

**DOMINGO MAYOL AND EMILIO MAYOL, PETITIONERS, VS.  
HONORABLE EDMUNDO S. PICCIO IN HIS CAPACITY AS JUDGE OF  
THE COURT OF FIRST INSTANCE OF CEBU, JULIAN MAYOL AND  
IRENEA LASIT, RESP...**

*G.R. No. L-8749. May 31, 1956*

Ponente: BAUTISTA ANGELO, J.

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**BAUTISTA ANGELO, J.:**

On February 15, 1954, Ireneas Lasit and Julian Mayol filed in the Court of First Instance of Cebu a petition praying that certain plans and technical descriptions covering lots Nos. 2545-A and- 2545-B be ordered reconstituted and, thereafter, an order be issued directing the Chief, General Land Registration Office, to issue the corresponding decrees on the basis of said plans and descriptions (G.L.R.O. Record No. 4030, Case No. 3). Domingo Mayol and Emilio Mayol filed separately an opposition to said petition. During the hearing, petitioners submitted certain documentary evidence which showed that it merely represents duplicate copies of the decisions, plans and technical descriptions on which they wanted the court to base the issuance of the decree but that\* the originals thereof are not found in the record of the case, whereupon oppositors filed a motion to dismiss contending that, since the petition filed by petitioners is virtually a motion for reconstitution of a judicial record and the period for such purpose has expired since 1947, the court had no longer jurisdiction to act on said petition. Oppositors therefore prayed that the petition be denied. Their motion for dismissal as well as their motion for reconsideration having been denied, oppositors have come before this Court by way of certiorari alleging that respondent Judge acted without jurisdiction or with grave abuse of discretion.

The question to be determined is whether the petition filed by respondents Ireneas Lasit and Julian Mayol is one which seeks the issuance of a decree for registration of certain lots pursuant to a decision already rendered or whether it is a motion for reconstitution of a court record which may serve as basis for the issuance of said decree.

It appears that the lots in question were adjudicated on February 27, 1934 in the registration proceedings instituted by the "El Seminario de San Carlos de Cebu" as shown by a certificate issued by the clerk of court of the Court of First Instance of Cebu (Annex 2), but it does not appear in the record the names of the persons to whom the same were adjudicated nor the originals of the decisions covering the adjudicated lots. Said certificate merely states that on page 160 of the court record there appears an entry regarding the adjudication of the above-mentioned lots. It further appears that sometime in December, 1934 a petition for subdivision of the aforesaid lots was filed on behalf of the interested parties praying for authority to have the lots subdivided for the reason that the owners had already agreed to divide them and have the titles issued in their names, and to that effect they recommended that one Higinio B. Alfaro be commissioned to make the subdivision, but there is nothing in the record to show that said subdivision plan has ever been made for which reason petitioners have ordered the making of a new subdivision plan and asked the court to approve and consider them in connection with their petition. It therefore appears clear that the record of the court in so far as said lots are concerned is really incomplete for neither the original decision nor the original subdivision plan appear therein, and yet petitioners now want the court to issue

the corresponding decree on the basis merely of duplicate copies that are in their possession. This is indeed a petition for reconstitution that comes within the purview of Section 29 of Act 3110. In the case of *Ambat vs. Director of Lands*, 49 Off. Gaz., 129, this Court said:

"A judgment rendered before the war, in a case pending appeal before the Court of Appeals, does not become final because of the failure of the losing party to ask for the reconstitution of the records in the appellate court within the time prescribed by law for reconstitution of judicial records. The duty to reconstitute lies upon both parties to the action. If a party in whose favor a judgment is rendered fails to ask for the reconstitution of the records of the case wherein the judgment is rendered, he impliedly waives, by his voluntary omission to ask for reconstitution, his right to the favorable judgment; and if the period for the reconstitution has already expired, section 29 of Act No. 3110 is applicable, the parties being understood as having waived the right to reconstitution and having the right to file their respective actions anew."

It appearing that the period for reconstitution fixed by the law has long expired, respondents are deemed to have waived the effects of the decision rendered in their favor and their only alternative is to file an action anew for the registration in their names of the lots in question.

Wherefore, petition is granted. Respondent Judge is hereby ordered to desist from further hearing the petition of respondents Irene Lasit and Julian Mayol, and all proceedings heretofore had on said petition are hereby annulled, without pronouncement as to costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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