

MANUEL SILVESTRE BERNARDO and the HEIRS OF JOSE P. BERNARDO namely, TELESFORA BERNARDO, ROBERTO BERNARDO, WILFRIDO BERNARDO, LUIS BERNARDO and MELCHOR BERNARDO, petitioners, vs....

G.R. No. 111715. June 08, 2000

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

These consolidated petitions for review on certiorari aim to reverse the August 19, 1993 Decision [1] of the Court of Appeals that disposed CA-G.R. SP No. 30815 as follows:

"WHEREFORE, the Order dated October 17, 1985 rendered by the Regional Trial Court of Pasig, Branch 165, in LRC Case No. N-138, reconstituting Transfer Certificate of Title No. 12658 is declared Null and Void for lack of jurisdiction and in violation of the basic requirements of due process. The reconstituted Transfer Certificate of Title No. 12658, in the name of Tomas Bernardo, issued by the Register of Deeds of Quezon City is likewise declared Null and Void.

A writ is, hereby, issued permanently prohibiting respondent Regional Trial Court of Quezon City, Branch 88, from further conducting proceedings in Civil Case No. 92-12645, except to dismiss the complaint, and receive evidence on the counter-claim of the herein petitioners.

SO ORDERED."

The instant controversy evolved from the following facts on record:

On July 16, 1985, Manuel Silvestre Bernardo, claiming to be the "legitimate son and only surviving heir" of Tomas Bernardo, filed with the Regional Trial Court of Pasig a verified petition for reconstitution [2] of Transfer Certificate of Title No. 12658 that the Register of Deeds of Rizal Province issued in the name of Tomas Bernardo. TCT No. 12658 allegedly covered an area of approximately three hundred thirty-four thousand five hundred eleven (334,511) square meters in "Quezon City (previously part of Rizal Province)" designated as Lot 802 of the Piedad Estate. Docketed as L.R.C. Case No. R-138, the petition alleged that the owner's copy of TCT No. 12658 was in petitioner Manuel Bernardo's custody, stored with other "old papers," but subsequent diligent search for it proved futile. When he verified from the Register of Deeds of Pasig, Rizal, petitioner Manuel Bernardo was allegedly told that the original copy of TCT No. 12658 had "likewise been lost/destroyed and (could) no longer be recovered." He had not "pledged nor delivered to any person or entity to secure any obligation or for any purpose whatsoever," the owner's copy of the title that was in his possession. Neither was there any "transaction or document relating thereto" that had been presented for or pending registration in the Register of Deeds office. Furthermore, TCT No. 12658 had not been "recalled, cancelled or revoked" and hence it was "in full force and effect." Petitioner Manuel Bernardo also alleged that since his deceased father died, he had "continuously exercised actual ownership and possession over the property embraced in and covered by said title." He asserted that the "technical descriptions, boundaries and area of the parcel of land" covered by TCT No. 12658 "are

substantially the same as those indicated in the official Technical Descriptions" attached to the petition and the officially approved survey plan that he would present at the hearing. He indicated therein the properties adjoining the property covered by TCT No. 12658 as follows:

"On the N., Lots 724 & 935 (Piedad Estate) owned/claimed by Far Eastern University, Manila; on the E., Lot 933 (Piedad Estate) owned/claimed by San Pedro Estate represented by Engracio San Pedro of 118 Kamias Road, Quezon City; on the S., Lot 706 (Piedad Estate) owned/claimed by San Pedro Estate, supra; and on the NW., Lot 705 (Piedad Estate) owned/claimed by Himlayang Pilipino, Quezon Blvd., Quezon City;"

On the strength of the certification allegedly issued by the Register of Deeds of Pasig, Rizal stating that the original copy of TCT No. 12658 was "on file and record under Reg. Book T-51" and that he could no longer locate the owner's copy of TCT No. 12658, petitioner Manuel Bernardo contended that reconstitution of the same certificate of title was "proper and necessary." Otherwise, he could not exercise his legitimate rights as owner of the property.

On August 8, 1985, the Pasig RTC [3] issued an Order setting the petition for hearing on October 3, 1985 and directing that its Order be posted at the bulletin board of the Halls of Justice in Pasig. It also directed that the same Order be published for three (3) consecutive weeks in the Filipino Times as well as in the Official Gazette, pursuant to Section 13 of Republic Act No. 26.[4]

At the hearing on October 3, 1985, the Pasig RTC found that petitioner Manuel Bernardo's mother, Perfecta Blas, predeceased his father, Tomas Bernardo, who thereafter married Constancia Cruz. Tomas' second marriage was without issue. Thus, when Tomas died in 1944, petitioner Manuel Bernardo became Tomas' sole heir to the property covered by TCT No. 12658. Petitioner Manuel Bernardo took possession of the property but when he wanted to exercise his proprietary rights thereon, diligent search in his aparador failed to yield the owner's copy of the title.

On October 17, 1985, the Pasig RTC granted the petition for reconstitution of title. In the Order[5]

5 it issued on that day, the court said:

"Petitioner's evidence, both oral and documentary, has likewise proved and established, to the satisfaction of the Court, that the corresponding survey plan and technical description of the property covered by TCT No. 12658, duly approved by the Bureau of Lands are still intact; that the property is fully cultivated, planted to fruit trees and a farm lot constructed thereon (Exhs. 'N', 'N-1', 'O', 'O-1'); that the requirements mentioned in the Order (Exhs. 'A' and 'A-1'), with respect to posting and publication have been duly complied with (Exhs. 'B', 'B-1', 'G', 'H', 'H-1' to 'H-4', 'I', 'I-1', 'F'). No encumbrance of whatever nature affect the realty covered by said title."

That Order having become final and executory, it was entered in the daybook of the Registry of Deeds on November 21, 1985, together with the certificate of finality.[6]

On December 12, 1985, the Acting Commissioner of Land Registration, through Ricardo F. Arandilla, filed a manifestation[7] before the Pasig RTC. It stated that the Order of October 17, 1985 was issued by that court before the Land Registration Commission could approve the plan and technical description of Lot No. 802 of the Piedad Estate "as required by Section 12 of Republic Act No. 26." The same manifestation stated that the Commission was not furnished with the documents[8] required by LRC Circular No. 35 dated June 11, 1983. It thus prayed that in the meantime that petitioner Manuel Bernardo had not yet submitted the required documents, implementation of the Order of October 17, 1985 should be held in abeyance.

Accordingly, on January 15, 1986, the Pasig RTC issued an Order requiring petitioner Manuel Bernardo to submit

to the Land Registration Commission the documents required by LRC Circular No. 35.[9] On January 23, 1986, the Acting Register of Deeds of Pasig forwarded to the Land Registration Commissioner the same documents required by LRC Circular No. 35 "in relation to our letter on consulta dated November 25, 1985." [10]

On January 31, 1986, Acting Commissioner Oscar R. Victoriano of the National Land Titles and Deeds Registration Administration (NLTDRA) issued a Resolution in LRC Consulta 1490 on account of the doubts that the Pasig Register of Deeds entertained on whether or not he should proceed with the registration of the Order of October 17, 1985. Said Register of Deeds had certified the records of the case to the NLTDRA with these observations:

"The parcel of land covered by TCT No. 12658 sought to be reconstituted is, according to the records, Lot 802 of the Piedad Estate, situated in Pasong Tamo, Quezon City with an area of 334,511 square meters.

Under the law, petitions for judicial reconstitution shall be filed with the proper Court of First Instance now Regional Trial Court (Sec. 2, Rep. Act No. 26). The question may be asked. Is it the Regional Trial Court in Pasig or the Regional Trial Court in Quezon City? The original copy of the title appears to have been lost in the Registry of Deeds of Rizal in Pasig, but the property covered by the title is situated in Quezon City.

With due respect to the Court Order issued by the Honorable Regional Trial Court, we elevated this matter en consulta to that Commission at our instance in view of our doubt as to whether we may proceed to register the subject Court Order and issue the corresponding transfer certificate of title although the land covered is located in Quezon City and not in Rizal. Is it the Register of Deeds of Rizal who should reconstitute?" [11]

Citing *Bacalso v. Ramolete* [12] and *Ella v. Salanga*, [13] Acting Commissioner Victoriano ruled that since Quezon City and Pasig belonged to the Regional Trial Court of the National Capital Judicial Region, either branch may take jurisdiction over the petition for reconstitution of title. Thus, the Pasig RTC had jurisdiction to issue the Order reconstituting the title in question. On the issue as to whether it is the Register of Deeds of Pasig or the Register of Deed of Quezon City who should register the Order of October 17, 1985, the Acting Commissioner held that pursuant to Section 51 of P.D. No. 1527, the Register of Deeds of Quezon City should perform that task. Accordingly, he ordered the transmittal of the necessary documents to the Register of Deeds of Quezon City. [14]

On June 4, 1986 the Pasig RTC ordered the issuance of a writ of execution to implement the Order of October 17, 1985. [15] The following day, the acting clerk of court and ex-officio sheriff of Pasig accordingly issued the writ of execution [16] that was served on the Register of Deeds of Pasig on January 26, 1987. [17]

It appears that the Register of Deeds of Rizal and Ricardo F. Arandilla, the Chief of the Clerks of Court of the Land Registration Commission (LRC), refused to execute the Order of October 17, 1985. Thus, petitioner Manuel Bernardo filed a petition to cite them in indirect contempt of court. In his answer to that petition, Arandilla admitted that said Order was elevated to the LRC "by way of consulta" but that the documents required by LRC Circular No. 35 were submitted to the LRC not in virtue of that consulta but in compliance with said circular. Arandilla alleged that he could not have submitted the required documents while these were "pending examination and verification by the Commission" especially because "the findings of the Chief, Department of Registration, show that said plan and technical description submitted by petitioner overlaps other properties." On account of that finding, the Chief of the Department of Registration advised the Bureau of Lands thereof and requested that verification be made on the overlapping parcels of land. However, since the Bureau of Lands had not replied to the request, it would be improper for Arandilla to forward the documents to the Register of Deeds. [18]

Thereafter, with his report dated August 20, 1987, [19] Administrator Teodoro G. Bonifacio of the NLTDRA submitted to the Pasig RTC the plan in tracing cloth and two (2) print copies of Lot 802, Piedad Estate, and their

corresponding technical descriptions on account of the following findings:

"(3) Upon plotting of the technical description of Lot 802, Piedad Estate, on the municipal index sheets of this Office, the same was found to overlap Lot 935-C, Psd-8994, covered by Transfer Certificate of Title No. 148176 issued in the name of Freeman Incorporated. This finding is contained in the 1st Indorsement dated August 18, 1987[20] of the Chief, Department on Registration, this Administration, x x x.

(4) The extent of overlapping between Lot 802, Piedad Estate, and Lot 935-C, Psd-8994, is graphically shown in Sketch Plan No. SK-86-053 where Lot 802 is drawn in black lines while Lot 935-C is reflected in red lines. x x x."

Nonetheless, it appears that at 1:05 p.m. on January 4, 1988, TCT No. 12658 in the name of Tomas Bernardo was entered in the Registry of Deeds of Quezon City.[21] Annotated at the back of the title are the following inscriptions:

"MEMO. This Certificate of title was issued pursuant to the Order (P.E.-1453/T-12658) dtd. Oct. 17, 1985, issued by the Court (RTC) Br. CLXV (165), Pasig, Metro Manila, LRC No. R-138 Manuel Silvestre Bernardo, (Heir of deceased Tomas Bernardo), Petitioner, and by virtue of the resolution promulgated in LRC Consulta No. 1490 dated January 31, 1986.

Quezon City, January 4, 1987(sic)

SAMUEL C. CLEOFE
Register of Deeds"[22]

On July 3, 1992, armed with the reconstituted title, petitioner Manuel Bernardo and the Heirs of Jose P. Bernardo filed before the Quezon City RTC, Civil Case No. Q-92-12645, a complaint for annulment of certificates of title. Named defendants therein are persons and entities that petitioner Manuel Bernardo had found to be in possession of certificates of title over property within that covered by his reconstituted title. They are the following: Heirs of Burgos Pangilinan, Embassy Terraces Homes Condominium, Araneta Institute of Agriculture, Inc. and/or Bonifacio Subdivision, National Electrification Administration, A & E Industrial Corporation, Paulino G. Pe and Milestone Development Corporation. Except for Araneta Institute of Agriculture, Inc. (AIAI), these defendants filed their respective answers to the complaint. AIAI filed a motion to dismiss the complaint on these grounds: (a) plaintiffs' lack of legal capacity to institute the action; (b) lack of cause of action, and (c) plaintiff's cause of action, if any, had been waived, abandoned or otherwise extinguished on the grounds of estoppel and laches.[23]

Thereafter, the plaintiffs (hereafter the Bernardos) amended their complaint to implead as defendants the heirs of Dr. Victoria D. Santos. The amended complaint[24] alleged further that Manuel Bernardo and his brother Jose, had been in possession of the property in question since their father died intestate on November 29, 1944 but it was Manuel who was in possession of the certificate of ownership of the property. After Jose's death on March 17, 1961, his heirs "assisted" Manuel in "the possession of the said parcel of land." In 1979, Manuel searched his locker for the certificate of title that he needed for the relocation of the property but despite exercise of due diligence, his efforts proved futile. He thus went to the Register of Deeds in Pasig, only to find out that the original certificate of title was also missing.

The amended complaint stated that in 1982, Manuel sought the help of Attys. Julian F. Salcedo, Roberto Nolasco and Antonio Gonzales in the reconstitution of TCT No. 12658, the relocation of the "actual boundaries" of the land, and the settlement of the estate of Tomas. Because said lawyers failed to render to him the desired professional services, Manuel retained only Atty. Antonio Gonzales and hired Atty. Benjamin Tango. These lawyers were able to secure these documents: (a) certificate of sale; (b) certified plan of Lot 802, Piedad Estate "as prepared for Tomas Bernardo," and (c) technical description of the property. They then filed the petition for

reconstitution of title and, having obtained a reconstituted title, Manuel resumed his "researches on the plan of the adjoining or boundary owners in order to effect the relocation survey" with the help of a surveyor. The "researches" allegedly proved that "substantial portions if not all of the 33.4511 hectares have been landgrabbed or overlapped."

Attys. Juan Salcedo and Roberto Nolasco's filing of Civil Case No. Q-90-5784, a complaint for specific performance against them, allegedly hampered the Bernardos' research efforts. Attys. Salcedo and Nolasco wanted that eighteen (18) hectares of the land in question be sold to them. The Bernardos thus contracted the services of another counsel and continued their "researches and verifications" x x x "for the purpose of determining the exact boundaries of their said land." Such researches unveiled "dubious and intricate manipulations and juggling of lot numbers through subdivisions to hide the landgrabbing." The complaint particularized these acts as follows:

"(a) The supposed first subdivision plan of Lot 802 x x x shows the designations of numbers 933, 934 and 935 to the subdivided lots which are the lot numbers of the adjoining parcels of land of the said parcel (Lot 802 Piedad Estate) of the plaintiffs; hence, the location and identity of those lots are different from the location or identity of said Lot 802 of Piedad Estate of the plaintiffs;

(b) The said subdivision plan x x x bears the signature of then Director Jorge B. Vargas of the Director of Lands which is different from the signature of Director Vargas affixed in the Certificate of Sale x x x and from the signature of the same official affixed on proximate dates in those assignment of Sale Certificates x x x; hence, the signature in the said Subdivision Plan x x x is obviously falsified;

(c) To give semblance of authenticity to said subdivision plan x x x the name of deceased Tomas Bernardo was made to appear as the owner of Lot 933 therein;

(d) The subsequent subdivision plans, x x x; show clearly the scheme to suppress the original genuine Lot Number 802 of the land of the plaintiffs to avoid identifications in violation of laws, rules and regulations;"

The amended complaint thus alleged that the defendants' certificates of title were null and void as these "originated from a non-existent and falsified subdivision plan x x x and from spurious subdivision plans x x x and their predecessors-in-interest had not been purchasers or assignees of certificate of sale from the Piedad Estate (or) any portion of said Lot 802 of the Piedad Estate thru the Bureau of Lands." Charging that the defendants knew the defects in their titles, the Bernardos averred that defendants could not have been holders of certificates of title in good faith.

The Bernardos prayed for the issuance of a temporary restraining order "to observe the status quo and, after due notice and hearing, a writ of preliminary injunction should be issued by the court to enjoin the defendants from subdividing, developing and selling any portion of Lot 802 "or the parcel of land supposedly designated as Lot Nos. 802-A; 933; 934 and 935 Piedad Estate." They also prayed that the Subdivision Plan of Lot 902 Piedad Estate prepared for "Potenciano Guevarra; Antera Guevarra; Tomas Bernardo and Cornelio Pangilinan" be declared as null and void ab initio, that defendants be declared as not buyers in good faith, and their respective titles nullified. However, if the land covered by defendants' certificates of title could no longer be recovered, the Bernardos prayed that the defendants should be ordered "to pay for the market value of the portions of said Lot 802 plus the interest at the legal rate computed from the date of the sale until full payment of the amount due the plaintiffs." They prayed further for damages of P700,000.00, exemplary damages of P100,000.00 and attorney's fees of P500,000.00.

Thereafter, Anita S. Lim, Benjamin A. Tango and Antonio C. Gonzales, filed a motion for intervention[25] alleging that they were co-owners of the land in question. In their complaint in intervention,[26] they alleged that

as the "only son and surviving legal heir" of Tomas Bernardo, Manuel Bernardo inherited the entire parcel of land covered by TCT No. 12658 through an affidavit of self-adjudication executed on March 21, 1989. Manuel later conveyed to them the following undivided portions thereof: (a) 10,000 square meters to Anita S. Lim in consideration of the amount of P180,000.00;^[27] (b) 90,000 square meters to Atty. Antonio C. Gonzales as "contingent fee" for legal services rendered;^[28] and (c) 90,511 square meters to Atty. Benjamin A. Tango for his "financial assistance and x x x invaluable personal services in solving (Manuel's) problems over said tract of land."^[29] After these conveyances were made, Manuel and the intervenors entrusted the owner's copy of TCT No. 12658 to Tango and appointed him as their representative in "initiating and following up the administrative reconstitution of the Register of Deeds' Office copy of the title which has been previously destroyed by fire." They thus intervened as "legitimate co-owners" of the property entitled to resist "the illegal encroachments and usurpation(s)" therein, thus joining the plaintiffs' prayer for a declaration of nullity of the subdivision plan and the Torrens titles issued to defendants. They prayed further that defendants should be made to vacate the property and to relinquish the same in favor of Manuel and themselves, and that they should be paid attorney's fees and actual damages.

In its motion to dismiss,^[30] defendant AIAI averred that the Bernardos had no legal capacity to institute the action. It alleged that since the photocopy of TCT No. 12658 attached to the complaint was questionable as it did not have a back page and was not certified as a true copy, the filing of the complaint was premature. Moreover, since the action was for annulment of certificate of title, the proper remedy would have been an action for reversion that only the Solicitor General could file.

In alleging that the complainant did not have a cause of action, defendant AIAI contended that the Pasig RTC gave due course to the petition for reconstitution of title even without the "usual Land Registration Authority (formerly LRC) Report to pass upon the authenticity of the claim and alleged title of the plaintiffs." Defendant AIAI stated that its properties are all inside the area claimed by plaintiffs and that OCT No. 614 from whence Tomas Bernardo derived his alleged title, was the same original certificate of title from where the title of AIAI emanated. Hence, unless the plaintiffs could show a certified true copy of their title or a confirmation of their title from the Land Registration Authority, plaintiffs had no right to invoke under their alleged title.

Defendant AIAI asserted that the plaintiffs' cause of action, if any, had been waived, abandoned or otherwise extinguished on the ground of estoppel and laches. Because AIAI's title was registered under the Torrens system of land registration, it could not be defeated by "adverse, open and notorious possession." Even if the action would be considered as one to recover the property, the same had prescribed "as to titles registered 10 years prior to the filing of this suit."

For its part, defendant Embassy Terrace Homes Condominium Corporation (ETHCC) filed an answer to the amended complaint^[31] alleging absolute ownership of the parcel of land covered by TCT No. (360285) T-19080 that was within the area covered by TCT No. 12658. It alleged that the same area covered by TCT No. 12658 was already under the private ownership of more than a hundred persons who had titles either jointly or individually and that, by reason thereof, the Pasig RTC had no jurisdiction over the action for reconstitution of title. Moreover, that court had no jurisdiction over such action because the actual occupants of the land as well as the adjoining owners of land had not been notified of the hearing thereon as required by Section 13 of Rep. Act No. 26. A verification of the records in fact showed the following jurisdictional defects: (a) the petition omitted to state the names and addresses of actual occupants with their respective titles; (b) while a few adjoining owners were mentioned with their addresses, there was no record that they were notified of the hearing on the petition, and (c) Land Registration Circular No. 35 dated June 12, 1983 was circumvented. Furthermore, despite the numerous annexes to the petition for reconstitution, a "Deed of Conveyance" executed by the Director of Lands evidencing

that a certificate of title had been issued as provided in Sec. 122 of the Land Registration Act, was not attached. Hence, defendant ETHCC prayed for the dismissal of the complaint, a declaration of nullity of the Bernardos' title, and an award of damages in the amount of P700,000.00.

Defendant ETHCC then filed a motion for a preliminary hearing on the grounds for the motion to dismiss averred in its answer to the complaint.[32]

In their answer to the complaint,[33] the heirs of Dr. Victoria Santos, echoed defendant ETHCC's allegation that the land covered by TCT No. 12658 was already occupied and titled in the names of hundreds of persons like them. They asserted that TCT No. 44838 in their name evidenced ownership of a parcel of land allegedly encompassed by TCT No. 12658. They added that the certificate of sale relied upon by the Bernardos in their petition for reconstitution of title was in fact "an agreement to sell conferring no right whatsoever to plaintiffs' predecessor-in-interest, until and after the conditions therein contained are complied with, established and proved." They claimed that Lot 802 of the Piedad Estate had been subdivided under Subdivision Plan Psd 2118 into four parcels: (a) Lot 802-A to Lot 802-New (51,036 square meters - Cornelio Pangilinan); (b) Lot 802-B to Lot 933 (50,001 square meters - Tomas Bernardo); (c) Lot 802-C to Lot 934 (79,592 square meters - Potenciana Guevarra), and (d) Lot 802-D to Lot 935 (153,882 square meters - Antera Guevarra).

On November 13, 1992, the Quezon City RTC[34] issued an Order denying the motion to dismiss filed by defendant AIAI. It considered as grounds for such denial the following: (a) the plaintiffs had alleged a cause of action against defendants who had "transgressed" the former's title over the property in question, and (b) laches, much less prescription, does not lie against a registered land.[35]

On January 13, 1993, the same court also denied for lack of merit the motions of defendant ETHCC and Milestone Development Corporation for a preliminary hearing. It held that the reason for the prayer for dismissal of the action, i.e., prescription and laches, did "not appear to be indubitable" and therefore these could be determined at the trial of the case.[36]

Consequently, on April 27, 1993, all the defendants in Civil Case No. Q-92-12645 filed a special civil action of certiorari and prohibition before the Court of Appeals, naming as public respondents both the Quezon City and the Pasig RTC, and as private respondents, the Bernardos and the intervenors. Docketed as CA-G.R. No. SP-30815, the petition[37] alleged that it was only when the defendants were summoned in Civil Case No. Q-92-12645 that they learned of the reconstitution of TCT No. 12658 before the Pasig RTC. As such, petitioner Manuel Bernardo's failure to name in the petition and to notify the actual occupants of the land and the owners of the lots adjoining the area covered by the title to be reconstituted was a jurisdictional defect that nullified the proceedings. Petitioner Manuel Bernardo also failed to comply with the requirements of Section 142 of Republic Act No. 26 and LRC Circulars Nos. 35 and 364 and therefore, as the records showed that the Register of Deeds of Pasig sought consultation with his higher-ups, the proceedings before the Pasig RTC was so highly irregular that even the Order directing the issuance of a writ of execution commanded the Register of Deeds of Rizal to register the property that was located in Quezon City.

The petition noted that the certificate of loss of the original copy of TCT No. 12658 issued by the Pasig Register of Deeds to buttress the petition for reconstitution did not even mention the material particulars of the property that the title covered. The filing of the petition for reconstitution with the Pasig RTC forty (40) years after the war when the certificate of title would have been transferred to the Register of Deeds in Quezon City, was a "credible admission" on the part of Manuel Bernardo that the property was actually located in Pasig. Moreover, there was no record in the Assessor's Office in Quezon City that a tax declaration was ever issued in the name of Tomas Bernardo or his heirs. It was only after he filed Civil Case No. Q-92-12645 that Manuel Bernardo applied for a tax

declaration but defendants AIAI and ETHCC, as regular taxpayers, opposed such application.

The petition alleged further that per the technical description of Lot 802 (Piedad Estate), the original survey was conducted from July 1 to December 14, 1907. The Director of Lands approved the subdivision survey thereon under Psd 2118 on June 21, 1927 upon the application of Potenciana Guevarra. The survey that was conducted from December 5, 1925 to October 8, 1927 by private land surveyor Emilio P. Gutierrez subdivided Lot No. 802 into four: Lots 802-A, 802-B, 802-C and 802-D which respectively became Lots 802-New, 933, 934 and 935. Culled from the records of the Bureau of Lands, these facts indubitably showed that the certificate of sale in favor of Tomas Bernardo that was executed on July 25, 1927 was fake and non-existent. That the certificate of sale could not have covered the entire Lot 802 was borne by the fact that Lot 934 was the subject of a final deed of conveyance, Deed No. 22246 dated February 13, 1931, in favor of Francisco Gaerlan, although that parcel of land was claimed by Antera Guevarra in Subdivision Survey Map Psd 2118.

As regards the denial by the lower court of defendant AIAI's motion to dismiss, the petition before the Court of Appeals claimed that a consideration of the proceedings leading to the reconstitution of TCT No. 12658 would lead the Court of Appeals to the inevitable conclusion that indeed such title was null and void and hence, the Bernardos had no cause of action to file Civil Case No. Q-92-12654. However, to shorten proceedings, the lower court should not have made an outright denial of their motion for preliminary hearing on the grounds alleged in the motion to dismiss. Furthermore, the Bernardos' action was barred by laches as against defendants-petitioners "who have paid taxes, introduced visible, expensive and permanent infrastructures and buildings" and whose titles have been perfected by the Bernardos' long inaction.

On May 4, 1993, the Court of Appeals directed the issuance of a temporary restraining order enjoining Quezon City RTC Branch 88 "from further conducting any proceedings in Civil Case No. Q-92-12645." [38]

In their comment on the petition, intervenors Anita S. Lim, Benjamin A. Tango and Antonio C. Gonzales averred that since LRC Case No. R-138 had long become final and executory, the matter of reconstitution of title was already *res judicata*. Furthermore, the question in Civil Case No. Q-92-12645 of which of the contending parties had the better title over some portions of the property covered by TCT No. 12658, was properly within the jurisdiction of the Quezon City RTC, not the Court of Appeals. [39]

Defending the propriety of their petition for certiorari and prohibition, petitioners AIAI, et al. contended in their reply to said intervenors' comment that the Order for the reconstitution of TCT No. 12658 having been issued without jurisdiction for lack of notice to proper parties, *res judicata* did not attach. They asserted that the Bernardos' having annexed to their complaint in Civil Case No. 92-12645 copies of defendants' titles was a clear recognition of the latter's ownership of the property covered by their respective titles. They added that the denial of their motion to dismiss by the Quezon City RTC in a way validated the Bernardos' reconstituted title and hence, they were constrained to file the special civil action of certiorari and prohibition. [40]

The Bernardos asserted the validity of the reconstitution of TCT No. 12658 in their comment on the petition. [41] They assailed the merger in the petition of what amounted to a complaint for annulment of the Order of reconstitution of title and a petition to prohibit further proceedings in Civil Case No. Q-92-12645. They questioned the genuineness of the petitioners' titles specifically that of A & E Industrial Corporation which derived its title from Freeman Inc., allegedly the owner of Lot 935-B that was actually located in Manila.

In the reply [42] to that comment, petitioners AIAI, et al. defended the propriety of the special civil action they had filed, contending that an order of a court such as that granting reconstitution of title, if rendered without jurisdiction, may be assailed at any time in any proceeding. It added the information that Milestone Development Corporation had filed a petition before the Pasig RTC to nullify the Order of October 17, 1985 for lack of

jurisdiction and for violation of the basic requirements of due process but such petition had been denied on May 26, 1993. Asserting the validity of its title, petitioner AIAI assailed the Bernardos' "unkind accusation" against Doña Josefa Edralin vda. de Marcos who had title and possession of a portion of the property involved as early as 1952.

On August 19, 1993, the Court of Appeals rendered the herein questioned Decision. After receiving a copy of that Decision, the Bernardos filed with this Court G.R. No. 111715, a petition for review on certiorari. Meanwhile, the intervenors filed a motion for the reconsideration of that Decision. After the denial of that motion on September 24, 1993, the same intervenors filed with this Court their own petition for review on certiorari under G.R. No. 112876. On March 7, 1994, the Court ordered the consolidation of the two cases.[43]

In G.R. No. 111715, the Bernardos presented the following arguments in support of their petition:

I

THE RESPONDENT COURT OF APPEALS GRAVELY ERRED TO HAVE RENDERED THE QUESTIONED DECISION ON THE ACTION TO ANNUL UNDER SECTION 9, PARAGRAPH 2, BATAS PAMBANSA BLG. 129 THE FINAL ORDER OF RECONSTITUTION RENDERED IN LRC CASE NO. R-139, BY THE REGIONAL TRIAL COURT, PASIG, METRO MANILA BRANCH 165 AND THE SPECIAL CIVIL ACTION OF CERTIORARI AND PROHIBITION UNDER RULE 65 OF THE RULES OF COURT TO DECLARE NULL AND VOID THE QUESTIONED ORDERS DENYING THE MOTION TO DISMISS AND DENYING THE MOTION FOR PRELIMINARY HEARING ON THE AFFIRMATIVE DEFENSES ISSUED BY THE REGIONAL TRIAL COURT, BRANCH 88, QUEZON CITY ON THE WRONG ASSUMPTION THAT THE ISSUE OF VALIDITY OF THE RECONSTITUTED TCT NO. 12658 AS WELL AS THE VALIDITY OF THE RECONSTITUTION THEREOF POSES A PREJUDICIAL QUESTION TO THE ISSUE OF OWNERSHIP PENDING BEFORE BRANCH 88 REGIONAL TRIAL COURT, QUEZON CITY;

II

THE COURT OF APPEALS ALSO AWFULLY ERRED FOR NOT BEING CONVERSANT WITH THE RULINGS OF THIS HONORABLE COURT ON THE EFFICACY OF THE CERTIFICATE OF SALE EXECUTED BY THE BUREAU OF LANDS UNDER THE FRIAR LANDS ACT OR PUBLIC ACT NO. 1120; CONSEQUENTLY, THEY WERE MISTAKEN TO HAVE ADOPTED AND QUOTED FROM THE PETITION OF PRIVATE RESPONDENTS THE WRONG CITATION OF THE RULING IN DELA CRUZ VS. DELA CRUZ, 130 SCRA 666;

III

IN BOTH ACTIONS AS MERGED IN ONE PETITION THE RESPONDENT COURT OF APPEALS WITH GRAVE ABUSE OF DISCRETION GATHERED AND COLLECTED FACTS FROM THE BARE ALLEGATIONS AND THE ANNEXES THEREOF WHICH ARE STILL CONTROVERTED AND NEITHER ESTABLISHED NOR ADMITTED BY THE PETITIONERS; AND

IV

THUS, THE RESPONDENT COURT OF APPEALS BASING ON THEIR UNSUPPORTED FINDINGS ERRED FURTHER IN DEPRIVING COMPLETELY THE PETITIONERS OF THEIR DAY-IN-COURT; WHEN THEY RULED THAT THE COMPLAINT IN CIVIL CASE NO. 1-92-12645 (sic) STATES NO CAUSE OF ACTION; AND IN ARBITRARILY AND CAPRICIOUSLY AND WITH IGNOMINY HAS ORDERED THE RECEPTION OF THE EVIDENCE ON THE COUNTERCLAIMS OF PRIVATE RESPONDENTS.

In G.R. No. 112876, the intervenors below allege that the following "questions of law" are involved in their petition for review on certiorari:

1. Does the petition for certiorari, etc., (Annex E hereof), filed in CA-G.R. SP No. 30815 by herein private respondents, constitute a violation of:
 - a. Supreme Court Circular No. 28-91 date(d) September 3, 1991, prohibiting forum-shopping?
 - b. Section 2, Rule 41, Revised Rules of Court?
 - c. Section 4, Rule 16, Revised Rules of Court?
2. In rendering the questioned decision and resolution (Annex A and Annex B hereof), did herein respondent Honorable Court of Appeals transgress:
 - a. Supreme Court Circular No. 28-91 aforementioned?
 - b. Section 2, Rule 41, Revised Rules of Court?
 - c. Section 4, Rule 16, Revised Rules of Court?
 - d. Section 8, Rule 65, Revised Rules of Court?
 - e. Section 5, Executive Order No. 33 dated July 28, 1986 (published in O.G. August 4, 1986), amending the second paragraph of Section 9 of the Judiciary Reorganization Act of 1980 as amended?
 - f. "Due process of law?"

A preliminary issue that needs resolution in these consolidated cases is whether or not, under the Rules of Court, the Court of Appeals may entertain and render a decision on a special civil action of certiorari and prohibition with a two-pronged purpose: (a) annulment of an Order reconstituting a title, and (b) questioning the denial of a motion to dismiss a complaint for nullification of titles covering lots that overlap the area covered by the reconstituted title.

The Court of Appeals took jurisdiction over the petition, specifically as regards the prayer for the annulment of the Order reconstituting TCT No. 12658, pursuant to Section 9 of B.P. Blg. 129 that vests it with "exclusive appellate jurisdiction over all final decisions and orders of regional trial courts, except those falling within the appellate jurisdiction of the Supreme Court in accordance with, among others, the Constitution and Republic Act No. 296." The Court of Appeals may thus resolve petitions for the annulment of final orders rendered by a court without jurisdiction "at any time and in any proceeding by a party whom it is sought to be enforced." It gave due course to the petition for certiorari notwithstanding the pendency of a motion for reconsideration of the denial by the lower court of the motion to dismiss filed by AIAI, because a "considerable delay" in the lower court's resolution could leave the petitioners "without any plain, speedy, and adequate remedy in the ordinary course of law." Reasoning that "immediate resolution of the petition would prevent grave or irreparable injury to the petitioners if their cause be meritorious," the Court of Appeals held:

"We, therefore, uphold the propriety of the merging of the two causes of action in the same petition for the reason that the issue of the validity of TCT No. 12658 in the name of Tomas Bernardo as well as the validity of the reconstitution thereof poses a prejudicial question to the issue before the Regional Trial Court of Quezon City. As a matter of fact, We have decided to resolve the whole controversy once and for all, considering that all the facts surrounding the case are now before Us, and so as to prevent needless delay in the disposition of this case." (Italics supplied.)

Petitioners in G.R. No. 111715 assert that the Court of Appeals improperly "merged or joined" the action to annul the final Order of reconstitution of title under its "original and exclusive jurisdiction," and the petition for certiorari and prohibition questioning the denial of the motion to dismiss which is under its "original concurrent

jurisdiction." They aver that such "merger" of issues in a special civil action is improper.

The issue that the Court of Appeals has to address in any petition for certiorari or prohibition under Rule 65 of the Rules of Court is limited to error of jurisdiction or grave abuse of discretion amounting to lack of jurisdiction. In the particular petition before it, the Court of Appeals had to resolve the issue of whether or not it could give due course to the petition for certiorari and prohibition that also prayed for annulment of judgment.[44] We find that even as they prayed for annulment of the Order granting reconstitution of title, private respondents invoked jurisdictional issues arising from the failure of the Bernardos to comply with requirements in a petition for reconstitution of title. Hence, even if the object of the petition was for annulment of the judgment of the Pasig RTC, still, the question of jurisdiction was involved.

As regards the private respondents' prayer for the reversal of the denial of their motion to dismiss, the general rule is that the denial of a motion to dismiss is interlocutory and hence, it cannot be questioned in a special civil action of certiorari. Neither can a denial of a motion to dismiss be subject of an appeal unless and until a final judgment or order is rendered. However, that rule is not absolute. An exception is when the Regional Trial Court committed grave abuse of discretion equivalent to lack or excess of jurisdiction in denying the motion to dismiss.[45] As we shall show later, the main thrust of the petition was to question the trial court's jurisdiction in denying the motion to dismiss.

The "merger" of the two causes of action is thus justified. Since the controversy revolves around a land title dispute, the pertinent laws thereon must be considered in determining the procedural aspect of the case. Under the law, once a decree of registration is issued under the Torrens system and the one-year period from the issuance of the decree of registration has lapsed without said decree being controverted by any adverse party, the title becomes perfect and cannot later on be questioned.[46] The Bernardos' complaint was aimed at nullifying private respondents' respective titles; the existence of such titles was therefore a determinative factor as far as the matter of jurisdiction was concerned. Hence, the Bernardos' allegation that the properties covered by said titles overlapped that covered by TCT No. 12658 created an indubitable nexus between the reconstituted title and the titles of private respondents.

However, we cannot subscribe to the Court of Appeals' pronouncement that the validity of TCT No. 12658 and the proceedings for its reconstitution is a "prejudicial question" to the validity of private respondents' titles to the same land. The phrase "prejudicial question" has a definite meaning in law. It "comes into play generally in a situation where a civil action and a criminal action are both pending and there exists in the former an issue which must be preemptively resolved before the criminal action may proceed, because howsoever the issue raised in the civil action is resolved would be determinative juris et de jure of the guilt or innocence of the accused in the criminal case." [47] As used by the Court of Appeals, the phrase "prejudicial question" may only be understood as meaning that the validity of the reconstituted title is determinative of the success of the complaint for annulment of the titles of private respondent.

Viewed from that light, there is a "unity in the problem presented and a common question of law and fact involved" [48] between the prayer for annulment of the judgment reconstituting TCT No. 12658 and that questioning the denial of the motion to dismiss the complaint for the annulment of titles of parcels of land allegedly already covered by TCT No. 12658. The joinder of the two causes of action is mandated by the need to avoid multiplicity of suits and to promote an efficient administration of justice. In this regard, the Court once said:

"While joinder of causes of action is largely left to the option of a party litigant, Section 5, Rule 2 of our present Rules allows causes of action to be joined in one complaint conditioned upon the following requisites: (a) it will not violate the rules on jurisdiction, venue and joinder of parties; and (b) the causes of action arise out of the same contract, transaction or relation between the parties, or are for demands for money or are of the

same nature and character.

The objectives of the rule or provision are to avoid a multiplicity of suits where the same parties and subject matter are to be dealt with by effecting in one action a complete determination of all matters in controversy and litigation between the parties involving one subject matter, and to expedite the disposition of litigation at minimum cost. The provision should be construed so as to avoid such multiplicity, where possible, without prejudice to the rights of the litigants. Being of a remedial nature, the provision should be liberally construed, to the end that related controversies between the same parties may be adjudicated at one time; and it should be made effectual as far as practicable, with the end in view of promoting the efficient administration of justice.

The statutory intent behind the provisions on joinder of causes of action is to encourage joinder of actions which could reasonably be said to involve kindred rights and wrongs, although the courts have not succeeded in giving a standard definition of the terms used or in developing a rule of universal application. The dominant idea is to permit joinder of causes of action, legal or equitable, where there is some substantial unity between them. While the rule allows a plaintiff to join as many separate claims as he may have, there should nevertheless be some unity in the problem presented and a common question of law and fact involved, subject always to the restriction thereon regarding jurisdiction, venue and joinder of parties. Unlimited joinder is not authorized."^[49]

It is undisputed that the Court of Appeals has jurisdiction over an action for the annulment of a judgment of a Regional Trial Court. Section 9(2) of B.P. Blg. 129 (The Judiciary Reorganization Act of 1980) explicitly provides that the Court of Appeals (formerly the Intermediate Appellate Court), has "(e)xclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts." The rule on joinder of parties is not violated by the institution of the action for annulment of judgment as the Bernardos themselves were the petitioners in that action. The causes of action in the action for annulment of judgment and the special civil action questioning the denial of the motion to dismiss arose out of the relation between the parties - both are holders of certificates of title that pertain to the same parcel of land.

Hence, contrary to the Bernardos' contention, the Court of Appeals correctly entertained the petition filed before it by the private respondents. That the Court of Appeals is vested with original and exclusive jurisdiction over actions for annulment of judgment and with original but concurrent jurisdiction over a special civil action of certiorari and prohibition is immaterial. What is material is that the issues jointly raised before the Court of Appeals pertain to the jurisdiction of the Pasig and Quezon City RTCs respectively, over the reconstitution proceedings and the denial of the motion to dismiss Civil Case No. Q-92-12645. As this Court has always stressed, the Rules of Court must be liberally construed^[50]

50 in the administration of justice. The propriety of the Court of Appeals' action on each of the two (2) issues raised before it shall now be discussed.

The Court of Appeals annulled the judgment in LRC Case No. N-138, principally on the ground of "lack of jurisdiction of the court over the necessary parties" and for being "in violation of the basic requirements of due process." It held that said court could not have exercised jurisdiction over the petition for reconstitution of title because it failed to observe the requirement in Section 13 of Republic Act No. 26 that actual occupants of the property must be notified of the proceedings. The Bernardos failed to notify private respondents who are actual occupants of the land involved as, by the allegations in paragraph 10 of the petition for reconstitution, they served notice of the reconstitution proceedings only upon the owners of the lots adjoining the area covered by TCT No. 12658, i.e., Far Eastern University, San Pedro Estate and Himlayang Pilipino. The Court of Appeals ruled further that "the pieces of evidence relied upon by the Pasig RTC in granting reconstitution, i.e., a certification of loss of TCT No. 12658, technical description of Lot 802 by the Bureau of Lands, and certificate of sale of Lot No. 802 by the Director of Lands, do not meet the requirements of the law."

Rule 38 of the Rules of Court provides that a final and executory judgment may be set aside through a petition for relief from judgment within the period prescribed therefor. However, even beyond the period prescribed by Section 3 of Rule 38,[51] a party aggrieved by a judgment may petition for its annulment on two (2) grounds: (a) that the judgment is void for want of jurisdiction or lack of due process of law; or (b) that it has been obtained by fraud.[52] The nullity of a judgment based on lack of jurisdiction may be shown not only by what patently appears on the face of such decision but also by documentary and testimonial evidence found in the records of the case and upon which such judgment is based.[53] We find that the record of this case sufficiently warrants a ruling on the jurisdiction of the Pasig RTC over LRC Case N-138.

In order that a court may acquire jurisdiction over a petition for reconstitution of title, the following provisions of Republic Act No. 26 must be observed:

"SEC. 12. Petitions for reconstitution from sources enumerated in sections 2(c), 2(d), 2(e), 2(f), 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 any 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 had 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 of 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 Chief of the General Land Registration Office (now Commission of Land Registration), or with a certified copy of the description taken from a prior certificate of title covering the same property.

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. Said notice shall state, among other things, the number of the lost or destroyed certificate of title, if known, the name of the registered owner, the names of the occupants or persons in possession of the property, the owners of the adjoining properties and all other interested parties, the location, area and boundaries of the property, and the date on which all persons having any interest therein must appear and file their claim or objections to the petition. The petitioner shall, at the hearing, submit proof of the publication, posting and service of the notice as directed by the court." (Underlining supplied.)

The requirements of these provisions of law must be complied with before the court can act on the petition and grant to the petitioner the reconstitution of title prayed for.[54] The requirement of notice by publication is thus a jurisdictional requirement and noncompliance therewith is fatal to the petition for reconstitution of title.[55] However, notwithstanding compliance with that requirement, actual notice to the occupants of the property is still mandatory. Thus:

"Notice of hearing of the petition for reconstitution of title must be served on the actual possessors of the

property. Notice thereof by publication is insufficient. Jurisprudence is to the effect settled that in petitions for reconstitution of titles, actual owners and possessors of the land involved must be duly served with actual and personal notice of the petition." [56]

The indispensability of notice to actual possessors of the subject property was underscored in *Manila Railroad Co. v. Hon. Moya*. [57] In that case, the Court held that failure to serve notice on a possessor of the property involved renders the order of reconstitution null and void as said possessor is deprived of his day in court. As such, the court upon which the petition for reconstitution of title is filed is duty-bound to examine thoroughly the petition for reconstitution of title, and to review the record and the legal provisions laying down the germane jurisdictional requirements. [58] It appears that the Pasig RTC failed to comply with this judicial obligation.

The petition for reconstitution of title [59] does not contain the "names and addresses of the occupants or persons in possession of the property" as required by Section 12 of Republic Act No. 26. Aside from allegations pertinent to the Bernardos' claims, all that the petition contains is a description of its boundaries with the names and addresses of the following owners of properties "adjoining the parcel of land embraced in and covered by the subject" TCT No. 12658: (a) Far Eastern University, Manila; (b) Engracio San Pedro of the San Pedro Estate, 118 Kamias Road, Quezon City, and (c) Himlayang Pilipino, Quezon Blvd., Quezon City. No mention whatsoever was made as to actual occupants of the property.

Moreover, the Bernardos do not dispute private respondents' assertion that they were not served with notice of the reconstitution proceedings. The veracity of that claim is bolstered by their filing of the action for annulment of private respondents' title, alleging that only after TCT No. 12658 had been reconstituted did they institute "researches" that showed who the actual possessors of the property were. Only after they had found out that the property was occupied by and titled to private respondents did they institute Civil Case No. Q-92-12645.

Nonetheless, the nullity of the reconstitution proceedings and the resulting reconstituted title does not warrant the dismissal of Civil Case No. Q-92-12645. Without denigrating the titles of private respondents that have become indefeasible over time, proceedings before the Quezon City RTC should continue on account of an allegation on record that needs verification lest the integrity of the Torrens system of land registration be sullied.

Private respondents ETHCC and the heirs of Dr. Victoria Santos both mention Subdivision Plan Psd 2118 that allegedly divided Lot 802 into four parts with one part thereof in the name of Tomas Bernardo. The Bernardos and the intervenors assail the genuineness of that subdivision plan from which private respondents trace their rights over their titled property. That material fact, which is beyond the ambit of this Court's jurisdiction to consider, requires threshing out in the proceedings below in the interest of justice and equity. It should be pointed out in this regard that the nullity of the reconstitution proceedings in the Pasig RTC did not necessarily divest the Bernardos of proprietary rights over the property. The Torrens system of land registration does not create or vest title; it has never been recognized as a mode of acquiring ownership. [60] Reconstitution of title is simply the reissuance of a new duplicate certificate of title allegedly lost or destroyed in its original form and condition. [61] As this Court said in *Strait Times, Inc. v. Court of Appeals*:

"x x x. (Reconstitution of title) does not pass upon the ownership of the land covered by the lost or destroyed title. Possession of a lost certificate of title is not necessarily equivalent to ownership of the land covered by it. The certificate of title, by itself, does not vest ownership; it is merely an evidence of title over a particular property." [62]

The Court of Appeals obviously missed out on this point. In reversing the trial court's order denying the motion to dismiss Civil Case No. Q-92-12645, the Court of Appeals held that the nullification of the reconstituted title of the Bernardos left them with no cause of action as it was "foreclosed by the indefeasibility of petitioners' authentic

titles." In light of the aforesaid allegation in some of private respondents' pleadings, this ruling should be overturned. While the grounds for the motion to dismiss thus appeared to have some bases considering that private respondents are titled occupants of the property involved, subsequent revelations such as their admission that a portion of Lot 802 as subdivided pertained to Tomas Bernardo, mandate the continuation of the proceedings. The interest of proper administration of justice therefore demands that the writ of prohibition issued by the Court of Appeals be set aside.

Civil Case No. Q-92-12645 should be considered as one of quieting of title which can proceed notwithstanding the nullity of the reconstitution proceedings before the Pasig RTC. Even if the reconstitution proceedings had not been instituted, the Bernardos are not precluded from establishing by other evidence, such as the certificate of sale^[63] allegedly issued to Tomas Bernardo, the requisite proof of validity of TCT No. 12658.^[64]

We thus do not see any need to discuss further the allegations and contentions on procedural matters of the petitioners in G.R. No. 112876. Suffice it to state that private respondents were not guilty of forum-shopping, which is prohibited by Circular No. 28-91, when they filed the petition for certiorari and prohibition with the Court of Appeals. The established rule is that for forum-shopping to exist, both actions must involve the same transactions, same essential facts and circumstances, and must raise identical causes of action, subject matter and issues.^[65] In filing the special civil action of certiorari and prohibition, private respondents simply raised the issue of jurisdiction of the lower courts in the actions they took cognizance of.

WHEREFORE, the Decision of the Court of Appeals is **AFFIRMED** as far as it declares the nullity of the proceedings in L.R.C. No. 138 as well as the reconstituted TCT No. 12658. The same Decision is **REVERSED** and **SET ASIDE** as far as it prohibits the continuation of proceedings in Civil Case No. Q-92-12645. The Regional Trial Court of Quezon City is directed to proceed with dispatch in the resolution of Civil Case No. A-92-12645 with the purpose of quieting the various titles involved in the case.

SO ORDERED.

Melo, (Chairman), Panganiban and Purisima, JJ., concur.

Vitug, J., abroad, on official business.

[1] Penned by Associate Justice Corona Ibay-Somera and concurred in by Associate Justices Arturo B. Buena and Luis L. Victor.

[2] Rollo of G.R. No. 112876, pp. 236-240.

[3] Presided by Judge Milagros V. Caguioa.

[4] Rollo of G.R. No. 112876, pp. 241-244.

[5] Ibid., pp. 267-269.

[6] Ibid., p. 67.

[7] Ibid., p. 245.

[8] These are: (a) a signed copy of the petition for reconstitution; (b) a signed copy of the certification of the Register of Deeds concerned that the original copy of the certificate of title on file in the Registry was either lost or destroyed; (c) the original and two duplicate copies of the technical description of the parcel of land covered by the lost certificate of title duly certified by the authorized officer of the Bureau of Lands; and (d) the plan in

tracing cloth, with two print copies thereof, prepared by a duly licensed Geodetic Engineer who shall certify thereon that he prepared the same on the basis of a duly certified technical description.

[9] Rollo of G.R. No. 112876, p. 246.

[10] Ibid., p. 247.

[11] Ibid., pp. 67-68.

[12] L-22488, October 26, 1967, 21 SCRA 519.

[13] L-23826, September 28, 1970, 35 SCRA 86.

[14] Rollo of G.R. No. 112876, pp. 67-72.

[15] Rollo of G.R. No. 112876, p. 248.

[16] Ibid., p. 249.

[17] Ibid., pp. 250 & 251.

[18] Ibid., p. 253.

[19] Ibid., p. 259.

[20] Ibid., p. 260.

[21] Rollo of CA-G.R. SP No. 30815, p. 179.

[22] Ibid., back of p. 180.

[23] Rollo of G.R. No. 111715, p. 4.

[24] Ibid., pp. 58-69.

[25] Rollo of G.R. No. 112876, p. 152.

[26] Ibid., p. 155.

[27] Ibid., p. 163.

[28] Ibid., p. 164.

[29] Ibid., p. 165.

[30] Ibid., p. 166.

[31] Ibid., p. 196.

[32] Ibid., p. 211.

[33] Ibid., p. 229.

[34] Presided by Judge Tirso D'C Velasco.

[35] Rollo of G.R. No. 112876, p. 234.

[36] Ibid., p. 235.

[37] Ibid., p. 73.

- [38] Rollo of CA-G.R. SP No. 30815, p. 201.
- [39] Ibid., p. 214-215.
- [40] Ibid., pp. 219-231.
- [41] Ibid., pp. 239-263.
- [42] Ibid., pp. 297-313.
- [43] Rollo of G.R. No. 112876, p. 389.
- [44] Islamic Da'Wah Council of the Phils. v. Court of Appeals, G.R. No. 80892, September 29, 1989, 178 SCRA 178, 183.
- [45] Casil v. Court of Appeals, G.R. No. 121534, January 28, 1998, 285 SCRA 264, 271-274.
- [46] Cagayan de Oro City Landless Residents Association, Inc. (COCLAI) v. Court of Appeals, 324 Phil. 466, 479 (1996) citing Pamintuan v. San Agustin, 43 Phil. 558 (1922); Reyes and Nadres v. Borbon and Director of Lands, 50 Phil. 791 (1927).
- [47] Carlos v. Court of Appeals, 335 Phil. 490, 498-499 (1997).
- [48] Republic v. Hernandez, 323 Phil. 606, 626 (1996).
- [49] Ibid., pp. 625-626.
- [50] Casil v. Court of Appeals, supra, at p. 280.
- [51] A petition for relief from judgment may be filed "within sixty (60) days after the petitioner learns of the judgment, order or other proceeding to be set aside, and not more than six (6) months after such judgment or order was entered, or such proceeding was taken."
- [52] Lapulapu Development & Housing Corporation v. Judge Risos, 330 Phil. 231, 240 (1996); Ramirez v. Court of Appeals, G.R. No. 76366, July 3, 1990, 187 SCRA 153, 161.
- [53] Arcelona v. Court of Appeals, 345 Phil. 250, 275 (1997).
- [54] Dordas v. Court of Appeals, 337 Phil. 59, 66-67 (1997) citing Director of Lands v. Court of Appeals, 190 Phil. 311 (1981).
- [55] Republic v. Court of Appeals, G.R. No. 127969, June 25, 1999 citing Republic v. Court of Appeals, 317 Phil. 653 (1995) and Allama v. Republic, G.R. No. 88226, February 26, 1992, 206 SCRA 600.
- [56] Dordas v. Court of Appeals, supra at p. 67 citing Alabang Development Corporation v. Judge Valenzuela, G.R. No. 54094, August 30, 1982, 116 SCRA 261, 277 and Serra Serra v. Court of Appeals, G.R. No. 34080, March 22, 1991, 195 SCRA 482.
- [57] 121 Phil. 1122, 1127 (1965) cited in Ortigas & Company Limited Partnership v. Velasco, G.R. No. 109645, July 25, 1994, 234 SCRA 455, 484.
- [58] Ortigas & Co. Ltd. Partnership v. Judge Velasco, 343 Phil. 115, 125 (1997).
- [59] Rollo of G.R. No. 112876, pp. 236-240.
- [60] Heirs of Teodoro de la Cruz v. Court of Appeals, G.R. No. 117384, October 21, 1998, 298 SCRA 172, 180.

[61] *Stilianopulos v. City of Legazpi*, G.R. No. 133913, October 12, 1999 citing *Rivera v. Court of Appeals*, 314 Phil. 57, 64 (1995).

[62] G.R. No. 126673, August 28, 1998, 294 SCRA 714, 726.

[63] In *Solid State Multi-Products Corporation v. Court of Appeals* (G.R. No. 83383, May 6, 1991, 196 SCRA 630, 639-640), the Court said: "The conveyance executed in favor of a buyer or purchaser, or the so-called certificate of sale, is a conveyance of the ownership of the property, subject only to the resolutive condition that the sale may be cancelled if the price agreed upon is not paid for in full. The purchaser becomes the owner upon the issuance of the certificate of sale in his favor subject only to the cancellation thereof in case the price agreed upon is not paid (*Pugeda vs. Trias*, No. L-16925, March 31, 1962, 4 SCRA 849)."

[64] *Margolles v. Court of Appeals*, G.R. No. 109490, February 14, 1994, 230 SCRA 97, 110-111.

[65] *Valencia v. Court of Appeals*, 331 Phil. 590, 604 (1996).

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