

**FELICISIMO L. OPRIASA AND PASTOR C. OFILAN, PETITIONERS, VS.
THE CITY GOVERNMENT OF QUEZON CITY, RESPONDENT***G.R. NO. 149190. December 19, 2006*

Ponente: CARPIO, J.

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This is a petition for review^[1] of the Decision^[2] dated 31 July 2000 and Resolution dated 18 July 2001 of the Court of Appeals in CA G.R. SP No. 45484. The 31 July 2000 Decision dismissed the petition of petitioners Felicisimo L. Opriasa and Pastor C. Ofilan ("petitioners") to set aside the order of the Regional Trial Court, Quezon City, Branch 76 ("trial court") in a suit for reconstitution of title. The 18 July 2001 Resolution denied petitioners' motion for reconsideration.

The Facts

On 15 June 1990, respondent City Government of Quezon City ("respondent"), represented by former City Mayor Brigido R. Simon, Jr., filed in the trial court a petition, docketed as LRC Case No. Q-4146(90), to reconstitute the original Transfer Certificate of Title No. 23110 ("TCT No. 23110"). Respondent claimed that J.M. Tuason donated to respondent on 12 July 1973 the property covered by TCT No. 23110 registered in the name of J.M. Tuason & Co., Inc.^[3] ("J.M. Tuason"). Respondent alleged that the original TCT No. 23110 was among the documents destroyed by the fire which razed the Office of the Register of Deeds of Quezon City on 11 June 1988. Respondent sought reconstitution under Section 3(c)^[4] of Republic Act No. 26^[5] ("RA 26") based on a certified true copy of TCT No. 23110 issued by the Register of Deeds of Quezon City on 5 January 1987.

In an Order dated 29 June 1990, the trial court scheduled the case for hearing on 8 November 1990. The notice of hearing was published in the 10 and 17 September 1990 issues of the Official Gazette and posted at the lobby of the Quezon City Hall and the bulletin board outside the trial court on 2 July 1990. The Office of the Solicitor General, the Bureau of Lands, the Register of Deeds of Quezon City, the National Land Titles and Deeds Registration Administration and the Office of the Quezon City Prosecutor were furnished copies of the notice of hearing.

During the hearing on 8 November 1990, as there was no opposition filed against the petition, the trial court issued a general order of default against the whole world except the government and allowed respondent to present evidence ex parte. Respondent presented a Certification from the Register of Deeds of Quezon City that the original of TCT No. 23110 was among those destroyed in the 11 June 1988 fire. Respondent further presented the deed of donation and the deed of acceptance of the donation to show that respondent had a real interest over the properties covered by TCT No. 23110.

On 13 November 1990, the Administrator of the Land Registration Authority ("LRA") informed the trial court that the technical description of the lots was not clear and could not be verified for this reason. The LRA

requested the trial court to require respondent to submit a clear and legible copy of the certified true copy of TCT No. 23110 to enable the LRA to render a report on the correctness of the technical description of the lots.

Without waiting for the LRA report, the trial court, in an Order dated 13 March 1991,[6] granted the petition and ordered the reconstitution of TCT No. 23110. The 13 March 1991 Order became final on 17 April 1991. The Register of Deeds of Quezon City issued to respondent reconstituted Transfer Certificate of Title No. RT-28565(23110) ("TCT No. RT-28565").

In the latter part of 1996, while verifying the land records with the LRA and the Register of Deeds, petitioner Opriasa learned of the issuance of TCT No. RT-28565. On 2 October 1997, petitioners,[7] claiming as occupants and possessors of portions of Block 416,[8] Barangay Manresa, Sta. Mesa Heights, Quezon City, filed a petition for annulment of the 13 March 1991 Order with prayer for temporary restraining order or preliminary injunction in the Court of Appeals.

Petitioners prayed for the annulment of the 13 March 1991 Order on the grounds of lack of jurisdiction and extrinsic fraud. Petitioners alleged that the trial court did not acquire jurisdiction over the petition because respondent failed to disclose petitioners' actual possession and occupancy of the property as required by Sections 12[9] and 13[10] of RA 26. Petitioners also alleged extrinsic fraud because they were not notified of the petition and, thus, were deprived of their day in court. Petitioners added that the trial court did not acquire jurisdiction because it acted on the petition without complying with Section 8[11] of LRC Circular No. 35.[12] Petitioners also questioned the trial court's 13 March 1991 Order because the trial court ordered the reconstitution of the title "in the name of the Quezon City Government" and there was a discrepancy in the area of the property as indicated in the 13 March 1991 Order and in the notice of hearing.

In its Comment dated 23 December 1997, respondent stated that there was no extrinsic fraud since petitioners had always been aware of the reconstitution proceedings. Respondent added that the 13 March 1991 Order had long become final and executory and that petitioners filed the petition beyond the reglementary period.

The Ruling of the Court of Appeals

In its 31 July 2000 Decision, the Court of Appeals dismissed the petition and affirmed the trial court's 13 March 1991 Order. The appellate court ruled that there was compliance with the jurisdictional requirements of RA 26. The appellate court also ruled that there was no extrinsic fraud and, if there was, the period to file the petition had already prescribed. The 31 July 2000 Decision of the appellate court reads:

Amidst petitioners' anemic evidence relative to their claim of extrinsic fraud emerged respondents' undisputed evidence which showed that respondent Quezon City's petition for reconstitution was shrouded with regularity - contrary to petitioners' contention that the same was attended with extrinsic fraud - and that the assailed orders of the respondent court were issued in accordance with law, after observing jurisdictional requirements.

x x x

x x x x

Granting ex gratia argumenti that the instant petition be given due course on the ground that extrinsic fraud existed, the same would still be dismissible for not being brought within the reglementary period. Section 3, Rule 47 of the 1997 Rules of Civil Procedure prescribes the period for filing an action to annul a judgment or final order thus: "If based on extrinsic fraud, the action must be filed within four (4) years from its discovery."

In their original petition (pages 2-10 of the Rollo), the petitioners alleged, inter alia, that the petition for reconstitution (LRC Case No. Q-4146[90]) had been instituted by the respondents without their knowledge "as they were not notified personally" thereof (page 3 of the Original Petition) and thereby assailed the consequential order, dated March 13, 1991 (page 4, id.). However, no mention was made as to how and when

they came to know the same. It was only in their amended petition (pages 38-47, id.) wherein they averred that "it was only lately" that they "discovered the fraudulent acts of public respondents," i.e., when petitioner Felicisimo Opriasa was verifying the land records of the disputed property before the Land Registration Authority and the Quezon City Register of Deed" - hence, they alleged that "this petition is filed within four (4) years from 1996, the discovery of the extrinsic fraud" (pages 4-5 of the Amended Petition).

x x x x

When placed side-by-side, the asseverations of the respondents appeared more credible than those of the petitioners, taking note of the series of cases between them. Moreover, it is an undisputed fact that petitioner Felicisimo Opriasa has been a barangay official at the subject property – hence, he cannot claim ignorance of the development program ("pabahay plan") of respondent city government therein since 1988. His (Felicisimo Opriasa's) ignorance, therefore, of the move taken by the respondent city government, i.e., the filing of a petition for reconstitution, appeared beyond the realm of credulity - hence, it is wanting of legal anchorage. x x x Thus, petitioners' inaction beyond the period provided by the rules (within four years from discovery) was tantamount to negligence, for which they cannot be covered by the legal mantle of equity and justice. x x x[13]

Petitioners sought reconsideration but the appellate court denied its motion in the 18 July 2001 Resolution. Hence, this petition.

Petitioners reiterate their claim that the trial court did not acquire jurisdiction over LRC Case No. Q-4146(90) and that there was extrinsic fraud because of lack of actual notice to the occupants or persons in possession of the property as required under RA 26. Petitioners insist that the period to file the petition had not prescribed. Petitioners also maintain that the trial court acted without jurisdiction when it issued the 13 March 1991 Order without waiting for the LRA report. Petitioners further assail the 13 March 1991 Order because the trial court ordered the reconstitution of the title "in the name of the Quezon City Government" and there was a discrepancy in the area of the property as indicated in the 13 March 1991 Order and in the notice of hearing.

In its Comment, respondent asserts that it complied with the requirements and procedures under RA 26. Respondent insists that petitioners had no legal interest over the property because they were "professional squatters" and that petitioners had always been aware of the petition for reconstitution. Respondent maintains that the period to file a petition for annulment of judgment had already prescribed.

The Issues

Petitioners raise the following issues:

- Whether the trial court acquired jurisdiction over the petition for reconstitution despite lack of actual notice to petitioners as occupants or persons in possession of the property;
- Whether there was extrinsic fraud;
- Whether the period to file a petition for annulment of judgment had already prescribed;
- Whether the trial court acted without jurisdiction when it issued the 13 March 1991 Order without waiting for the LRA report; and
- Whether the trial court acted without or in excess of its jurisdiction when (a) it ordered the reconstitution of the title "in the name of the Quezon City Government" and (b) it ordered the reconstitution of the title although there was a discrepancy in the area of the property as indicated in the 13 March 1991 Order and in the notice of hearing.

The Ruling of the Court

The petition has no merit.

Compliance with Sections 12 and 13 of RA 26 is Mandatory and Jurisdictional

Jurisdiction over the subject matter is conferred by the Constitution or by law. In all cases where the authority to proceed is conferred by a statute and the manner of obtaining jurisdiction is mandatory, the same must be complied with, or the proceedings will be void.[14]

Sections 12 and 13 of RA 26 prescribe the special requirements and procedure that must be complied with before the court may acquire jurisdiction over a petition for reconstitution. Failure to comply with these jurisdictional requirements renders the proceedings and the decision approving the reconstitution void.[15]

Thus, the petitioner must prove compliance with the following:

- 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 or 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.[16]

These requirements are mandatory and compliance with such requirements is jurisdictional.[17]

Notice to Occupants or Persons in Possession of the Property

For the trial court to acquire jurisdiction over the petition for reconstitution, the occupants of the property should be notified of the petition. The notice of hearing[18] and the records of the case do not show that petitioners, claiming as occupants or persons in possession of the property, were notified of the petition. Because of the lack of notice, petitioners insist that the trial court did not acquire jurisdiction over the petition.

However, petitioners admit that on 19 June 1989, petitioners filed Civil Case No. Q-89-2768 against respondent for Recovery of Possession and Damages with Preliminary Injunction of about 20,000 square meters of the property.[19] This is an admission by petitioners that they were no longer in possession of the property when respondent filed the petition for reconstitution on 15 June 1990. Hence, there was no need to notify petitioners as they were not occupants or persons in possession of the property entitled to a notice of hearing. As petitioners were not entitled to notice, they could not claim extrinsic fraud.

Trial Court Not Divested of Jurisdiction

Petitioners claim that the trial court did not acquire jurisdiction over the reconstitution proceedings when it failed to comply with Section 8 of LRC Circular No. 35. Petitioners assert that the trial court should have required respondent to submit a clear and legible copy of the certified true copy of TCT No. 23110 to the LRA for verification. Pending receipt of the LRA Report, the trial court should not have issued the 13 March 1991 Order.

In *Puzon v. Sta. Lucia Realty & Development Inc.*, we ruled that non-compliance with LRC Circular No. 35 does not divest the trial court of jurisdiction over the petition for reconstitution. The Court said:

It is not mandatory, however, for the reconstitution court to wait for such reports indefinitely. If none is forthcoming on or before the date of the initial hearing, it may validly issue an order or judgment granting reconstitution. This is implied from the provisions of Section 16 of the same Circular, which states:

"16. Should an order or judgment granting reconstitution be issued by the Court without awaiting the report and the recommendations of this Commission as well as the verification of the Register of Deeds concerned, or while the examination, verification and preparation of the report and recommendation are still pending in the said Offices due to the failure of the Clerk of Court or the petitioner to comply with all the necessary requirements as called for herein, and it appears that there is a valid ground to oppose the reconstitution, a motion to set aside the order/judgment granting reconstitution or to stay the period of finality of said order/judgment shall be filed by the Land Registration Commissioner and/or the Register of Deeds thru the Solicitor General or the provincial or city fiscal concerned."

In the present case, therefore, neither was the Petition for reconstitution affected nor was the RTC divested of its jurisdiction by the fact that the trial court rendered the judgment ordering the reconstitution of a lost or destroyed certificate of title without awaiting the report and recommendations of the land registration commissioner and the register of deed of Quezon City."^[20]

Petitioners also allege that the trial court acted without or in excess of jurisdiction when it ordered the reconstitution of the title "in the name of the Quezon City Government."

A reading of the 13 March 1991 Order reveals that the trial court ordered the reconstituted title be issued to the Quezon City Government, the petitioner in the reconstitution proceedings. The 13 March 1991 Order did not direct the Register of Deeds to register the title "in the name of the Quezon City Government." The reconstituted title issued by the Register of Deeds shows that TCT No. RT-28565 was still registered in the name of J.M. Tuason & Co. Inc. and not in the name of the Quezon City Government.^[21]

Petitioners further allege that the trial court acted without or in excess of jurisdiction when it ordered the reconstitution of the title despite the discrepancy in the statement of the area of the property in the 13 March 1991 Order and in the notice of hearing.

The Court notes that while the notice of hearing does not state the exact technical description of the property covered by TCT No. 23110,^[22] the notice of hearing required that a copy of the petition for reconstitution be attached to the notice of hearing. A copy of TCT No. 23110 is attached to the petition and this sufficiently identifies the property subject of the petition. There was no discrepancy in the identity of the property.

WHEREFORE, we DENY the petition. We AFFIRM the 31 July 2000 Decision and the 18 July 2001 Resolution of the Court of Appeals.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Ramon Mabutas, Jr., with Associate Justices Demetrio G. Demetria and Jose L. Sabio, Jr., concurring.

[3] Sometimes appears in the records as J.M. Tuazon & Co., Inc.

[4] Section 3(c) of RA 26 provides:

SEC. 3. Transfer certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order: x x x x

(c) A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof; x x x.

[5] "AN ACT PROVIDING A SPECIAL PROCEDURE FOR THE RECONSTITUTION OF TORRENS CERTIFICATE OF TITLE LOST OR DESTROYED," approved on 25 September 1946.

[6] Rendered by Judge Manuel M. Calanog, Jr.

[7] Herminigildo B. Anos, Alejandro C. Benitez, Salvador V. Dela Cruz, Rufino G. Giroy, Miguel R. Galvan, and the Federation of Concerned Citizens of the Philippines (FOCUS) were also petitioners before the Court of Appeals.

[8] Block 416 is covered by TCT No. 23110 and, subsequently, by TCT No. RT-28565.

[9] Section 12 of RA 26 provides:

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 [now the Regional Trial Court], 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: x x x (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; x x x.

[10] Section 13 of RA 26 provides:

SEC. 13. x x x 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.

[11] Section 8 of LRC Circular No. 35 provides:

8. Upon receipt of the petition, the Records Section of this Commission shall, after the same is recorded in a separate book used exclusively for reconstitution cases, forward all the papers to the Clerk of Court Division for processing. If the Chief, Clerks of Court Division, finds that the requirements as called for by these guidelines have not been complied with, or that the plan and technical description as submitted by the petitioner are deficient or defective, the Court shall immediately be informed thereof so that action on the petition may be held in abeyance until after the requirements shall have been complied with.

[12] "SUPPLEMENTAL RULES AND REGULATIONS GOVERNING THE RECONSTITUTION OF LOST OR DESTROYED LAND CERTIFICATES OF TITLE," dated 13 June 1983.

[13] Rollo, pp. 51-52, 54, 57-58.

[14] Republic v. Planes, 430 Phil. 848 (2002).

[15] Heirs of Ragua v. Court of Appeals, 381 Phil. 7 (2000).

[16] Republic v. Estipular, 391 Phil. 211, 220 (2000), citing Ortigas & Company Limited v. Velasco, G.R. No. 109645, 25 July 1994, 234 SCRA 455.

[17] Republic v. Court of Appeals, 368 Phil. 412 (1999).

[18] Records, p. 16.

[19] Rollo, p. 13.

[20] G.R. No. 139518, 6 March 2001, 353 SCRA 699, 711-712.

[21] Records, pp. 101-103.

[22] Id. at 4-6. A reading of TCT No. 23110 reveals that the title covers two parcels of land:

(1) A parcel of land (Lot "A" of the subdivision plan Psd-37328, being a portion of Lot 4-B-3-C-2-A-4-B-2 of the subdivision plan Psd-31004, G.L.R.O. Record No. 7681) situated in Quezon City. Bounded on the NW. and N. by Maysilo Estate (G.L.R. 4426); on the NE. by Maysilo Estate and San Juan del Monte River; on the SE. by the San Juan del Monte River, Lot 4-B-3-C-2-A-4-B-1 of plan Psd-31004, (J.M. Tuason & Co., Inc.) and Street Lots Nos. 17, 16, 12, 11, 6 and 5 of the subdivision plan and Lot 4-B-3-C-2-A-4-B-1 of plan Psd-30327 (J.M. Tuason & Co., Inc.) x x x containing an area [of] SIX HUNDRED SEVENTY ONE THOUSAND THREE HUNDRED TWENTY TWO SQUARE METERS AND SEVENTY SQUARE DECIMETERS (671,322.7), more or less.

(2) A parcel of land (Lot No. 4-B-3-C-2-A-4-B-1 of the subdivision plan Psd-31004, being a portion of Lot No. 4-B-3-C-2-A-4-B of the subdivision plan Psd-30327, G.L.R. O. Record No.), situated in Quezon City. Bounded on the NW. by Lot No. 4-B-3-C-2-A-4-B-2 of the subdivision plan; on the NE. by San Juan del Monte River; on the SE. and SW. by Lot No. 4-B-3-C-2-A-5 of plan Psd-18526 (San Francisco del Monte Avenue) x x x containing an area of SIX THOUSAND NINE HUNDRED SEVEN SQUARE METERS (6,907.0), more or less.

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