

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS, SPOUSES FERNANDO DAYAO AND REMEDIOS NICODEMUS, RESPONDENTS.

G.R. No. 101690. August 23, 1995

Ponente: PUNO, J.

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PUNO, J.:

Petitioner seeks the reversal of the Decision of the Court of Appeals,[1] dated February 28, 1991, affirming the Order of the Regional Trial Court of Bulacan, Branch 16, dated October 9, 1989, granting the reconstitution of Transfer Certificate of Title (TCT) No. T-304198.[2]

The facts are undisputed.

On March 7, 1987, fire gutted the office of the Register of Deeds of Bulacan. On March 16, 1989, private respondents filed with the Regional Trial Court of Bulacan a Petition for Reconstitution of TCT No. T-304198, on the ground that its original was among the documents destroyed in the conflagration. The trial court set it for initial hearing through an Order which reads, as follows:

"WHEREFORE, finding the petition to be sufficient in form and substance, let the hearing of the petition be set on September 13, 1989 at 8:30 o'clock in the morning.

"Let a copy of this order be published twice in two (2) successive issues of the Official Gazette at the expense of the (private respondents), and that copies thereof be posted by the Deputy Sheriff of this Branch at the main entrance of the Provincial Capitol Building at Malolos and on the Municipal Hall of Malolos, Bulacan where the parcel of land covered by the subject title is situated for a period of thirty (30) days prior to the date of hearing.

"Finally, let copies of this order be also sent by registered mail to the Office of the Solicitor General, the National Land Titles and Deeds Registration Administration, the Bureau of Lands, the Provincial Fiscal, the Register of Deeds, and the boundary owners, in order that they may appear and show cause why the petition should not be granted."

During the hearing, private respondents submitted in evidence, among others, the following "Certification of Publication" issued by the Director of the National Printing Office:

"Order relative to LRC No. F-504-84 In Re: Petition for Judicial Reconstitution of the Burned/Destroyed Original Copy of Transfer Certificate of Title No. T-304198, SPS. FERNANDO DAYAO and REMEDIOS NICODEMUS, xxx was published in the Official Gazette, to wit:

VOLUME

NUMBER

PAGES

DATE OF ISSUE

85

24

June 12, 1989

25

June 19, 1989

"June 19, 1989 issue was released for publication on June 28, 1989."

They did not submit nor offer in evidence actual copies of the June 12, 1989 and June 19, 1989 issues of the Official Gazette.

On October 9, 1989, the trial court issued an Order granting private respondents' petition for reconstitution. The Order was affirmed by the Court of Appeals on February 28, 1991. It held:

"xxx xxx xxx

"According to the Republic, the certification of publication issued by the National Printing Office is not sufficient proof of publication, the best evidence being the presentation of the copies of the Official Gazette where the notice was included.

"We are not convinced. The certification clearly states that the notice was published in the June 12, 1989 and June 19, 1989 issues of the Official Gazette, the second notice being released for publication on June 28, 1989. Be it stressed that the official acts of public officers enjoy the presumption of regularity and this has not been overcome in this case.

"Besides, the Official Gazette is an official publication of the government and consequently, We can take judicial notice of its contents in accordance with Section 2, Rule 128 of the Rules of Court, as recently amended. Indeed, Our examination readily reveals that the first notice of hearing in this case appeared on page 3908 of Volume 85, No. 24 issue while the second notice appeared on page 4028 of Volume 85, No. 24 issue of the Official Gazette.

"As the last issue was released for publication on June 28, 1989, as stated in the certification of the National Printing Office, or three months prior to the hearing of September 13, 1989, the requirement of Republic Act No. 26 and Circular No. 35, which provide that the notice be published 'at least thirty days prior to the date of hearing,' was complied with.

"WHEREFORE, the order appealed from is AFFIRMED, without pronouncement as to costs.

"SO ORDERED.

The motion for reconsideration from the above Decision was denied in a Resolution, dated August 29, 1991.

Petitioner now puts forth a single reason for warranting review, viz., that "in affirming the Order of the Trial Court granting the petition for reconstitution in LRC No. P-504-89, public respondent Court of Appeals grievously disregarded: (a) the inadequate evidence submitted by private respondents; and the (b) explicit provisions of L.R.C. Circular No. 35, Series of 1983." [3]

We affirm the Decision.

Petitioner argues that "the trial court did not acquire jurisdiction over the petition for reconstitution of TCT No. T-304198"[4] because private respondents failed to prove actual publication of the trial court's Order setting the petition for initial hearing. Petitioner posits the view that "a mere certification of publication is utterly inadequate to comply with the jurisdictional requirement of publication xxx; (t)he best evidence to prove (the fact of publication) is the presentation of the actual copies of the Official Gazette xxx, duly marked and offered as evidence in Court." [5]

We are not persuaded.

Reconstitution of title under Republic Act (R. A.) No. 26 ("An Act Providing A Special Procedure For The Reconstitution Of Torrens Certificates Of Title Lost Or Destroyed") is an action in rem, which means it is one directed not only against particular persons, but against the thing itself.[6] Its object is to bar indifferently all who might be minded to make any objection against the right sought to be enforced, hence the judgment therein is binding theoretically upon the whole world.[7] The jurisdictional requirements of publication, posting and service of notice are provided in Section 13 of R. A. No. 26, as follows:

"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 known, at least thirty days prior to the date of hearing. xxx The petitioner shall, at the hearing, submit proof of the publication, posting and service of the notice as directed by the court."

They seek to provide constructive notice to the whole world of the in rem reconstitution proceedings. Their purpose is to apprise all interested parties of the existence of such action and to give them ample time to intervene in the proceeding.[8] They bring in the whole world as a party to the case and vest the court with jurisdiction to hear and decide it.[9]

Anent the publication requirement, R. A. No. 26 obligates the petitioner to prove to the trial court two things, namely that: (1) its Order giving due course to the petition for reconstitution and setting it for hearing was published twice, in two consecutive issues of the Official Gazette; and (2) such publication was made at least thirty days prior to the date of hearing. In the case at bench, private respondents were able to show both elements through the certification of the Director of the National Printing Office, a government official who enjoys the undisputed presumption of regularity in the performance of the functions of his office. We note that, on the other hand, mere submission of the subject Official Gazette issues would have evidenced only the first element.

Petitioner's reliance on the Best Evidence Rule is erroneous. What must be proved under Section 13, R. A. No. 26 is not the content of the Order published in the Official Gazette, but the fact of two-time publication in successive issues thereof at least thirty days before the hearing date.

This court has consistently accepted the probative value of certifications of the Director of the National Printing Office in reconstitution cases. We have, on two separate occasions, adjudicated cases with factual backgrounds similar to the one at bench. In *Register of Deeds of Malabon v. RTC, Malabon, MM, Br. 170*[10] and *Republic v. Court of Appeals*,[11] the parties seeking reconstitution did not submit copies of the Official Gazette in evidence, but merely relied on certifications comparable to the one at bench. In both cases, the granting of reconstitution by the trial court was reversed. But the reversals were not made on the basis of the failure to present the Official Gazette issues. They were, instead, both grounded on the fact -- as clearly evidenced by the National Printing Office Director's certification -- that the publications were made less than thirty days prior to the date of the

hearing. There is no reason for us to deviate from our earlier rulings and now require the submission of Official Gazette issues to satisfy the jurisdictional requirement in reconstitution cases.

Petitioner next argues that "private respondents failed to comply with Land Registration Commission (L.R.C.) Circular No. 35, Series of 1983,"[12] particularly Section 13 thereof which reads as follows:

"13. The Court, after considering the report of the Land Registration Commission and comments and findings of the Register of Deeds concerned, as well as the documentary and parole evidence presented by the petitioner, may take such action on the petition as it may deem proper."

Petitioner believes that "the report of the Administrator of the NALTDRA (now LRCA) and the comments and findings of the Register of Deeds are conditions sine qua non before a petition for reconstitution could be granted so as to forestall, if not eliminate, anomalous or irregular reconstitution of lost or destroyed certificates of title." [13] Thus, it argues, private respondents' failure to show compliance with these requirements is fatal to their petition for reconstitution.

We disagree.

It is true that L.R.C. Circular No. 35, Series of 1983 mandates the Land Registration Commission Administrator and the Register of Deeds concerned to submit their reports and recommendations regarding the petition for reconstitution to the court.[14] But, it attaches no concomitant obligation on the petitioner to show compliance by said officials. It would, thus, be illogical in the case at bench to require such showing by private respondents before their petition may be acted upon. More so, in light of the provisions of Section 15 of R. A. No. 26, thus:

"Sec. 15. If the court, after hearing, finds that the documents presented, as supported by parole evidence or otherwise, are sufficient and proper to warrant the reconstitution of the lost or destroyed certificate of title, and that the petitioner is the registered owner of the property or has an interest therein, that the said certificate of title was in force at the time it was lost or destroyed, and that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title, an order of reconstitution shall be issued. The clerk of court shall forward to the register of deeds a certified copy of said order and all the documents which, pursuant to said order, are to be used as the basis of the reconstitution. If the court finds that there is no sufficient evidence or basis to justify the reconstitution, the petition shall be dismissed, but such dismissal shall not preclude the right of the party or parties entitled thereto to file an application for confirmation of his or their title under the provisions of the Land Registration Act." (Italics supplied)

IN VIEW WHEREOF, the petition is DENIED for lack of merit. The Court of Appeals' Decision, dated February 28, 1991, as well as its Resolution, dated August 29, 1991, are AFFIRMED IN TOTO. No costs.

SO ORDERED.

Regalado, Mendoza, and Francisco, JJ., concur.
Narvasa, C.J., (Chairman), on leave.

[1] Through its Sixteenth Division, composed of Associate Justices Ricardo L. Pronove, Jr. (ponente and chairman), Nicolas P. Lapeña, Jr., and Fermin A. Martin, Jr.

[2] Also impugned is the August 29, 1991 Order of the Court of Appeals' Sixteenth Division, denying petitioner's Motion for Reconsideration from the impugned Decision.

[3] Petition for Review, p. 9; Rollo, p. 14.

[4] Ibid.

[5] Id., at pp. 11-12; Rollo, pp. 16-17.

[6] Black's Law Dictionary, 4th Edition, p. 900.

[7] F.D. REGALADO, 1 Remedial Law Compendium, p. 16 (1988).

[8] See *Republic v. Court of Appeals*, 218 SCRA 773 (1993).

[9] See *Register of Deeds of Malabon v. RTC of Malabon, MM, Br. 170*, 181 SCRA 788 (1990).

[10] Op. cit.

[11] Op. cit.

[12] Petition for Review, p. 19; Rollo, p. 24.

[13] Ibid., at p. 20; Rollo, p. 25.

[14] See Sections 7 and 13, L.R.C. Circular No. 35, Series of 1983, dated June 13, 1983.

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