913 in the Registration Book, Register of Deeds of Rizal, Vol. A-7, page 84 and issued pursuant to Decree No. 4552 issued August 27, 1910 in the name of the Government of the Philippine Islands, which title covers and embraces the land otherwise known as the "Muntinlupa Estate". The seven (7) parcels of land belonging to Intervenor Greenfield Development Corp. with TCT Nos. 366292, S-38660, S-38661, S-43229, 43230 and 93980 are transfers from the said Original Certificate of Title No. 684. On the other hand, Intervenor Ramon D. Bagatsing derives his titles to the properties from TCT No. 14812 in the name of Toribio G. Reyes which in turn was a transfer from the original title, OCT No. 684 in the name of the Government of the Philippine Islands. Intervenor Bagatsing subsequently transferred portions of his property under TCT No. 45397 to MERALCO, to Intervenor Alabang Development Corp., which in turn sold to some 36 purchasers for value in the Alabang Hills Subdivision.

The series of transfers from the original certificate of title No. 684 in the name of the Government of the Phil. Islands gave rise to the transfer certificates of title issued by the Register of Deeds upon the registration of the transfer deeds after surveys of the subdivision lots or portions of the original area were undertaken and approved by the Court. The technical descriptions indicated in the surveys and appearing on the face of the titles themselves have been duly relocated and verified in the relocation-verification survey which We had ordered. The Final Report submitted to the Court concluded that the properties of the Intervenor Greenfield Development Corp.,

Alabang Development Corp., and Ramon D. Bagatsing were relocated and verified correct, but that Lots 1 and 3 of Plan II-4374 claimed by private respondent Demetria Sta. Maria Vda. de Bernal cannot be located on the ground by all technical means.

The Torrens Titles of the Intervenor Greenfield Development Corp., Alabang Development Corp., and Ramon D. Bagatsing which are derived from Certificate of Title No. 684 issued in September 20, 1913 clearly antedate that of the private respondent who can trace her title only to an alleged sales patent awarded to her mother on September 15, 1942 and to Original Certificate of Title No. 42392 issued September 29, 1942 pursuant to said sales patent. Under these facts, the applicable and governing rule or doctrine which is well-established in this jurisdiction is that when two certificates of title are issued to different persons covering the same land in whole or in part, the earlier in date must prevail as between the original parties, and in case of successive registration where more than one certificate is issued over the land, the person holding under prior certificate is entitled to the land as against the person who relies on the second certificate. (*Pajomayo vs. Manipon*, L-33676, June 30, 1971, 39 SCRA 676; *Legarda vs. Saleeby*, 31 Phil. 590; *De Villa vs. Trinidad*, G.R. No. L-24918, March 20, 1968, 22 SCRA 1167, 1174. See also *Hodges vs. Dy Buncio*, G.R. No. L-16096, Oct. 30, 1962, 6 SCRA 287; *Register of Deeds vs. PNB*, L-17641, Jan. 30, 1965, 13 SCRA 46; *Alzate vs. PNB*, L-20068, Jan. 26, 1967, 20 SCRA 422).

The efficacy and integrity of the Torrens System must be protected and preserved to ensure the stability and security of land titles for otherwise land ownership in the country would be rendered erratic and restless and can certainly be a potent and veritable cause of social unrest and agrarian agitation. The courts must exercise caution and vigilance in order to guard the indefeasibility and imprescriptibility of the Torrens Registration System against spurious claims and forged documents concocted and foisted upon the destruction and loss of many public records as a result of the last World War. The real purpose of the Torrens System which is to quiet title to the land must be upheld and defended, and once a title is registered, the owner may rest secure, without the necessity of waiting in the portals of the court or sitting in the *mirador de su casa* to avoid the possibility of losing his land. (*Salao vs. Salao*, 70 SCRA 65, 84; *Legarda and Prieto vs. Saleeby*, 31 Phil. 590, 593).

Claims of ownership and title to lands previously of the public domain which as in the instant case private respondent's predecessor in interest, her own mother, admittedly acquired by a sales patent issued during the Japanese Occupation on September 15, 1942 can be verified, checked and counterchecked from government offices or agencies entrusted with the filing, acceptance, processing and approval of sales application as well as the sales award, the recording and registration of the patent itself, the issuance and filing of the Torrens Title based on the sales patent itself. We have not been shown a scintilla or shred of evidence proving that private respondent's predecessor in interest had acquired the properties herein involved, much less the slightest showing that private respondent's predecessor in interest had in truth and in fact acquired the properties from the Government under a sales application duly processed, approved and granted.

Every applicant for a sales patent must go through a long procedure, both complicated and cumbersome, which begins with the filing of the application with the Director of Lands; the Director of Lands makes appraisal of the land applied for and publishes the necessary notices and posting regarding the sale; the applicant as well as anyone desiring to buy the land submit to the Director of Lands a sealed bid equivalent to 10% of the amount of the bid; payment of the purchase price in full upon the making of the award or in ten equal annual installments; the purchaser cultivates not less than one-fifth of the property within five years after the date of the award; the purchaser must show actual occupancy, cultivation and improvements of at least one-fifth of the land applied for until the date of final payment; the Director of Land orders the survey of the land and when the plan thereof is finished, the sales patent is prepared and signed; and certified copy of the same is sent to the register of deeds, who issues the corresponding certificate of title to the patentee in accordance with Section 107 of the Public Land

Law in relation to Section 122 of the Land Registration Law. (Land Titles and Deeds by Noblejas, Revised Ed., 1968, pp. 285-286).

Except private respondent's Exhibit "G" (Plan of Property of Olimpia B. Sta. Maria, et al. which is a survey of an area of 1,866,979 sq. meters in Barrio San Dionisio, Parañaque, Rizal, surveyed January 9-29, 1911 and approved July 25, 1911 by the Director of Lands), private respondent has not presented in evidence a copy or copies of any official record, entry, receipt, certification, paper or document by any government officer who has acted on any of the numerous steps which have been outlined above in obtaining the sales patent to the property in question from the government. All the material evidence of private respondent relate to acts and circumstances which occurred, in point of time after OCT No. 42392 was allegedly issued on Sept. 29, 1942 and after TCT No. 42449 was likewise issued on November 19, 1943 after the sale of the property to the private respondent by her mother, Olimpia B. Sta. Maria. There is absolutely no evidence to prove or tending to prove that private respondent's mother, Olimpia B. Sta. Maria, was duly issued a sales patent or even applied to purchase the property from the government on or before Sept. 15, 1942 when the said sales patent was allegedly awarded.

The private respondent claims that the original certificate, OCT No. 42392, was issued pursuant to a sales patent issued by the government on Sept. 15, 1942, hence the authenticity and genuineness of the sales patent becomes very material and vital to whether the title, either originally emanating therefrom or transferred from the original certificate of title was in force at the time the title was lost or destroyed. But since the sales patent is seriously questioned and disputed by the Director of Lands, the very government official who by law is charged and duty-bound to act on sales application, appraise the property and accept the bid offered, approve the survey plan, verify the occupancy and improvements made by the applicant, then prepare and sign the sales patent, on the ground that no sales patent was issued by reason, among others, that the area sold was in excess and beyond that allowed by law, the lack of the sales patent number and the apparent irregularities appearing on the survey plan, the original of which is not subsisting in the files and records of the Bureau of Lands, it becomes the compelling duty of private respondent to prove that said sales patent was property approved and issued and thereafter recorded in the office of the register of deeds, the officer required by law to issue the original certificate of title to the patentee, Olimpia B. Sta. Maria, private respondent's mother, who allegedly transferred the property to her daughter, private respondent herein, by virtue of an alleged deed of sale executed between them in November, 1943.

Under the Land Registration Act, when the land is transferred by the registered owner by reason of sale or otherwise, the deed of sale must be recorded and registered in the Office of the Register of Deeds. It must be assumed then that such deed of sale referred to above was duly recorded and registered in the Office of the Register of Deeds for TCT No. 42449 was issued in the name of the transferee, private respondent herein. Although the latter claims that her copy of the deed of sale was burned during the fire in Pasig during the occupation, she could have obtained a copy thereof from the Register of Deeds where the original was registered, but she did not and there is no showing why she failed to do so and present the same in court to corroborate and support the authenticity of her title, TCT No. 42449, and the regularity of the transfer from OCT No. 42392.

The failure of the private respondent to obtain and present in evidence any document or prove any act, deed, fact or circumstance supporting and corroborating the issuance of the sales patent to her mother, Olimpia B. Sta. Maria, as well as any proof to support and corroborate the execution and registration of the deed of sale in favor of private respondent with no satisfactory explanation of such failure impel Us to make the conclusion that no sales patent was duly and regularly issued by the government covering the property in question to her mother. We hold that the sales patent claimed by private respondent as the source of TCT No. 42449 is non-existent, fictitious and imaginary. The mere notation in TCT No. 42449 that the same was issued by virtue of a sales patent is

insufficient and improper to warrant reconstitution. Said sales patent is non-existent as the land allegedly subject of the sale as found in the relocation-verification survey ordered by this Court. Consequently, OCT No. 42392 is not authentic and genuine and private respondent's TCT No. 42449 being a transfer from the fake and spurious original title, is likewise fake and spurious. We rule that TCT No. 42449 was not in force at the time it was allegedly lost or destroyed or at any time at all. Hence, the same cannot be reconstituted.

Under Section 15 of Republic Act 26, if the Court after hearing, finds that the documents presented, as supported by parole evidence or otherwise, are sufficient and proper to warrant the reconstitution of the lost or destroyed certificate of title, and that the petitioner is the registered owner of the property or has an interest therein, that the said certificate of title was in force at the time it was lost or destroyed, and that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title, an order of reconstitution shall be issued. Conversely, where the said certificate of title was not in force at the time it was lost or destroyed as it is clearly shown and established by the evidence on record in the instant case, the petition for reconstitution shall be as it is hereby denied.

WHEREFORE, IN VIEW OF ALL THE FOREGOING, the judgment of the Court of Appeals is hereby set aside and reversed, and for lack of jurisdiction, the petition for reconstitution is hereby DISMISSED.

No costs.

SO ORDERED.

Makasiar, Fernandez, Guerrero and Melencio-Herrera, JJ., concur.

Teehankee, J., (Chairman), concurs in a separate opinion.

[1] Ninth Division, Pascual, J., ponente, Bautista and Santiago, Jr., JJ., concurring.

CONCURRING OPINION

TEEHANKEE, J.:

I concur fully with the Court's judgment ably penned by Mr. Justice Guerrero. I wish to stress only that the record shows from beginning (where respondent Demetria Sta. Maria Vda. de Bernal claimed to be a widow when she was in fact married to Angel Cruz who opposed her petition) to end, a conspiracy and litany of falsification and perjury (see pages 62 - 69 of the decision) whereby said private respondent Bernal, on a petition for reconstitution of title filed in 1970, twenty-five (25) years after the alleged loss or destruction of her alleged title to some 143.5 hectares or 1,435,000 square meters of prime commercial land encompassing a part of the South Superhighway, numerous residential subdivisions such as Alabang Hills Subdivision, Cielito Homes Subdivision, Tahanan Village, factories, roads and infrastructures, all of which had been developed, built and occupied without any contest or protest from anyone, much less private respondent (since the properties were duly covered by duly issued Torrens Certificates of Title issued since 1913 or earlier) almost succeeded through respondent Court of Appeals' decision reversing that of the trial court in obtaining such reconstitution of her alleged title based on a supposed sales patent issued in favor of respondent's mother and predecessor which this Court has found to be "non-existent, fictitious and imaginary" (see page 68 of the decision). The lands claimed to be covered by her "lost title" have been determined to be likewise fictitious and "do not actually exist on the ground" (see page 59, *idem*).

The first lesson to be drawn here is that courts must exercise the greatest caution in entertaining such petitions for reconstitution of allegedly lost certificates of title, particularly where the petitions are filed, as in this case, after an inexplicable delay of 25 years after the alleged loss. Furthermore, the courts must likewise make sure that indispensable parties, i.e. the actual owners and possessors of the lands involved, are duly served with actual and personal notice of the petition (not by mere general publication), particularly where the lands involved constitute prime developed commercial land including a part of the South Superhighway. The stability and indefeasibility of the Torrens system would have been greatly imperiled had the appellate court's judgment granting reconstitution prevailed, resulting in two holders of Torrens Certificates over the same lands.

We can take judicial notice of innumerable litigations and controversies that have been spawned by the reckless and hasty grant of such reconstitution of alleged lost or destroyed titles as well as of the numerous purchasers who have been victimized only to find that the "lands" purchased by them were covered by forged or fake titles or their areas simply "expanded" through "table surveys" with the cooperation of unscrupulous officials.

Let a copy of the decision be furnished the Honorable Minister of Justice for the institution of appropriate criminal proceedings against respondent and those who have assisted or conspired with her as may be warranted by the evidence of record.

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