

MILAGROS E. GEGUIERA, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

The present appeal seeks to nullify the February 10, 2010 Order[1] issued by Regional Trial Court, Branch 61, Kabankalan City, Negros Occidental in Cad. Case No. 695 for Reconstitution of Original Certificate of Title.

THE ANTECEDENTS

On May 12, 2005, appellee filed the Petition for Reconstitution of the Certificate of Title. She alleged: she is the owner of a parcel of land covered by OCT P-27637; the owner's copy and the original copy of the OCT on file in the Register of Deeds of Negros Occidental, was lost or destroyed during the last war; the lost OCT can be reconstituted using, as basis, the following documents:

As Exhibit "D," the Certification issued by the Chief, Ordinary and Cadastral Decree Division of the Land Registration Authority that Lot 1110 Cauayan Cadastre was issued Decree No. 415239 on December 17, 1930 pursuant to the Decision of the Court of First Instance of Negros Occidental in Cadastral Case No. 36, LRC Cad. Record No. 970;

As Exhibit "E" the Certified True Copy of the complete Technical Description of Lot 1110 Cauayan Cadastre issued by the Office of the Land Management Services, DENR, Iloilo City;

That all other records available in the Office of the Register of Deeds of Negros Occidental can also be used as further basis for the reconstitution.

On May 31, 2005, the RTC issued an Order[2] directing, among others, that a notice be published in the Official Gazette and be posted at the main entrance of the City Hall of Cauayan, Negros Occidental. The Notice[3] reads:

NOTICE

To : Conca Monccatar -

Poblacion, Cauayan, Negros Occ

Francisco Mamigo -

-do-

Flaviana Tabujara -

-do-

Hernani Tabujara -

-do-

Eduardo del Olmo -

-do-

WHEREAS, a Petition to Reconstitute the Original Certificate of Title Covering Lot No. 1110 of the Cadastral Survey of Cauayan, Negros Occidental alleging that the original copy kept on file in the Office of the Register of Deeds of Negros Occidental was lost or destroyed as a consequence of the last world war.

THEREFORE, you are hereby given notice that said petition has been set for hearing this Court on November 23, 2005 at 8:30 o'clock in the morning at the Regional Trial Court Building, Kabankalan City, Negros Occidental, in which date, time and place, all persons interested in the said lot may appear and state their reasons, if any they have, why the petition should not be granted.

In the event the scheduled date of hearing shall be declared a holiday, it shall be held on the next working day following the holiday.

WITNESS, the HON. HENRY D. ARLES, Judge of this Court, this 7[th] day of June, 2005.

Hearings were, thereafter, conducted.

On February 10, 2010, the RTC rendered the assailed Order, the dispositive portion of which reads:

WHEREFORE, the Court, finding the petition to be supported by the evidence, grants the petition and ordered the Register of Deeds of Negros Occidental to reconstitute, pursuant to Republic Act 26, the original as well as the owner's duplicate copy of the Original Certificates of Title No. P-27637 for Lot 1110 in the name of Dalmacio Suazon married to Alejandra Popioco on the basis of the Certification issued by the Chief, Ordinary and Cadastral Decree Division of the Land Registration Authority that Lot 1110 Cauayan Cadastre was issued Decree No. 415239 on December 17, 1930 pursuant to the Decision of the Court of First Instance of Negros Occidental in Cadastral No. 36, LRC Cad. Record No. 970, Certified True Copy of the complete Technical Description of Lot 1110 Cauayan Cadastre issued by the Office of the Land Management Services, DENR Iloilo City and all other records available in the Office of the Register of Deeds of Negros Occidental, after payment of the prescribed fees required by law.

SO ORDERED.

Hence, this appeal.[4]

ISSUE

WHETHER THERE IS SUFFICIENT BASIS FOR RECONSTITUTION.

THE ARGUMENTS

Appellant, the Republic of the Philippines, represented by the Office of the Solicitor General (OSG), argues that appellee failed to present sufficient basis for the reconstitution of OCT P-27637.

Appellee, on the other hand, argues otherwise. She said she presented the Tax Declaration 3080,[5] and the September 19, 2003 Certification issued by the Chief, Ordinary and Cadastral Decree Division, Land Registration Authority (LRA).[6] Moreover, she emphasizes that the OSG did not object to any of the documents presented

before the RTC, thus, it cannot impugn these now in this appeal.

THE COURT'S RULING

The appeal is MERITORIOUS.

In Republic v. Heirs of Ramos,[7] the Supreme Court held:

In petitions for reconstitution of a lost or destroyed Torrens certificate of title, trial courts are duty-bound to examine the records of the case to determine whether the jurisdictional requirements have been strictly complied with. They must also exercise extreme caution in granting the petition, lest they become unwitting accomplices in the reconstitution of questionable titles instead of being instruments in promoting the stability of our land registration system.

In the same case, the Supreme Court lamented:

It is unfortunate that despite the mandatory nature of the above requirements and our constant reminder to courts to scrutinize and verify carefully all supporting documents in petitions for reconstitution, the same still escaped the attention of the trial court and the CA. And while petitioner also overlooked those jurisdictional infirmities and failed to incorporate them as additional issues in its petition, this Court has sufficient authority to pass upon and resolve the same since they affect jurisdiction.

It is under these guiding principles that this Court will decide the case.

Appellee prayed for the reconstitution of OCT P-27637.

Thus, Section 2 of RA 26[8] is applicable. It states:

Sec. 2. Original certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:

- The owner's duplicate of the certificate of title;
- The co-owner's, mortgagee's, or lessee's duplicate of the certificate of title;
- A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof;
- An authenticated copy of the decree of registration or patent, as the case may be, pursuant to which the original certificate of title was issued;
- A document, on file in the registry of deeds, by which the property, the description of which is given in said document, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that its original had been registered; and
- Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.

Appellee, however, failed to present any of the above-mentioned sources for reconstitution. She did not present the owner's duplicate nor a certified copy of the OCT. Neither did she present a copy of the original decree nor a document on file with the Register of Deeds showing the description of the property.[9] A co-owner's, a mortgagee's, or a lessee's duplicate of the OCT was not also adduced. Plainly, appellee failed to present any of documents mentioned in Section 2(a) to 2(e) of RA 26. What she offered in evidence were the following:

1. September 19, 2003 Certification[10] from the Chief, Ordinary and Cadastral Decree Division, LRA. It reads:

This is to certify that after due verification of our "Record Book of Cadastral Lots," It was found that Lot No. 1110 of Cauayan Cadastre, Province of Occidental Negros, Cad. Case No. 36, LRC Cad Record No. 970 was issued Decree No. 415239 on December 17, 1930 pursuant to the Decision rendered thereon.

2. Technical Description of Lot 1110, issued by the Engineer IV, Chief, Technical Services Section, Land Management Services, DENR, Iloilo City.[11]
3. Lot Plan of 1110 prepared by a private geodetic engineer.[12]
4. Tax Declaration 3080 with Soledad Chua as declared owner.[13]
5. Declaration of Heirship and Sale where Roberto Suazon sold to appellee, Lot 1110.

These documents, however, cannot even be characterized as "any other document," which a court can consider as sufficient and proper basis for reconstitution under Section 2(f).

The Supreme Court has, in *Republic v. Intermediate Appellate Court*,^[14] applied the principle of *eiusdem generis* in interpreting Section 2(f) of RA 26. "Any other document" refers to reliable documents of the kind described in the preceding enumerations. This Court is not convinced that the above documents of appellee fall in the same class as those enumerated in paragraphs (a) to (e).^[15] These documents do not even mention the OCT's registered owner. Surely, a court cannot properly order for a reconstitution of title if the name of registered owner cannot be ascertained. In *Republic v. Tuastumban*,^[16] the Supreme Court ruled that the documents must come from official sources which recognize the ownership of the owner and his predecessors-in-interest^[17]. None of the documents presented in this case fit such description.

We note that the RTC ruled that OCT P-27637 is in the name of Dalmacio Suazon married to Alejandra Popioco. However, We find this to be without basis. The name of Suazon does not appear in any of the documents adduced by appellee except in the Declaration of Heirship and Sale. However, contrary to the ruling of the RTC, it does not categorically say that OCT P-27637 is registered in the name of Dalmacio Suazon married to Alejandra Popioco. It merely says that Suazon is the owner of a parcel of land covered by OCT P-27637. The two are different. The registered owner of a parcel of land as stated in the certificate of title may no longer be the property's actual and current owner.

The RTC also mentioned in the dispositive portion of the Order, the Certification issued by the LRA that Lot 1110 was issued Decree No. 415239 on December 17, 1930. This, however, means nothing. The Land Registration Act expressly recognizes two classes of decrees in land registration proceedings, namely, (1) decrees dismissing the application and (2) decrees of confirmation and registration. In the case at bench, We cannot ascertain from the said Certification whether the decree alluded to by the appellee granted or denied the prayer for the issuance of the OCT. Moreover, the LRA's Certification did not state to whom Decree No. 415239 was issued to. Thus, assuming that Decree No. 415239 is a decree of confirmation, it would be too presumptuous to further assume that the same was issued in the name appellee's predecessor. Furthermore, said Certification did not indicate the number of the original certificate of title and the date the title was issued. In *Tahanan Development Corporation v. Court of Appeals*,^[18] the Supreme Court held that the absence of any document, private or official, mentioning the number of the certificate of title and date when the certificate of title was issued, does not warrant the granting of such petition.^[19]

Verily, We find that appellee failed to provide a sufficient and proper source for the reconstitution of OCT P-27637.

Granting *arguendo* that the documents adduced by appellee are proper sources for reconstitution under Section 2(f), the petition would still not lie. The jurisdictional requirements under Sections 12 and 13 have not been met.

They read:

Sec. 12. Petitions for reconstitution from sources enumerated in sections 2(c), 2(d), 2(e), 2(f), 3(c), 3(d), 3(e), and/or 3(f) of this Act, shall be filed with the 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 building or improvements; (e) the name 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 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 petition shall, at the hearing, submit proof of the publication, posting and service of the notice as directed by the court.

Appellee did not comply with the requirements of Section 12 (b) and (d), namely, the petition did not state: (1) 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, and (2) 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 with improvements. The petition was not also accompanied by the 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. The survey plan presented was prepared by a private geodetic engineer, without having been approved by the appropriate government agencies. The technical description of the property adduced, on the other hand, was merely certified as correct by the Engineer IV, Chief, Technical Services Section, Land Management Services, DENR, Iloilo City, not approved by the Chief of the General Land Registration Office.

The notice of hearing was not also compliant with Section 13. A cursory examination shows that it did not state: (1) the number of the OCT sought to be reconstituted; (2) the name of the registered owner; (3) the names of the occupants or persons in possession of the property; and (4) the location, area and boundaries of the property.

These omissions are fatal. The Supreme Court has ruled that the requirements under RA 26 are indispensable and

must be strictly complied with.[20] The lack of compliance with these requirements for the judicial reconstitution of certificates of title deprived the court of jurisdiction over the petition. This is because the jurisdiction of the RTC to hear and decide a petition for reconstitution of title is conferred by RA 26. The Act prescribes a special procedure that must be followed in order that the court may act on the petition and grant the remedy sought.[21] The non-compliance with the requirements prescribed in Sections 12 and 13 of RA 26 is fatal.[22]

As to the issue of whether the OSG should be faulted for not filing an opposition to appellee's evidences before the RTC, We rule that such an oversight has no bearing on the validity of the appeal which the OSG filed before this Court. It has been reiterated time and again that the absence of opposition from government agencies is of no controlling significance because the State cannot be estopped by the omission, mistake or error of its officials or agents. Neither is the Republic barred from assailing the decision granting the petition for reconstitution if, on the basis of the law and the evidence on record, such petition has no merit.[23]

Moreover, in authorizing the Provincial Prosecutor of Negros Occidental to appear in the case, the Solicitor General inserted the proviso that "it retains supervision and control of the representation in the case and has to approve withdrawal of the case, appeal or other actions which appear to compromise the interest of the Government." He also stated therein that "only notices of orders, resolutions and decisions served on him (Solicitor General) will bind the party represented (the Republic)."[24]

Records do not disclose that the OSG was notified about appellee's offer of documentary exhibits. The Solicitor General cannot, therefore, be bound by such offer.

It bears stressing that the nature of reconstitution proceedings under RA 26 denotes a restoration of the instrument, which is supposed to have been lost or destroyed, in its original form and condition. As such, reconstitution must be granted only upon clear proof that the title sought to be restored had previously existed and was issued to the petitioner. Strict compliance with the requirements of the law aims to thwart dishonest parties from abusing reconstitution proceedings as a means of illegally obtaining properties otherwise already owned by other parties.[25]

WHEREFORE, the appeal is GRANTED. The assailed February 10, 2010 Order is SET ASIDE. The Petition for Reconstitution of the Original Certificate of Title filed before the Regional Trial Court, Branch 61, Kabankalan City, Negros Occidental is DISMISSED.

SO ORDERED.

Delos Santos, and Lopez, JJ., concur.

[1] Records, p. 39.

[2] Records, p. 15.

[3] Records, p. 17.

[4] Records, p. 47.

[5] Annex "B," Records, p. 64.

[6] Exhibit "H," Records, p. 11.

[7] G.R. No. 169481, February 22, 2010.

[8] Republic Act No. 26, entitled, "An Act Providing A Special Procedure For The Reconstitution Of Torrens

Certificates of Title Lost or Destroyed.”

[9] Records, p. 42.

[10] Exhibit “H,” Records, p. 11.

[11] Exhibit “N,” Records, p. 12.

[12] Exhibit “I,” See Envelope for Exhibits.

[13] Annex “B,” Records, p. 8.

[14] 241 Phil. 75, 81 (1988).

[15] Republic v. Catarroja, G.R. No. 171774, February 12, 2010.

[16] G.R. No. 173210, April 24, 2009.

[17] Republic v. Catarroja, *supra*.

[18] 203 Phil. 652 (1982).

[19] See Republic v. Heirs of Ramos, *supra*.

[20] Heirs of Lozano v. The Register Of Deeds, et al., G.R. No. 166899, August 10, 2006.

[21] Villegas, et al. v. CA, et al., G.R. No. 129977, February 01, 2001.

[22] Castillo v. Republic, G.R. No. 182980, June 22, 2011.

[23] Republic v. Lorenzo, et al., G.R. No. 172338, December 10, 2012.

[24] Records, p. 20.

[25] Republic v. De Asis, G.R. No. 193874, July 24, 2013.

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