

IN THE MATTER OF PETITION FOR JUDICIAL RECONSTITUTION AND ISSUANCE OF TCT NO. 348500 OF THE REGISTER OF DEEDS OF QUEZON CITY

Ponente: GARCIA-FERNANDEZ, J.

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GARCIA-FERNANDEZ, J.:

This is an appeal filed by petitioner-appellant from the decision dated January 5, 2009[1] issued by the Regional Trial Court of Quezon City, Br. 224 in LRC Case No. Q-05-20293, dismissing the petition for judicial reconstitution of Transfer Certificate of Title No. 257656 and issuance of a second owner's duplicate copy of said title.

The facts based on the record are as follows:

On August 9, 2005, petitioner-appellant filed a petition for judicial reconstitution of the original TCT No. 257656 and issuance of a second owner's duplicate copy[2] thereof with the Regional Trial Court of Quezon City (RTC), alleging that she and her husband are the registered owners of the parcel of land registered under TCT No. 257656[3], as shown by a photocopy of said title; that they bought the property from Honorata E. Cariaso by virtue of a deed of absolute sale; that the original copy of said title, kept on file with the Registry of Deeds of Quezon City, was among those lost or destroyed during the fire that razed the Quezon City Hall on June 11, 1988; that the owner's duplicate of the title, which was kept at her house was also lost due to flood in November 1998; and that petitioner-appellant executed an affidavit of loss[4] attesting to the loss of the duplicate title. Petitioner-appellant claims that the original copy of TCT No. 257676 may be reconstituted on the basis of the following documents: 1) photocopies of the real property tax bill and original receipt[5] issued by the Office of the Treasurer, Quezon City; 2) photocopies of the location plan[6] and vicinity map[7] of the subject property; and 3) photocopies of the owner's copy of declaration of real property for year 1995[8] and the certification[9] issued by the Office of the Treasurer, Quezon City to prove that the subject property was declared for tax purposes.

The RTC issued an the order dated October 11, 2005[10], setting the hearing on the petition on January 25, 2006 and ordering the following: publication and posting of said order; service of said order and copy of the petition to the Office of the Solicitor General, Land Registration Authority, Register of Deeds of Quezon City, Regional Executive Director of the Department of Environment and Natural Resources, City Prosecutor's Office, and adjoining owners of the subject property.

During the hearing on January 25, 2006, only petitioner-appellant's counsel appeared; hence, the RTC reset the hearing to March 29, 2006.[11]

On March 2, 2006, the Republic of the Philippines opposed[12] the petition, alleging that the documents submitted by petitioner for the reconstitution are not recognized sources for reconstitution under Section 2 of Republic Act No. 26, entitled, "An Act Providing A Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed"; and that the petition must be held in abeyance since petitioner-appellant

failed to submit the documents first to the Land Registration Authority (LRA).

The LRA filed a manifestation[13] on March 3, 2006, stating that based on its records, petitioner-appellant did not submit the following documents to the LRA: 1) certification from the Register of Deeds of Quezon City that the original copy of said title was either lost or destroyed; 2) the original technical description of the subject property, certified by the authorized officer of the Land Management Bureau; and 3) the sepia film plan of the subject property prepared by a licensed Geodetic Engineer and two (2) blue print copies thereof, all of which are required pursuant to LRC Circular No. 35 dated June 13, 1983 in relation to Supreme Court Circular No. 7-96 dated July 15, 1996.

During the hearing on June 14, 2006, petitioner-appellant was given ninety (90) days within which to comply with the documentary requirements. After several postponements, petitioner-appellant filed her amended petition with the RTC on April 10, 2007[14], attaching therewith the following documents for the reconstitution of the original copy of TCT No. 257656: 1) original copy of the real property tax bill and official receipt issued by the Office of the Treasurer, Quezon City[15]; 2) original copy of the special plan (sepia film plan) of the subject property[16]; 3) original copy of the technical description of the subject property[17]; and 4) photocopy of the certification from the Register of Deeds that the original of TCT No. 257656 was lost due to fire that razed the Quezon City Hall building on June 11, 1988[18].

Meanwhile, the Republic as oppositor-appellee filed its opposition[19] to the amended petition, claiming that the real property tax bill, sepia film plan, and the tax declaration of the subject properties cannot be considered as documents that are similar in nature to those enumerated in Sections 2(a), (b), (c), and (d) of R.A. No. 26.

During the hearing, petitioner-appellant presented her evidence[20] and formally offered her evidence on October 3, 2008[21].

In the decision dated January 5, 2009[22], the RTC dismissed the petition without prejudice, ruling that petitioner-appellant failed to present the proper documents as bases for the reconstitution of TCT No. 257656, stating:

“Petitioner failed in this aspect. She prays that the original copy of Transfer Certificate of Title No. 257656 be reconstituted on the basis of the following documents: a) Original copy of the Real Property Tax Bill and Official Receipt, b) Original copy of the Special Plan (Sepia film Plan), c) Original copy of the Technical Description, and d) Photocopy of the Certification from the Register of Deeds of Quezon City. The above-mentioned documents (a,b,c, and d) are not among those mentioned in Section 2 of Republic Act No. 26. Neither can these documents be classified as any other documents, which in the judgment of this Court is sufficient and proper basis for reconstituting TCT No. 257656 (Section 2, Par. (f), R.A. 26). These documents could not be similar to those enumerated in Section 2 (a), (b), (c) and (d) of R.A. 26 and not even the presentation of the Location plan (Sepia Film Plan) and the Technical Description are only additional documents required when the basis of the reconstitution is one of those stated in Section 2(f) of R.A. 26. Since the Court finds that the documents presented by the petitioner do not fall in Par. (f), Section 2 of R.A. 26, the submitted “technical description” and “the plan” do not serve their purpose. Moreso, they cannot be considered as bases in reconstituting the subject title because under the law, they are not recognized sources thereof.”

Petitioner-appellant's motion for reconsideration was denied by the RTC in its order dated April 13, 2009[23] for lack of merit. Hence, this appeal.

In this appeal, petitioner-appellant alleges that the RTC erred in ruling that the evidence she presented are not

sufficient bases for the reconstitution of TCT No. 257656; that the decision was not in accord with the case of Republic vs. de la Raga (G.R. No. 161042, August 24, 2009), wherein the Supreme Court stated that the payment of real property taxes, the possession of the property and enjoyment of the fruits thereof, the absence of any encumbrance over the property and the fact that there are no other claimants are sufficient evidence for reconstitution of title.

The appeal is devoid of merit.

Section 2 of R.A. No. 26 enumerates in the following order the sources from which reconstitution of lost or destroyed original certificates of title may be based:

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

(a) The owner’s duplicate of the certificate of title;

(b) The co-owner’s, mortgagee’s, or lessee’s duplicate of the certificate of title;

(c) A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof;

(d) 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;

(e) 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 has been registered; and

(f) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.”

In Republic v. Intermediate Appellate Court and Kiram[24], the Supreme Court applied the principle of ejusdem generis in interpreting Section 2(f) of R.A. 26, ruling that the phrase “[a]ny other document” must refer to similar documents previously enumerated in Sections 2 (a) to (d).

In Republic v. Tuastumban[25], the Supreme Court ruled that a petitioner must prove the following for an order for reconstitution to be issued: (a) that the certificate of title had been lost or destroyed; (b) that the documents presented by petitioner are sufficient and proper to warrant reconstitution of the lost or destroyed certificate of title; (c) that the petitioner is the registered owner of the property or had an interest therein; (d) that the certificate of title was in force at the time it was lost and destroyed; and (e) that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title.

This Court finds that the documents presented by petitioner-appellant did not comply with Section 2 of R.A. No. 26.

First, petitioner-appellant failed to prove that she is the registered owner or had an interest in the subject property. While petitioner-appellant claims that she and her husband purchased the property from Honorata E. Cariaso by virtue of a Deed of Absolute Sale, petitioner-appellant failed to present said deed to the RTC. While petitioner-appellant presented the photocopy of the title in their names, this cannot be considered by the court as evidence since it was not a certified or authenticated true copy of the title in question.

Second, the Sepia Plan, as well as the Location and Technical description of the property, are not sufficient sources of reconstitution. In *Republic vs. Santua*[26] it has been held that survey plan and technical descriptions are “merely additional documents that should accompany the petition for reconstitution as required under Section 12 of RA 26 and Land Registration Commission Circular No. 35. Moreover, a survey plan or technical description prepared at the instance of a party cannot be considered in his favor, the same being self-serving. Further, in *Lee v. Republic*, the Court declared the reconstitution based on a survey plan and technical descriptions void for lack of factual support.”

Third, the real property tax bills and receipts are not proper bases for reconstitution. As ruled by the Supreme Court in *Republic vs. Santua*[27], a “tax declaration obviously does not serve as a valid basis for reconstitution because a tax declaration is executed for taxation purposes only and is actually prepared by the alleged owner himself. Further, the fact that the real property tax bills and receipts are still in the name of Honorata Cariaso raises the question of ownership over the subject property.

Finally, petitioner-appellant's reliance on *Republic vs. dela Raga* is misplaced. In said case, the Supreme Court affirmed the ruling of the RTC that the evidence presented by dela Raga is sufficient to warrant the reconstitution of OCT No. 49266 because the latter was able to trace her ownership of property to her grandfather, and to one of the registered owners of the property,[28] which fact is absent in the instant case.

WHEREFORE, the appeal is DENIED. The decision dated January 5, 2009 issued by the Regional Trial Court of Quezon City, Br. 224 in LRC Case No. Q-05-20293 is AFFIRMED.

SO ORDERED.

Lampas Peralta, (Chairman), and Acosta, JJ., concur.

[1] Rollo, pp. 45-49.

[2] Records, pp. 2-6.

[3] Records, p. 7.

[4] Records, p. 8.

[5] Records, p. 9.

[6] Records, pp. 10-13.

[7] Records, pp. 14-17.

[8] Records, p. 18.

[9] Records, pp. 20-22.

- [10] Records, p. 23.
- [11] Records, p. 27.
- [12] Records, pp. 29-36.
- [13] Records, p. 38.
- [14] Records, pp. 50-54.
- [15] Records, p. 58.
- [16] Records, p. 62.
- [17] Records, p. 60.
- [18] Records, p. 61.
- [19] Records, p. 78-83.
- [20] Records, pp. 86-87.
- [21] Records, p. 133-137.
- [22] Supra note 1.
- [23] Rollo, p. 52.
- [24] G.R. No. L-68303, January 15, 1988.
- [25] G.R. No. 173210, April 24, 2009.
- [26] G.R. No. 155703, September 8, 2008. Citations omitted.
- [27] G.R. No. 155703, September 8, 2008.
- [28] G.R. No. 161042, August 24, 2009.

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