

WILFREDA M. INDUS, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/dd4bd8976447/>

SANTOS, J.:^[1]

Before this Court is an appeal under Rule 41 of the Rules of Court filed by oppositor-appellant Republic of the Philippines (Republic) to assail the Order^[2] dated 27 February 2012 of the Regional Trial Court of Dipolog City, Branch 9, which granted petitioner-appellee Wilfreda M. Indus' Petition for Judicial Reconstitution of the Original Certificate of Title (OCT) No. O-12122 in the name of Spouses Saturnino Morandarte and Apolonia Nayal. Also assailed is the Order^[3] dated 02 May 2012 which denied oppositor-appellant Republic's Motion for Reconsideration thereto.

The Antecedents

For reconstitution is the original and owner's duplicate copies of the alleged Original Certificate of Title (OCT) No. O-12122 covering a parcel of land identified as Lot No. 5603 of the Cadastral Survey of Dipolog, located at Sinaman, Dipolog City, with an area of fourteen thousand three hundred ninety two (14,392) square meters (the subject land), allegedly titled in the name of spouses Saturnino Morandarte and Apolonia Nayal.

Upon the death of Saturnino and Apolonia, the subject land was allegedly transferred by their alleged legal heirs, namely: Antonio, Alejandro, Alberto, Geronimo, Maria, Pedro, Mamerta, and Jose, all surnamed Morandarte (Morandartes). The Morandartes have no birth records to show that they are indeed the children of Saturnino and Apolonia as they were born prior to the enactment of Act No. 3753 or the Civil Registry Law.^[4] However, Maria, Mamerta, Alberto and Pedro Morandarte have Certificates of Baptism showing that their parents are Saturnino and Apolonia and that they were born on 5 August 1917,^[5] 11 May 1916,^[6] 21 November 1909,^[7] and 15 May 1906,^[8] respectively.

The subject land was allegedly bounded by the following landowners per records of the City Assessor of Dipolog City: on the Northeast by Lot 5602 owned by Leonardo Soliva of Sinaman, Dipolog City and Lot 2321 owned by Constancio Abing of Punta, Dipolog City; on the East by Lot 2341, now subdivided and the resulting sub-lots owned by Cresencia Bustalino of Sta. Filomena, Dipolog City, Rosalina Busatlino of Sta. Filomena, Dipolog City, and Teresita de Jesus of Sinaman, Dipolog City; on the Southeast by Lot 5604 owned by Erlinda Agan of Sinaman, Dipolog City; and on the Southwest by Barrio Road.

On 15 April 2011, petitioner-appellee Wilfreda M. Indus filed a "Petition for Judicial Reconstitution of Original Certificate of Title No. O-12122"^[9] docketed as Special Proceeding No. 782 before the Regional Trial Court (RTC) of Dipolog City. She claimed to be the daughter of Geronimo Morandarte and she and her spouse are the absolute owners and lawful possessors of the subject land, having acquired it from her father Geronimo and the latter's siblings, the Morandartes, as evidenced by the Deed of Sale^[10] dated 07 May 1980. She further alleged that after they acquired the subject land, she and her family have been in possession thereof, declared it under their names for taxation purposes and paid the real property taxes due thereon.^[11] However, she admitted that since the time they acquired the subject land, she and her spouse have not registered the sale and caused the title

thereof transferred in their name for the reason that both the original copy and owner's duplicate copy of the OCT No. O-12122 covering the subject land are lost and/or missing.

It was also alleged by petitioner-appellee that she verified with the Office of the Register of Deeds (ROD), both in Dipolog City and the Province of Zamboanga del Norte, as to the availability of the original copy of said OCT NO. O-12122. The ROD of Dipolog City issued a Certification^[12] dated 09 October 2009 certifying that it has no record of OCT No. O-12122 for Lot 5603. Likewise, the ROD of Zamboanga del Norte issued a Certification^[13] dated 24 June 2010 which reads:

This is to CERTIFY, based from the Index Card (Judicial Form No. 121), of MORANDARTE, SATURNINO, copy of which is still intact and existing from the files of this Registry, that Lot No. 5603, situated in the Municipality of Dipolog (now City of Dipolog), containing an area of FOURTEEN THOUSAND THREE HUNDRED NINETY TWO (14,392) SQUARE METERS, was duly issued of ORIGINAL CERTIFICATE OF TITLE No. O-12122 registered in the name of Spouses Saturnino Morandarte and Apolonia Nayal but despite diligent (sic) effort to locate the certificate of title, the same can no longer be found from among the records in the archive of this Registry.

Pursuant to the said certification of the ROD of Zamboanga del Norte, petitioner-appellee claimed that OCT No. O-12122 covering Lot No. 5603 was duly issued using as basis thereof the Index Card (Judicial Form No. 121)^[14] which is still intact and existing in the files of the said office.

Likewise, petitioner-appellee alleged that she also verified with the Office of the Clerk of Court of the Regional Trial Court of Dipolog City as to the existence and availability of the decree involving the subject land and she was issued a certified true copy of Decree No. 343345^[15] which was, however, in a dilapidated state and a portion thereof, particularly the lower portion describing the technical description of Lot No. 5603, was missing. Hence, petitioner claimed that she secured a verified and approved Technical Description¹⁶ of the subject land from the Department of Environment and Natural Resources (DENR), Lands Management Services, Region IX, Pagadian City.

Thus, petitioner-appellee asserted that since the original copy of OCT No. O-12122 was considered to have been lost irretrievably from among the records of both the Offices of the Registry of Deeds of Dipolog City and Zamboanga del Norte, as well as the owner's copy thereof, she honestly believes that with the existence of the Index Card (Judicial Form No. 121), decree and verified and approved technical description, these could be considered sufficient sources for the reconstitution of the original and owner's copy of OCT No. O-12122. She further claimed that there is no other owner's copy issued, neither are there any deed or public instrument covering the subject land that has been presented for registration with the Offices of the Registry of Deeds of Dipolog City and Zamboanga del Norte. Likewise, petitioner-appellee alleged that the subject land is free from any lien and encumbrance except of the first lien in favor of the Insular Government to guarantee payment of the special taxes assessed pursuant to the provision of Section 18 of Act 2259, as amended. She added that the subject land is not involved in any case or litigation and that there is no boundary conflict with the adjoining owners. It was also alleged that at the time the title was lost, it was accorded full force and effect. Also, there is no similar petition filed for the judicial reconstitution of the OCT No. O-12122.

It was claimed by petitioner-appellee that unless an order is issued by the court, the ROD of Dipolog City will not issue a new original and owner's copy of OCT No. O-12122 in lieu of the missing copies. She prayed that after due notice, publication and hearing, an order be issued:

- DIRECTING the Register of Deeds of Dipolog City to cause the judicial reconstitution of the original and owner's duplicate copies of ORIGINAL CERTIFICATE OF TITLE NO. O-12122 covering Lot No. 5603, using as sources and basis for the desired reconstitution Decree No. 343345, Index Card (Judicial Form

No.121) and verified Technical Description, entitling it to like faith and credit, for all legal intents and purposes, with that of the lost copies, conformably with Section 110 of P.D. No. 1529 and Sec. 2 of RA 26, upon payment by petitioner of the legal fee(s) therefore, if any; and

- DECLARING the lost original and owner's duplicate copies of OCT No. O-12122 regarded as totally lost, null and void and ineffective, if found later, it should be surrendered to the Office of the Register of Deeds of Dipolog City for its eventual cancellation.[17]

On 26 April 2011, the RTC found the petition sufficient in form and substance; hence, it issued a Notice of Hearing[18] setting the petition for initial hearing on 12 September 2011. The notice was likewise posted[19] in conspicuous public places and published[20] in the Official Gazette.

The Land Registration Authority (LRA) likewise made its Report[21] dated 22 August 2011 signed by Roselle Antonette P. Lazo-Favis, Assistant Chief, Reconstitution Division, which reads inter alia:

xxx

(2) From Book No. 16 of the "Record Book of Cadastral Lots" on file at the Cadastral Decree Section, this Authority, it appears that Decree No. 343345 was issued for Lot No. 5603, Dipolog Cadastre, on October 29, 1928, in Cadastral Case No. 7, GLRO Cad. Record No. 759. Copy of said decree, however, is no longer available to this Authority.

(3) The technical description of Lot No. 5603 of the Cadastral Survey of Dipolog, appearing on the reproduction of Decree No. 343345 has been examined and verified correct after due computation. Said technical description when plotted in the Municipal Index Sheet No. 20159, does not appear to overlap previously plotted/decreed properties in the area.

xxx

Likewise, a Report[22] dated 05 October 2011 was issued by the ROD of Dipolog City through Ma. Charlene Yebes-Abarquez, Acting Register of Deeds, which reads inter alia:

xxx

2. That upon verification, it was found out that this registry has no record on file of OCT No. O-12122, Lot No. 5603 allegedly issued under the name of Spouses Saturnino Morandarte and Apolonia Nayal nor has any knowledge or information of its existence;

3. That somehow, pursuant to Section 39, P.D. 1529, it is the Administrator of the Land Registration Authority who shall cause to be prepared the decree of registration as well as the original and duplicate of title, upon order of the court. The original certificate of title shall be a true copy of the decree of registration. The decree of registration shall be signed by the Administrator entered and filed in the Land Registration Authority. The Original Certificate of Title shall also be signed by the Administrator and shall be sent, together with the owner's duplicate certificate to the Register of Deed of the City or Province where the property is located for entry in his registration book;

4. That the Register of Deeds is not clothed with the authority to issue Original Certificate of Title;

5. That it is the Office of the Administrator, Land Registration Authority, xxx that has the knowledge and information that OCT No. O-12122 was issued for Lot 5603, with an area of 14,392 square meters, situated in Municipality (now City of Dipolog and issued in the name of Spouses Saturnino Morandarte and Apolonia Nayal with all the circumstances appurtenant thereto;

xxx

WHEREFORE, premised on the foregoing, after due notice and hearing, and the report that shall have been submitted by the Reconstituting Officer, Reconstitution Division, LRA, content of which favorably certifying the due existence of the afore-described reconstituted original certificate of title, the herein Acting Register of Deeds of Dipolog City interposes no objection for the reconstitution of the above-described Original Certificate of Title No. O-12122 using as basis Judicial Decree No. 343345.

The trial court, after determining that petitioner-appellee complied with the jurisdictional requirements of the petition and there being no opposition thereto except the government, petitioner-appellee was allowed to present her evidence.

Meanwhile, petitioner-appellee made further verification with the ROD of Zamboanga del Norte and she alleged that an original copy of Decree No. 343345 covering Lot No. 5603 was found and is still intact and existing in the files of the said office and she was given a certified true copy thereof.²³ Thus, petitioner-appellee presented, along with her testimony, the following documentary evidence:

1)

Exhibit “A” – Deed of Absolute Sale dated 07 May 1980;[24]

2)

Exhibit “B” – Certification issued by ROD of Dipolog City dated 09 October 2009;[25]

3)

Exhibit “C” – Certified True Copy of Judicial Form No. 121 issued by the ROD of Zamboanga del Norte;[26]

4)

Exhibit “D” – Certification issued by the ROD of Zamboanga del Norte dated 24 June 2010;[27]

5)

Exhibit “E” – Certified True Copy of Decree No. 343345 issued by the Office of the Clerk of Court, RTC of Dipolog City;[28]

6)

Exhibit “F” – Verified and Approved Technical Description of Lot 5603, Dip. Cad. 85, issued by the Technical Records Section, DENR, Region IX, Pagadian City;[29]

7)

Exhibits “G” and “H” – Certifications dated 19 January 2012 issued by the City Civil Registrar of Dipolog City;[30]

8)

Exhibits “I” to “ L” – Certificates of Baptism issued by the Parish of Our Lady of the Most Holy Rosary Cathedral, Diocese of Dipolog;[31]

9)

Exhibit “M” – Certified True Copy of Decree No, 343345 issued by the Office of the Registry of Deed of Zamboanga del Norte on 07 February 2012;[32]

10)

Exhibits “N” to “T” – Tax Declarations and Real Property Tax Receipts;[33]

11)

Exhibit “U” – Certificate of Publication;[34]

12)

Exhibit “V” – Notice of Appearance of the Solicitor General;[35] and

13)

Exhibit “W” – Land Registration Report dated 22 August 2011.[36]

After due proceedings, the trial court rendered the assailed Order[37] dated 27 February 2012, decreeing thus:

WHEREFORE, for all the foregoing observations, the petition is GRANTED. Accordingly, the Registry of Deeds for the City of Dipolog is hereby ordered to reconstitute OCT No. O-12122 for Lot No. 5603 of the Cadastral Survey of Dipolog, situated in the Municipality of Dipolog (now Sinaman, Dipolog City) which contains an area of 14,392 square meters in the conjugal partnership of spouses Saturnino Morandarte and Apolonia Nayal using as basis the authenticated copies of Decree No. 343345 (Exhibit “E” and “M”), pursuant to Section 2, par. (d), R.A. No. 26, subject however to such encumbrances as may be subsisting in the certificate of title; and, provided further, that no certificate of title covering the same parcel of land exist in the registry.

IT IS SO ORDERED.

On 04 April 2012, oppositor-appellant Republic moved for the reconsideration[38] thereof but the motion was likewise denied by the trial court in its Order[39] dated 02 May 2012.

Hence the instant appeal.

The Assignment of Error

Oppositor-appellant Republic interposed the present recourse anchored on the lone assignment of error to wit:

THE TRIAL COURT ERRED IN GRANTING THE PETITION FOR RECONSTITUTION OF ORIGINAL

CERTIFICATE OF TITLE (OCT) NO. O-12122.

This Court's Ruling

The appeal is bereft of merit.

It should be emphasized at the outset that in this case, there appears to be no question as regards to the compliance of the procedural requirements of Republic Act No. 26, entitled "An Act Providing A Special Procedure For The Reconstitution of Torrens Certificates of Title Lost or Destroyed," the governing law for the reconstitution of a lost or destroyed title; rather, the controversy lies in the documentary basis for the reconstitution of the alleged lost or destroyed OCT No. O-12122 for Lot No. 5603.

The reconstitution of a certificate of title denotes restoration in the original form and condition of a lost or destroyed instrument attesting the title of a person to a piece of land. The purpose of the reconstitution of title is to have, after observing the procedures prescribed by law, the title reproduced in exactly the same way it has been when the loss or destruction occurred. RA 26 presupposes that the property whose title is sought to be reconstituted has already been brought under the provisions of the Torrens System.[40]

Section 2 of RA 26, as amended, enumerates the sources upon which the reconstitution of original certificates of title shall be based. It provides:

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 had been registered; and

(d)

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 relation to the foregoing provision, Section 12 of RA 26 provides:

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 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 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 to 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 Commissioner of Land Registration, or with a certified copy of the description taken from a prior certificate of title covering the same property.

In this appeal, oppositor-appellant Republic contends that the documents presented by plaintiff-appellee before the trial court are not sufficient bases for the grant of the petition for judicial reconstitution. It argues that the torn copy of Decree No. 343345 (Exhibit "E") on file with the Office of the Clerk of Court, RTC of Dipolog City is not the decree referred to in Section 2(d) of RA 26. It adds that the decree referred to in said provision should be the decree coming from and authenticated by the proper Register of Deeds. It further contends that the copy of the Decree (Exhibit "M") from the Register of Deeds of the Province of Zamboanga del Norte casts doubt on its authenticity considering that the Certification (Exhibit "D") dated 24 June 2010 issued by the said office only states that an Index Card (Judicial Form No. 121) (Exhibit "C") containing information that OCT No. O-12122 was issued for Lot No. 5603 in the name of spouses Saturnino Morandarte and Apolonia Nayal. It stresses that in the said certification, it was stated therein that the title can no longer be found in the records and it did not mention that a copy of the decree exists in their files. Thus, oppositor-appellant Republic asserts that the Decree presented by plaintiff-appellee is suspicious.

Likewise, it contends that the Report dated 05 October 2011 of the Acting Register of Deeds of Dipolog City stated that her office has no record on file of OCT No. O-12122 allegedly issued under the name of Spouses Morandarte and Nayal; that pursuant to Section 39 of PD 1529, it is the LRA Administrator who causes the preparation of the decree of registration and original certificate of title upon order of the court; and that it is the Office of the LRA Administrator who determines the veracity of the original certificate of title. Yet, the Report dated 22 August 2011 (Exhibit "W") of the LRA Assistant Chief, Reconstitution Division, stated that the copy of Decree No. 343345 for Lot No. 5603 is no longer available at the LRA.

Oppositor-appellant Republic asseverates that since plaintiff-appellee failed to present the documents mentioned in Section 2(a) to (e), the present petition should be treated as one filed under Section 2(f) of RA 26 and as such, the petition should be accompanied with a plan and technical description of the land duly approved by the Commissioner of Land Registration, or with a certified copy of the description taken from a prior certificate of

title covering the same property as mandated under Section 12 of RA 26. Unfortunately, according to oppositor-appellant Republic, petitioner-appellee failed to present in evidence the plan of the subject land, contrary to the mandatory provisions of RA 26. More so, it adds that the reconstitution under Section 2(f) can only be justified if the documents mentioned in section 2(a) to (e) cannot be produced which in this case petitioner-appellee failed to do.

Thus, oppositor-appellant Republic posits that under the circumstances, the trial court erred in granting the petition for judicial reconstitution. Besides, it adds that petitioner-appellee allowed laches to attach considering that the latter failed to provide any explanation why it took her almost thirty years from the execution of the Deed of Sale on 07 May 1980 before instituting the reconstitution proceedings.

In refuting the contentions of oppositor-appellant Republic, petitioner-appellee asserts that the trial court was correct in ordering for the reconstitution of the lost OCT No. O-12122. She argues that when she filed her petition before the trial court, she had as basis therefor the certified true copy of the Decree (Exhibit “E”) issued by the Office of the Clerk of Court of the RTC of Dipolog City, among others. The said Decree was, however, a bit torn and portion of it inscribing the technical description of Lot 5603 is missing; hence, she readily attached a technical description (Exhibit “F”) issued by the DENR, Land Management Services, Region IX. Petitioner-appellee further argues that during the pendency of the petition before the trial court, she was fortunately able to secure a certified true copy of the same Decree (Exhibit “M”) this time from the ROD of Zamboanga del Norte. Petitioner-appellee contends that in this Decree, all the contents of the decree are very clear and comprehensible and an inscription at the back of its second page drawn in Spanish language clearly shows that the title number issued for Lot No. 5603 pursuant to the said decree is O-12122. Hence, she claims that there is no question that an OCT No. O-12122 was indeed issued for Lot No. 5603 pursuant to Decree No. 343345.

Petitioner-appellee likewise countered that the fact that the Certification (Exhibit “D”) dated 24 June 2010 issued by the ROD of Zamboanga del Norte failed to mention the existence of the decree in their files is not enough to make the said Decree (Exhibit “M”) suspicious or inadmissible. She claims that what is important is the existence of the certified true copy of the said Decree No. 343345 (Exhibit “M”) and which was admitted as evidence by the trial court. Consequently, with the existence of Decree No. 343345 and the Index Card or Judicial Form No. 121 (Exhibit “C”) showing that OCT No. O-12122 was issued for Lot 5603, the reconstitution was proper and allowed under Section 2(d) of RA 26.

Also, petitioner-appellee posits that the issue of laches was raised for the first time on appeal by the oppositor-appellant Republic, perhaps as a desperate attempt to oppose at all costs the reconstitution of OCT NO. O-12122. As such, she argues that laches should not be considered in this appeal. She further argues that laches should not be applied in this case because she has been in possession of the property since she acquired it and she had been religiously paying the real property tax due thereon.

This Court agrees with the petitioner-appellee.

In this case, there is no doubt that petitioner-appellee was able to adduce sufficient and competent basis to reconstitute OCT No. O-12122. Petitioner-appellee’s petition for reconstitution was accompanied by the certified true copy of Decree No. 343345 marked as Exhibit “M” issued by the ROD of Zamboanga del Norte; certified true copy of the same Decree No. 343345 marked as Exhibit “E” issued by the Office of the Clerk of Court of the RTC of Dipolog City; and the Index Card or Judicial Form No. 121 marked as Exhibit “C” found in the files of the ROD of Zamboanga del Norte, among others. These are official or government documents issued by competent legal authorities and existing and found in their records. In *Republic v. Tuastumban*,^[41] the Supreme Court ruled that the documents must come from official sources which recognize the ownership of the owner and

his predecessors-in-interest, as in this case.

Corollarily, among the sources enumerated in Section 2 of RA 26 is the authenticated copy of the decree of registration or patent, as the case may be, pursuant to which the original certificate of title was issued. Here, petitioner-appellee was able to present before the trial court the certified true copies of Decree No. 343345 for Lot No. 5603 issued by the ROD of Zamboanga del Norte (Exhibit “M”) and the Office of the Clerk of Court of RTC of Dipolog (Exhibit “E”), albeit, the copy issued by the latter was torn at the lower portion thereof particularly on the portion inscribing the technical description of Lot 5603. It is important to note, however, that the Decree issued by the ROD of Zamboanga del Norte marked as Exhibit “M” is complete and has no defect or undamaged and its contents readable. In fact, at the back of page two (2) of the said Decree, there is a Spanish inscription mentioning “xxx Certificado No. 12122 xxx”[42] which to the mind of this Court apparently refers to OCT No. O-12122 covering Lot 5603 pursuant to the said Decree.

Moreover, the fact of issuance of OCT No. O-12122 for Lot No. 5603 is bolstered by the Index Card or Judicial Form No. 121 found in the files of the ROD of Zamboanga del Norte showing that Certificate (OPT) Number 12122 for Lot No. 5603 was under the name of Saturnino Morandarte. This was further buttressed by the Certification (Exhibit “D”) dated 24 June 2010 issued by the LRA of Zamboanga del Norte certifying that based on the said Index Card or Judicial Form No. 121, Saturnino Morandarte was issued of OCT No. O-12122 for Lot No. 5603 although the said OCT can no longer be found from among the records in the archive of their Registry.

The contention of oppositor-appellant Republic that Decree No. 343345 marked as Exhibit “M” issued by the ROD of Zamboanga del Norte is suspicious is untenable. It should be emphasized that the said Decree was duly certified by the ROD of Zamboanga del Norte; hence, presumed to have been issued regularly and therefore highly credible. More so, the said Decree was offered as evidence by petitioner-appellee and admitted by the trial court in its Order[43] dated 14 February 2012. It is worth stressing also that this document was not objected to by the oppositor-appellant Republic during the hearing of the case. As such, the oppositor-appellant Republic may have deemed to agree to its admission for its failure to object to the evidence offered at the hearing of the reconstitution case. This was the pronouncement of the Supreme Court in *Republic v. Zoomak R.P.C., Inc.*,[44] viz:

But, notably, the Government did not object to the admission of the separate LRA and RTC certifications when they were presented and offered in evidence at the hearing of the reconstitution case. The rule is that when the adverse party fails to object to the evidence when it is offered, such party may be deemed to agree to its admission. This is true even if by its nature the evidence is inadmissible and would have surely been rejected if it had been challenged at the proper time. (Emphasis added.)

Additionally, a meticulous reading of the Decree issued by the Office of the Clerk of Court of RTC of Dipolog marked as Exhibit “E”, and comparing it with the complete copy of same Decree issued by the ROD of Zamboanga del Norte marked as Exhibit “M”, undoubtedly reveals that they are exact copies of the same Decree covering Lot No. 5603, except the missing portion on the dilapidated pages of Exhibit “E”, being consistent with the pages of Exhibit “M.” Also, the dilapidated pages in Exhibit “E” are almost complete with texts readable and consistent with the texts and even the alignment or placement of the letters in Exhibit “M”. More so, the date of Decree in Exhibit “M”, which is 29 October 1928, which date is missing in the dilapidated pages of Exhibit “E” is, however, consistent with the Report of LRA Roselle Antonette P. Lazo-Favis stating that “it appears that Decree No. 343345 was issued for Lot No. 5603, Dipolog Cadastre, on October 29, 1928, in Cadastral Case No. 7, GLRO Cad. Record No. 759.”

Verily, the Decree No. 343345 marked as Exhibit “M” could be considered as documentary basis or source for the judicial reconstitution of OCT No. O-12122 under Section 2(d) of RA 26. Contrary to the asseveration of the

oppositor-appellant Republic that petitioner-appellee's petition should be treated as filed under Section 2(f) of RA 26, the trial court was correct in ordering for the judicial reconstitution of OCT No. 12122 for Lot No. 5603 under Section 2(d) of RA 26. Accordingly, since petitioner-appellee's documentary basis for the judicial reconstitution of OCT No. O-12122 is the certified true copy of Decree No. 343345 allowed under Section 2(d), petitioner-appellee's petition for reconstitution need not be accompanied with a plan or technical description of the property duly approved by the Commissioner of LRA which is required only if the reconstitution is to be made exclusively from sources enumerated in Section 2(f) of RA 26 as mandated under Section 12 of the same law.

Indeed, the documents submitted by petitioner-appellee, taken together, would indubitably establish and confirm that OCT No. O-12122 for Lot No. 5603 was issued in the name of spouses Saturnino Morandarte and Apolonia Nayal. After all, the purpose of reconstitution proceedings under RA No. 26 is the restoration in the original form and condition of a lost or destroyed instrument attesting the title of a person to a piece of land.[45]

While this Court is not unaware of the Supreme Court's mandate for the court to exercise the greatest caution in entertaining petitions for reconstitution, yet, it is likewise settled that if the jurisdictional requirements set forth in RA 26 are being complied with and the evidence presented is sufficient and proper to grant the petition, the reconstitution prayed for should not be denied to the petitioner. In *Republic v. Verzosa*,[46] it was ruled:

It is correct, as petitioner avers, that courts must exercise the greatest caution in entertaining petitions for reconstitution of destroyed or lost certificates of title. In *Republic v. Holazo*,[47] the Court warned that:

The tampering of genuine certificates of title and the issuance of fake ones are a widespread malaise that has seriously threatened the very stability of the Torrens system. Worse, the courts have been, at times, unwitting accomplices in these acts of corruption. In *Alabang*, *supra*, we sounded this admonition:

x x x 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.

However, this caveat should not be taken to the extent of depriving a person who had already fully complied with the jurisdictional requirements set forth in R.A. No. 26 from being granted the reconstitution prayed for. When a court, after hearing of a petition for reconstitution, finds that the evidence presented is sufficient and proper to grant the same, that the petitioner therein is the registered owner of the property, and that the certificate sought to be reconstituted was in force at the time it was lost, it becomes the duty of the court to issue the order of reconstitution. This duty is mandatory. The law does not give the court discretion to deny the reconstitution if all the basic requirements have been complied with. (Emphasis added; citation omitted.)

Thus, as petitioner-appellee was able to comply with the requirements laid down under RA 26, the trial court is beholden to grant the petition.

Consequently, in a last ditch effort of oppositor-appellant Republic to oppose the reconstitution of OCT No. O-12122, it raised for the first time on appeal the issue of laches. It is well-settled that no question will be entertained on appeal unless it has been raised in the proceedings below. Points of law, theories, issues and arguments not brought to the attention of the lower court, administrative agency or quasi-judicial body, need not be considered by a reviewing court, as they cannot be raised for the first time at that late stage. Basic considerations of fairness and due process impel this rule.[48]

Laches means the failure or neglect, for an unreasonable length of time, to do that which by exercising due

diligence could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it. This equitable defense is based upon grounds of public policy, which requires the discouragement of stale claims for the peace of society.[49]

Corollarily, it is settled that the application of laches is addressed to the sound discretion of the court as its application is controlled by equitable considerations.[50] Likewise, laches must be proved positively as it is evidentiary in nature which could not be established by mere allegations in the pleadings.[51] In the same vein, the Supreme Court explained in *Santiago v. Court of Appeals*[52] that there is “no absolute rule as to what constitutes laches or staleness of demand; each case is to be determined according to its particular circumstances.”

In this case, however, this Court is convinced that laches had not set in, as to defeat the right of petitioner-appellee to ask for the restoration of the lost or missing copy of OCT No. O-12122 so that she could consequently register her acquisition over the subject land and have the title transferred in her name. It is worth noting also that petitioner-appellee is in possession of the subject land in the concept of an owner since her acquisition and had performed her obligation by paying the real property taxes on the subject land. Thus, the equitable defense of laches should not be applied in this case and allowed to defeat petitioner-appellee’s right to ask for the judicial reconstitution of OCT No. O-12122. After all, petitioner-appellee had sufficiently established by competent evidence and complied with the provisions of RA 26; hence, her right to ask for reconstitution of OCT No. O-12122 is irrefutable.

WHEREFORE, the appeal filed by oppositor-appellant Republic of the Philippines is DISMISSED for lack of merit. The assailed Orders dated 27 February 2012 and 02 May 2012 of the Regional Trial Court of Dipolog City, Branch 9, are hereby AFFIRMED in toto.

SO ORDERED.

Lloren, J., Ch., and Contreras, JJ., concur.

[1] The case was unloaded to the undersigned Ponente pursuant to Office Order No. 03-14-JMBP dated 01 April 2014 as part of his initial caseload.

[2] Penned by Hon. Presiding Judge Porferio E. Mah, Original Record, pp. 76-80.

[3] *Id.*, pp. 95-96.

[4] Exhibits “G” and “H” of Petitioner-Appellee, *Id.*, pp.59-60.

[5] Exhibit “I” of Petitioner-Appellee, *Id.*, p. 61.

[6] Exhibit “J” of Petitioner-Appellee, *id.*, p. 62.

[7] Exhibit “K” of Petitioner-Appellee, *Id.*, p. 63.

[8] Exhibit “L” of Petitioner-Appellee, *Id.*, p. 64.

[9] *Id.*, pp. 1-4.

[10] Exhibit “A” of Petitioner-Appellee, *Id.*, pp. 52-52A.

[11] Exhibits “N” to “T” of Petitioner-Appellee, *Id.*, pp. 67-73.

[12] Exhibit “B” of Petitioner-Appellee, *Id.*, p. 53.

- [13] Exhibit “D” of Petitioner-Appellee, Id., p.55.
- [14] Exhibit “C” of Petitioner-Appellee, Id., p. 54.
- [15] Exhibit “E” of Petitioner-Appellee, Id., pp. 56-57.
- [16] Exhibit “F” of Petitioner-Appellee, Id., p. 58.
- [17] Page 4 of the Petition, Id., p. 4.
- [18] Id., p. 17.
- [19] Id., p. 16.
- [20] Exhibit “U” of Petitioner-Appellee, Certificate of Publication, Id., p. 23.
- [21] Exhibit “W” of Petitioner-Appellee, Id., pp. 31-32.
- [22] Id., pp. 34-35.
- [23] Exhibit “M” of Petitioner-Appellee, Id., pp.65-66; See also TSN dated 09 February 2012, pp. 5-6.
- [24] Supra, note no. 10.
- [25] Supra, note no. 12.
- [26] Supra, note no. 14.
- [27] Supra, note no. 13.
- [28] Supra, note no. 15.
- [29] Supra, note no. 16.
- [30] Supra, note no. 4.
- [31] Supra, note nos. 5 to 8.
- [32] Supra, note no. 23.
- [33] Supra, note no. 11.
- [34] Supra, note no. 20.
- [35] Id., pp. 23-24.
- [36] Supra, note no. 21.
- [37] Supra, note no. 2.
- [38] Id., pp. 81-87.
- [39] Supra, note no. 3
- [40] Republic v. Tuastumban, G.R. No. 173210, April 24, 2009.
- [41] G.R. No. 173210, April 24, 2009.
- [42] Exhibit “M-12”, Original Record, back of p. 66.
- [43] Id., p. 75.

[44] G.R. No. 181891, December 5, 2012.

[45] Republic v. Sanchez, G.R. No. 146081, July 17, 2006.

[46] G.R. No. 173525, March 28, 2008.

[47] G.R. No. 146846, 31 August 2004, 437 SCRA 345, citing Republic v. IAC, 157 SCRA 62 (1988) and Alabang Development Corporation v. Judge Valenzuela, 116 SCRA 261 (1982).

[48] Lorzano v. Tabayag, Jr., G.R. No. 189647, February 6, 2012.

[49] Heirs of Enrique Toring v. Heirs of Teodosia Boquilaga, G.R. No. 163610, September 27, 2010.

[50] Department of Education, Division of Albay v. Oñate, G.R. No. 161758, June 8, 2007.

[51] Felix Gochan and Sons Realty Corporation, G.R. No. 138945, August 19, 2003.

[52] G.R. No. 103959, August 21, 1997.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.