

STA. LUCIA REALTY AND DEVELOPMENT, INC., NEW NORTH FAIRVIEW DEVELOPMENT CORP., DBH DEVELOPMENT CORP. AND ACL DEVELOPMENT CORP., PETITIONERS, VS. LETICIA CABRIGAS AND MIGUEL CABR...

G.R. No. 134895. June 19, 2001

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Assailed in this petition for review is the 31 July 1998 Decision of the Court of Appeals in CA-G.R. SP No. 47601, affirming the 22 September 1997 and 24 February 1998 Orders of the Regional Trial Court of Quezon City, Branch 221, in Civil Case No. Q94-19651.

The main point of contention in the instant case is whether or not a judgment rendered by a trial court in an action for reconstitution may serve to bar an action for quieting of title pending before another court based upon the principle of *res judicata*.

The factual antecedents of this controversy, as culled from the pleadings of the parties and the assailed decision of the appellate court, are as follows:

On 5 February 1993, private respondents Leticia and Miguel Cabrigas filed a petition with the Regional Trial Court (RTC) of Quezon City for the judicial reconstitution of the originals of Transfer Certificates of Title (TCT) Nos. 259042 and 259043 of the Registry of Deeds of Quezon City, which were destroyed by the fire that gutted the Quezon City Hall on 11 June 1988. These certificates of title allegedly covered Lots 781 and 787 of the Tala Estate. The petition was docketed as LCR Case No. Q-60161(93) and raffled to Branch 94, presided by Judge Romeo Zamora. In support of their petition, private respondents presented a photocopy of their owner's duplicate of the transfer certificates of title, together with tax declarations in the name of private respondent Leticia Cabrigas corresponding to the land in dispute. It was alleged by private respondent Leticia Cabrigas that she bought the two parcels of land from her father, Ludovico Cajilig, who held such properties under TCT Nos. 180458 and 180459.

The Republic of the Philippines and petitioners opposed the petition for reconstitution primarily on the ground that TCT Nos. 259042 and 259043 were spurious and fabricated, offering an extensive amount of evidence on this point. In addition, an existing transfer certificate of title covering the disputed parcels of land (TCT No. 233694) was presented by petitioners, which they traced to TCT No. 200519 issued on 19 July 1974 to B.C. Regalado and Co., Inc., predecessor-in-interest of petitioners, covering over four million square meters. When the land was subdivided, TCT No. 200519 was cancelled and thousands of new certificates of title were issued, including TCT No. 233694. According to the oppositors, TCT No. 233694 covers 166 road lots, thirteen of which fall within the area formerly encompassed by Lots 781 and 787 of the Tala Estate under TCT No. 200159.[1]

On 7 March 1994, during the pendency of LCR Case No. Q-60161(93), private respondents filed with the RTC of

Quezon City a complaint for quieting of title against petitioners and the Register of Deeds of Quezon City, which was docketed as Civil Case No. Q94-19651 and assigned to Branch 221, presided by Judge Noel J. Tijam.

Meanwhile, a decision was rendered by Judge Zamora in LCR Case No. Q-60161(93) on 30 September 1996, dismissing the petition for reconstitution. The trial court held that it did not acquire jurisdiction to hear and decide the case due to petitioner's failure to comply with certain mandatory and jurisdictional requirements under Republic Act No. 26 (RA 26). Aside from this, the trial court found that, based upon the evidence presented by the oppositors, the titles presented by private respondents were not authentic and that the disputed property is covered by subsisting titles in the names of other persons which should first be annulled before the court could proceed with the reconstitution proceedings. The decision, which became final and executory, provided that -

Anent the issued [sic] of jurisdiction, Republic Act No. 26 (1946), entitled "An Act Providing a Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed", which was the basis of the petitioners for the constitution [sic], confers jurisdiction or authority on the Regional Trial Court to hear and decide petitions for judicial reconstitution. It provides that [a] petition for reconstitution must allege certain specific jurisdictional facts before the Court can acquire jurisdiction. The requirements and procedures under RA 26 are mandatory and jurisdictional, (*Ortigas vs Company Limited Partnership vs Judge Tirso Velasco, Et., Al.* (234 SCRA 455)). If these requirements are not strictly complied with, the proceedings will be utterly void (*Director of Lands vs. CA*, 102 SCRA 370). The law provides the following requirements:

Sections 12 and 13 of Republic Act No. 26 provide:

"SEC. 12. Petitions for reconstitution from sources enumerated in Sections 2 (c), 2 (d), 2 (e), 2 (f), 3 (c), 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 others, 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 building or improvement, if any, which do not belong to 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 have 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 x x x [sic] [be] introduced in evidence in support x x x [sic] [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 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 filed [sic] their claim or objection[s] 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."

Petitioner did not allege the following: (a) the nature and description of the buildings or improvements, if any, which do not belong to the owner of the lot like the roads, sewer lines, drainage, club house, and other subdivision amenities introduced by intervenors; (b) 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 interest in the property, particularly the buyers of the different subdivision lots; and (c) a statement that no deeds or other instruments affecting the property have been registered. There was no approved plan and technical description with a certified copy with the description taken from a prior certificate of title covering the same property. Although the plan submitted by the petitioners was signed by the private surveyor, there was no seal of approval from any government agency. These omissions delve into the acquisition of jurisdiction by the Court, furthermore, Sec. 5, RA No. 26 (as amended) provides:

"The petition shall be accompanied with the necessary sources for reconstitution and with an affidavit of the registered owner stating, among other things:

(1) That no deed or other instrument affecting the property had been presented for registration, or if there be any, the nature thereof, the date of its presentation, as well as the names of the parties, and whether the registration of such deed or instrument is still pending accomplishment;

(2) That the owner's duplicate certificate or co-owner's duplicate is in due form without any apparent intention[al] alternation[s] or erasures;

(3) That the certificate of title is not the subject of litigation or investigation, administrative or judicial, regarding its genuineness or due execution or issuance;

(4) That the certificate of title was in full force and effect at the time it was lost or destroyed;

(5) That the certificate of title is covered by a tax declaration regularly issued by the Assessor's Office and;

(6) That real estate taxes have been fully paid up to at least two (2) years prior to the filing of the petition for reconstitution."

such that even assuming *arguendo* that the titles are valid and authentic the petition would still be inadequate. The petition is not accompanied by the affidavit required in this provision. The verification of the petition made by Leticia Cabrigas would not suffice because it does not contain the following: (a) that no deed or other instrument affecting the property had been presented for registration; (b) that the owner's duplicate certificate is in due form without any apparent intentional alternations or erasures; (c) that the certificate of title is not the subject of litigation or investigation, administrative or judicial, regarding its genuineness or due execution or issuance and (d) that the real estate taxes have been fully paid up to the last two years prior to the filing of the petition for reconstitution.

There is also the fact that there was a defect in the notice of hearing and posting. Sec. 13 of RA No. 26 requires notice to be sent to the individual title holders and the Supreme Court has also ruled that actual notice of the petition must be sent to the registered owners of the property affected as notice by publication is not enough (*Manila Railroad & Co., Inc. vs Moya*, 14 SCRA 358, 363, 364). The petitioners did not comply with these jurisdictional facts which is mandatory (*Ortigas vs. Judge Velasco*, *supra*). As to the posting of the notice of hearing, Sec. 3 (e); 3 (f) and 13 of the law require that it be posted in the entrance of the city or municipal hall. The Certificate of Posting dated March 15, 1993 was posted only on the court's bulletin board, the sheriff's wall, and at the Barangay Hall as can be read from the very wording of the Certificate. The aforementioned case of *Tahanan vs CA*, (118 SCRA 273) teaches us that such defect is fatal to the acquisition of jurisdiction by the court.

Lastly, another important point which is relevant to the determination of whether or not the petition should be granted is the fact that the disputed property is covered by subsisting titles in the names of other persons. As was mentioned earlier in the facts of the case, intervenors and the lot buyers of Neopolitan Subdivision hold torrens titles to lands which petitioner's titles purport to cover this being the case, the Court could not proceed with the reconstitution proceedings without the titles of these buyers having [sic] first annulled.

In such a case, this Court is without jurisdiction to grant the petition. As was held in the case of Alabang Development Co. vs Valenzuela (116 SCRA 261), "The courts simply have no jurisdiction over petitions by such third parties for reconstitution of allegedly lost or destroyed titles over lands that are already covered by duly issued subsisting titles in the names of their duly registered owners." (see also Ortigas vs Judge Velasco, Et. Al., *supra*)

The court is mindful of the pronouncement of the Supreme Court in the case of Director of Lands vs CA (93 SCRA 238) which states that:

"This Tribunal can take judicial notice of innumerable litigations and [legal] controversies spawned by overlapping and encroaching boundaries, each party relying on certificates of titles issued under the Torrens [S]ystem or the Spanish registration laws or other deeds and documents which prima facie show their lawful interests or ownership therein. To the ordinary land purchaser not fully acquainted with the intricacies of the law nor the validity much less the authenticity of these instruments which in many instances are found to be forged or simply reconstituted with areas that have x x x increased in "table surveys" with the cooperation of unscrupulous officials, the courts by hastily stamping their approval on reconstituted titles have wittingly or unwittingly aided and abetted these fraudulent transactions resulting in the wiping out of the lifesaving[s] of many [a] poor, unlettered and inexperienced lot buyer. The court must guard against such haste and carefully take due precautions that the public [interest] be protected."

WHEREFORE, in view of the foregoing considerations, the instant petition for reconstitution is hereby DISMISSED.

So Ordered.[2]

Petitioners filed a Supplemental Answer in Civil Case No. Q94-19651 alleging that the instant proceedings were barred by the 30 September 1996 Decision in LCR Case No. Q-60161(93). The trial court admitted petitioner's supplemental answer and treated it as a motion to dismiss. Petitioners then filed a motion asking for a preliminary hearing on its affirmative defense of res judicata.

In the meantime, private respondents filed a second petition for the reconstitution of TCT Nos. 259042 and 259043 with the Regional Trial Court of Quezon City. The case was docketed as LRC Case No. Q-8734(96) and assigned to Branch 81. Petitioners North Fairview Development Corp. and DBH Development Corp. filed a motion to dismiss the petition based upon res judicata, which was granted by the trial court in its resolution of 23 February 1998. Private respondents filed a motion for reconsideration, asking the trial court to reconsider its order of dismissal, but this was denied on 28 May 1998. The case was elevated to the Court of Appeals by private respondents, where it was docketed as CA G.R. No. 59735, and is currently pending.

Coming back to Civil Case No. Q94-19651, on 22 September 1997, the trial court issued its Order denying petitioners' prayer for the dismissal of the case since not all the elements of res judicata were present. It held that the reconstitution case [LCR Case No. Q-60161 (93)] and the action for quieting of title [Civil Case No. Q94-19651] involved different causes of action. Also, Judge Tijam declared that the trial court (Branch 94) never acquired jurisdiction over the reconstitution case due to the failure of private respondents to comply with certain jurisdictional requirements. Petitioners filed a motion for reconsideration, but this was denied in the trial court's

order dated 24 February 1998.[3]

Thus, petitioners filed a petition for certiorari under Rule 65 with the Court of Appeals, questioning the trial court's 22 September 1997 and 24 February 1998 orders in Civil Case No. Q94-19651. The petition was docketed as CA-G.R. SP No. 47601. Petitioner asked the Court of Appeals to dismiss the action for quieting of title based on two grounds, namely that (1) it is barred by the final and executory decision rendered in the reconstitution case [LCR Case No. Q-60161(93)] finding that private respondents' titles are fabricated; and that (2) private respondents were engaged in forum-shopping when they filed the two reconstitution cases and the action for quieting of title, with the ultimate objective of confirming their titles over Lots 781 and 787.[4]

On 31 July 1998, the Court of Appeals[5] promulgated its decision[6] dismissing the petition, thus affirming the assailed orders of the trial court. It explained that *res judicata* did not exist since the trial court (Branch 94) in LCR Case No. Q-60161(93), by its own admission, never acquired jurisdiction over the subject matter of the case. Consequently, the trial court's factual findings pertaining to the authenticity of TCT Nos. 259042 and 259043 cannot be invoked as a bar to the action for quieting of title. Moreover, the reconstitution case and quieting of title case involve different causes of action, such that a decision in the former will not serve to bar the latter. Finally, the Court of Appeals held that private respondents are not liable for forum-shopping. The pertinent portions of the appellate court's decision are reproduced hereunder:

The Supreme Court, in the case of "*Ortigas & Company Limited Partnership v Velasco* (234 SCRA 455)", ruled that the requisites to be met embodied in Republic Act No. 26 entitled "An Act Providing a Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed", in order that the Court can acquire competence to act on a petition for reconstitution of title and grant the appropriate remedy, are mandatory and jurisdictional (p. 482). Failure to comply with these requisites, as has happened in the first reconstitution case filed by private respondents herein, results in the failure of the trial court to acquire jurisdiction over the nature or subject matter of the case, as acknowledged by the trial court in the aforementioned portion of the decision in the first reconstitution case (*Ortigas & Company Limited Partnership v. Velasco*, supra, p. 485).

Since the trial court in the first reconstitution case did not acquire jurisdiction over the nature or subject matter of the petition, it therefore follows that its factual finding that the owner's duplicate of Transfer Certificates of Title Nos. 259042 and 259043 are fake, is a nullity (*Leonor v. Court of Appeals*, 256 SCRA 69, 82) and cannot therefore be invoked as a bar to the quieting of title case.

Per Section 47 (b), Rule 39 of the 1997 Rules of Civil Procedure, for judgment in a prior case to be considered a bar on a subsequent case, the court which rendered it must have jurisdiction. In "*Mendiola v Court of Appeals*, 258 SCRA 492)", the Supreme Court ruled:

"There are four (4) essential requisites which must concur in order for *res judicata* as a 'bar by former judgment' to attach, viz:

1. The former judgment must be final;
2. It must have been rendered by a court having jurisdiction over the subject matter and the parties;
3. It must be a judgment or order on the merits; and
4. There must be between the first and second action identity of parties, identity of subject matter and identity of causes of action.'" (p. 499-500, Underscoring Supplied)

The trial court in the first reconstitution case acknowledged that it did not acquire jurisdiction over the subject matter of the petition (p. 10 of Decision in LRC CASE No. Q-60161 (93)). Its disquisition on the spuriousness of

the owner's duplicate of Transfer Certificate of Titles Nos. 259042 and 259043 is at best an obiter dictum which petitioners cannot invoke as a bar to the quieting of title case.

"Obiter dictum" simply means "words of a prior opinion entirely unnecessary for the decision of the case" ("Black's Law Dictionary", p. 1222, citing the case of "Noel v. Olds", 78 U.S. App. D.C. 155) or an incidental and collateral opinion uttered by a judge and therefore not material to his decision or judgment and not binding ("Webster's Third New International Dictionary", p. 1555).

Moreover, since the first reconstitution case and quieting of title case are entirely different cause of action, the decision in the former case will not bar the latter.

Anent the issue of whether or not private respondents were forum shopping when they filed the three separate cases, viz, the first reconstitution case that was dismissed for want of jurisdiction, the quieting of title case and the second reconstitution case, the Court finds that the quieting of title case can exist separately from the reconstitution case because each has different legal consequences. In the quieting of title case, private respondents' ownership over Lots 781 and 787 of the Tala Estate can be affirmed and they can ask for the cancellation of petitioners' title thereon. In the reconstitution case, private respondents can only ask for the reconstitution of documents that were already lost or destroyed, viz, the original copies of Transfer Certificates of Title Nos. 259042 and 259043, but the trial court cannot "confirm nor adjudicate ownership over the property" they cover (Serra Serra vs Court of Appeals, 195 SCRA 482, 490).

The above premises considered, the Court finds that the issuance of the assailed orders were not attended by grave abuse of discretion. Simply put, petitioners cannot invoke an obiter in a prior judgment as a bar to the quieting of title case, and a reconstitution case can exist separately from a quieting of title case. Consequently, the instant petition for certiorari must be denied.

WHEREFORE, the petition for certiorari is hereby DISMISSED, for lack of merit.

SO ORDERED.[7]

Thus, the present petition. After the submission of a surety bond in the amount of P100,000.00 and the necessary supporting documents showing the solvency and good repute of the bonding company as well as the sufficiency of the bond, the Court granted a temporary restraining order on 23 November 1998 enjoining the Presiding Judge of Branch 221 of the RTC of Quezon City from hearing Civil Case No. Q94-19651 during the pendency of the instant petition and until further orders from this Court.[8]

Basically, petitioners insist that the findings of Judge Zamora in his 30 September 1996 Decision in LCR Case No. Q-60161(93) with regard to the lack of authenticity of private respondents' titles should bar the re-litigation of the same issue in the action for quieting of title on the principle of res judicata in the concept of conclusiveness of judgment. In both the reconstitution proceedings and in the action for quieting of title, the existence and authenticity of the private respondents' titles were raised as issues; thus, when such issue was judicially passed upon and determined by Branch 94 in the reconstitution proceedings, that point should be deemed as having been conclusively settled by such judgment insofar as the parties herein and their privies are concerned. Since Branch 94 found that private respondents' titles were fabricated, it follows that the action for quieting of title has no more leg to stand on.

It is argued by petitioners that private respondents are estopped from claiming that Branch 94 had no jurisdiction over the reconstitution proceedings for non-compliance with certain requirements under RA 26 since private respondents actively participated in the proceedings, during the pendency of which they continuously asserted the jurisdiction of the trial court and the fact of their compliance with the provisions of the said law. Moreover, the

alleged lack of jurisdiction was caused by private respondents' own fault - their failure to comply with the provisions of RA 26. Petitioners also argue that jurisdiction has been acquired over private respondents by Branch 94 by means of private respondents' act of filing the petition for reconstitution.

According to petitioners, even assuming that Branch 94 had no jurisdiction to order the reconstitution of private respondents' titles due to a lack of compliance with some mandatory provisions of RA 26, it still retained the jurisdiction to declare as fabricated the titles of private respondents, citing *Ortigas & Co. Ltd. v. Velasco*,^[9] *Director of Lands v. Sta. Maria*,^[10] *Alabang Development Corp. v. Valenzuela*,^[11] and *Tahanan Development Corp. v. Court of Appeals*,^[12] wherein the Court declared as fake the titles sought to be reconstituted, despite the fact that the lower courts were pronounced to be without jurisdiction to grant the petition for failure of the petitioners therein to observe the jurisdictional requirements of RA 26.

Petitioners argue that private respondents are liable for forum-shopping when they instituted the action for quieting of title during the pendency of LCR Case No. Q-60161(93), and when they filed yet another petition for reconstitution [LCR Case No. 8734(96)], involving the very same titles, during the pendency of the action for quieting of title.^[13]

On the other hand, private respondents insist that petitioners' motion for a preliminary hearing on their affirmative defense of res judicata filed in Civil Case No. Q94-19651 should have been denied by Judge Tijam for being filed out of time since trial was already on-going at the time it was filed. Also, it is contended that the special civil action for certiorari under Rule 65 filed by petitioners with the Court of Appeals assailing the 22 September 1997 and 24 February 1998 orders of Branch 221 was erroneously resorted to as there was no showing that Judge Tijam had acted without or with grave abuse of discretion amounting to lack of jurisdiction in denying petitioners' motions. Private respondents would also have the Court dismiss the instant petition for the failure of petitioners to file a motion for reconsideration from the 31 July 1998 Decision of the Court of Appeals in CA-G.R. SP No. 47601.

As to the issue of res judicata, private respondents assert that the judgment rendered in LCR Case No. Q-60161(93) will not bar Civil Case No. Q94-19651 since certain elements of res judicata are absent. First of all, Branch 94 had no jurisdiction over the subject matter of the case. Secondly, there is no identity of subject matter as the petitioners' title is fictitious and hence, could not refer to the properties covered by private respondents' titles. Finally, the two cases have different causes of action.^[14]

After considering the arguments of both parties and assiduously studying the records of this case, it is the Court's opinion that the present petition is not imbued with merit.

Simply stated, the main issue in this case is whether the 30 September 1996 decision of the trial court in LCR Case No. Q-60161(93) will bar by res judicata the action for quieting of title initiated by private respondents. The doctrine of res judicata comprehends two distinct concepts - (1) bar by former judgment and (2) conclusiveness of judgment. For res judicata to serve as an absolute bar to a subsequent action, the following requisites must concur: (1) the former judgment or order must be final; (2) the judgment or order must be on the merits; (3) it must have been rendered by a court having jurisdiction over the subject matter and parties; and (4) there must be between the first and second actions, identity of parties, of subject matter, and of causes of action.^[15] When there is no identity of causes of action, but only an identity of issues, there exists res judicata in the concept of conclusiveness of judgment.^[16] Although it does not have the same effect as res judicata in the form of bar by former judgment which prohibits the prosecution of a second action upon the same claim, demand, or cause of action, the rule on conclusiveness of judgment bars the relitigation of particular facts or issues in another litigation between the same parties on a different claim or cause of action.^[17]

Petitioners would have this Court rule that, based on the principle on conclusiveness of judgment, the declarations made by the trial court in LCR Case No. Q-60161(93) regarding the lack of authenticity of private respondents' titles are binding upon the parties and accordingly, that this particular issue may no longer be litigated in the action for quieting of title. On the other hand, private respondents maintain that there can be no *res judicata* since Branch 94 had no jurisdiction over the subject matter due to the non-compliance with certain mandatory provisions of RA 26, and in addition, there was no identity of subject matter and cause of action between the two cases. In its assailed decision, the Court of Appeals concurred with the position taken by private respondents. It ruled that there was no *res judicata* as the trial court never acquired jurisdiction over the nature or subject matter of the case since sections 5, 12 and 13 of RA 26, all of which have been held to be mandatory and jurisdictional provisions by this Court, were not complied with in LCR Case No. Q-60161(93). In its pleadings, petitioners argue that private respondents should be considered estopped from denying that Branch 94 had jurisdiction over the petition for reconstitution since it is due to private respondents' own fault that the trial court failed to acquire jurisdiction, and also because private respondents actively participated in the reconstitution proceedings and sought affirmative relief from the trial court.

Republic Act No. 26,[18] entitled "An Act Providing a Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed," as amended,[19] is a special law which provides for a specific procedure for the reconstitution of Torrens certificates of title lost or destroyed.[20] It confers jurisdiction upon trial courts to hear and decide petitions for judicial reconstitution. However, before the court can properly act, assume and acquire jurisdiction or authority over the petition and grant the reconstitution prayed for, petitioner must observe certain special requirements and mode of procedure prescribed by the law. Some of these requirements, having to do with the contents of the petition for reconstitution and notice, are as follows -

Sec. 12. Petitions for reconstitution from sources enumerated in sections 2(c), 2(d), 2(e), 2(f), 3(c), 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 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 have 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) of 3(f) of this Act, the petition shall be further be accompanied with a plan and technical description of the property duly approved by the Chief of the General Land Registration Office, 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 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.

In numerous cases, the Supreme Court has held that compliance with these provisions are mandatory and jurisdictional.[21] The failure to comply therewith deprives the trial court of jurisdiction over the subject matter or nature of the case, and consequently, all its proceedings are rendered null and void.[22] The rationale underlying this rule concerns the nature of the conferment in the trial court of the authority to undertake reconstitution proceedings. 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.[23]

In the case at bar, it was found by the trial court in its 30 September 1996 decision in LCR Case No. Q-60161(93) that private respondents failed to comply with both sections 12 and 13 of RA 26 and therefore, it had no jurisdiction over the subject matter of the case. However, private respondents never questioned the trial court's jurisdiction over its petition for reconstitution throughout the duration of LCR Case No. Q-60161(93). On the contrary, private respondents actively participated in the reconstitution proceedings by filing pleadings and presenting its evidence. They invoked the trial court's jurisdiction in order to obtain affirmative relief - the reconstitution of their titles. Private respondents have thus foreclosed their right to raise the issue of jurisdiction by their own actions.

The Court has constantly upheld the doctrine that while jurisdiction may be assailed at any stage, a litigant's participation in all stages of the case before the trial court, including the invocation of its authority in asking for affirmative relief, bars such party from challenging the court's jurisdiction.[24] A party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction.[25] The Court frowns upon the undesirable practice of a party participating in the proceedings and submitting his case for decision and then accepting judgment, only if favorable, and attacking it for lack of jurisdiction, when adverse.[26]

However, despite our foregoing ruling, the Court is still precluded from declaring the existence of *res judicata*, in any of its two forms, since one essential requisite is absent - a judgment on the merits. Citing *Escarte v. Office of the President*,[27] the Court defined "judgment on the merits" in the 1994 case of *Allied Banking Corporation v. Court of Appeals*[28] -

"x x x As a technical legal term, 'merits' has been defined in law dictionaries as a matter of substance in law, as distinguished from matter of form, and as the real or substantial grounds of action or defense, in contradistinction to some technical or collateral matter raised in the course of the suit. A judgment is upon the merits when it amounts to a declaration of the law to the respective rights and duties of the parties, based upon the ultimate fact or state of facts disclosed by the pleadings and evidence, and upon which the right of recovery depends, irrespective of formal, technical or dilatory objectives or contentions."

Meanwhile, in *Diwa v. Donato*,[29] we held that -

A judgment on the merits is one rendered after argument and investigation, and when there is determination which party is right, as distinguished from a judgment rendered upon some preliminary or formal or merely technical point, or by default and without trial. By no stretch of the imagination can our Resolution of September 20, 1989 be considered a judgment on the merits. All it resolved is the issue of the proper action that petitioners should file in light of the allegations of their Complaint. We ruled that they should file an action for specific performance and not an action for interpleader. Only after the filing of the proper action can the substantive rights of the parties be adjudicated. Needless to state, we did not adjudicate the substantive rights of the parties in our Resolution of September 20, 1989.

Thus, a judgment on the merits is one wherein there is an unequivocal determination of the rights and obligations of the parties with respect to the causes of action and the subject matter of the case.[30] Clearly, a judgment dismissing an action for want of jurisdiction cannot operate as *res judicata* on the merits.[31] Coming to the case at bar, it is apparent that the trial court's 30 September 1996 Decision in LCR Case No. Q-60161(93) dismissing the petition for reconstitution was mainly premised upon its lack of jurisdiction over the subject matter of the case due to the lack of substantial compliance of private respondents with Sections 5, 12 and 13 of RA 26. In plain and simple language, the trial court explicitly declared that the provisions of RA 26 are mandatory and jurisdictional, and that it had not acquired jurisdiction over the case since private respondents failed to comply therewith. Proceeding from such declarations, it must be presumed, therefore, that Judge Zamora, being cognizant of the well-entrenched doctrine that absent jurisdiction the court cannot pass upon the merits of a case,[32] did not intend to adjudicate the substantive aspects of the petition. For a court to declare that it has no jurisdiction and at the same time to pass upon the merits of the case contravenes all legal and practical reasoning. Thus, Judge Zamora's discussions on the existence and authenticity of private respondents' certificates of titles were superfluous, a mere *obiter dictum*. Such statements do not change the fact that the petition for reconstitution was dismissed upon a matter of procedure - the court's lack of jurisdiction.

Therefore, as there is no judgment on the merits, neither can there be a finding of *res judicata* so as to bar the action for quieting of title. This being the case, there is no more need to determine whether LCR Case No. Q-60161(93) and Civil Case No. Q94-19651 share the same causes of action or issues.

As to the second petition for reconstitution of TCT Nos. 259042 and 259043 [LCR Case No. Q-8734(96)] filed by private respondents during the pendency of the action for quieting of title, the trial court, acting upon a motion filed by petitioners North Fairview Development Corp. and DBH Development Corp., has already dismissed the same based on *res judicata* in its orders issued on 23 February 1998 and 28 May 1998. Such orders are currently being reconsidered by the Court of Appeals in CA-G.R. No. 59735. Considering these procedural antecedents, it would be premature for the Court to determine whether or not LCR Case No. Q-8734(96) should be dismissed. The better option would be to wait for the resolution of CA-G.R. No. 59735 so as to avoid multiplicity of suits and the possibility of conflicting decisions.

WHEREFORE, based the foregoing, the petition for review is hereby DENIED.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

[1] Records, 62-63.

[2] *Ibid.*, 68-72.

[3] Rollo, 88-94. 616-642.

[4] *Ibid.*, 95.

[5] Third Division, composed of Justice Ramon A. Barcelona, ponente; Justice Jorge S. Imperial, chairman; and Justice Demetrio G. Demetria.

[6] Rollo, 88-101.

[7] *Ibid.*, 98-101.

[8] *Ibid.*, 436.

[9] 234 SCRA 455 (1994).

[10] 102 SCRA 370 (1981).

[11] 116 SCRA 261 (1982).

[12] 118 SCRA 223 (1982)

[13] Rollo, 649-705.

[14] Ibid., 786-799.

[15] Cagayan de Oro Coliseum, Inc. v. Court of Appeals, 320 SCRA 731 (1999); Mirpuri v. Court of Appeals, 318 SCRA 516 (1999); Saura v. Saura, Jr., 313 SCRA 465 (1999).

[16] Calalang v. Register of Deeds of Quezon City, 231 SCRA 88 (1994).

[17] Camara v. Court of Appeals, 310 SCRA 608 (1999); Calalang v. Register of Deeds of Quezon City, 231 SCRA 88 (1994), citing Smith Bell & Company (Phils.), Inc. v. Court of Appeals, 197 SCRA 201 (1991).

[18] Approved on 25 September 1946.

[19] Republic Act No. 6732, entitled "An Act Allowing Administrative Reconstitution of Original Copies of Certificates of Titles Lost or Destroyed Due to Fire, Flood and other Force Majeure, Amending For the Purpose Section One Hundred Ten of Presidential Decree Numbered Fifteen Twenty-nine and Section Five of Republic Act numbered Twenty-Six," was approved on 17 July 1989.

[20] Alipon v. Court of Appeals, 305 SCRA 118 (1999).

[21] Republic v. Court of Appeals, 309 SCRA 110 (1999); Tahanan Development Corp. v. Court of Appeals, 118 SCRA 273 (1982).

[22] Ortigas & Company Limited Partnership, 234 SCRA 455 (1994); Allama v. Republic, 206 SCRA 600 (1992); Heirs of Pedro Pinote v. Dulay, 187 SCRA 12 (1990); Tahanan Development Corp. v. Court of Appeals, 118 SCRA 273 (1982); Director of Lands v. Court of Appeals, 102 SCRA 370 (1981).

[23] Dordas v. Court of Appeals, 270 SCRA 328 (1998); Allama v. Republic, 206 SCRA 600 (1992).

[24] PNOC Shipping and Transport Corporation v. Court of Appeals, 297 SCRA 402 (1998).

[25] Asset Privatization Trust v. Court of Appeals, 300 SCRA 579 (1998); Province of Bulacan v. Court of Appeals, 299 SCRA 442 (1998).

[26] Producers Bank of the Philippines v. NLRC, 298 SCRA 517 (1998), citing Ilocos Sur Electric Cooperative, Inc. v. NLRC, 241 SCRA 36 (1995).

[27] 192 SCRA 1 (1990).

[28] 229 SCRA 252 (1994).

[29] 234 SCRA 608 (1994).

[30] Allied Banking Corporation v. Court of Appeals, 229 SCRA 252 (1994).

[31] Licup v. Manila Railroad Company and Government Service Insurance System, 2 SCRA 267 (1961); Bayot v. Zurbito, 39 Phil 650 (1919).

[32] Arcelona v.. Court of Appeals, 280 SCRA 20 (1997); Director of Lands v. Court of Appeals, 102 SCRA 370 (1981), citing Development Bank of the Phils. Employees Union v. Perez, 45 SCRA 179 (1972), Pinza v. Aldovino, 25 SCRA 220 (1968).

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