

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. MAXIMO I. PLANES, REPRESENTED BY ATTORNEY-IN-FACT JOSE R. PEREZ, RESPONDENT.

G.R. No. 130433. April 17, 2002

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Trial courts should exercise extreme caution in granting petitions for reconstitution of land titles, lest they become unwitting accomplices in the reconstitution of questionable titles, instead of being instruments in promoting the stability of our system of land registration. Strict compliance with the jurisdictional requirements of the law in the reconstitution of a title is vital, especially when the title sought to be reconstituted covers an area of more than 2,000,000 square meters, as in the present case.

At bar is a petition for review filed by the Republic of the Philippines (Republic) assailing the (a) Resolution dated May 14, 1997[1] of the Court of Appeals in CA-G.R. CV No. 45112[2] dismissing petitioner's appeal on the ground that it was filed out of time; and the (b) Resolution dated July 31, 1997[3] denying the latter's motion for reconsideration.

The facts are:

On February 11, 1992, respondent Maximo I. Planes, represented by his Attorney-In-Fact, Jose R. Perez, filed with the Regional Trial Court (RTC), Branch 23, Trece Martires City, a verified petition for reconstitution[4] of the Original Certificate of Title (OCT) No. 219 of the Registry of Deeds, Province of Cavite, containing an area of 2,073,481 square meters.[5] The petition, docketed as GLRO Rec. No. 11867, alleges -

"1. That petitioner is of legal age, married, Filipino, with residence and postal address at Diamond Towers, 1201 Masangkay Street, Binondo Manila;

"2. That petitioner is one of the heir(s) of Carlos Planes, the registered owner of a parcel of land covered by Original Certificate of Title No. 219 of the Registry of Deeds for the Province of Cavite, a xerox copy of the original certificate of title is hereto attached as Annex "A";

"3. That the original copy of said O.C.T. No. 219 was destroyed or lost when the Provincial Capitol Building of Cavite was razed by fire on June 7, 1959, as per certification from the Register of Deeds hereto attached as Annex "B";

"4. That at the time of loss or destruction of the original of said O.C.T. No. 219 and up to the present, there has (been) no pending transaction or document concerning the land covered by said title;

"WHEREFORE, it is most respectfully prayed before this Honorable Court that judgment be rendered in favor of the petitioner, after due notice, publication and hearing, ordering the Register of Deeds for the Province of Cavite to reconstitute the original of said Original Certificate of Title No. 219 in the name of Carlos Planes based on the owner's duplicate certificate thereof."[6] (Emphasis supplied)

On the same date, the RTC issued a notice[7] setting the hearing of the petition on July 20, 1992, at 8:30 o'clock in the morning, and directing that any person interested in the petition should appear and show cause why the same should not be granted. It further directed that copies of the notice be furnished the Solicitor General, the Land Registration Authority (LRA), the Provincial Prosecutor and the Register of Deeds of Cavite.

However, the Solicitor General, the LRA, the Register of Deeds and the Director of Lands did not receive copies of the notice.

On February 17, 1992, Atty. Jose R. Bawalan, Clerk of Court of the same RTC, issued a Certificate of Posting[8] certifying that on said date, he "caused the posting of the notice of hearing of the petition in three (3) conspicuous places in Carmona, Cavite and at the bulletin board of the Provincial Capitol, Trece Martires City."

On August 26, 1992, the RTC issued another notice setting the hearing of the petition on October 30, 1992 at 8:30 o'clock in the morning and directing that copies of the notice be published in the Official Gazette twice and be posted in three (3) conspicuous places in Carmona, Cavite where the property is located. A copy of this notice was not received by the Solicitor General.[9]

Meantime, on September 17, 1992, the Solicitor General filed his "Notice of Appearance"[10] as counsel for the REPUBLIC.

The notice of August 26, 1992 setting the hearing of the case on October 30, 1992 was published twice in the Official Gazette - on October 19 and October 26, 1992.[11] We note, however, that this notice of hearing is not found in the records of this case.

When the petition was heard on October 30, 1992, only Maximo Planes, petitioner (now respondent) and his counsel appeared. Nobody opposed the petition. Thus, on the same date, the trial court issued an Order[12] granting respondent's petition for reconstitution. The pertinent portion of the Order reads:

"When the petition was called for hearing, nobody opposed the same despite the issuance of the Notice of Hearing (Exh. "A"), its publication in the Official Gazette (Exh. "C") posting of the same in three (3) conspicuous places in Carmona, Cavite, where the property subject matter of the petition is situated (Exh. "B"). The Solicitor General who had been furnished with a copy of the petition and the notice of hearing filed its Notice of Appearance (Exh. "D"). Thereupon, on motion of counsel for the petitioner, he was allowed to present his evidence for the petitioner ex parte in the presence of Asst. Provincial Prosecutor Onofre Maranan representing the Solicitor General.

"From the evidence submitted, it has been shown that petitioner is one of the legal heirs of Carlos Planes, represented by his Atty.-in-fact Jose R. Perez, the registered owner of a parcel of land described on plan Psu-3372, G.L.R.O. Record No. 11867 with an area of x x x situated at Barrio Lantic, Carmona, Cavite and embraced in and covered by Original Certificate of Title No. OCT-219 of the Registry of Deeds of Cavite; that the original copy of said title was burned and/or destroyed when the old Provincial Capitol building in Cavite, housing the Office of the Register of Deeds of Cavite was totally razed by fire on June 7, 1959, while the owner's duplicate copy of the same is intact and exist in the possession of herein petitioner; that petitioner is in actual possession of the said parcel of land; that there is no subsisting encumbrance in the title; that there is no document adversely affecting the said title at the time of the destruction of its original; that the realty taxes of the said land had been fully paid, and that the Register of Deeds of Cavite, despite receipt of copy of the petition has not interposed any objection thereto.

"WHEREFORE, the Court, finding the petition to be well-taken, hereby GRANTS the same and orders the Register of Deeds of Cavite, upon payment of the corresponding fees, to reconstitute the original copy of Original Certificate of Title NO. T-219, making use as the basis thereof the owner's duplicate copy of the same.

“SO ORDERED.” (Emphasis supplied)

Consequently, the Register of Deeds (Atty. Antonia Cabuco) issued Reconstituted Title No. (219) RO-11411 in the name of Carlos Planes, the registered owner. Thereafter, the property was subdivided into eleven (11) lots. OCT No. (219) RO-11411 was cancelled and in lieu thereof, Transfer Certificates of Title (TCT) Nos. T-366478 to T-366488 were issued, also in the name of Carlos Planes.[13]

It was only on October 25, 1993, or after one (1) year, when the Solicitor General received a copy of the October 30, 1992 Order granting respondent’s petition for reconstitution.[14] Believing that the Order is contrary to law and evidence and that the proceedings conducted by the RTC were tainted with irregularities, the Republic, through the Solicitor General, interposed an appeal[15] to the Court of Appeals, docketed therein as CA-G.R. CV No. 45112. The Solicitor General alleged in the appellant’s brief that respondent Planes did not comply with the jurisdictional requirements set forth by Republic Act No. 26 (“An Act Providing Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed”), particularly on the notice of hearing, publication and posting; and that, therefore, the trial court did not acquire jurisdiction over respondent’s petition for reconstitution.

Specifically, the Solicitor General asserted that:

“I.

THE COURT A QUO DID NOT ACQUIRE JURISDICTION TO ORDER THE RECONSTITUTION OF OCT NO. 219 (since):

A)

THE NOTICE OF HEARING (allegedly) PUBLISHED IN THE OFFICIAL GAZETTE DOES NOT APPEAR ON THE RECORDS AND WAS NOT SUBMITTED DURING THE OCTOBER 30, 1992 HEARING;

B)

THE NOTICE OF HEARING WAS PUBLISHED IN THE OFFICIAL GAZETTE LESS THAN THIRTY DAYS BEFORE THE HEARING;

C)

THERE WAS NO PROOF OF POSTING OF THE NOTICE FOR THE OCTOBER 30, 1992 HEARING;

D)

THE PUBLISHED NOTICE OF HEARING DATED AUGUST 26, 1992 DID NOT CONTAIN THE NAME OF THE REGISTERED OWNER; (and)

E)

THE PUBLISHED NOTICE OF HEARING DATED AUGUST 26, 1992 DID NOT INDICATE TO WHOM IT WAS DIRECTED.

“II.

OCT NO. 219 WAS RECONSTITUTED WITHOUT A FINAL AND EXECUTORY DECISION.”[16]

Respondent Planes, in his appellee’s brief, claimed that he complied with all the requirements of the law and that petitioner’s bare assertions cannot prevail over the evidence relied upon by the trial court in granting his petition. Moreover, in law, there is a presumption that official duty has been regularly performed.

Meanwhile, the Court of Appeals found that Landhaus Properties and Development Corporation (Landhaus) and respondent Planes are co-owners of the property subject of the petition.[17] Hence, it allowed the Canlapan and Monteclaro Law Offices to enter its appearance as counsel for Landhaus.

On April 29, 1996, respondent Planes died.[18]

In a Resolution dated May 14, 1997,[19] the Court of Appeals dismissed the appeal of the Republic, the dispositive portion of which reads:

“WHEREFORE, the appeal is hereby DISMISSED and the Order being appealed from AFFIRMED in all respects.

“SO ORDERED.”[20]

In resolving the case, the Court of Appeals limited the issue on whether or not the remedy of appeal can still be availed of by the Republic. The Court of Appeals held that the period to appeal the trial court’s Order of reconstitution had lapsed, there being no appeal by the Register of Deeds and/or the Administrator of the LRA, through the Solicitor General within fifteen (15) days from their receipt of the said Order. In support of this ruling, the Court of Appeals cited the second paragraph of Section 110 of Presidential Decree No. 1529, as amended by Section 1 of R.A. No. 6732, providing among others, that 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.

The pertinent portion of the Appellate Court’s Resolution is quoted as follows:

“To explain the one (1) year and eleven (11) month tardiness in the filing of the notice of appeal, the Solicitor General’s Office proffers the unconvincing excuse that it received a copy of the Challenged Order only on October 25, 1993. Given the peculiar circumstances obtaining herein, however, such inexcusable negligence in not checking up on the status of the case within such a prolonged period of time is simply too obvious as it is patent. Counsel have time and again cautioned to be vigilant and diligent in the handling of cases. Oppositor-appellant’s counsel of record is no exception to this mandate. Suffice it to state that the requisite amount of diligence, vigilance and zeal demanded especially from government lawyers is unfortunately not shown by the records.

“Well-rooted is the principle that the perfection of an appeal within the statutory period is not only mandatory but also jurisdictional and failure to do so renders the questioned decision final and executory and deprives the appellate court or body of jurisdiction to alter the final judgment, much less, to entertain the appeal (Pedros vs. Hill, G.R. No. 1200804, 14 June 1996, 257 SCRA 373, citing *Acda vs. Minister of Labor*, 119 SCRA 306 [1982]). Concededly, appeal is an essential part of the judicial system and, as such, courts should proceed with caution so as not to deprive a party of the right to appeal particularly if the appeal is meritorious. Respect for the appellant’s right, however, carries with it the corresponding respect for the appellee similar rights to fair play and justice. Appeal is merely a statutory privilege; corollarily, its requirements must strictly be complied with (Pedrosa vs. Hill, *supra*; Republic vs. Register of Deeds of Quezon, 244 SCRA 543 [1995] x x x.

x x x x x.”[21] (Emphasis supplied)

Forthwith, the OSG, filed a lengthy Motion for Reconsideration[22] alleging inter alia that:

“The Honorable Court is in error. Assuming the court a quo had jurisdiction, there is no showing in the record that the Register of Deeds of Trece Martirez and the Commissioner of Land Registration Authority had been served a copy of the assailed Order. Further, it is submitted that the October 30, 1992 Order, like any other final judgment or order, can be executed only after it is served on the parties, the Republic included, and that the reglementary period lapsed without any appeal or motion for reconsideration having been lodged. It is absurd to think that when the legislature specifically required (under Section 110 of P.D. 1529) that the Register of Deeds and the Commissioner of Land Registration Authority be served copies of all orders/decisions issued in the reconstitution proceedings, it intended to release the court from its duty to serve all other parties-in-interest with copies of the same.”[23] (Emphasis supplied)

The OSG further alleged that the Republic is a party-in-interest in a petition for reconstitution of land title, and for this reason, the Office of the Solicitor General is the principal law officer and legal defender of the government,[24] thus should be duly served with copies of notices of hearing, orders and decision of the trial court.

In a Resolution dated July 31, 1997, the Court of Appeals denied the OSG’s motion for reconsideration.[25]

Hence, this petition for review on certiorari by the Republic, ascribing to the Court of Appeals the following errors:

“I

The trial court did not acquire jurisdiction over the petition for reconstitution of OCT No. 219 of the Registry of Deeds of the Province of Cavite since the requirements prescribed by Section 13 of R.A. 26 had not been complied with.

“II

Petitioner was denied due process of law as the Office of the Solicitor General (OSG) was not served a copy of all the notices of hearing of the petition for the reconstitution of title.

“III

The Court of Appeals erred in ruling that: (1) the OSG was tardy in filing a notice of appeal from the trial court’s Order dated October 30, 1992 and (2) said order had become final and executory on the ground that petitioner failed to appeal therefrom within the reglementary period.

“IV

The Court of Appeals erred in ruling that: (1) petitioner’s assignment of errors in Its appellant’s brief are mere procedural matters or issues that cannot be raised for the first time on appeal; and (2) adjudication thereof was rendered moot and academic on the ground that the trial court’s Order dated October 30, 1992 had already become final and executory.”[26] (Emphasis supplied)

The OSG maintains that its appeal to the Court of Appeals was filed within the reglementary period. Considering that it received a copy of the trial court’s October 30, 1992 Order only on October 25, 1993, its notice of appeal filed on November 8, 1993 is within the reglementary period. Clearly, the Order has not yet become final and executory.[27] In land registration proceedings, so the OSG contends, the fifteen-day period to appeal should be counted from the time it received a copy of the decision, resolution or order.

Petitioner also asserts that the trial court did not acquire jurisdiction over respondent Planes’ petition for

reconstitution in view of his failure to comply with the provisions of Sections 12 and 13 of R.A. No. 26.[28]

Two separate comments on the instant petition were filed - one by Landhaus' counsel, Canlapan and Monteclaro Law Offices,[29] and the other, by Antonio M. Chavez and Associates,[30] counsel for Jose Perez, respondent's Attorney-in-fact. Under the first comment, respondent claims that the trial court's Order had become final and executory considering that the Solicitor General, representing the Register of Deeds and the Administrator of the LRA failed to appeal within fifteen (15) days from receipt thereof pursuant to Section 110 of Presidential Decree No. 1529, as amended by Republic Act No. 6732.[31] In the second comment, respondent merely reiterates the arguments cited in the appellee's brief filed with the Court of Appeals.

Meanwhile, on May 6, 1998, Southern Heights Land Development Corporation (Southern) filed with this Court a "Motion for Leave to Intervene with Attached Petition for Review in Intervention"[32] alleging that it is the owner of several parcels of land under TCT Nos. T-302204, T-309831, T-309832 and T-335749 which were "overlapped by respondent Planes' OCT 219 (RO-11411)." In assailing the validity of the RTC Order of reconstitution, Southern contends that it was not notified of the proceedings for reconstitution despite the fact that it is the actual possessor of several parcels of the land subject of the petition.

Petitioner Republic opposed Southern's motion, claiming that its petition for review in intervention will only complicate the issues and unduly delay or prejudice the adjudication of the rights of the principal parties.[33] Furthermore, since Southern is no longer the owner of the property alleged to have been overlapped by OCT 219 (RO 11411), "its interest over the matter in litigation is merely indirect, contingent, consequential, collateral and inchoate." [34]

Separate Oppositions to Southern's motion were also filed by Landhaus and by Jose Perez. Landhaus' Opposition[35] alleges that intervention may only be done at the trial court or during the hearing of the main case, not at the appellate stage of the litigation.[36] In his Opposition,[37] Jose Perez contends that Southern cannot plead absence of notice and justify its failure to intervene at an earlier time considering that the instant action is one in rem.[38]

Southern's motion for leave to intervene basically on the ground that being an owner of several parcels of land involved here, it was not notified of the proceedings below, must be denied. In the fairly recent case of Puzon vs. Sta. Lucia Realty and Development, Inc.,[39] penned by Mr. Justice Artemio V. Panganiban, this Court ruled that notices to owners of adjoining lots and actual occupants of the subject property are not mandatory and jurisdictional in petition for judicial reconstitution of destroyed original certificate of title when the source for such reconstitution is the owner's duplicate copy thereof. In decreeing so, this Court relied on the following reasons:

"In the present case, the source of the reconstitution of petitioner's TCT is the extant owner's copy, which falls under Section 3 (a). It follows that the applicable provision of law is Section 10 in relation to Section 9 of RA 26, not Sections 12 and 13. When the reconstitution is based on an extant owner's duplicate TCT, the main concern is the authenticity and genuineness of the Certificate, which could best be determined or contested by the government agencies or offices concerned, principally the Office of the Solicitor General. The adjoining owners or actual occupants of the property covered by the TCT are hardly in a position to determine the genuineness of the Certificate. Giving them notice and inviting them to participate in the reconstitution proceeding is not only illogical, but constitutes a useless effort to clog the dockets of courts.

"Let it also be remembered that the TCT holder in this case had no fault at all in the destruction of the original Certificate in the Office of the Register of Deeds. Hence, she should not be burdened with meaningless formalities in the prosecution of her property rights, including the reconstitution of the original TCT. Moreover, the interests of creditors, whose liens may have been registered in the original Certificate on file

with the Register of Deeds but not annotated in the owner's copy, are addressed by the publication requirement. However, even in this instance, the notification of adjoining owners is hardly necessary.

"Finally, the parties must not lose sight of the nature of judicial reconstitution proceedings, which denote a "restoration of the instrument which is supposed to have been lost or destroyed in its original form and condition. The purpose of the reconstitution of title or any document is to have the same reproduced, after proper proceedings in the same form they were when the loss or destruction occurred. We emphasize that these actions do "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. x x x."

We now come to the merits of the case.

The threshold issue is whether or not the Court of Appeals erred in dismissing petitioner's appeal on the ground that it was filed beyond the reglementary period. Pertinent to this issue is the query: When should an order granting a petition for reconstitution be considered final and executory?

In decreeing that petitioner's appeal was filed out of time, the Court of Appeals[40] applied four-square Section 110 of Presidential Decree No. 1529, as amended by Republic Act No. 6732, which reads:

"SEC. 110. Reconstitution of Lost or Destroyed Original of Torrens Title. - x x x

"Notice of all hearings of the petition for judicial reconstitution shall be furnished 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 of 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." (Emphasis supplied)

The Court of Appeals' reliance on the above provision is misplaced. We cannot overlook the indispensable role of the Solicitor General as the lawyer of the government. Pursuant to Section 35, Chapter 12, Title III, Book IV of the Administrative Code of 1987, the OSG represents the government of the Philippines, its agencies and instrumentalities. Being the "principal law officer and legal defender of the Government," the Solicitor General possesses the unequivocal mandate to appear for the government in legal proceedings,[41] more particularly in all land registration and related proceedings.[42] Consequently, the proper basis for computing the reglementary period to file an appeal, and for determining whether a decision has attained finality, is the service of a copy thereof on the OSG.[43]

Records reveal that the OSG was not served a copy of the Order of reconstitution immediately after its promulgation. As earlier mentioned, the OSG received a copy thereof only after one (1) year. Hence, the period to file an appeal was suspended and did not commence to run[44] until October 25, 1993 when the OSG received its copy.

The Court of Appeals considered as an "unconvincing excuse"[45] the OSG's claim that it received a copy of the Order of reconstitution only on October 25, 1993. We hold otherwise. The numerous aberrations in the proceedings below, as well as respondent's failure to prove he has no participation therein convince us of the veracity of the OSG's claim.

First, the notice dated August 26, 1992, which set the hearing of the petition on October 30, 1992 and which was published in the Official Gazette, is nowhere to be found in the records of this case. Even respondent himself could not produce a copy of this notice.

Second, the Register of Deeds of Cavite (Atty. Antonia Cabuco) manifested an apprehension in issuing the

reconstituted title. Before complying with the Order directing the issuance of the said reconstituted title, she filed a “Manifestation”[46] stating that contrary to what was stated therein, (1) she did not receive a copy of the petition for reconstitution of OCT No. 219; (2) the realty taxes for the subject land were not fully paid; (3) there is a disparity in the dates of the issuance of the decree considering that Decree No. 2930 in GLRO Case No. 11867, appearing in the owner’s duplicate copy of OCT No. 219, was issued on October 16, 1934, while the Certification, attached to the records of the instant case issued by Engr. Silverio Perez, Director, Department of Registration, LRA, Quezon City, states that the same Decree in GLRO Record No. 11867 was issued on September 14, 1916; and (4) the supposed signature of the Register of Deeds on the owner’s duplicate copy of OCT No. 219 appears to be a “mere facsimile,” not his actual signature.

Ironically, on December 1, 1992, the trial court merely noted Atty. Cabuco’s “Manifestation” and ordered her to issue the reconstituted title without further delay,[47] declaring that the Order has become final and executory. This is erroneous, as we have earlier shown. Even on the basis of Section 110 of R.A. No. 6732 alone, the Order of reconstitution cannot be considered final and executory as of December 1, 1992. It bears noting that Atty. Cabuco was furnished a copy of the Order only on November 17, 1992. The fifteenth (15th) days therefrom would only be on December 2, 1992.

And third, Assistant Prosecutor Onofre Maranan filed a “Manifestation”[48] dated August 9, 1993, stating that contrary to what was stated in the Order of reconstitution, he has no knowledge that respondent Planes filed a petition for reconstitution and that it was set for hearing; and that he never attended any hearing of the case.

Those manifestations of Atty. Cabuco and Assistant Prosecutor Maranan render suspect the trial court’s fealty to procedural requirements.

It bears stressing that even if Assistant Prosecutor Maranan attended the hearing of October 30, 1992 and received a copy of the Order of reconstitution, still, the same could not bind the OSG. The “Notice of Appearance”[49] filed with the RTC by the Solicitor General on September 17, 1992 bears the notation that “all notices of hearings, orders, resolutions, decisions, and other processes shall be served on him at the Office of the Solicitor General, 134 Amoroso Street, Legaspi Village, Makati, Metro Manila.” In authorizing the Provincial Prosecutor of Trece Martires City to appear in the case, the Solicitor General inserted the proviso that “it retains supervision and control of the representation in the case and has to approve withdrawal of the case, appeal or other actions which appear to compromise the interest of the Government.” He also stated therein that “only notices of orders, resolutions and decisions served on him (Solicitor General) will bind the party represented.”[50]

In *Republic vs. Polo*,[51] we ruled in explicit terms:

“The issue is whether the thirty-day period (now fifteen) should be reckoned from the service of the decision upon the fiscal or from the time it was served upon the Solicitor General.

“We hold that the thirty-day period (now fifteen) should be counted from the date when the Solicitor General received a copy of the decision because the service of the decision upon the city fiscal did not operate as a service upon the Solicitor General.

“It should be clarified that, although the Solicitor General requested the city fiscal to represent him in the trial court, he, nevertheless, made his own separate notice of appearance as counsel for the State. In that “notice of appearance,” he expressly requested that he should be served in Manila with “all notices of hearings, orders, resolutions, decisions, and other processes” and that such service is distinct from the service of notices and other papers on the city fiscal.

“The Solicitor General also indicated in his “notice of appearance” that he “retains supervision and control of the representation in this case and has to approve withdrawal of the case, non-appeal, or other actions which

appear to compromise the interests of the Government” and that “only notices of orders, resolutions and decisions served on him will bind” the Government.

“In this case, it is obvious that, strictly speaking, the city fiscal did not directly represent the Government. He was merely a surrogate of the Solicitor General whose office, “as the law office of the Government of the Republic of the Philippines” is the entity that is empowered to “represent the Government in all land registrations and related proceedings. (Sec. 1 [e], Presidential Decree No. 478)” (Emphasis supplied)

Apart from the question of whether the appeal of petitioner Republic to the Court of Appeals was seasonably filed, the more important issue is the validity of the Order of reconstitution. Corollary to this issue is whether the RTC acquired jurisdiction over the instant case.

After an incisive examination of the records, we hold that the challenged Order should be set aside.

We cannot simply close our eyes to the patent jurisdictional infirmities present in the proceeding for reconstitution. Republic Act No. 26 specifically provides the special requirements and mode of procedure that must be followed before the court can properly act, assume and acquire jurisdiction or authority over the petition and grant the reconstitution prayed for. These requirements and procedure are mandatory.[52] In the case at bar, the source of the petition for reconstitution was the owner’s duplicate copy of OCT No. 219. Thus, pursuant to *Puzon vs. Sta. Lucia realty and Development, Inc.*,[53] the petition is governed by Section 10 of R.A. No. 26, quoted as follows:

“Sec. 10. Nothing herein above provided shall prevent any registered owner or person in interest from filing the petition mentioned in Section Five of this Act directly with the proper Court of First Instance, based on sources enumerated in Section 2(a), 2(b), 3(a), 3(b), and/or 4(a) of this Act: Provided, however, That the Court shall cause a notice of the petition, before hearing and granting the same, to be published in the manner stated in Section Nine[54] hereof: And provided, further, That certificates of title reconstituted pursuant to this section shall not be subject to the encumbrance referred to in Section Seven of this Act. (Emphasis supplied)

Concisely, Section 10, in relation to Section 9, requires that 30 days before the date of hearing, (1) a notice be published in two successive issues of the Official Gazette at the expense of the petitioner, and that (2) such notice be posted at the main entrances of the provincial building and of the municipal hall where the property is located. The notice shall state the following: (1) the number of the certificate of title, (2) the name of the registered owner, (3) the names of the interested parties appearing in the reconstituted certificate of title, (4) the location of the property, and (5) the date on which all persons having an interest in the property, must appear and file such claims as they may have.[55]

It is plain that the notice does not state the location of the property and that it was published without observing the thirty-day period requirement. The law explicitly requires that the notice be published twice in successive issues of the Official Gazette, at least thirty days prior to the date of hearing.[56] This was not followed to the letter. As shown in the “Certificate of Publication”[57] issued by the National Printing Office, the first publication of the notice was on October 19, 1992, while the second publication was on October 26, 1992 setting the hearing on October 30, 1992. The notice failed to fully serve its purpose, i.e., to enable the interested parties, who have read the notice, to appear at the hearing either to oppose the petition or assert a claim to the property in question.[58] In *Republic vs. Estipular*, supra, we ruled that the purposes of the stringent and mandatory character of the legal requirements of publication, posting and mailing are to safeguard against spurious and unfounded land ownership claims, to apprise all interested parties of the existence of such action, and to give them enough time to intervene in the proceeding. With barely ten (10) days from the first publication and three (3) days from the second publication, any interested person would not have enough time to prepare for the filing of his claim or opposition.

In all cases where the authority to proceed is conferred by a statute and the manner of obtaining jurisdiction is mandatory, the same must be strictly complied with, or the proceedings will be utterly void.[59] 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 review the record and the legal provisions laying down the germane jurisdictional requirements.[60]

Here, we find that respondent, in filing his petition for reconstitution of title, failed to comply with the above legal requirement. We thus rule that the trial court did not acquire jurisdiction over his case.[61] Consequently, even if petitioner's appeal to the Court of Appeals was seasonably filed, it had become inconsequential.

WHEREFORE, the petition is hereby GRANTED. The assailed Resolutions of the Court of Appeals dated May 14, 1997 and July 31, 1997 in CA-G.R. CV No. 45112, affirming the RTC Order granting respondent's petition for reconstitution, are REVERSED and SET ASIDE. Southern's motion for intervention is DISMISSED. Costs against respondent.

SO ORDERED.

Vitug, (Acting Chairman), Panganiban, and Carpio, JJ., concur.
Melo, (Chairman), J., on official leave.

[1] Rollo, pp. 59-75.

[2] Entitled "Maximo I. Planes, represented by his Attorney-In-Fact Jose R. Perez. Petitioner-Appellee, vs. Antonia R. Cabuco, Register of Deeds of Cavite, Respondent, and Republic of the Philippines, Oppositor-Appellant".

[3] Rollo, pp. 76-82.

[4] Ibid., pp. 83-84.

[5] As found by the RTC in its Order dated October 30, 1992; Rollo, pp. 89-91.

[6] Comment, Annex "A," Rollo, pp. 217-219.

[7] Ibid., Annex "B," p. 220.

[8] Petition, Annex "D," p. 85.

[9] It appears that it was the Notice of Hearing bearing the same date of August 26, 1992, but setting the hearing of the petition on September 30, 1992, that was received by the Solicitor General, hence his Notice of Appearance on September 17, 1992.

[10] Ibid., Annex "F," p. 87.

[11] Ibid., Annexes "T" and "U," pp. 178-179.

[12] Presided by Executive Judge Rarnon B. Anonuevo; Petition, Annex "G," pp. 89-91.

[13] Court of Appeals Resolution dated May 14, 1997, Rollo, p. 68.

[14] Petition, Annex "G;" p. 89.

[15] Ibid., Annex "K," p. 98; Comment, Annex "E," p. 223.

- [16] Brief for Oppositor-Appellant, Rollo, pp. 123-124.
- [17] Resolution dated April 12, 1996 of the Court of Appeals, Rollo, p. 670.
- [18] Annex “D,” Rollo, p. 676.
- [19] Ibid., Annex “A,” pp. 59-75.
- [20] Ibid., pp. 74-75.
- [21] Rollo, pp. 69-75.
- [22] Ibid., pp. 153-177.
- [23] Ibid., p. 156.
- [24] Ibid..
- [25] Petition, Annex “B,” pp. 76-82.
- [26] Ibid., Rollo, pp. 17-18.
- [27] Ibid., p. 48.
- [28] Ibid., pp. 30-40.
- [29] Rollo, pp. 201-215.
- [30] ibid., pp. 251- 271.
- [31] Comment, pp. 210-211.
- [32] Rollo, pp. 300-374.
- [33] Comment, Rollo, p. 534.
- [34] Rollo, pp. 532-533.
- [35] Filed by Canlapan and Monteclaro Law Offices on July 31,1998, Rollo, pp. 505-508.
- [36] Opposition to the Motion for Leave to Intervene, Rollo, pp. 505-506.
- [37] Filed by Antonio M. Chavez and Associates on August 10, 1998, Rollo, pp. 509-512.
- [38] Comment/Opposition to Motion for leave to intervene, Rollo, pp. 510.
- [39] G.R. No. 139518, March 6, 2001.
- [40] Resolution, Rollo, pp. 68.
- [41] Gonzales vs. Chavez, G.R. No. 97351, February 4, 1992.
- [42] Section 35 (5) Chapter 12, Title III, Book IV of the 1987 Administrative Code; Republic vs. Register of Deeds of Quezon, 244 SCRA 537 (1995).
- [43] Director of Lands vs. Medina, 241 SCRA 340 (1995); National Power corporation vs. NLRC, 272 SCRA 704 (1997).
- [44] National Power corporation vs. NLRC, ibid..

[45] Resolution, Rollo, p. 69.

[46] Annex “H,” Rollo, pp. 92-93.

[47] Petition, Annex “I,” Rollo, p. 94.

[48] Petition, Annex “J,” Rollo, pp. 95-97.

[49] Petition, Annex “F,” Rollo, p. 87.

[50] Ibid..

[51] 89 SCRA 33(1979).

[52] Republic of the Philippines vs. Estipular, G.R. No.136588, July 20, 2000; Director of Lands vs. Court of Appeals, 102 SCRA 370 (1981); Alabang Development Corp., et al. vs. Hon. Manuel E. Valenzuela, et al., G.R. No. 54094, August 30, 1982.

[53] Supra.

[54] “SEC. 9. A registered owner desiring to have his reconstituted certificate of title freed from encumbrance mentioned in section Seven of this Act, may file a petition to that end with the proper Court of First Instance, giving his reason or reasons therefor. A similar petition may, likewise, be filed by a mortgagee, lessee, or other lien holder whose interest is annotated in the reconstituted certificate of title. Thereupon, the court shall cause a notice of the petition 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 lies, at least thirty days prior to the date of hearing, and after hearing shall determine the petition and render such Judgment as Justice and equity may require. The notice shall specify, among other things, the number of the certificate of title, the name of the registered owner, the names of the interested parties appearing in the reconstituted certificate of title, the location of the property, and the date on which all persons having an Interest in the property must appear and file such claim as they may have. The petitioner shall, at the hearing submit proof of the publication and posting of the notice: Provided, however, That after the expiration of two years from the date of the reconstitution of a certificate of title, if no petition has been filed within that period under the preceding section, the court shall, on motion ex parte by the registered owner or other person having registered interest in the reconstituted certificate of title, order the register of deeds to cancel, after proper annotation, the encumbrance mentioned in Section Seven hereof after proper annotation, the encumbrance mentioned in Section Seven hereof.

[55] Puzon vs. Sta. Lucia Realty and Development, Inc., Supra.

[56] Section 9, Republic Act No. 26.

[57] Petition, Annex “U,” Rollo, p. 179.

[58] Republic vs. court of Appeals, 218 SCRA 773 (1993).

[59] Dordas vs. Court of Appeals, 270 SCRA 328 (1997).

[60] Bernardo vs. Court of Appeals, G.R. No 111715 & 112876, June 8, 2000; Ortigas & Co. Ltd. Partnership vs. Judge Velasco, 343 Phil. 115 (1997).

[61] Tahanan Development Corp. vs. Court of Appeals, 118 SCRA 273 (1982).

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