REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. EL GOBIERNO DE LAS ISLAS FILIPINAS, CONTRA, ENEMESIA ACASO, ET AL., RECLAMANTES, SEVERIANA GACHO, RESPONDENT.

G.R. NO. 142284. June 08, 2005

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-142284/

AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on certiorari seeking the reversal of the decision[1] dated February 29, 2000 of the Court of Appeals in CA-G.R. CV No. 56966 which affirmed in toto the decision of the Regional Trial Court (RTC), Branch 54, Lapu-Lapu City[2] granting reconstitution of title for Lot No. 1499 in the name of Tirso Tumulak, married to Engracia Pongasi.

On June 21, 1995, respondent Severiana Gacho[3] filed a petition for reconstitution of lost certificate of title before the RTC, Lapu-Lapu City. Her petition alleged the following:

> - That Petitioner Severiana Gacho, is single, Filipino, of legal age, and a resident of Pleasant Homes, Labangon, Cebu City;
>
> - That she is the owner, by purchase, of a portion of Lot No. 1499 of the Opon Cadastre, situated in Barangay Babag, Municipality of Opon (now Lapu-Lapu City) described and bounded as follows --
> NW., by a provincial Road; by Lot 1492, owned by Filomena Palugot,
>
> NE., by Lot 1492, owned by Melecio Tumulak;
>
> SE., by Lot 1500, owned by Laureano Tumulak;
>
> AREA – 5,409 square meters, more or less;

All adjacent owners are residents of Barangay Babag, Lapu-Lapu City, with no house numbers.

- That the said Lot No. 1499, above-described, was owned by Tirso Tumulak, married to Engracia Pongasi, both now deceased, which was adjudged to them by virtue of a decision, dated March 31, 1929, rendered in the above-entitled registration case, copy of which decision is hereto attached and marked as Annex "A";

- That pursuant to the said decision (Annex "A"), Decree 365835 was issued to said Lot 1499, in the name of said Tirso Tumulak, married to Engracia Pongasi, but which decree was not salvaged from the last World War, but its existence appears in Cadastral Records, a copy of a page therein is hereto attached and marked as Annex "B";

- That pursuant to said Decree No. 565855, (sic) an Original Certificate of Title has been issued to Lot No. 1499 in the name of said Tirso Tumulak, married to Engracia Pongasi;

- That the owner's duplicate copy of the said Original Certificate of Title issued to Lot No. 1499, has been lost during the last World War; and its copy on file in the office of the Register of Deeds of Lapu-Lapu City, was also either lost or destroyed during the said last World War, as shown in a certificate issued by the Register of Deeds

of Lapu-Lapu City, copy of which is hereto attached and marked as Annex "C";

- That no co-owner's copy of said certificate of title lost has been issued to a co-owner, mortgagee, or lessee;

- That no deed or any kind of involuntary document affecting said Lot No. 1499 has ever been registered, or pending registration in the office of the Register of Deeds of Lapu-Lapu City;

- That the land Lot No. 1499 is not or has never been the subject of any Court litigation;

- That your Petitioner, having purchased a portion of said Lot No. 1499 is initiating this Petition for reconstitution for the reason that she wants her portion to be issued a certificate of title in her name, but could not do so, if the lost original certificate of title which was lost during the last World War, be reconstituted first; . . .

- That attached hereto is the approved plan of the land, consisting of a tracing cloth plan, hereto attached marked as Annex "D", blue print plan, as Annex "D-1", and its approved technical description marked as Annex "E", as additional basis for the reconstitution of the said lost certificate of title of Lot No. 1499; and deed of conveyance in favor of petitioner marked as Annex "F".[4]

In an Order dated September 6, 1995, the trial court set the initial hearing of the petition on February 12, 1996.[5] Notices of hearing were published in two successive issues of the Official Gazette[6] and also posted[7] in conspicuous places in the Provincial Capitol Building of Cebu City, the Lapu-Lapu City Hall and the barangay where the property was situated, and the Lapu-Lapu Public Market. The Register of Deeds of Lapu-Lapu City,[8] the Administrator of the Land Registration Authority,[9] the Director of the Bureau of Lands,[10] and the Office of the Solicitor General[11] in Manila were also furnished copies of the notice of hearing.

After the jurisdictional facts had been established, the Branch Clerk of Court was commissioned to receive the evidence for the respondent.[12]

Respondent, in an ex-parte hearing, testified that she had purchased a portion of Lot No. 1499 from Aguinaldo and Restituto Tumulak Perez , the legal heirs of the late Concepcion Tumulak, as evidenced by a Deed of Extra-Judicial Declaration of Heirs with Sale executed on February 12, 1979; that Concepcion Tumulak was the only daughter of Tirso Tumulak, married to Engracia Pongasi, both deceased, the decreed owners of the lot by virtue of a decision dated March 31, 1929; that Lot No. 1499 was issued Decree No. 365835, the existence of which appeared in the cadastral record; that she acquired an area of 901 square meters from the 5,000 sq. meters of Lot No. 1499 and is in possession of the same; that there was no adverse claimant on the portion she purchased and the lot had not been the subject of any court litigation; that she has no knowledge that a co-owner's copy of the certificate of title had been issued to any co-owner, mortgagee or lessee nor that any document voluntarily issued to Lot No. 1499 had been presented for registration in the Office of the Register of Deeds, Lapu-Lapu City: that the owner's duplicate copy of the title was lost as evidenced by an affidavit of Conchita Oyao.[13]

Respondent Gacho offered as bases for reconstitution the following documents:

(i) Xerox copy of the Decision dated March 31, 1929 in Exp. Cad. No. 17, Record No. 946 (Exhibit "I").

(ii) Index of decrees, (Exhibit "J").

(iii) Deed of Extra-Judicial Declaration of Heirs with Sale dated February 12, 1979 (Exhibit "K").

(iv) Affidavit of Conchita Oyao dated February 22, 1996 (Exhibit "L").

(v) Certification from the Register of Deeds, Lapu-Lapu City, dated June 9, 1995 (Exhibit "M").

(vi) Sketch plan of Lot No. 1499 (Exhibit "N").

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

(vii) Certified Xerox copy of the technical description of Lot No. 1499 (Exhibit "N-1").

On January 13, 1997, the Land Registration Authority submitted a Report[14] signed by Benjamin M. Bustos, its Reconstituting Officer & Chief, Reconstitution Division, as follows:

REPORT

COMES NOW the Land Registration Authority and to the Honorable Court respectfully reports that:

(1)

The present petition seeks the reconstitution of Original Certificate of Title No. (N.A.), allegedly lost or destroyed and supposedly covering Lot 1499, Opon Cadastre, situated at the Municipality of Opon, Province of Cebu.

(2)

From Book 38 of the "Record Book of Cadastral Lots", on file at the Cadastral Decree Section, this Authority, it appears that Decree No. 365835 was issued for Lot 1499 on October 28, 1929 in Cadastral Case No. 17, GLRO Cad. Record No. 946, copy of said decree, however, is no longer available in this Authority.

(3)

The plan and technical description of Lot 1499, Opon Cadastre were verified correct by this Authority to represent the aforesaid lot and the same have been approved under (LRA) PR-16366 pursuant to the provisions of Section 12 of Republic Act No. 26.

WHEREFORE, the foregoing information anent the property in question is respectfully submitted for consideration in the resolution of the instant petition, and if the Honorable Court, after notice and hearing, finds justification pursuant to Section 15 of Republic Act No. 26 to grant the same, the plan and technical description having been approved, may be used as basis for the inscription of the technical description on the reconstituted certificate. Provided, however, that in case the petition is granted, the reconstituted title being an original certificate should be made subject to a first lien in favor of the National Government to guarantee the payment of the special taxes assessed pursuant to Section 18 of Act 2259, as amended, and to a lien in favor of E. Bunagan Surveying Co. to guarantee the payment of the costs of cadastral survey and monumenting pursuant to Act 3327, as amended, unless the same has previously been cancelled; and provided, further that no certificate of title covering the same parcel of land exists in the office of the Register of Deeds concerned.

On March 11, 1997, the trial court rendered its decision as follows:

After a thorough examination of all the evidence, the Court is of the belief that the allegations in the petition have been sufficiently established and that therefore the petitioner is entitled to the relief prayed for.

WHEREFORE, all premises considered, the Court hereby grants the petition and renders judgment directing the Register of Deeds of Lapu-Lapu City to reconstitute the title for Lot No. 1499 in the name of Tirso Tumulak, married to Engracia Pongasi, which reconstituted title must conform strictly with the technical description of the lot (Exhibit "N-2").

SO ORDERED.[15]

Petitioner Republic, through the Office of the Solicitor General, filed its notice of appeal with the trial court and the records were forwarded to the Court of Appeals. In its appellant's brief, petitioner alleged that the trial court

erred:

> In granting the petition for reconstitution on the basis of index of decree, sketch plan, certification, among other documents, which documents are non-acceptable and insufficient bases for reconstitution under RA 26.[16]

On February 29, 2000, the Court of Appeals rendered its assailed decision affirming the judgment of the trial court. It disposed petitioner Republic's appeal in this wise:

> The appeal lacks merit.
>
> Under Section 2 of Republic Act No. 26, the following are the acceptable sources for reconstitution of an original certificate of title:
>
> Sec. 2. Original Certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:
>
> (a) The owner's duplicate of the certificate of title;
>
> (b) The co-owner's, mortgagee's or lessee's duplicate of the certificate of title;
>
> (c) A certified copy of the certificate of title, previously issued by the Register of Deeds or by a legal custodian thereof;
>
> (d) An authenticated copy of the decree of registration or patent, as the case may be, pursuant to which the original certificate of title was issued;
>
> (e) A document, on file in the Registry of Deeds by which the property, the description of which is given in said document, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that its original has been registered; and
>
> (f) Any other document which, in the judgment of the court is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.
>
> Appellant contends that the enumerated documents acceptable as evidence of ownership are either issued by or registered in the Registry of Deeds, and thus should only be the ones to be considered as official sources recognizing ownership of an applicant in a reconstitution case, but that they are not among those presented herein. However appellant neglected to mention that petitioner had presented the Decision of the Juzgado de Primera Instancia de la Prov. de Cebu in EXP Cat. No. 17 entitled "El Gobierno De Las Islas Filipinas, peticionario contra Enemesia Acaso et al., reclamantes", Record, No. 946 dated March 31, 1929, a certified copy of which had been admitted in evidence as Exh. "I", found on p. 4 of the Record stating Lote No. 1499, -- a favor de Tirso Tumulak, casado con Engracia Pongasi, as well as the Cadastral Record which contains the annotation for Decree No. 365835 for Lot No. 1499 marked Exhibit "J" and "J-1" found on page 5 of the Record. The authenticity and due execution of the foregoing documents marked Exhibit "I" and "J" have not been questioned, hence deemed admitted.
>
> There is sufficient evidence showing how ownership had been transferred over Lot No. 1499 as afore-stated; Concepcion Tumulak was the uncontested only heir of Tirso Tumulak. In a Deed of Extra-Judicial Declaration of Heirs with Sale (Exhibit "K", Record, p. 10) Aguinaldo and Restituto Perez, heirs to the intestate estate of Concepcion Tumulak, sold the 901 square meters of Lot No. 1499 to the petitioner Severiana Gacho. It is clear that petitioner was able to show valid title over the property in question (Esso Standard Eastern Lab. vs. Lim, 123 SCRA 465).
>
> There is ample basis therefore to sustain reconstitution ordered by the court a quo considering that it was also shown by a certification of the Register of Deeds of Lapu-Lapu City that the Original Certificate of Title of Lot

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

> No. 1499 had been lost or destroyed during the last Global War (Exhibit "M", Record, p. 6).[17]

Hence, the instant petition for review wherein petitioner Republic raises the following issues:

> I
>
> THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMNG THE DECISION OF THE COURT A QUO WHICH GRANTED RECONSTITUTION ON THE BASES ALONE OF A XEROX COPY OF A PAPER CAPTIONED "DECISION" (BUT WHICH DOES NOT APPEAR TO BE ONE), AN ENTRY IN THE INDEX OF DECREES, SKETCH PLAN, CERTIFICATIONS, TECHNICAL DESCRIPTION AND DEED OF SALE, WHICH DOCUMENTS ARE NOT ACCEPTABLE SOURCES FOR RECONSTITUTION UNDER RA 26.
>
> II
>
> THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE COURT A QUO GRANTING RECONSTITUTION OF AN ALLEGEDLY LOST CERTIFICATE OF TITLE DESPITE THE DEARTH OF EVIDENCE ON THE PREVIOUS ISSUANCE OF SAID CERTIFICATE OF TITLE.

Respondent Gacho submitted her Comment and petitioner filed a Reply. Parties filed their respective memoranda.

In its Memorandum, petitioner contends that no decree of registration was ever presented by respondent that can support her claim that since a decree was already issued for Lot No. 1499, there was already a certificate of title issued pursuant thereto; that the decision dated March 31, 1929, on which the Court of Appeals based its assailed decision, was unsigned and contained no discussion or reference as to matters of what transpired therein except the phrase "Lote No. 1499. – A favor de Tirso Tumulak, casado con Engrasia Pongasi" which cannot be considered a valid judgment under Section 1, Rule 36[18] of the Rules of Court from which a valid decree can emanate; that the decision is inadmissible since only a geodetic engineer certified as to its authenticity in violation of Section 7, Rule 130[19] of the Rules on Evidence; that the entry in the index of decree is not the authenticated copy of the decree of registration referred to in Section 2(d) of R.A. No. 26 and the name of Tirso Tumulak from whom respondent traced her ownership did not appear on the said index; and that these documents together with the other documents which respondent presented in the trial court, do not qualify as sources for reconstitution of lost or destroyed titles.

We agree.

Section 2 of R.A. No. 26[20] quoted in the Court of Appeals decision enumerates the sources as bases of reconstitution of the original certificate of title. To reiterate, they are as follows:

> Sec. 2. Original Certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:
>
> (a) The owner's duplicate of the certificate of title;
>
> (b) The co-owner's, mortgagee's or lessee's duplicate of the certificate of title;
>
> (c) A certified copy of the certificate of title, previously issued by the Register of Deeds or by a legal custodian thereof;
>
> (d) An authenticated copy of the decree of registration or patent, as the case may be, pursuant to which the original certificate of title was issued;
>
> (e) A document, on file in the Registry of Deeds by which the property, the description of which is given in said document, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

its original has been registered; and

(f) Any other document which, in the judgment of the court is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.

The Court of Appeals relied on a one page, two-liner Decision dated March 31, 1929 as well as the index of decree which contained the annotation for Decree No. 365835 for Lot No. 1499 in affirming the decision of the trial court granting respondent's petition for reconstitution. These documents would naturally not fall under Sec 2(a) to (e) of R.A. No. 26 but may be considered under Sec 2(f) of R.A. No. 26, as any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title. However, we find that they are not enough bases for reconstitution of lost original certificate of title.

The entire text of the 1929 decision attached to the petition for reconstitution is reproduced, in verbatim as follows:

ESTADOS UNIDOS DE AMERICA
ISLAS FILIPINAS

EN EL JUZGADO DE PRIMERA INSTANCIA DE LA
PROV. DE CEBU
20.0 Distrito
Sala Auxiliar

EL GOBIERNO DE LAS ISLAS EXP. CAD. No. 17
FILIPINAS, Record No. 946
Peticionario,

- contra -

ENEMESIA ACASO, et al.,
Reclamantes.

x -x

DECISION

x x x x x x x x x x x x x x x x x x x x x x x

x x x x x x x x x

Lote No. 1499. – A favor de Tirso Tumulak, casado con Engrasia Pongasi.

x x x x x x x x x x

x x x x x x x x x x x x x x x x x x x x x x x

ASI SE ORDENA.

Cebu, Cebu, 31 de Marzo de 1929.

(Fdo.) GUILLERMO F. PABLO
Juez Auxiliar del 20.0 Distrito

A certified true copy:
Cebu City, April 19, 1995

BENITO F. BUNAGAN

> Geodetic Engineer

Significantly, only a certain Geodetic Engineer certified that the copy of the decision attached to the petition was a true copy of the same. It was not established that the Geodetic Engineer is the public officer who is in custody thereof. Section 7, Rule 130, Revised Rules on Evidence provides:

> SEC. 7. Evidence admissible when original document is a public record. – When the original of a document is in the custody of a public officer or is recorded in a public office, its contents may be proved by certified copy issued by the public officer in custody thereof. (2a)

Thus, in the absence of proof that the Geodetic Engineer is a public officer in custody thereof, such piece of evidence has no probative value.

We also find insufficient the index of decree showing that Decree No. 365835 was issued for Lot No. 1499, as a basis for reconstitution. We noticed that the name of the applicant as well as the date of the issuance of such decree was illegible. While Decree No. 365835 existed in the Record Book of Cadastral Lots in the Land Registration Authority as stated in the Report submitted by it, however, the same report did not state the number of the original certificate of title, which is not sufficient evidence in support of the petition for reconstitution. The deed of extrajudicial declaration of heirs with sale executed by Aguinaldo and Restituto Tumulak Perez and respondent on February 12, 1979 did not also mention the number of the original certificate of title but only Tax Declaration No. 00393. As we held in Tahanan Development Corp. vs. Court of Appeals,[21] the absence of any document, private or official, mentioning the number of the certificate of title and the date when the certificate of title was issued, does not warrant the granting of such petition.

Respondent Gacho argues that contrary to petitioner's claim that there is no certificate of title to be reconstituted, it had been shown that the 1929 decision adjudicated Lot No. 1499 to Tirso Tumulak, married to Engracia Pongasi which was the foundation of the issuance of the decree and consequently the issuance of the original certificate of title. We are not persuaded. As we have discussed above, we cannot give any probative value to the 1929 decision which cannot be considered as a valid source for reconstitution.

Respondent Gacho also submitted the plan, the technical description of Lot No. 1499 as well as the certification from the Register of Deeds of Lapu-Lapu City, Dioscoro Y. Sanchez, Jr., stating that the Original Certificate of Title of Lot No. 1499 of Opon Cadastre as per records on file has been lost or destroyed during the last Global War. However, these are not the documents referred to under Section 2(f) of R.A. No. 26 but are mere additional documents that will accompany the petition to be forwarded to the Land Registration Authority. In Heirs of Felicidad Dizon vs. Discaya,[22] we held:

> We now tackle the theory that the "other documents" mentioned in Section 3(f) of RA 26 refer to those enumerated in paragraph 5 of LRC Circular No. 35 dated June 13, 1983, to wit:
>
> - In case the reconstitution is to be made exclusively from sources enumerated in Sections 2 (f) and 3 (f) of Republic Act No. 26 in relation to section 12 thereof, the signed duplicate copy of the petition to be forwarded to this Commission shall be accompanied by the following:
>
> (a) A duly prepared plan of said parcel of land in tracing cloth, with two (2) print copies thereof, prepared by the government agency which issued the certified technical description, or by a duly licensed Geodetic Engineer who shall certify thereon that he prepared the same on the basis of a duly certified technical description. Where the plan as submitted is certified by the government agency which issued the same, it is sufficient that the technical description be prepared by a duly licensed Geodetic Engineer on the basis of said certified plan.
>
> (b) The original, two (2) duplicate copies, and a xerox copy of the original of the technical description of the

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

> parcel of land covered by the certificate of title, duly certified by the authorized officer of the Bureau of Lands or the Land Registration Commission who issued the technical description.
>
> (c) A signed copy of the certification of the Register of Deeds concerned that the original of the certificate of title on file in the Registry was either lost or destroyed, indicating the name of the registered owner, if known from the other records on file in said office."
>
> Petitioners maintain that since they submitted before the lower court Exhibits "N" 5 , "S" 6 and "S-1" 7 , and "T" 8 , consisting of the certification from the register of Deeds, technical descriptions, and tracing cloth plan, respectively, their petition for reconstitution should have been granted by the lower court.
>
> Untenable is petitioners' contention. Paragraph 5 of LRC Circular No. 35 specifically states that "[i]n case the reconstitution is to be made exclusively from sources enumerated in sections 2(f) and 3(f) of Republic Act No. 26, in relation to section 12 thereof, the signed duplicate copy of the petition to be forwarded to this Commission shall be accompanied by the following: . . ." From the foregoing, it is clear that subparagraphs (a), (b), and (c) of paragraph 5 of LRC Circular No. 35 are merely additional documents that must accompany the petition to be forwarded to the Land Registration Commission (now Land Registration Authority). There is nothing in LRC Circular No. 35 to support petitioners' stance that the documents therein enumerated are those referred to in Section 3(f) of RA 26.
>
> It has been held by the Court that when Section 2(f) of Republic Act No. 26 speaks of "any other document," the same must refer to similar documents previously enumerated therein 9 , that is, those mentioned in Sections 2(a), (b), (c), and (d). Having failed to provide a sufficient and proper basis for reconstitution, petitioners cannot assail the respondent court for dismissing their petition for reconstitution.[23] (Emphasis supplied).

Furthermore, the affidavit of a certain Conchita Oyao, an alleged neighbor of the Tumulaks, attesting to the fact that there existed an original certificate of title, the number of which she did not mention, issued to Lot 1499 as she personally saw the owner's duplicate copy during the lifetime of the registered owners, does not help the case of respondent Gacho. In the first place, said affidavit is inadmissible in evidence under the hearsay rule[24] since Oyao was not presented in court to testify on such alleged loss of the original certificate of title. Secondly, even if we were to consider the contents of the affidavit, the same do not likewise help respondent's case. While Oyao attested to the fact of the loss of such title by Aguinaldo Tumulak Perez during the Japanese invasion, respondent, however, failed to show why Oyao was the one who attested to the fact of loss and not Aguinaldo who was allegedly in possession of the owner's duplicate copy at the time it was lost. It is also noted that Aguinaldo or his brother Restituto did not bother to reconstitute the title after it was lost during the Japanese invasion.

In fine, we are not convinced that respondent Gacho had adduced competent evidence to warrant reconstitution of allegedly lost original certificate of title since she had not proven the existence of the same. The courts must be cautious and careful in granting reconstitution of lost or destroyed certificates of titles. [25] It is the duty of the trial court to scrutinize and verify carefully all supporting documents, deeds and certifications. Each and every fact, circumstance or incident which corroborates or relates to the existence and loss of the title should be examined.[26]

WHEREFORE, the petition is hereby GRANTED. The assailed decision of the Court of Appeals dated February 29, 2000, affirming the RTC order granting respondent's petition for reconstitution, is REVERSED and SET ASIDE. Another judgment is entered denying the petition for reconstitution.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

SO ORDERED.

Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.
Puno, (Chairman), J., on official leave.

---

[1] Rollo, pp. 24-32; Penned by Justice Portia-Aliño-Hormachuelos concurred in by Justices Corona Ibay-Somera and Elvi John S. Asuncion.

[2] Id., pp. 45-49; Per Presiding Judge Rumoldo R. Fernandez.

[3] As petitioner; Raffled to Branch 54, entitled EL GOBIERNO DE LAS ISLAS FILIPINAS contra ENEMESIA ACASO, ET AL., Reclamantes; Lot No. 1499 EXP. CAT No. 17 Record No. 946 Opon Cadastre.

[4] Records, pp. 1-2.

[5] Id., p. 12.

[6] Id., p. 25; Exh. "H".

[7] Id., p. 25; Certificate of posting dated February 8, 1996 issued by Process Server Tito D. Valencia, RTC, Branch 54, Lapu-Lapu City.

[8] Id., p.13; Registry Return Receipt, Exhibit "C-3."

[9] Id. p. 18; Registry Return Receipt, Exhibit "F-1."

[10] Id., p.16; Registry Return Receipt, Exhibit "E-1."

[11] Id., p. 19; Registry Return Receipt, Exhibit "G-1."

[12] Id., p. 27; Order dated February 12, 1996.

[13] Affidavit of Conchita Oyao dated February 22, 1996.

That I, CONCHITA OYAO, 72 years of age, Filipino, of legal age, and a resident of Pajak, Lapu-Lapu City, after having been duly sworn to according to law, depose and say –

- – That I know personally Aguinaldo Tumulak Perez, and Restituta (sic) Tumulak Perez, and they (sic) the children of the late Concepcion Tumulak, and who is also the daughter of the late Sps. Tirso Tumulak, and Engracia Pongasi, who died before the last World War;

- – That the said Tirso Tumulak, married to Engracia Pongasi, were the register(sic) owners of that parcel of land, designated as Lot. No. 1499, of the Opon Cadastre, situated in Barangay Babag, Lapu-Lapu City;

- – That I attest to the truth of the fact that said Lot No. 1499 was covered by Decree No. 365835, and an original certificate of title issued to the said Lot No. 1499, because I saw personally the owner's duplicate certificate of title to said Lot No. 1499, in the name of said Tirso Tumulak, married to Engracia Pongasi, as we were close neighbors during their lifetime;

- – That I also attest to the truth of the fact that after the death of the said Sps. Tirso Tumulak, and Engracia Pongasi, the land was succeeded by their daughter Concepcion Tumulak, and who also succeeded in the possession of the owner's duplicate Certificate of Title issued to the said Lot 1499, in the name of said Tirso Tumulak, married to Engracia Pongasi;

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

- – That after the death of Concepcion Tumulak, the land was succeeded by her children – Aguinaldo Tumulak Perez and Restituto T. Perez, and who sold the land to one Severiana Gacho;

- – That I also attest to the truth of the fact that the said owner's duplicate of the original certificate of title issued to Lot No. 1499 was lost during the last World War, by Aguinaldo Tumulak Perez, one of the children of Concepcion Tumulak, who was in the possession of the said owner's copy of the said original certificate of title issued to Lot No. 1499, as we were again together during the evacuation and due to fear by us of invading Japanese Forces invading Cebu, all their personal belongings including the owner's duplicate certificate of title, above-adverted, were lost and despite earnest efforts exerted by them to locate the same after the liberation, all their efforts were in vain, the said owner's duplicate of the Original Certificate of Title issued to Lot No. 1499, could no longer be located.

- – That this affidavit is executed by me to attest to the truth of all the above statements.

IN WITNESS WHEREOF, I hereunto set my hands below this 22nd day of February, 1996, at Cebu City.

[14] Id., p. 32. The Clerk of Court transmitted the petition together with the technical description and plan of the subject lot for verification.

[15] Rollo, pp. 45-49.

[16] CA Rollo, p. 28.

[17] Rollo, pp. 30-32.

[18] Section 1. Rendition of judgment and final order. – A judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of court.

[19] Sec. 7. Evidence admissible when original document is a public record. – When the original of a document is in the custody of a public officer or is recorded in a public office, its content may be proved by a certified copy issued by the public officer in custody thereof.

[20] An Act providing a special procedure for the reconstitution of torrens certificate of title lost or destroyed.

[21] No. L-55771, November 15, 1982, 118 SCRA 273, 314-315.

[22] G.R. No. 133502, February 15, 1999, 303 SCRA 197.

[23] Id., pp. 205-206.

[24] People's Bank and Trust Company vs. Leonides, G.R. No. 47815, March 11, 1992, 207 SCRA 164, 166.

[25] Supra, p. 314.

[26] Ibid.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.