

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. PILAR ESTIPULAR, RESPONDENT.

G.R. No. 136588. July 20, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Republic Act No. 26 requires that a petition for reconstitution of a lost or destroyed certificate of title must be published in the Official Gazette and posted at the main entrance of the provincial and the municipal buildings of the place where the property is situated. This requirement is mandatory; strict compliance therewith is jurisdictional. Without such publication and posting at the main entrances of both the municipal and the provincial edifices, the trial court Decision granting the reconstitution is void.

The Case

This is the principle used by this Court in granting the Petition for Review before us, assailing the December 9, 1998 Decision[1] of the Court of Appeals[2] (CA) in CA-GR CV No. 53846. The dispositive portion of the challenged Decision reads as follows:

"WHEREFORE, premises considered, the appealed judgment is hereby AFFIRMED in toto."[3]

The decretal part of the Decision[4] of the Regional Trial Court affirmed by the CA is worded thus:

"WHEREFORE, the Court finds the petition to be well-taken and supported by evidence. Hence, the petition is hereby GRANTED. The destroyed/burned original copy of Certificate of Title No. 154 is declared cancelled and the Register of Deeds of La Union is hereby directed to reconstitute in lieu thereof, the Original Certificate of Title No. 154, in favor of Fermin Estipular, which shall bear the annotation that the same is being issued in place of the destroyed/burned original copy in exactly the same terms and conditions using as basis the corresponding Owner's Duplicate Certificate of Title previously issued by the Registry of Deeds of La Union but shall in all respects be entitled to like faith and credit as the destroyed/burned original copy filed with the Registry Office, and shall thereafter be regarded as such for all purposes of the Property Registration Decree."[5]

The Facts

This case is rooted in a Petition for Reconstitution of Title filed by Pilar Estipular before the Regional Trial Court of La Union. The factual and the procedural antecedents of the case are summarized in the assailed CA Decision as follows:

"In her Petition for Reconstitution of Title, the petitioner, Pilar Estipular, declared that she [was] the only surviving legal heir of the late Fermin Estipular, who died intestate in Caba, La Union. During his lifetime, Fermin was issued Certificate of Title No. 154 duly registered in his own name by the Register of Deeds of La Union covering a parcel of land located at Barrio Liquicia, Caba, La Union, with an area of 6.1253 hectares. The said Certificate of Title was either destroyed or burned as a result of the burning of the Register of Deeds of La Union during the last World War. Further, it was alleged that the aforesaid parcel of land was declared for taxation purposes by Fermin and his heirs; that said estate is not mortgaged to any financial institution; nor

is there any document pending registration affecting the said land. As the land was already declared and distributed to ten persons who have succeeded him, the petitioner prayed that the said Certificate of Title be reconstituted in accordance with law.

"On June 15, 1994, the court a quo ordered that a Notice of Hearing be published for two successive issues of the Official Gazette and be posted at the main entrance of the Municipal Building of Caba, La Union at least thirty (30) days from the initial hearing set for September 8, 1994 (Records, p. 8). A Certificate of Posting was submitted by Branch Sheriff Romeo Obiena proving that copies of the Petition and Notice of Hearing were posted at the main entrance of Municipal Building of Caba, La Union (Records, p. 9). However, the National Printing Office advised the lower court to reschedule its original date of hearing as it could not meet the schedule of publication (Records, p. 11). On August 12, 1994, another Notice of Hearing was issued by the trial court, resetting the initial hearing to December 7, 1994. (Records, p. 13). In view thereof, a second Certificate of Posting was issued by Branch Sheriff concerning the administrative case (Records, p.16). In the same manner, the National Printing Office issued a Certificate of Publication showing that the said petition for reconstitution was published in the Official Gazette for two successive weeks on October 17 and 24, 1994.

"On November 2, 1994, the Office of the Solicitor General entered its appearance as counsel for the respondent Republic and deputized the Provincial Prosecutor of La Union to appear [o]n its behalf in connection with the subject case (Records, p.20).

"The initial hearing materialized on December 7, 1994. The petitioner and the public prosecutor appeared [i]n such hearing. The case was called to invite private oppositors to come forthwith, but nobody registered his/her opposition. Due to the absence of the counsel for the petitioner, the latter was allowed to establish jurisdictional facts at the next hearing date, January 24, 1995. On the latter date, the petitioner presented the jurisdictional facts with the corresponding documentary requirements prescribed by law, to wit:

"Exhibit "A".... - Petition dated June 9, 1994;
Exhibit "A-1".... - Verification of petition;
Exhibit "B".... - Certified True Copy of Certificate of Title No. 154;
Exhibit "C".... - Survey Plan for the Titles;
Exhibit "D".... - Technical Description;
Exhibit "E".... - Certification of the Provincial Assessor;
Exhibit "F".... - Notice of Hearing;
Exhibit "G".... - Certificate of Publication issued by the National Printing Office;
Exhibit "H".... - Certificate of Posting;
Exhibit "I".... - Notice of Appearance of the Solicitor General."

"When the Exhibits were offered in evidence, the Public Prosecutor never interposed any objection, hence, all the exhibits were admitted. Petitioner Pilar Estipular's testimony was offered to prove that she caused the reconstitution of Certificate of Title No. 154 of the Register of Deeds of La Union.

"Two (2) other witnesses, Davidson Estipular and Juvenal Estacio, testified for the petitioner. The grandson of the petitioner, Davidson Estipular, stated that the land covered by the title in question (owner's duplicate) [was] existing and that the original title was burned in the Register of Deeds of La Union. Mr. Juvenal Estacio, the representative of the Register of Deeds of La Union, testified that all the pre-war records in the said office were either burned, destroyed or stolen during the last World War.

"After the presentation of evidence, the lower court rendered the questioned decision."

The CA Ruling

Although the Notice of Hearing had not been posted at the main entrance of the provincial building, the CA held that there was substantial compliance with the requirements of the law. It ruled:

"It is a settled rule that proceedings for judicial reconstitution of certificates of title are proceedings in rem. Thus, NOTICE OF HEARING BY PROPER PUBLICATION IS SUFFICIENT TO CLOTHE THE COURT WITH JURISDICTION (Calalang vs. Register of Deeds of Quezon City, 231 SCRA 88, emphasis ours). The purpose of such publication is to apprise the whole world that such a petition has been filed and that whoever is minded to oppose it for good cause may do so within thirty (30) days before the date set by the court for hearing the petition. It is the publication of such notice that brings in the whole world as a party in the case and vests the court with jurisdiction to hear and decide it (Republic vs. Court of Appeals, 218 SCRA 773). Since there was a valid publication of the Notice of Hearing in the Official Gazette, then it is sufficient to vest jurisdiction upon the court to hear and determine the petition." [6]

xxx xxx xxx

"Viewed in proper perspective, the failure of the petitioner to post the Notice of Hearing at the main entrance of the provincial capitol building does not detract from the fact that there was a substantial compliance with the provisions of the law. It must be noted that the Branch Sheriff issued two (2) Certificates of Posting (Records, pp. 9 and 16) at the main entrance of the municipal building where the land [lay]. Coupled with the successive publications in the Official Gazette, it was more than enough to serve the purpose of notifying all the parties concerned that a petition ha[d] been filed and that whoever ha[d] an interest therein to oppose it for good cause should come to court and prove his claim. As it [was], no private parties opposed the petition. No other claimant x x x came forward. On the other hand, the government was ably represented by the Public Prosecutor so the appellant Republic was not in any manner deprived of the opportunity to protect its rights or interests over the land subject of the petition." [7]

Hence, this recourse by the Republic. [8]

The Issue

Petitioner submits this lone issue for the resolution of this Court:

"The sole issue for resolution is whether or not supposed substantial compliance with the requirements of Republic Act No. 26 is sufficient to confer jurisdiction on the trial court over the case." [9]

The Court's Ruling

The Petition is meritorious.

Main Issue:

Requirements for Reconstitution of Title
Are Mandatory and Jurisdictional

Jurisdiction over the subject matter or nature of the action is conferred only by the Constitution or by law. It cannot be (1) granted by the agreement of the parties; (2) acquired, waived, enlarged or diminished by any act or omission of the parties; or (3) conferred by the acquiescence of the courts. [10] Republic Act No. 26 [11] lays down the special requirements and procedure that must be followed before jurisdiction may be acquired over a petition for reconstitution of title. In Section 13 of said Act, these requirements and procedure are provided as follows:

"Sec. 13. The Court shall cause a notice of the petition, filed under the preceding section, to be published, at the expense of the petitioner, twice in successive issues of the Official Gazette, and to be posted on the main entrance of the 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 the 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 name of the occupants or persons in possession of the property, the owner of the adjoining properties, 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 objection to the petition. The petitioner shall, at the hearing, submit proof of publication, posting and service of the notice as directed by the court."

These requirements are mandatory and compliance with them is jurisdictional. In *Republic v. Court of Appeals*,^[12] the Court held:

"Reconstitution of a certificate of title, in the context of Republic Act No. 26, denotes the restoration in the original form and condition of a lost or destroyed instrument attesting [to] the title of a person to a piece of land. The purpose of the reconstitution is to have, after observing the procedures prescribed by law, the title reproduced in exactly the same way it has been when the loss or destruction occurred. Among the conditions explicitly required by the law is publication of the petition twice in successive issues of the Official Gazette, and its posting at 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. This directive is mandatory; indeed, its compliance has been held to be jurisdictional. x x x"

Thus, before the trial court can acquire jurisdiction to hear and decide a reconstitution case, compliance with the following requisites is imperative:

"1. [That] the notice of the petition be published, at the expense of the petitioner, twice in successive issues of the Official Gazette, and 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;

"2. [That] the notice state among other things, the number of the lost or destroyed certificates of title if known, the name of the registered owner, the name of the occupants or persons in possession of the property, the owner 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 of objection to the petition;

"3. [That] a copy of the notice also be sent, by registered mail or otherwise, at the expense of the petitioner, to every person named therein (i.e. the occupants or persons in possession of the property, the owner of the adjoining properties and all other interested parties) whose address is known at least thirty days prior to the date of the hearing; and

"4. [That] at the hearing, petitioner submit proof of publication, posting and service of the notice as directed by the court."^[13]

In the present case, it is undisputed that the Notice of Hearing of respondent's Petition for Reconstitution was not posted at the main entrance of the provincial building. Clearly, the trial court did not acquire jurisdiction over the case.

But the appellate court, citing *Calalang v. Register of Deeds*,^[14] opined that the publication of the Notice of Hearing in the Official Gazette was "sufficient to vest jurisdiction upon the court to hear and determine the Petition."^[15]

We disagree. The Court in *Calalang* did not rule on whether the posting requirement was mandatory. It merely held that the absence of personal notice to a person purporting to have a legitimate claim on the property was not a sufficient ground to invalidate the proceedings.^[16]

It must be emphasized that under the law, the publication of a notice of hearing in the Official Gazette is not enough. The posting of said notice at the main entrances of both the municipal and the provincial building is another equally vital requisite. 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.[17]

The publication of the Notice of Hearing in the Official Gazette does not justify the respondent's failure to comply with the legal requirement of posting the Notice at the main entrance of both the municipal and the provincial buildings. The principle of substantial compliance cannot be applied to the present case, as the trial court's acquisition of jurisdiction over the Petition hinged on a strict compliance with the requirements of the law.

True, the root of this failure may be traced to the June 15, 1994 Order of the trial court, which failed to include a directive that the Notice of Hearing be posted at the main entrance of the provincial building. However, this oversight cannot excuse noncompliance with the requirements of RA No. 26. Under the circumstances, it is clear that the trial court did not acquire jurisdiction over the case because of its own lapse, which respondent failed to cure.

WHEREFORE, the Petition is hereby GRANTED. The assailed Decision of the Court of Appeals is REVERSED and SET ASIDE. No costs.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga- Reyes, JJ., concur.

[1] Rollo, pp. 21-25.

[2] Fifth Division composed of J. Delilah Vidallon-Magtolis, ponente; and JJ Artemon D. Luna (Division chairman) and Rodrigo V. Cosico (member), both of whom concurred.

[3] Rollo, p. 25.

[4] Written by Judge Fortunato V. Panganiban.

[5] Rollo, pp. 29-30.

[6] CA Decision, p. 5; rollo, p. 23.

[7] Ibid., p. 6; rollo, p. 24.

[8] The case was deemed submitted for decision upon receipt by this Court of petitioner's Memorandum, signed by Assistant Solicitor General Mariano M. Martinez and Solicitor Violeta A. Ticzon on October 13, 1999. The Memorandum for Respondent Estipular, signed by Attys. Arceli A. Rubin, Teresita S. de Guzman and Francisco L. Salomon of the Public Attorney's Office, was received on October 4, 1999.

[9] Rollo, p. 71.

[10] With regard to reconstitution cases, this principle was applied in *Director of Lands v. Court of Appeals*, 102 SCRA 371, January 27, 1981. See also *Dordas v. Court of Appeals*, 270 SCRA 328, March 21, 1997; *Allama v. Republic*, 206 SCRA 600, February 26, 1992.

[11] Entitled "An Act Providing A Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed." See § 110 of Presidential Decree No. 1529, which provides that original copies of certificates of title lost or destroyed in the Office of the Registrar of Deeds, as well as liens and incumbrances affecting the lands covered by such titles, shall be reconstituted judicially in accordance with the procedure prescribed in Republic Act No. 26, the earlier law, insofar as not inconsistent with the Property Registration Decree.

[12] GR No. 127969, June 25, 1999, per Vitug, J.

[13] *Ortigas & Company Limited Partnership v. Velasco*, 234 SCRA 455, July 25, 1994, per Narvasa, CJ. In the following cases, the Court has ruled that these requirements of Republic Act No. 26 are indispensable: *Republic v. Court of Appeals*, 237 SCRA 94, September 26, 1994; *Republic v. Court of Appeals*, 218 SCRA 773, February 9, 1993; *Tahanan Development Corp. v. Court of Appeals*, 118 SCRA 273, November 15, 1982.

[14] 231 SCRA 88, March 11, 1994

[15] CA Decision, p. 5; rollo, p. 23.

[16] *Calalang v. Register of Deeds*, *supra*, p. 102.

[17] *Republic v. Court of Appeals*, 247 SCRA 551, August 23, 1995.

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