

**NEW DURAWOOD CO., INC., PETITIONER, VS. COURT OF APPEALS,
HON. FELIX S. CABALLES, AS JUDGE, RTC OF ANTIPOLO, RIZAL,
BRANCH 71, WILSON M. GAW, ORLANDO S. BONGAT, DURAWOOD
CONSTRU...**

G.R. No. 111732. February 20, 1996

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-111732/>

PANGANIBAN, J.:

The main issue here is: does a court have jurisdiction to issue a new owner's duplicate of a Torrens certificate of title if it is shown that the existing owner's copy has not, in fact and in truth, been lost or destroyed? The Court resolved this issue in the negative in this petition for review under Rule 45 of the Rules of Court, of the Decision[1] of the Court of Appeals[2] promulgated on May 31, 1993 and the subsequent Resolution denying the motion for reconsideration. The said Rulings dismissed the petition in CA-G.R. SP No. 25434 and in effect affirmed the "order"[3] of the Regional Trial Court, Branch LXXI, Antipolo, Rizal⁴ dated April 16, 1991 in LRC Case No. 9 1-924, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered:

(a) Declaring the owner's duplicate copy of Transfer Certificates of Title Nos. 140486, 156454 and 140485 which were lost, null and void and of no further force and effect and in lieu thereof.

(b) Hereby orders and directs that new copy of the said titles be issued to the petitioner giving them the same faith and credit and carrying over the same terms and conditions appearing on the originals thereof, upon payment of the required fees.

"SO ORDERED."

By Resolution of the First Division dated November 15, 1995, this case along with several others was transferred to the Third Division. After due consultation and deliberation, the Court assigned the undersigned ponente to write this Decision.

The Facts

On February 14, 1990, a "Petition for Judicial Reconstitution of the Lost Owner's Duplicate Certificates of TCT Nos. 140486; 156454 and 140485"[5]. was filed in the Regional Trial Court, Branch LXXI, Antipolo, Rizal by petitioner-corporation, "represented by its Branch Manager, Wilson M. Gaw x x x." Attached to said petition was an "Affidavit of Loss" dated December 31, 1990[6] of respondent Orlando S. Bongat, one of the stockholders of petitioner-corporation.

Finding the petition "to be sufficient in form and in substance," respondent Judge set the case for hearing on March 18, 1991. On April 16, 1991, respondent Judge issued the questioned order.

Sometime in May, 1991, petitioner discovered that the original TCT Nos. N-140485, N-140486 and 156454 on

file with the Register of Deeds of Rizal had been cancelled and, in lieu thereof, TCT Nos. 200100, 200101 and 200102 had been issued in the name of respondent Durawood Construction and Lumber Supply, Inc. Surprised by this cancellation, petitioner - after investigation - found out about the reconstitution proceeding in the respondent trial court. So, on July 17, 1991, petitioner filed suit[7] in the Court of Appeals docketed as CA-G.R. 25434 praying for the annulment of the assailed order in LRC Case No. 91-924 penned by respondent Judge. It also prayed for the cancellation of the new certificates (TCT Nos. 200100, 200101 and 200102). On May 31, 1993, the respondent Court of Appeals rendered the assailed Decision and on August 30, 1993, the Resolution denying the motion for reconsideration. Hence, the present recourse to the Supreme Court.

The Issues

Petitioner brought up the following ground as basis for its petition:

"The Court of Appeals gravely abused its authority in not declaring the order of respondent Judge Caballes in LRC Case No. 91-924 null and void for want of jurisdiction and in not declaring that the reconstitution of the owner's duplicate transfer certificates of title Nos. N-140486, N-140485 and 156454 was obtained through fraud."

Petitioner argues that a reconstitution proceeding is one in rem and thus jurisdiction can be acquired only through publication and notice sent pursuant to Section 13, Republic Act No. 26. It also alleges that fraud is manifest (1) from the insufficient allegations of the petition filed before the trial court, as it (the petition) does not mention the names of adjoining land owners and interested persons, as well as (2) from the affidavit of loss attached to the petition.

In their Comment, private respondents aver that in 1990, these three lots were sold by petitioner to Durawood Construction and Lumber Supply, Inc. but the sale in their favor could not be registered because "the certificates of title x x x were lost." They also allege that the applicable law is Section 109 of R.A. No. 496, as amended by P.D. 1529, and not Sec. 13 of R.A. No. 26, and that fraud, in order to serve as basis for the annulment of judgment "must be extrinsic or collateral in character," which is not the case in the action before the court a quo. They also fault "(t)he deliberate failure of Dy Quim Pong (petitioner's board chairman) and his family, who constitute the majority of the stockholders and directors of (herein petitioner-corporation), to disclose the whereabouts (of) there (sic) son, the President and General Manager Francis Dytiongsee x x x" who allegedly executed the deed of sale of the lots and who allegedly claimed that the owner's copies of the TCTs were lost.

In its Reply, petitioner contends that "the very procedure provided under Sec. 109, P.D. 1529, which they (private respondents) insist is the applicable provision of law in the matter, was not strictly followed x x x." It also argues that the owner's duplicate copies of the TCTs were all along in the custody of Dy Quim Pong, whom private respondents should have sued to compel him to surrender the same in order that the alleged deed of sale in favor of private respondent could be registered.

Finally, petitioner claims that respondent Wilson Gaw had no authority to institute the petition for reconstitution in the trial court because "(t)he Court of Appeals itself, in its questioned resolution stated that said board resolution (authorizing Gaw) was passed without the required quorum."

From the foregoing, the issues may be summed up as follows:

- (1) Which law governs the issuance of new owner's duplicate certificates of title in lieu of lost ones?
- (2) Did the respondent trial court have jurisdiction to order the issuance of the new owner's duplicate certificates?
- (3) Was the reconstitution of the said owner's duplicate certificates of title obtained through fraud?

The First Issue:
Law Governing Issuance of
Lost Owner's Duplicate Titles

To resolve this issue, it is necessary to reexamine the following provisions referred to by the parties:

(1) Section 13, Republic Act No. 26:[8]

"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 provincial building and of the municipal building of the municipality or city in which the land is situated, 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."

(2) Section 109, P.D. 1529 (amending R.A. 496):

"Sec. 109. Notice and replacement of lost duplicate certificate. - In case of loss or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or destroyed, or cannot be produced by a person applying for the entry of a new certificate to him or for the registration of any instrument, a sworn statement of the fact of such loss or destruction may be filed by the registered owner or other person in interest and registered.

"Upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all purposes of this decree."

A reading of both provisions clearly shows that Section 109 of P.D. 1529 is the law applicable in petitions for issuance of new owner's duplicate certificates of title which are lost or stolen or destroyed. On the other hand, R.A. 26 applies only in cases of reconstitution of lost or destroyed original certificates on file with the Register of Deeds. This is expressly provided for under Section 110 of P.D. 1529 as follows:

"Sec. 110. Reconstitution of lost or destroyed original of Torrens title. - Original copies of certificates of title lost or destroyed in the offices of Registers of Deeds as well as liens and encumbrances affecting the lands covered by such titles shall be reconstituted judicially in accordance with the procedure prescribed in Republic Act No. 26 insofar as not inconsistent with this Decree. The procedure relative to administrative reconstitution of lost or destroyed certificate prescribed in said Act may be availed of only in case of substantial loss or destruction of land titles due to fire, flood or other force majeure as determined by the Administrator of the Land Registration Authority: Provided, That the number of certificates of titles lost or damaged should be at least ten percent (10%) of the total number in the possession of the Office of the Register of Deeds: Provided, further, That in no case shall the number of certificates of titles lost or damaged be less than five hundred (500).

"Notice of all hearings of the petition for judicial reconstitution shall be furnished by the Register of Deeds of the place where the land is situated and to the Administrator of the Land Registration Authority. No order or judgment ordering the reconstitution of a certificate of title shall become final until the lapse of fifteen (15)

days from receipt by the Register of Deeds and by the Administrator of the Land Registration Authority of a notice of such order or judgment without any appeal having been filed by any such officials." (As amended by R.A. 6732; italics supplied)

The Second Issue: Jurisdiction

In *Demetriou vs. Court of Appeals, et al.*,^[9] this Court ruled:

"In *Serra Serra v. Court Appeals* (195 SCRA 482 [1991]), on facts analogous to those involved in this case, this Court already held that if a certificate of title has not been lost but is in fact in the possession of another person, the reconstituted title is void and the court rendering the decision has not acquired jurisdiction. Consequently the decision may be attacked any time."

In the instant case, the owner's duplicate certificates of title were in the possession of Dy Quim Pong, the petitioner's chairman of the board and whose family controls the petitioner-corporation. Since said certificates were not in fact "lost or destroyed," there was no necessity for the petition filed in the trial court for the "Issuance of New Owner's Duplicate Certificates of Title x x x." In fact, the said court never acquired jurisdiction to order the issuance of new certificates. Hence, the newly issued duplicates are themselves null and void.

It is obvious that this lapse happened because private respondents and respondent judge failed to follow the procedure set forth in P.D. No. 1529 which, as already stated, governs the issuance of new owner's duplicate certificates of title.

Section 109 of said law provides, inter alia, that "due notice under oath" of the loss or theft of the owner's duplicate "shall be sent by the owner or by someone in his behalf to the Register of Deeds x x x" (italics supplied). In this case, while an affidavit of loss was attached to the petition in the lower court, no such notice was sent to the Register of Deeds.

Private respondents tried to convince the Court that by their failure to locate Francis Dytiongsee, they had no other recourse but to file a petition for reconstitution. Sec. 107 of P.D. 1529, however, states that the remedy, in case of the refusal or failure of the holder - in this case, the petitioner - to surrender the owner's duplicate certificate of title, is a "petition in court to compel surrender of the same to the Register of Deeds," and not a petition for reconstitution.

The Third Issue: Fraud

The respondent Court of Appeals, in its own words, "confine(d) its discussion"^[10] in the assailed Decision only to the ground of fraud. It ruled that the RTC's decision could be annulled only where extrinsic or collateral fraud is shown - that is, when the fraudulent acts prevented a party "from exhibiting fully his side of the case x x x." Hence, petitioner could not claim extrinsic fraud inasmuch as it was duly represented by Gaw in the reconstitution proceeding.

The appellate court explained that while there may not have been a quorum during the board meeting of petitioner-corporation on May 10, 1984 when a resolution authorizing Gaw to sue on its behalf was allegedly passed, this did "not mean however, that New Durawood Co., Inc. cannot be bound by Gaw's action" because "no howl of protest, complaint or denial came from (said corporation)," and that said corporation in fact had taken advantage of the benefits therefrom. Hence, petitioner is estopped from questioning Gaw's acts. The appellate Court was of the belief that petitioner-corporation ratified Gaw's "authority" by acquiescence to his acts. The respondent Court thus concluded that petitioner-corporation's "claim of being a victim of extrinsic fraud is baseless."

We are appalled by this rather novel interpretation of corporate law. It is clear that, there having been no quorum present during the meeting in question, the board of directors could not have validly given Gaw any express authority to file the petition. Upon the other hand, the doctrine of "apparent authority" cannot apply as to Gaw because, being a mere branch manager, he could not be looked upon as a corporate officer clothed with the implied or "apparent" power to file suit for and in behalf of a corporation.[11] Neither will estoppel prevent the corporation from questioning Gaw's acts. Precisely, these acts were hidden from the company and its top officers. How then can estoppel attach?[12]

Suffice it to say then, that by his surreptitious filing of the petition for reconstitution without authority - express or implied - of his employer, Gaw enabled respondent corporation to acquire the certificates of title in a manner contrary to law.

In petitions for issuance of new owner's duplicate copies of Torrens titles, it is essential - as provided under Sec. 109 of P.D. 1529 as amended (supra) - that the trial court take steps to assure itself that the petitioner is the "registered owner or other person in interest." Otherwise, new owner's duplicate certificates might be issued in favor of impostors who could fraudulently dispose, hypothecate or otherwise deal in and with real estate in mockery of the Torrens system of titling properties.

Be that as it may, in the case before us, whether Gaw was authorized to file the suit or not is of little significance in finally resolving this case. Jurisdiction is and remains the main issue. Since we already concluded earlier that the trial court did not have jurisdiction, necessarily its judgment must fall.

WHEREFORE, the petition is GRANTED; the assailed decision SET ASIDE and REVERSED; the proceedings in LRC Case No. 91-924 ANNULLED; and the order issued therein dated April 15, 1991 as well as the reconstituted Transfer Certificates of Title issued pursuant thereto, namely, TCT Nos. 200100, 200101 and 200102 in the name of private respondent declared NULL and VOID. Costs against private respondents.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Rollo, pp. 49-54.

[2] Special Third Division, composed of J. Quirino D. Abad Santos, Jr., ponente J. Vicente V. Mendoza, chairman, and J. Consuelo Ynares-Santiago, member.

[3] Rollo, pp. 67-69.

[4] Judge Felix S. Caballes presiding.

[5] Rollo, pp. 57-62.

[6] Rollo, pp. 63-65.

[7] Rollo, pp. 70-88.

[8] R.A. No. 26 is entitled "An Act Providing a Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed."

[9] 238 SCRA 158, at 162 (November 14, 1994).

[10] Decision, p. 4; Rollo, p. 52.

[11] "Persons who are neither stockholders nor officers in a corporation cannot assume to act as officers thereof or

to institute legal proceedings in the name of the corporation" (19 C. J.S. Sec. 999. p. 463.). "xxx where one is entrusted with the management of a particular branch of a corporation's business, his authority does not extend beyond such contracts and acts as are incident to the management of that particular branch, and the apparent scope of an agent's authority is necessarily limited by the usage and practice obtaining in the conduct of the particular line of business in which he is employed." (19 C.J.S. Sec. 996, pp. 458-459.)

[12] See *Maneclang vs. Baun*, 208 SCRA 179, at p. 192 (April 22, 1992), where this Court held:

"x x x In estoppel by pais, as related to the party sought to be estopped, it is necessary that there be a concurrence of the following requisites: (a) conduct amounting to false representation or concealment of material facts or at least calculated to convey the impression that the facts are otherwise than, and inconsistent with, those which the party subsequently attempts to assert; (b) intent, or at least expectation, that this conduct shall be acted upon, or at least influenced by the other party; and (c) knowledge, actual or constructive, of the actual facts. In estoppel by conduct, on the other hand, (a) there must have been a representation or concealment of material facts; (b) the representation must have been with knowledge of the facts ; (c) the party to whom it was made must have been ignorant of the truth of the matter; and (d) it must have been made with the intention that the other party would act upon it." (italics supplied)

See also *Cruz vs. Court of Appeals and Fure Foods Corp.*, 201 SCRA 495 (September 11, 1991).

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.