

THE GOVERNMENT OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR OF LANDS, PETITIONER, VS. VICTORIANO ABALLE, ET AL, CLAIMANTS, VS. SALVADOR WEE, RESPONDENTS.

G.R. NO. 147212. March 24, 2006

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-147212/>

AUSTRIA-MARTINEZ, J.:

Petitioner filed the present Petition for Review under Rule 45 of the Rules of Court, assailing the Decision^[1] dated February 14, 2001 rendered by the Court of Appeals (CA) in CA-G.R. CV No. 62477. The CA Decision affirmed the Order dated June 24, 1998 issued by the Regional Trial Court of Zamboanga City (RTC) in Cadastral Case No. 96-1 for Judicial Reconstitution of Original Certificate of Title No. 0-10046.

Respondent Salvador Wee (Wee) filed Cadastral Case No. 96-1 on January 2, 1996, seeking the judicial reconstitution of Original Certificate of Title No. 0-10046. The petition alleged: (1) Pursuant to an Extra-Judicial Settlement of Estate with Sale, Wee acquired from the heirs of Francisco Rivera the parcel of land subject of the petition, particularly described as follows:

A PARCEL OF LAND (Lot No. 4093 of the Cadastral Survey of Zamboanga City), with the improvements thereon, situated in the Municipality of Zamboanga. Bounded on the NE. by Lot No. 4094 and vecinal Road to Capisan; on the SE. by the Vecinal Road to Capisan; on the SW. by Lot No. 3303; and on the NW. by Lot No. 4105. Containing an area of Sixty Five Thousand Nine Hundred and twenty six (65,926) Square Meters, covered by Original Certificate of Title No. 0-10046 issued by the Register of Deeds of Zamboanga City.

(2) the copy of the Original Certificate of Title No. 0-10046 was lost and/or destroyed, as evidenced by the certification issued by the Register of Deeds of Zamboanga City, pursuant to Decree No. 199154 on December 11, 1925; (3) the property was declared by Francisco Rivera for taxation purposes under Tax Declaration No. 0-01-23-00046, and Wee is in actual possession of the property; (4) no co-owner's, mortgagee's or lessee's duplicate copy of the certificate of title has been issued; (5) the property is free from all liens and encumbrances and there is no pending claim or suit against the property; (6) no deed or other instrument adversely affecting the ownership of the property has been presented for registration in the Register of Deeds of Zamboanga City; and (7) the owners of the adjoining properties are Candido M. Cruz (Lot No. 4094 & road), Anastacio Atilano (Lot No. 3303) and Rufo Francisco (Lot No. 4105).^[2]

The Office of the Solicitor General (OSG) appeared as Oppositor in behalf of the Government of the Philippines and authorized the City Prosecutor of Zamboanga City to likewise appear in its behalf.^[3]

On June 26, 1997, a Notice of Hearing for October 3, 1997 was posted in the Sheriff's Bulletin Board, the City Hall, and the public market, all in Zamboanga City.^[4] The notice was also published in the Official Gazette on August 25, 1997 and September 1, 1997.^[5]

On June 24, 1998, the RTC issued its Order allowing reconstitution of Original Certificate of Title No. 0-10046.

The dispositive portion of the Order reads:

WHEREFORE, upon payment of all the prescribed fees and taxes, the Register of Deeds of Zamboanga City is hereby ordered to reconstitute Original Certificate of Title No. 0-10046, covering Lot No. 4093 of the Cadastral Survey of Zamboanga, with the improvements thereon, situated in the Municipality of Zamboanga, with an area of 65,926 square meters, more or less, and registered in the name of Francisco Rivero, married to Catalina Padua, of Zamboanga, Province of Zamboanga P.I., as the owner in fee simple thereof based on Decree No. 199154 (Exh. "G"), pursuant to Section 2 of Republic Act No. 26.

SO ORDERED.[6]

Petitioner appealed the RTC Order to the CA on the sole ground that the trial court erred in ordering the reconstitution considering respondent's (Wee) failure to comply with the jurisdictional requisites therefor.[7] Petitioner argued that the RTC did not acquire jurisdiction over the case due to Wee's failure to comply with the requirement of notice to the adjoining owners, inasmuch as the Notice of Hearing was merely published and posted, but not furnished to the property's adjoining owners.[8]

The CA dismissed petitioner's appeal and affirmed the RTC's Order in its assailed Decision dated February 14, 2001,[9] ruling that Wee had satisfactorily complied with the requirements laid down in Section 13 of Republic Act No. 26.

Hence, the present petition.

Petitioner reiterates its argument that the trial court did not acquire jurisdiction over the case for non-compliance with the jurisdictional requirements set in Section 13 of R.A. No. 26.

A review of the records of this case shows that the petition is meritorious.

R.A. No. 26 provides for the procedure and requirements in the reconstitution of lost or destroyed Torrens Certificates of Title. Section 10, in relation to Section 9, of R.A. No. 26 specifically lays down the requirements for sources enumerated in Sections 2(a), 2(b), 3(a), 3(b), and 4(a) of R.A. No. 26; on the other hand, Sections 12 and 13 of R.A. No. 26 provide for the requirements for sources enumerated in Sections 2(c), 2(d), 2(e), 2(f), 3(c), 3(d), 3(e), and 3(f) of R.A. No. 26.[10]

The reconstitution proceedings before the RTC was based on Decree No. 199154 issued on December 11, 1925 from which Original Certificate of Title No. 0-10046 was issued on January 25, 1926; hence, it falls under Section 2(d) of R.A. No. 26, or reconstitution from an authenticated copy of the decree of registration, pursuant to which the original title was issued. The applicable provisions, therefore, are Sections 12 and 13 of R.A. No. 26, to wit:

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 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 had 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) 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 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.

Under the foregoing provisions, it was incumbent upon Wee to prove compliance with the following jurisdictional requirements:

- [That] the notice of the petition must 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;
- [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;
- [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
- [That] at the hearing, petitioner submits proof of publication, posting and service of the notice as directed by the court.[11] (Emphasis supplied)

Jurisprudence dictates that these requirements must be complied with before the court can act on the petition and grant the reconstitution of title prayed for.[12] Specifically, the requirement of actual notice to the occupants and the owners of the adjoining property is itself mandatory to vest jurisdiction upon the court in a petition for reconstitution of title, and essential in order to allow said court to take the case on its merits. The non-observance of the requirement invalidates the whole reconstitution proceedings in the trial court.[13]

In this case, there is no showing that there were notices of hearing sent to the owners of the adjoining properties. As ordered by the RTC in the Notice of Hearing dated June 23, 1997, copies of the notice were ordered sent to all adjacent owners and all persons named in the petition.[14] Wee maintains that these notices were sent to the adjacent owners through registered mail. However, there is nothing in the records of this case that will prove service of these notices. It should be emphasized that Section 13 of R.A. No. 26 unequivocally requires a petitioner in a reconstitution proceeding to submit proof of notice.

On this score, Rule 13, Section 13 of the Rules of Court explicitly provides:

SEC. 13. Proof of Service. — x x x. If service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee.

When service of notice is an issue, the rule is that the person alleging that the notice was served must prove the fact of service. The burden of proving notice rests upon the party asserting its existence. In civil cases, service made through registered mail is proved by the registry receipt issued by the mailing office and an affidavit of the person mailing.[15] Absent one or the other, or worse both, there is no proof of service.[16] In *Petition for Habeas Corpus of Benjamin Vergara v. Gedorio, Jr.*, the Court held that:

When service of notice is an issue, the rule is that the person alleging that the notice was served must prove the fact of service. The burden of proving notice rests upon the party asserting its existence. In civil cases, service made through registered mail is proved by the registry receipt issued by the mailing office and an affidavit of the person mailing of facts showing compliance with Section 7 of Rule 13. In the present case, as proof that petitioners were served with copies of the omnibus motion submitting an inventory of the estate of deceased Allers, respondent Bolaño presented photocopies of the motion with a certification by counsel that service was made by registered mail, together with the registry receipts. While the affidavit and the registry receipts proved that petitioners were served with copies of the motion, it does not follow, however, that petitioners in fact received the motion. Respondent Bolaño failed to present the registry return cards showing that petitioners actually received the motion. Receipts for registered letters and return receipts do not prove themselves, they must be properly authenticated in order to serve as proof of receipt of the letters. Respondent also failed to present a certification of the postmaster that notice was duly issued and delivered to petitioners such that service by registered mail may be deemed completed.[17]

Wee asserts that the registry return receipts are attached to the records of this case. It must be stressed, however, that the registry receipts alone are not sufficient to prove that notice was made to the adjoining owners. The law clearly states that it is the registry receipt issued by the mailing office and the affidavit of the person mailing, which proves service made through registered mail.

Moreover, the Court notes that the registry receipts were not even marked as exhibits so that it may be considered as part of the records of the case. In *Vda. de Oñate v. Court of Appeals*,^[18] the Court had the occasion to rule that for evidence to be considered, the same must be formally offered, and that while a document has been identified and marked as an exhibit, it does not automatically mean that it has already been offered as part of the evidence of a party.^[19] It was also stated in the *Oñate* case that the foregoing rule may be relaxed, provided that the evidence have been duly identified by testimony duly recorded, and the same must have been incorporated in the records of the case.^[20] There is nothing in the testimony of Wee that will show that these registry receipts were duly identified as those that were issued by the mailing office relative to the posting of the notice of hearing via registered mail to the adjoining owners.^[21]

Substantial compliance with the jurisdictional requirements laid down in Sections 12 and 13 of R.A. No. 26 is not enough; the trial court's acquisition of jurisdiction over the reconstitution case is hinged on a strict compliance with the requirements of the law.^[22] It must be stressed that the purposes of the stringent and mandatory character of the legal requirements of publication, posting and mailing are to safeguard against spurious and unfounded land ownership claims, to apprise all interested parties of the existence of such action, and to give them enough time to intervene in the proceeding.^[23]

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. As such, the court upon which the petition for reconstitution of title is filed is duty-bound to examine thoroughly the petition for reconstitution of title and review the record and the legal provisions laying down the germane jurisdictional requirements.[24]

In view of Wee's failure to adequately prove that notices of hearing were sent to the adjoining owners of the property subject of the reconstitution case, the RTC, therefore, did not acquire jurisdiction over the case, and any proceedings held thereon are null and void.

WHEREFORE, the petition is GRANTED. The Decision dated February 14, 2001 rendered by the Court of Appeals in CA-G.R. CV No. 62477 is REVERSED and SET ASIDE. Cadastral Case No. 96-1 for Judicial Reconstitution of Original Certificate of Title No. 0-10046 is DISMISSED for lack of jurisdiction.

SO ORDERED.

Panganiban, C.J.,(Chairperson), Ynares-Santiago, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1]Penned by Associate Justice Martin S. Villarama, Jr., with Associate Justices Conrado M. Vasquez, Jr. and Perlita J. Tria Tirona, concurring.

[2] Records, pp. 1-2.

[3] Id. at 24.

[4] Id. at 49.

[5] Id. at 56.

[6] Id. at 78.

[7] CA rollo, p. 22.

[8] Id. at 25-31.

[9] Id. at 73-77.

[10] Puzon v. Sta. Lucia Realty and Development, Inc., G.R. No. 139518, March 6, 2001, 353 SCRA 699, 709.

[11]Department of Agrarian Reform v. Republic of the Philippines, G.R. No. 160560, July 29, 2005, 465 SCRA 419, 431.

[12] Bernardo v. Court of Appeals, 388 Phil. 793, 830 (2000).

[13] Republic of the Philippines v. Court of Appeals, 368 Phil. 412, 424 (1999).

[14] Records, p. 48.

[15] Petition for Habeas Corpus of Benjamin Vergara v. Gedorio, Jr., G.R. No. 154037, 450 Phil. 623, 634 (2003).

[16] Cruz v. Court of Appeals, 436 Phil. 641, 652 (2002).

[17] Supra note 15.

[18] Cited as Mato v. Court of Appeals in 320 Phil. 344 (1995).

[19] Id. at 349.

[20]Id. at 350.

[21] See TSNs dated November 28, 1997 and March 6, 1998.

[22] Republic of the Philippines v. Estipular, 391 Phil. 211, 221 (2000).

[23] Republic of the Philippines v. Planes, 430 Phil. 848, 869 (2002), citing Republic of the Philippines v. Estipular, *supra*.

[24] Id. at 869-870.

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.