

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. RAFAEL F. HOLAZO, REPRESENTED HEREIN BY HIS ATTORNEY-IN-FACT, RAFAEL ALEXANDER V. HOLAZO, RESPONDENT.

G.R. No. 146846. August 31, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review on certiorari for the reversal of the Decision[1] of the Court of Appeals in CA-G.R. CV No. 57457, affirming the Decision[2] of the Regional Trial Court of Quezon City, Branch 90, in LRC Case No. Q-6935(94) granting the reconstitution of Transfer Certificate of Title (TCT) No. 117130 in the name of Rafael F. Holazo.

The Antecedents

Rafael F. Holazo, herein respondent, executed a Special Power of Attorney[3] authorizing his son, Rafael Alexander V. Holazo, to file a petition for the reconstitution of the original and owner's duplicate copies of TCT No. 117130 covering a parcel of land located at No. 101 Harvard Street, Cubao, Quezon City, with an area of 320 square meters, more or less.

On August 30, 1994, the respondent, represented by his son and attorney-in-fact, Rafael Alexander, filed a petition for reconstitution of the original and owner's duplicate copies of TCT No. 117130 with the RTC of Quezon City, alleging therein that he was the owner of the parcel of land covered by such title. He also alleged that the Register of Deeds of Quezon City was razed by fire on June 11, 1988 and that the original copy of TCT No. 117130 was among the records that were burned. The respondent also claimed that the owner's duplicate copy of the said certificate of title was kept in the house at No. 101 Harvard Street, Quezon City, and got wet after heavy rains fell in Metro Manila sometime in 1990; the title then became brittle and eventually crumbled to pieces which he later on disposed of. He also alleged that the said certificate of title had never been pledged, mortgaged, transferred or otherwise delivered to any person or entity for any purpose whatsoever. Attached to the petition were the following documents: (a) a Certification[4] from the Register of Deeds of Quezon City that such office was razed by fire on June 11, 1988 and that among those burned was the original copy of TCT No. 117130; (b) an Affidavit of Loss[5] executed by the respondent on August 4, 1994 and filed with the Register of Deeds on the said date declaring that he had custody of the owner's duplicate copy of TCT No. 117130 before it was destroyed on account of the heavy downpour; (c) copies of tax declarations[6] covering the lot in question; (d) copies of receipts[7] of payment of real property tax covering the lot in question; and (e) a Certification[8] from the Office of the City Assessor indicating the boundaries of the said lot.

On October 5, 1994, the trial court issued an Order[9] directing Rafael Alexander to amend the petition to conform with paragraph 5 of LRC Circular No. 35, Series of 1983, in relation to Section 12 of Republic Act No. 26, and, likewise, directed that copies of the amended petition be served on the Register of Deeds, the Office of

the Solicitor General (OSG), the Office of the City Prosecutor, the Land Registration Authority, the Land Management Bureau and the owners of the adjoining lots.

The respondent complied with the order and filed an amended petition on January 9, 1997 appending thereto (a) a Resurvey Plan[10] of Lot 23, Block 18, PCS 817 prepared by a duly licensed geodetic engineer in lieu of the lost title; and (b) two duplicate copies of the technical descriptions of the property.[11]

In the meantime, the Land Registration Authority submitted to the trial court a Report[12] recommending that the amended petition be approved.[13]

The trial court authorized the respondent to adduce his evidence ex parte when no opposition was filed to the petition. The respondent did not testify. Rafael Alexander testified in his stead and narrated that after his father purchased the parcel of land covered by TCT No. 117130, a house was constructed thereon in 1964 where he and his parents thereafter resided. His parents then went to Hubert, Sorsogon sometime in 1985, and it was he who continued to reside in the house. According to Rafael Alexander, the respondent's brothers and sisters were aware of the filing of the petition and did not object thereto. The following documents were marked and offered in evidence: (a) the January 22, 1996[14] and January 29, 1996[15] issues of the Official Gazette wherein the order of the trial court setting the hearing of the petition was published; (b) the Certificate of Publication[16] issued by the National Printing Office; (c) the Special Power of Attorney[17] executed by the respondent designating Rafael Alexander to file the petition; (d) the Certification[18] from the Register of Deeds of Quezon City; (e) the Affidavit of Loss[19] executed by the respondent; (f) copies of receipts[20] of payment of real property tax for 1996; (g) Revision by the assessor of Tax Declarations for 1988 and 1990[21] under the respondent's name covering the lot in question; (h) the Report[22] submitted by the Land Registration Authority; (i) the Technical Description of the Property[23] together with the Resurvey Plan;[24] (j) the Letter of the Land Registration Authority accompanying its report;[25] (k) the Certificate of Posting issued by the Process Server of the court; and (l) a Certification[26] from the Office of the City Assessor indicating the boundaries of the lot.

On April 7, 1997, the court a quo rendered a decision granting the petition and ordering the Register of Deeds to reconstitute the original copy of TCT No. 117130 in the name of the respondent. The dispositive portion reads as follows:

IN VIEW OF THE FOREGOING, the amended petition in this case is hereby GRANTED. The Register of Deeds is hereby ordered to reconstitute the original copy of Transfer Certificate of Title No. 117130 in the name of Rafael F. Holazo on the basis of the technical description and the resurvey plan of the property concerned thereby, to wit:

A parcel of land (Lot) as shown on plan, Rs-00-000483, being a resurvey of Lot 23, Blk. 18, Pcs-817, L.R.C. Rec. No. 917, situated in Brgy. E. Rodriguez, (Dist. of Cubao), Quezon City, Metro Manila, Island of Luzon.

Bounded on the NW., along line 1-2 by Lot 22, Blk. 18, Pcs-817 (Amador Sarroca); on the NE., along line 2-3 by Harvard St., on the SE., along line 3-4 by Lot 24, Blk. 18, Pcs-817, Manuel Nobleza & Ma. Regina Santos; and on the SW., along line 4-1 by Lot 13, Blk. 18, Pcs-817 (Sps. Teodora T. Escolin & Yolanda Escolin).

Beginning at a point marked '1' on plan, being S. 85 deg. 11'W., 4,440.32 m. from BLLM-1 Marikina, thence;

N. 64 deg. 58'E., 32.00 m. to pt. 2;

S. 25 deg. 02'E., 10.00 m. to pt. 3;

S. 64 deg. 58'W., 32.00 m. to pt. 4;

N. 25 deg. 02'W., 10.00 m. to pt. of

beginning, containing an area of THREE HUNDRED TWENTY SQ. METERS (320), more or less. All points referred to are indicated on the plan, and are marked on the ground by GIS; marked on the corner of hallow (sic)

block wall; bearings, true; date of original survey, Apr. 8-15, 1920 and that of the resurvey, Sept. 27, 1994, Approved: 12 Dec. 1994.

and thereafter, to issue to Rafael F. Holazo, petitioner herein, the corresponding owner's copy of the certificate of title, so reconstituted, after the payment of any required fee/s relative thereto.

SO ORDERED.[27]

On May 8, 1997, the OSG appeared as oppositor on behalf of the Republic of the Philippines and filed a notice of appeal of the above decision.[28] In the Court of Appeals, the OSG alleged that the respondent had failed to present evidence sufficient to warrant the reconstitution of the original and the owner's duplicate copies of TCT No. 117130.

On January 23, 2001, the CA rendered its Decision affirming that of the trial court. It declared that all the basic requirements of the law on reconstitution were complied with, and as such, it was the duty of the trial court to order the reconstitution of the original and owner's duplicate copies of the title in question.

Hence, this petition.

The petitioner Republic of the Philippines, through the Office of the Solicitor General, reiterated the following lone assignment of error it raised in the CA:

WHETHER OR NOT THE COURT A QUO ERRED IN FINDING THAT THERE WAS SUFFICIENT EVIDENCE UPON WHICH THE PETITION FOR RECONSTITUTION OF TCT NO. 117130 MAY BE BASED.[29]

The petitioner contends that the respondent failed to adduce sufficient and competent evidence to justify the reconstitution of the lost or destroyed original and owner's duplicate copies of TCT No. 117130. It asserts that the respondent who claimed ownership over the property covered by the said title failed to testify. It avers that while the respondent's son and attorney-in-fact testified, he failed to adduce any documentary and testimonial evidence to prove how the respondent acquired the property through any of the modes of conveyance recognized by law.

The petitioner further asserts that the technical description of the property, the tax declaration copy of the property and the resurvey plan are not the "other documents" envisaged in Section 3(f), in relation to Section 3(a) to (g) of Rep. Act No. 26, as amended. The petitioner cites the ruling of this Court in *Republic v. Intermediate Appellate Court*[30] that the documents referred to in Section 3(f) of Rep. Act No. 26, as amended, refer to documents similar to those enumerated in Section 3(a) to (g) of the law. The OSG contends that the absence of documentary evidence referred to in Section 3(f) cannot be corrected by the testimonial evidence of the respondent's son that the respondent himself had been in possession of the property since 1964.

In his comment to the petition, the respondent avers that the petitioner's failure to file its opposition to the petition in the trial court and to adduce its evidence in support of such opposition thereby estops the latter from assailing the sufficiency of evidence presented before the court a quo.

On the other hand, in affirming the decision of the trial court and traversing the arguments of the OSG, the CA held as follows:

During the hearing, the government offered no contradictory evidence, rather, they allowed petitioner to present evidence ex parte, who then proceeded to present the sole testimony of Rafael Alexander V. Holazo. Thereafter, the case was submitted for decision.

The Solicitor General's main argument is that the petitioner failed to present sufficient proof to warrant the

petition for reconstitution. We find otherwise. The evidence presented which are the tax declarations and realty tax payments while not conclusive proof of ownership, however, are at least proof that the holder had a claim of title over the property, also at best indicia of possession, and become strong evidence of ownership when acquired by prescription and accompanied by proof of actual possession of the property or supported by other effective proof. The property that is the subject matter of the case at hand had been in petitioner's possession since 1964, and this fact was never disputed. Besides the absence of any oral or written opposition on the part of the government and its agencies through the Register of Deeds, Land Registration Authority, Office of the Solicitor General and the Office of the City Prosecutor, shows that the government has no contrary evidence with which to contest and frustrate the petition. Hence, its failure to present evidence to the contrary proves that no interest of the government was prejudiced by the judgment. As held in the case of *Republic vs. Intermediate Appellate Court*:

"(i)f the court after hearing finds that the evidence presented is sufficient and proper to warrant the reconstitution of the lost (destroyed) certificate of title and that the petitioner is the registered owner of the property, and said certificate was in force at the time it was lost (destroyed), the duty of the court is to issue the order of reconstitution. This duty is mandatory. The law does not give the court discretion to deny the reconstitution if all the basic requirements have been complied with." [31]

The Ruling of the Court

The petition is given due course and is hereby granted.

A judicial reconstitution proceedings is one in rem.[32] It denotes a restoration of the instrument which is supposed to have been lost or destroyed in its original form or condition. The purpose of the reconstitution of title or any document is to have the same reproduced, after observing the procedure prescribed by law, in the same form they were when the loss or destruction occurred.[33]

The petition for reconstitution is mandated to prove not only the loss or destruction of the title sought to be reconstituted but also that at the time the said title was lost or destroyed, he was the registered owner thereof. The fact that no opposition is filed by a private party or by the Republic of the Philippines will not relieve the petitioner of his burden. The Republic of the Philippines is not estopped from assailing the decision granting the petition if, on the basis of the law and the evidence on record, such petition has no merit.

Courts should proceed with caution in proceedings for reconstitution of titles of land under Rep. Act No. 26. In *Republic v. Intermediate Appellate Court*, [34] citing its ruling in *Alabang Development Corporation v. Judge Valenzuela*, [35] this Court warned that:

The tampering of genuine certificates of title and the issuance of fake ones are a widespread malaise that has seriously threatened the very stability of the Torrens system. Worse, the courts have been, at times, unwitting accomplices in these acts of corruption. In *Alabang*, supra, we sounded this admonition:

"x x x We can take judicial notice of innumerable litigations and controversies that have been spawned by the reckless and hasty grant of such reconstitution of alleged lost or destroyed titles as well as of the numerous purchasers who have been victimized only to find that the "lands" purchased by them were covered by forged or fake titles or their areas simply "expanded" through "table surveys" with the cooperation of unscrupulous officials."

an admonition we find fitting and proper to reiterate here.[36]

Section 3 of Rep. Act No. 26, as amended by Rep. Act No. 6732, provides that transfer 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) The deed of transfer or other document, on file in the registry of deeds, containing the description of the property, or an authenticated copy thereof, showing that its original had been registered, and pursuant to which the lost or destroyed transfer 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 had 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.

When Rep. Act No. 26, Section 2(f), or 3(f) for that matter, speaks of “any other document,” it must refer to similar documents previously enumerated therein or documents ejusdem generis as the documents earlier referred to.[37] The documents alluded to in Section 3(f) must be resorted to in the absence of those preceding in order. If the petitioner for reconstitution fails to show that he had, in fact, sought to secure such prior documents (except with respect to the owner’s duplicate copy of the title which it claims had been, likewise, destroyed) and failed to find them, the presentation of the succeeding documents as substitutionary evidence is proscribed.

In this case, the respondent proved that TCT No. 117130 was destroyed by fire when the Quezon City Hall, including the Office of the Register of Deeds, was totally burned on June 11, 1988 as certified by the Register of Deeds.[38] However, the respondent failed to adduce competent evidence that at the time of the loss of TCT No. 117130, he, alone, was the lawful owner of the property. It bears stressing that the respondent failed to testify; his lone witness was his son, Rafael Alexander, whose testimony does not inspire belief.

First. The original copy of TCT No. 117130 kept in the Office of the Register of Deeds was destroyed by fire on June 11, 1988. According to Rafael Alexander, the owner’s duplicate copy of TCT No. 117130 in his custody got wet when a heavy downpour fell in Metro Manila in 1990 and eventually crumbled to pieces. However, the respondent failed to explain why it took him until August 4, 1994 to execute an affidavit of loss of the owner’s duplicate copy of the title and file the same in the Office of the Register of Deeds of Quezon City. He, likewise, failed to explain why he filed his petition in the trial court only on August 30, 1994.

Second. Rafael Alexander even failed to testify where exactly the owner’s duplicate copy of TCT No. 117130 was kept in their house, and the circumstances surrounding the incident (the “heavy downpour”) which led to the damage and destruction of such title.

Third. Rafael Alexander testified that the respondent purchased the property but failed to adduce a copy of the deed of sale or any document evidencing such sale. It bears stressing that under Section 3(f) of Rep. Act No. 26, in case of the loss or destruction of the owner’s duplicate copy of the title and the property covered therein has not been mortgaged or leased, the petitioner is bound to adduce in evidence a certified copy of the certificate of title previously issued by the Register of Deeds or by a legal custodian thereof. In this case, the respondent failed to testify that no such title was issued by the Register of Deeds prior to the fire which razed its office. In the absence of such certified copy, the respondent was mandated to adduce in evidence a copy of the deed of transfer or other document on file in the Register of Deeds containing the description of the property, or an authenticated copy thereof showing that its original copy had been registered and pursuant to which the lost or destroyed transfer certificate of title was issued. The respondent failed to do so. He even failed to show that he had any authenticated copy of the said deed of transfer showing that the original thereof had been registered in the Register of Deeds.

Fourth. The respondent's reliance on Tax Declaration No. B-040-00998[39] and Tax Declaration No. C-040-01-71[40] under his name is misplaced, because the same are mere revisions signed by the city assessor and not signed by the respondent himself. The respondent did not adduce in evidence the tax declaration signed and submitted by him to the Office of the City Assessor before the fire in 1988 and subsisting as of 1990. Although the real property tax bill/receipt[41] issued to the respondent in 1996 was adduced in evidence, realty tax payment receipts for 1988 and 1990 were not presented in the court a quo. Besides, tax declarations or realty tax payments are not conclusive evidence of ownership but are mere indicia of possession in the concept of owners.[42]

Fifth. Rafael Alexander testified that his parents acquired the property in 1964 and that his mother was still alive.[43] However, the respondent, in his petition for reconstitution, averred that he was the sole owner of the property, which Rafael Alexander confirmed when he testified. Erroneously relying on such testimony, the trial court ordered the Register of Deeds to reconstitute TCT No. 117130 only in the name of the respondent.

In sum, then, the respondent failed to adduce sufficient and competent evidence to warrant a reconstitution of TCT No. 117130 in his name.

IN LIGHT OF ALL THE FOREGOING, the petition is GRANTED. The assailed decision of the Court of Appeals is REVERSED AND SET ASIDE. The petition for reconstitution filed with the Regional Trial Court of Quezon City, Branch 90, is DISMISSED. No costs.

SO ORDERED.

Austria-Martinez, (Acting Chairman), Tinga, and Chico-Nazario, JJ., concur.
Puno, (Chairman), J., on official leave.

[1] Penned by Associate Justice Perlita J. Tria Tirona, with Associate Justices Eugenio S. Labitoria and Eloy R. Bello, Jr., concurring.

[2] Penned by Presiding Judge Reynaldo B. Daway.

[3] Exhibit "F."

[4] Exhibit "G."

[5] Exhibit "H."

[6] Exhibits "J" and "K."

[7] Exhibit "I."

[8] Records, p. 222.

[9] Id. at 13.

[10] Exhibit "L-2."

[11] Exhibit "L-1."

[12] Exhibit "L."

[13] Records, p. 58.

[14] Exhibit "C."

- [15] Exhibit “D.”
- [16] Exhibit “E.”
- [17] Exhibit “F.”
- [18] Exhibit “G.”
- [19] Exhibit “H.”
- [20] Exhibit “I.”
- [21] Exhibits “J” and “K.”
- [22] Exhibit “L.”
- [23] Exhibit “L-1.”
- [24] Exhibit “L-2.”
- [25] Exhibit “M.”
- [26] Records, p. 222.
- [27] Id. at 288-289.
- [28] Id. at 291.
- [29] Rollo, p. 12.

[30] 157 SCRA 62 (1988).

- [31] Rollo, p. 27.
- [32] Heirs of the late Pedro Pinote v. Judge Dulay, 187 SCRA 12 (1990).
- [33] Ibid.; Lee v. Republic of the Philippines, 366 SCRA 524 (2001); Alipoon v. Court of Appeals, 305 SCRA 118 (1999).
- [34] Supra.

[35] 116 SCRA 261 (1982).

- [36] Republic v. Intermediate Appellate Court, supra, p. 70.
- [37] Ibid.
- [38] Exhibit “G.”
- [39] Exhibit “J.”
- [40] Exhibit “K.”
- [41] Exhibit “I.”
- [42] Heirs of Santiago v. Heirs of Santiago, 404 SCRA 193 (2003); Gapacan v. Omipet, 387 SCRA 383 (2002); Camara v. Malabao, 407 SCRA 593 (2003); Heirs of Ermac v. Heirs of Ermac, 403 SCRA 291 (2003).
- [43] The provisions of the New Civil Code, applicable at the time, provides:

Art. 160. All property of the marriage is presumed to belong to the conjugal partnership, unless it be proved that it pertains exclusively to the husband or to the wife.

...

Art. 148. The following shall be the exclusive property of each spouse:

- (1) That which is brought to the marriage as his or her own;
- (2) That which each acquires, during the marriage by lucrative title;
- (3) That which is acquired by right of redemption or by exchange with other property belonging to only one of the spouses;
- (4) That which is purchased with exclusive money of the wife or the husband.

...

Art. 153. The following are conjugal partnership property:

- (1) That which is acquired by onerous title during the marriage at the expense of the common fund, whether the acquisition be for the partnership, or for only one of the spouses.

...

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