

**PHILIPPINE NATIONAL BANK, PETITIONER AND APPELLANT, VS.
EMILIANO DE LA VIÑA AND JUAN URIARTE ZAMACONA,
OPPOSITORS AND APPELLEES.***G.R. No. L-14601. August 31, 1960*

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f814f2e31599/>**REYES, J.B.L., J.:**

On June 6, 1958, the Philippine National Bank filed a petition in the Cadastral Case No. 34 of the Court of First Instance of Negros Occidental, alleging that Lots Nos. 3107, 3109 and 3121 of the Cadastral Survey of San Carlos, Negros Occidental, were originally registered in the names of the late Jose de la Viña and his wife, Maria Española, under Original Certificates of Title Nos. 23883, 23881 and 23876, respectively; that Carlos Esteban, as judicial administrator of the estate of the late Jose de la Viña (Special Proceedings No. 6812 of the same court of first instance) and as attorney-in-fact of Maria Española, was, upon proper authority from the court, granted a loan of P300.00 by the petitioner, giving as security therefore, Lot 3109, which lien was duly registered with the office of the register of deeds and annotated at the back of Original Certificate of Title No. 23881 as entry No. 74616; that about two weeks later or on August 6, 1940, Maria Espanola, as co-owner of lots 3107 and 3121, and Carlos Esteban, acting in his same capacity as judicial administrator, jointly executed a real estate mortgage in favor of the petitioner for the amount of P1,200.00, which mortgage was approved by the probate court, registered with the office of the register of deeds, and annotated at the back of Original Certificates of Title Nos. 23883 and 23876; that as the original certificates of title covering the aforementioned lots kept in the files of the register of deeds were either lost or destroyed during the war, a petition for the reconstitution of the said titles was filed in court, as a consequence of which Original Certificates of Title Nos. 23883, 23881 and 23876 were cancelled and, in lieu thereof, RO-2253, RO-2255 and RO-1431 were issued by the register of deeds without mentioning, however, the subsisting mortgage liens in favor of the petitioner; and that on August 11, 1953, upon previous authority from the probate court, Emiliano de la Viña and Maria Española executed a deed of sale of the lots subject matter of this petition in favor of Juan Uriarte Zamacona, by virtue of which sale, RO-2253 and RO-2255 were cancelled and instead Transfer Certificates of Title Nos. 3107 and 3109, respectively, were issued in the name of the buyer. Claiming that its duplicates of Original Certificates of Title Nos. 3107, 3109 and 3121 considered lost or destroyed have been found and discovered, and relying on Section 18 of Republic Act No. 26, petitioner Philippine National Bank now prays that "an order be issued directing the Register of Deeds of Negros Occidental to enter in its records the liens in favor of the Philippine National Bank and to annotate the same on the new transfer certificates of title issued in the name of Juan Uriarte Zamacona or, in the alternative to cancel the reconstituted and transfer certificates of title Nos. 23883, 23881 and 23876."

The oppositors, Juan Uriarte Zamacona and the administrator of the estate of the deceased Jose de la Viña, moved for the dismissal of the petition on the grounds, among others, that (1) the reconstitution of the questioned certificates of title was made judicially, after due hearing and publication in the Official Gazette, wherein petitioner failed to file an opposition thereto; that (2) the lots covered in the said certificates of title were

purchased by Juan Uriarte Zamacona in good faith free from all liens and encumbrances, and the sale was ordered and approved by the probate court in Special Proceedings No. 6812 of the Court of First Instance of Negros Occidental; and that (3) in view of the controversial nature of the matters brought out by the petitioner, the case should have instead been instituted in an ordinary civil action before a court of general jurisdiction rather than in a mere petition before the cadastral court.

Finding merit in the opposition, the lower court dismissed the petition of the Philippine National Bank in its order of July 7, 1958. Not content with the foregoing order, and another order of the court, dated August 14, 1958, sustaining its previous order of dismissal and overruling a motion for reconsideration, the Philippine National Bank has appealed on questions of law.

The petitioner's case was properly filed with the Court of First Instance of Negros Occidental, in its capacity as a cadastral court (not as a court of general jurisdiction), since, pursuant to Section 22 of Republic Act No. 26[1] such petitions should be "filed and entitled in the land registration or cadastral case in which the decree¹ of registration was entered".

We find, however, that appellant's petition for reconstitution was correctly denied by the court. It appears that prior to the institution of these proceedings with the court below, there had already been a judicial reconstitution of the original certificates of title upon petition of the registered owner. Unlike in the extra judicial reconstitution of titles, wherein there is the statutory reservation that the new title "shall be without prejudice to any party whose right or interest in the property was duly noted in the original, at the time it was lost or destroyed" (Sec. 7, Republic Act No. 26), a judicially reconstituted title, by express provision of the statute (Sec. 10, *ibid*), "shall not be subject to the encumbrance referred to in section 7" of the Act. Evidently, the statute would not ordinarily allow the reconstitution of liens and other encumbrances not noted in the judicially reconstituted owner's certificate of title.

While it may be true that no notice was sent by registered mail to the petitioner bank when the judicial reconstitution of title was sought, such failure, however, did not amount to a jurisdictional defect.[1] The proceedings therein being in rem[2] the cadastral court acquired jurisdiction to hear and decide the petition for the reconstitution of the owner's title upon compliance with the required posting of notices and publication in the Official Gazette. Of course, under the provision of Article 1146 of the Civil Code[3] petitioner could have sought the avoidance of the order of the court for reconstitution of title on the ground of fraud had it filed the appropriate proceedings for the annulment thereof, within four years from the entry of the order for reconstitution, since the latter is, under section 51 of Act 496, a constructive notice to the whole world (cf. *Anacleto Mauricio vs. Maura Villanueva, et. al.*, G. R. No. L-11072, September 24, 1959). Here, it may be noted, the court order for the reconstitution of the original certificate of title is dated March 31, 1949.

Upon the other hand, Section 18 of Republic Act No. 26, providing that in case "a certificate of title considered lost or destroyed be found or recovered, the same shall prevail over the reconstituted certificate of title", could not, as correctly maintained by the appellees, refer to the mere mortgagee's duplicate certificate of title. In *Santiago Syjuco, Inc. vs. Philippine National Bank, et al.*, 86 Phil, 320; 47 Off. Gaz. Supp. No. 12, pp. 1, 8, this Court made the observation that—

"The phrase 'certificate of title, considered lost or destroyed, be found or recovered' cannot refer to transfer certificates of title Nos. 17175 and 17176, for the reason that these two certificates had never been recovered. Neither can the phrase refer to the owner's duplicate transfer certificate of title Nos. 391 (P.R.) and 399 (P.R.) in the custody of Santiago Syjuco, Inc., for the reason that, although these were recovered, they were the mere owner's duplicate certificate of title and not the original certificates of title which were lost or destroyed in the office of the register of deeds and contemplated by section 18, * * *." (*Italics supplied.*)

Appellant urges that the reconstituted title should be an exact replica of the one lost or destroyed; otherwise, it does not have any binding effect. We do not agree. Section 7 of Republic Act 26 provides that the "reconstituted certificates of title shall have the same validity and legal effect as the originals thereof"; and under Section 10 of the same Act, a judicially reconstituted title shall not be subject to the reservation prescribed by law for titles reconstituted extra-judicially, to the effect that the same "shall be without prejudice to any party whose right or interest in the property was duly noted in the original at the time it was lost or destroyed but entry or notation of which has not been made on the reconstituted certificate of title." It is true that in a number of cases,[1] we have held that the reconstitution of title should be limited to the reconstitution of the certificate as it stood at the time of its loss or destruction, but the limitation has particular reference only to changes which alter or affect the title of the registered owner; i.e., re-registration and issuance of title in another's name. As to mere liens and other encumbrances, however, the uncertainty which the law seeks to avoid as to them is sufficient reason to consider them as foreclosed if they do not appear in the reconstituted title issued after and upon proper reconstitution proceedings."

The foregoing results, naturally, do not materially prejudice the petitioner bank's right over the mortgage debt, if the same be not yet barred otherwise, since the prescriptive period thereof is entirely distinct from the period of limitation for purposes of annulling the judicial reconstitution of title previously obtained.

Wherefore, the appeal is dismissed, without special pronouncement as to costs.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.
Padilla, J., took no part.

[1] An Act Providing a Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed". [1] See Aguilar vs. Caoagdan, et al., 105 Phil., 661; 56 Off. Gaz. (28) 4546; Sepagan vs. Davillo, 63 Phil., 412.

[2] See comments on the Rules of Court, Moran, 1957, ed., Vol. I, pp. 9-10. [3] ART 1146. The following actions must be instituted within four years: "(2) Upon a quasi-delict". (Civil Code of the Philippines.)

[1] See Bachoco vs. Esparancilla, 105 Phil., 404; 56 Off. Gaz. (35) 5440; Zafra Vda. de Anciano vs. Caballes, 93 Phil., 875; 49 Off. Gaz. No. 10, 4317.

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.