HEIRS OF ENRIQUE TORING, REPRESENTED HEREIN BY MORIE TORING, PETITIONERS, VS. HEIRS OF TEODOSIA BOQUILAGA, REPRESENTED HEREIN BY PAULINO CADLAWON, CRISPIN ALBURO, VIVENCIO GOMEZ...

G.R. No. 163610. September 27, 2010

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

For review under Rule 45 of the 1997 Rules of Civil Procedure, as amended, are the Decision[1] dated July 11, 2003 of the Court of Appeals (CA) in CA-G.R. CV No. 70432 which affirmed the Decision[2] dated January 27, 1998 of the Regional Trial Court (RTC) of Bogo, Cebu, Branch 61 dismissing Civil Case No. BOGO-00105 except as to the land covered by reconstituted Transfer Certificate of Title (TCT) No. RT-3989 (T-16805) in the name of Enrique Toring, and the Resolution dated April 5, 2004 denying the motion for reconsideration.

The case antecedents:

On October 10, 1996, the heirs of Enrique Toring (petitioners) filed before the trial court a petition for "production, delivery, surrender of documents, annulment of document" against the heirs of Teodosia Boquilaga (respondents). The petition was subsequently amended to include as defendants Attys. Joseph Bernaldez, Earvin Estandarte and Marlo Cugtas.

Petitioners alleged the following:

> 3. During the lifetime of the late Teodosia Boquilaga, and more particularly on June 3, 1927, said Teodosia Boquilaga sold to Enrique Toring now deceased, parcels of land for a consideration of Five Hundred and Eleven Pesos (P511.00), and particularly described as follows:
>
> "Lot No. 1835, Cadastral Case No. 7, Cadastral Record No. 442, Decree No. 230740, with Original Certificate of Title No. 13720"
>
> "Lot No. 2248, Cadastral Case No. 7, Cad. Record No. 442 Decree No. 231111, Original Certificate of Title No. 14057"
>
> "Lot No. 2249, Cadastral Case No. 7, Cadastral Record No. 442, Decree No. 23112 (sic) [231112], Certificate of Title No. 14167"
>
> "Lot No. 1834, Cadastral Case No. 7, Cadastral Record No. 442 Decree No. 230739, Original Certificate of [Title] No. 13719"
>
> These voluntary dealings of the above described parcels of land is (sic) evidenced by a deed of absolute sale written in Spanish, hereto attach[ed] as annex "A";

4. This deed of absolute sale was duly registered with the [Register] of Deeds, and the fees for the registration were duly paid. Thereafter, new Transfer [Certificates] of [Title] were issued by the Office of the [Register] of

Deeds in the Province of Cebu, for all the parcels of land, in the name [of] Enrique Toring, and attached as annex "B" and made [an] integral part of this petition;

5. That from the issuance of [Transfer Certificates] of Title, particularly August 20, 1927, plaintiffs have been in possession and religiously paid the real taxes due on said described lots, and collecting the proceeds of the fruits of the land. However, during World War II, the canceled Original Certificate in the name of Teodosia [Boquilaga], and the Transfer [Certificates] of [Title] in the name of Enrique Toring in the books of the Register of Deeds were destroyed;

6. That lately, while plaintiffs exercising their right of ownership over these parcels of land, defendants refused to share the proceeds and fruits of land on the reason that they owned the land. The matter was referred to the Office of the Barangay Captain, and in a conference, defendants presented Original Certificates of Title. Surprised by these Original [Certificates] of [Title], plaintiffs made verification from the Register of Deeds of the Province of Cebu, and from the Regional Trial Court Branch 16, Cebu City, and discovered that defendants representing the heirs of Teodosia Boquilaga filed a petition for reconstitution of title, and succeeded in having the original certificates of title reconstituted covering the four parcels of land in the name of Teodosia [Boquilaga]. The petition, the decision, the reconstituted titles, and the certification to file action are hereto attached as annexes "C", "D", "E", and "F" and as part and parcel of this petition;

7. Plaintiffs were never served any notice of the petition for reconstitution of the Original Certificates because the persons alleged in the petition as the actual possessor, or the adjacent lot owner alleged in the petition have long been dead, thus resulting into the success of the petition, and the failure of plaintiffs to interpose their opposition;

8. Meanwhile, in an earlier date, lot no. 1834 was reconstituted and new Certificate of Title was issued in the name of Enrique Toring attached hereto as annex "G", and as a part of this petition;

9. For the services rendered by the [law] office in the reconstitution of the original certificate of titles, lot 1835 was transferred in the name of defendants Attorneys Joseph Bernaldez, Ervin B. Estandarte, and Marlo Cugtas under transfer certificate of title no. 97615, attached and made an integral part of this petition as annex "H";

10. Under P.D. 1529, registration is the operative act that conveys and affects the land, and that there is a need by plaintiffs to confirm the operative act made in the year 1927, and thus intend to register the sale with the Register of Deeds;

11. It is imperative for plaintiffs to take hold of the reconstituted Original [Certificates] of [Title] and the Transfer Certificates of Title 97615 now in possession with defendants to register and confirm the sale made in the year 1927, which documents are unjustifiably withheld by defendants;

x x x x[3] (Italics supplied.)

Petitioners thus sought the issuance of an order directing the defendants to deliver, produce and surrender the reconstituted Original Certificates of Title (OCTs) (RO-13240, RO-13238 and RO-13239) and TCT No. 97615. Should the defendants refuse to deliver the said titles, it is prayed that the court (a) declare OCT Nos. RO-13240, RO-13238 and RO-13239 and TCT No. 97615 null and void; (b) direct the Register of Deeds to cancel said titles and in lieu thereof issue new TCTs in the name of Enrique Toring; and (c) declare OCT No. 13237 null and void for being cancelled by TCT No. RT-3989.[4]

In their Answer with Motion to Hear Affirmative Defenses, defendants denied petitioners' allegations and asserted that it was the heirs of Teodosia Boquilaga who have been in possession of the land since time immemorial, enjoying the fruits thereof and paying the taxes due thereon as evidenced by tax receipts issued for the years 1992

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to 1995. They likewise denied "for want of knowledge or information sufficient to form a belief as to the truth x x x relative to the original certificate of title in the name of Teodosia Boquilaga which was cancelled and the transfer certificate of title in the name of Enrique Toring were destroyed in the advent of the second world war." Prior to the reconstitution by defendants, it was verified from the Register of Deeds of the Province of Cebu and the Land Registration Authority (LRA) that no such titles were issued covering the subject lots; petitioners have yet to register their alleged deed of sale but that is now not proper. Defendants averred that Lot Nos. 1834, 2248 and 2249 rightfully belong to the heirs of Teodosia Boquilaga, while the lot covered by TCT No. 97615 (Lot No. 1835) was acquired by Attys. Bernaldez, Estandarte and Cugtas in good faith and in consideration of services rendered, hence acquired by innocent third persons in good faith and for value. As special and affirmative defenses, defendants contended that the RTC has no jurisdiction in this case since the assessed value of the properties involved does not exceed P20,000.00, and that petitioners are guilty of laches for failing to act and take corrective measures with the Register of Deeds for sixty-nine (69) years on the alleged destruction of the documents.[5]

The parties agreed to submit the case for decision on the basis of position papers, memoranda/comment and other documentary evidence in support of their respective claims.

On January 27, 1998, the trial court rendered its Decision dismissing the case on the ground that it cannot interfere with or render null and void the decision made by a co-equal and coordinate branch of the court which ordered the reconstitution of the OCTs in the name of Teodosia Boquilaga. Under the circumstances, petitioners' owner's duplicate certificates of title in the name of Enrique Toring are deemed "overtaken by the reconstituted title[s]." Further, the trial court found petitioners guilty of laches in not reconstituting the original TCTs in the name of Enrique Toring and in not making any opposition to the reconstitution proceedings filed by the heirs of Teodosia Boquilaga. However, it was declared that the dismissal of the case will not affect the reconstituted TCT No. RT-3989 in the name of Enrique Toring.[6]

Aggrieved, petitioners appealed to the CA arguing that the trial court erred in concluding that the action is one for the annulment of the order of the court which granted reconstitution, when in truth the petitioners merely sought the delivery of the owner's duplicate copies of the reconstituted OCTs. They also faulted the trial court in failing to consider that the defendants' predecessor-in-interest had long ago sold the lots to Enrique Toring, which document of sale defendants have not denied, and therefore defendant-heirs are no longer owners. Petitioners further assailed the trial court in finding them guilty of laches despite recognizing the existence of the owner's duplicate of TCTs in the name of Enrique Toring; the submission by the petitioners of annexes in their Comment/Reply to defendants' memorandum showing that there were previous cases wherein petitioners have asserted and defended their right over the subject properties and prevailed; and the fact that the OCTs were reconstituted by defendants only in 1995 and the petitioners instituted this case in 1996.[7]

By Decision dated July 11, 2003, the CA dismissed the appeal and affirmed the trial court's ruling. It held that apart from the bare assertion that their predecessor-in-interest, Enrique Toring, purchased the subject lands from Teodosia Boquilaga for which TCTs in his name were issued but were lost during the last world war, petitioners have not established any right over the subject lands, and hence the reconstituted OCTs stand as strong evidence of ownership by the heirs of Teodosia Boquilaga. The appellate court likewise upheld the trial court's finding that petitioners were guilty of laches, citing their unexplained failure or neglect to have the alleged lost or destroyed TCTs reconstituted for more than fifty (50) years which weighs heavily against their claim and even bolsters the defendants-appellees' claim that no such titles really exist.[8]

A motion for reconsideration was filed by the petitioners but the CA denied the same in its Resolution[9] dated April 5, 2004.

Petitioners submit the following arguments in this petition for review on certiorari:

> I.
>
> THE COURT OF APPEALS OVERLOOKED AND DISREGARDED CONCLUSIVE EVIDENCE ON RECORD THAT THE SUBJECT LANDS WERE ALREADY SOLD AS EARLY AS JUNE 3, 1927 BY TEODOSIA BOQUILAGA, RESPONDENTS' PREDECESSOR, TO ENRIQUE TORING, PETITIONERS' PREDECESSOR, AS EVIDENCED BY THE ANCIENT DEED OF SALE IN SPANISH LANGUAGE DATED JUNE 3, 1927 - WHICH EVIDENCE, IF PROPERLY CONSIDERED, WOULD HAVE CHANGED THE OUTCOME OF THE CASE.
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> II.
>
> THE COURT OF APPEALS OVERLOOKED AND DISREGARDED CONCLUSIVE EVIDENCE ON RECORD THAT THE PETITIONERS ARE IN ACTUAL POSSESSION OF THE ORIGINAL OWNERS' DUPLICATE TRANSFER CERTIFICATES OF TITLE IN THE NAME OF ENRIQUE TORING WHICH ARE GOOD PROOF OF PETITIONERS' OWNERSHIP OF SUBJECT LANDS - WHICH EVIDENCE, IF PROPERLY CONSIDERED, WOULD HAVE ALTERED THE OUTCOME OF THE CASE.
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> III.
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> THE COURT OF APPEALS OVERLOOKED THE FACT THAT THE TITLES THAT PETITIONERS HAD RECONSTITUTED WERE THE CANCELLED ORIGINAL CERTIFICATES OF TITLE IN THE NAME OF TEODOSIA BOQUILAGA WHICH DO NOT PROVE OWNERSHIP OF THE LANDS BECAUSE THEY WERE ALREADY CANCELLED BY ENRIQUE TORING'S TRANSFER CERTIFICATES OF TITLE.
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> IV.
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> THE COURT OF APPEALS ERRED IN HOLDING PETITIONERS GUILTY OF LACHES JUST BECAUSE THEY FAILED TO RECONSTITUTE TORING'S ORIGINAL TRANSFER CERTIFICATES OF TITLE ON FILE IN THE RECORDS OF THE REGISTRY OF DEEDS, IT APPEARING THAT THEY AND THEIR PREDECESSOR HAVE BEEN IN ACTUAL POSSESSION OF THE LAND SINCE 1927 AND ARE IN POSSESSION OF THE ORIGINAL OWNER'S DUPLICATE TRANSFER CERTIFICATES OF TITLE IN THE NAME OF THEIR PREDECESSOR, ENRIQUE TORING.
>
> V.
>
> THE COURT OF APPEALS ERRED IN NOT REVERSING THE TRIAL COURT'S RULING THAT THE COMPLAINT/PETITION FILED BY PETITIONERS WITH THE TRIAL COURT WAS TANTAMOUNT TO AN ACTION TO ASSAIL THE DECISION OF A CO-EQUAL COURT, IT APPEARING THAT THE SAID COMPLAINT/PETITION WAS MERELY TO COMPEL DELIVERY OR SURRENDER BY RESPONDENTS OF THE RECONSTITUTED CERTIFICATES OF TITLE.[10]

The issues raised are purely questions of fact that this Court cannot review in a petition filed under Rule 45. Ultimately, we are asked to determine the ownership of the subject lots originally registered in the name of Teodosia Boquilaga, respondents' predecessor-in-interest.

The CA declared that petitioners failed to establish any right over the lots other than their bare assertion that their predecessor-in-interest purchased these properties from Teodosia Boquilaga and subsequently titles in his name were issued but were lost during the last world war. It agreed with the trial court in finding that whatever claim petitioners have on the subject properties was lost by their unexplained neglect for more than fifty (50) years since the destruction of the records in the registry of deeds during the last world war, under the principle of laches. As to the nature of the action filed by petitioners, the CA likewise affirmed the trial court's ruling that it is one for

annulment of the reconstituted title, which essentially assails the judgment or order of a co-equal court.

As a general rule, factual findings of the trial court, especially those affirmed by the CA, are conclusive on this Court when supported by the evidence on record.[11] There are recognized exceptions to this rule, among which are: (1) the conclusion is grounded on speculations. surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is a grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of facts are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the finding of absence of facts is contradicted by the presence of evidence on record; (8) the findings of the CA are contrary to the findings of the trial court; (9) the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the CA are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.[12]

In the case at bar, the records showed that the original petition was filed in the Municipal Circuit Trial Court of Bogo-San Remigio, Cebu but was subsequently transferred to the RTC on motion of the petitioners. TCT Nos. 16802, 16803, 16804 and RT-3989 (T-16805) were attached to the petition together with annexes "A", "C" to "G" mentioned therein.[13] However, upon elevation to the CA, the records transmitted had missing pages, including the pages subsequent to the original petition where copies of the aforesaid TCTs should have been attached.[14] At any rate, there appears to be no indication from the pleadings filed and orders/decision issued by the trial court throughout the proceedings that such documentary evidence was not submitted by petitioners. Hence, the CA could have been misled by the absence of these annexes from the records transmitted on appeal. Petitioners submitted to this Court the photocopies of TCT Nos. 16802, 16803 and 16804 certified as true copy from the records by the RTC of Bogo, Branch 61 Clerk of Court VI Atty. Rey Dadula Caayon.[15]

TCT Nos. 16802, 16803 and 16804 in the name of Enrique Toring clearly indicate the corresponding lots and Original Certificates of Title from which each title was derived, the dates of issuance of such OCTs, as well as Cadastral Case Decree Numbers of the original registration, correspond to the recitals in the Escritura de Venta Absoluta pertaining to the properties being conveyed by Teodosia Boquilaga (TCT No. 16802[16] which is a transfer from OCT No. 13720 issued on November 22, 1926 covering Lot 1835 pursuant to Decree No. 230740; TCT No. 16803[17] which is a transfer from OCT No. 14057 issued on November 29, 1926 covering Lot 2248 pursuant to Decree No. 231111; and TCT No. 16804[18] which is a transfer from OCT No. 14167 issued on November 29, 1926 covering Lot 2249 pursuant to Decree No. 231112). As to Lot 1834, the reconstituted title TCT No. RT-3989 (T-16805)[19] also in the name of Enrique Toring likewise shows on its face that the lot covered thereby (Lot 1834) was originally registered on November 22, 1926 pursuant to Decree No. 230739 in Cad Rec. No. 442 under OCT No. O-13719, which again corresponds to the recitals of the aforesaid document of sale executed by respondents' predecessor-in-interest. It must be noted that petitioners presented before the trial court the owner's duplicate copies of the said TCTs in the name of Enrique Toring. Indeed, had these pieces of evidence been duly considered on appeal, the resolution of the issue of ownership would have tilted in petitioners' favor.

But first, we resolve the issue of the propriety of the suit filed by the petitioners. The nature of an action is determined by the material allegations of the complaint and the character of the relief sought by plaintiff, and the law in effect when the action was filed irrespective of whether he is entitled to all or only some of such relief.[20] As gleaned from the averments of the petition filed before the trial court, though captioned as for delivery or production of documents and annulment of document, petitioners' action was really for quieting of title and cancellation of reconstituted titles.

Petitioners had prayed for the following reliefs before the trial court:

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> WHEREFORE, it is respectfully prayed that an order be issued;
>
> a. Directing defendants to deliver, produce, and surrender Original [Certificates] of Title Nos. RO- 13240, 13238, 13239, and Transfer Certificate of Title [No.] 97615 to plaintiffs, and should defendants refuse to surrender these documents, to declare Original Certificate of Titles Nos. - RO- 13238, 13239, 13240, and Transfer Certificate of Title 97615 null and void, and directing the Register of Deeds of the Province of Cebu, to cancel said Original Certificates of Title, and Transfer Certificate of Title and in lieu thereof issue new Transfer Certificates of Title in the name of Enrique Toring;
>
> b. Declare as null and void Original Certificate of Title 13237, being canceled by Transfer Certificate of Title RT-3989;
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> c. Directing defendants heirs of Teodosia [Boquilaga] to pay P20,000.00 as attorney's fees.
>
> Plaintiffs, pray for other remedies just and equitable applicable to their case, pertinent with law and equity.[21]

Petitioners contend that the delivery of the reconstituted OCTs in the name of Teodosia Boquilaga was necessary to confirm and register the 1927 sale in favor of their predecessor-in-interest, Enrique Toring. It appears that the remedy contemplated is a petition for surrender of withheld owner's duplicate certificates provided in Section 107 of Presidential Decree (P.D.) No. 1529.

> SECTION 107. Surrender of withheld duplicate certificates. -- Where it is necessary to issue a new certificate of title pursuant to any involuntary instrument which divests the title of the registered owner against his consent or where a voluntary instrument cannot be registered by reason of the refusal or failure of the holder to surrender the owner's duplicate certificate of title, the party in interest may file a petition in court to compel surrender of the same to the Register of Deeds. The court, after hearing, may order the registered owner or any person withholding the duplicate certificate to surrender the same, and direct the entry of a new certificate or memorandum upon such surrender. If the person withholding the duplicate certificate is not amenable to the process of the court, or if [for] any reason the outstanding owner's duplicate certificate cannot be delivered, the court may order the annulment of the same as well as the issuance of a new certificate of title in lieu thereof. Such new certificate and all duplicates thereof shall contain a memorandum of the annulment of the outstanding duplicate. (Emphasis supplied.)

However, petitioners themselves alleged that the 1927 sale had long been duly registered -- OCT Nos. 1379, 14167, 14057 and 13720 in the name of Teodosia Boquilaga covering Cadastral Lot Nos. 1834, 2249, 2248 and 1835, respectively, as mentioned in the Escritura de Venta Absoluta[22] dated June 3, 1927, were cancelled and in lieu thereof TCTs have been issued in the name of Enrique Toring on August 20, 1927. Their predecessor-in-interest having already succeeded in registering the deed of sale as early as 1927, it is clear that the procedure under Section 107 of P.D. No. 1529 is inapplicable.

Quieting of title is a common law remedy for the removal of any cloud upon or doubt or uncertainty with respect to title to real property. Originating in equity jurisprudence, its purpose is to secure "... an adjudication that a claim of title to or an interest in property, adverse to that of the complainant, is invalid, so that the complainant and those claiming under him may be forever afterward free from any danger of hostile claim."[23] In such action, the competent court is tasked to determine the respective rights of the complainant and other claimants, not only to place things in their proper places, and to make the claimant, who has no rights to said immovable, respect and not disturb the one so entitled, but also for the benefit of both, so that whoever has the right will see every cloud of doubt over the property dissipated, and he can thereafter fearlessly introduce the improvements he may desire, as well as use, and even abuse the property as he deems fit.[24]

In alleging that petitioners were not served any notice as actual possessors or adjacent owners of the petition for reconstitution (Cad Case No. 7, Cad. Rec. No. 442, Decree Nos. 230739, 230740, 231111 and 231112) filed by

the respondents for reconstitution of OCTs in the name of Teodosia Boquilaga which was granted by the court; and that the said OCTs have already been cancelled by the issuance of TCTs in the name of Enrique Toring by virtue of a deed of sale executed in 1927 by Teodosia Boquilaga - petitioners did not just seek to remove any doubt or uncertainty in the title of their predecessor-in-interest over the subject real properties, but also claimed irregularity and defects in the reconstitution proceedings which resulted in the issuance of reconstituted OCT Nos. RO-13237, RO-13238, RO-13239 and RO-13240 in the name of Teodosia Boquilaga.

The governing law for judicial reconstitution of titles is Republic Act No. 26. Based on the provisions of said law, the following must be present for an order for reconstitution to issue: (a) that the certificate of title had been lost or destroyed; (b) that the documents presented by petitioner are sufficient and proper to warrant reconstitution of the lost or destroyed certificate of title; (c) that the petitioner is the registered owner of the property or had an interest therein; (d) that the certificate of title was in force at the time it was lost and destroyed; and (e) that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title.[25] If indeed, as petitioners claimed, the OCTs in the name of Teodosia Boquilaga were already cancelled and new TCTs have already been issued in the name of Enrique Toring as early as 1927, then the reconstituted OCT Nos. RO-13237, RO-13238, RO-13239 and RO-13240 issued in Cad Case No. 7, Cad Rec. No. 442 are null and void.

It may also be noted that the petition for reconstitution filed by respondents and the Certifications issued by the LRA stated only the registration decree numbers issued in favor of Teodosia Boquilaga without mentioning the numbers of the OCTs and dates of their issuance.[26] The reconstituted OCTs on their face contained no entry whatsoever as to the number of the OCT issued pursuant to the decrees of registration, nor the date of its issuance. We have held that such absence of any document, private or official, mentioning the number of the certificate of title and date when the certificate of title was issued, does not warrant the granting of a petition for reconstitution.[27] Moreover, notice of hearing of the petition for reconstitution of title must be served on the actual possessors of the property. Notice thereof by publication is insufficient. Jurisprudence is to the effect settled that in petitions for reconstitution of titles, actual owners and possessors of the land involved must be duly served with actual and personal notice of the petition.[28]

The decision granting the petition for reconstitution filed by the respondents was promulgated on May 9, 1996. There is no allegation or proof that petitioners availed of the remedies of appeal, petition for relief, certiorari or annulment of judgment before the CA questioning the validity of the said reconstitution order.

Notwithstanding petitioners' failure to avail of the afore-mentioned remedies, the decision in the reconstitution case is not a bar to the adjudication of the issue of ownership raised in the present case. The nature of judicial reconstitution proceedings is the restoration of an instrument or the reissuance of a new duplicate certificate of title which is supposed to have been lost or destroyed in its original form and condition. Its purpose is to have the title reproduced after proper proceedings in the same form they were when the loss or destruction occurred and not to pass upon the ownership of the land covered by the lost or destroyed title.[29]

We explained in the case of Heirs of Susana De Guzman Tuazon v. Court of Appeals[30] that:

> [I]n x x x reconstitution under Section 109 of P.D. No. 1529 and R.A. No. 26, the nature of the action denotes a restoration of the instrument which is supposed to have been lost or destroyed in its original form and condition. The purpose of the action is merely to have the same reproduced, after proper proceedings, in the same form they were when the loss or destruction occurred, and does not pass upon the ownership of the land covered by the lost or destroyed title. It bears stressing at this point that ownership should not be confused with a certificate of title. Registering land under the Torrens System does not create or vest title because registration is not a mode of acquiring ownership. A certificate of title is merely an evidence of ownership or title over the

> particular property described therein. Corollarily, any question involving the issue of ownership must be threshed out in a separate suit, which is exactly what the private respondents did when they filed Civil Case No. 95-3577 ["Quieting of Title and Nullification and Cancellation of Title"] before Branch 74. The trial court will then conduct a full-blown trial wherein the parties will present their respective evidence on the issue of ownership of the subject properties to enable the court to resolve the said issue. x x x. (Emphasis supplied.)

After a careful review, we hold that petitioners have satisfactorily established their claim of ownership over the subject lots by preponderance of evidence. The existence and due execution of the Escritura de Venta Absoluta was never disputed by the respondents. Petitioners' documentary evidence showed that the registration fees for the transfer of the lots mentioned in the said deed of absolute sale was duly paid, resulting in the issuance of TCTs in the name of Enrique Toring. Thereafter, petitioners took possession of the land, sharing in the fruits thereof and paying the realty taxes due on the lands.[31] While the original owner's duplicate TCTs were in the possession of petitioners, the original transfer certificates of title on file with the registry of deeds were lost or destroyed during the last world war. Petitioners were also able to judicially reconstitute TCT No. T-16805 (RT-3989) on November 11, 1994, as per the annotation thereon.[32]

On the other hand, respondents have not adduced competent evidence other than the reconstituted OCTs in their possession. The tax receipts presented revealed that they belatedly paid real estate taxes in 1995 (for the years 1992 to 1995),[33] which weakens their claim of possession since time immemorial. While tax declarations and receipts are not conclusive evidence of ownership, yet, when coupled with proof of actual possession, tax declarations and receipts are strong evidence of ownership.[34] And even assuming that respondents are indeed occupying the lands or portions thereof, it is not clear whether they occupy or possess the same as owners or tenants.

Clearly, the trial and appellate courts seriously erred in disregarding material evidence strongly supporting petitioners' claim of ownership of the disputed lots. There is likewise no basis for the conclusion that laches had set in, as to defeat the right of the petitioners to assert their claim over the subject properties.

Laches means the failure or neglect, for an unreasonable length of time, to do that which by exercising due diligence could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.[35] This equitable defense is based upon grounds of public policy, which requires the discouragement of stale claims for the peace of society. Indeed, while it is true that a Torrens Title is indefeasible and imprescriptible, the registered landowner may lose his right to recover the possession of his registered property by reason of laches.[36] In this case, however, laches cannot be appreciated in respondents' favor.

It should be stressed that laches is not concerned only with the mere lapse of time. The following elements must be present in order to constitute laches:

> (1)
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> conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which complaint is made for which the complaint seeks a remedy;
>
> (2)
>
> delay in asserting the complainant's rights, the complainant having had knowledge or notice, of the defendant's conduct and having been afforded an opportunity to institute a suit;
>
> (3)
>
> lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which

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he bases his suit; and

(4)

injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred.[37]

Only the first element was present in this case, which occurred from the moment respondents refused to give petitioners' share in the fruits and proceeds of the land, claiming that they are owners thereof. In the ensuing barangay proceedings, respondents presented the reconstituted OCTs prompting petitioners to verify with the office of the registry of deeds. It was only then that petitioners discovered that respondents indeed filed a petition for judicial reconstitution. There being no personal notice to them as actual possessors or adjacent lot owners, petitioners never had the opportunity to file their opposition. The order of reconstitution was issued in May 1996. Petitioners' filing of the present suit for the delivery and cancellation of said reconstituted OCTs in the possession of respondents on October 20, 1996, after the lapse of only five months, cannot be considered as unreasonable delay amounting to laches.

Additionally, petitioners showed that they were never amiss in asserting their rights over the subject lots whenever any incident threatened their peaceful possession and ownership. They attached as annexes to the Comment/Reply dated September 4, 1997, copies of the judgment rendered in a criminal case for qualified theft filed against one Genaro Amoro Regala (Crim. Case No. CU-2312) and Orders issued in Civil Case No. B-571 and CAR Case No. 1197. In these instances, the courts have recognized petitioners' ownership of the lands involved.[38]

WHEREFORE, the petition is GRANTED. The Decision dated July 11, 2003 and Resolution dated April 5, 2004 of the Court of Appeals in CA-G.R. CV No. 70432 are hereby REVERSED and SET ASIDE. Petitioners Heirs of Enrique Toring are hereby declared the lawful owners of Lot Nos. 1834, 1835, 2248 and 2249 (Cad. Case No. 7, Cad. Rec. No. 442, Decree Nos. 230739, 230740, 231111 and 231112) situated in Bogo, Cebu.

No costs.

SO ORDERED.

Carpio Morales, (Chairperson), Peralta,[*]Bersamin, and Sereno, JJ., concur.

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[*] Designated additional member per Special Order No. 885 dated September 1, 2010.

[1] Rollo, pp. 37-41. Penned by Associate Justice Conrado M. Vasquez, Jr. and concurred in by Associate Justices Mercedes Gozo-Dadole and Rosmari D. Carandang.

[2] Id. at 62-69. Penned by Judge Ildefonso G. Mantilla.

[3] Id. at 49-50.

[4] Id. at 50-51.

[5] Records, pp. 240-243.

[6] Rollo, pp. 67-69.

[7] CA rollo, pp. 19-34.

[8] Rollo, pp. 40-41.

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[9] Id. at 43-44.

[10] Id. at 17-18.

[11] Dimaranan v. Heirs of Spouses Hermogenes Arayata and Flaviana Arayata, G.R. No. 184193, March 29, 2010, p. 11, citing Limbauan v. Acosta, G.R. No. 148606, June 30, 2008, 556 SCRA 614, 628.

[12] Id. at 11-12.

[13] Records, pp. 1-192.

[14] See records, pages 7-10 [attached Annex "B" (TCTs in the name of Enrique Toring) of the Petition] were missing.

[15] Rollo, pp. 54, 56 and 57.

[16] Rollo, p. 54.

[17] Id. at 56.

[18] Id. at 57.

[19] Id. at 61.

[20] Iglesia ni Cristo v. Ponferrada, G.R. No. 168943, October 27, 2006, 505 SCRA 828, 845, citing Barangay Piapi v. Talip, G.R. No. 138248, September 7, 2005, 469 SCRA 409, 413; Hilario v. Salvador, G.R. No. 160384, April 29, 2005, 457 SCRA 815, 824; and Serdoncillo v. Spouses Benolirao, 358 Phil. 83 (1998).

[21] Rollo, pp. 50-51.

[22] Id. at 52-53.

[23] Baricuatro, Jr. v. Court of Appeals, G.R. No. 105902, February 9, 2000, 325 SCRA 137, 146, citing TOLENTINO, Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. 2, p. 148.

[24] Id. at 146-147.

[25] Republic v. Tuastumban, G.R. No. 173210, April 24, 2009, 586 SCRA 600, 610-614, citing Sections 2, 3, 12 and 13 of R.A. No. 26.

[26] Records, pp. 11-19, 299-304.

[27] Tahanan Development Corp. v. Court of Appeals, et al., 203 Phil. 652 (1982) cited in Republic v. Heirs of Julio Ramos, G.R. No. 169481, February 22, 2010, p. 11.

[28] Dordas v. Court of Appeals, G.R. No. 118836, March 21, 1997, 270 SCRA 328, 336.

[29] Heirs of Rolando N. Abadilla v. Galarosa, G.R. No. 149041, July 12, 2006, 494 SCRA 675, 688, citing Puzon v. Sta. Lucia Realty and Development, Inc., G.R. No. 139518, March 6, 2001, 353 SCRA 699, 710; Heirs of Susana De Guzman Tuazon v. Court of Appeals, G.R. No. 125758, January 20, 2004, 420 SCRA 219, 228; Stilianopulos v. City of Legaspi, 374 Phil. 879, 893-894 (1999); and Lee v. Republic of the Phil., 418 Phil. 793, 803 (2001).

[30] Supra.

[31] Records, pp. 355-430.

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[32] Rollo, p. 61.

[33] Records, p. 247.

[34] Gesmundo v. Court of Appeals, G.R. No. 119870, December 23, 1999, 321 SCRA 487, 495.

[35] Republic v. Court of Appeals, G.R. No. 116111, January 21, 1999, 301 SCRA 366, 378-379.

[36] Heirs of Enrique Diaz v. Virata, G.R. No. 162037, August 7, 2006, 498 SCRA 141, 167, citing Vda. de Rigonan v. Derecho, G.R. No. 159571, July 15, 2005, 463 SCRA 627, 648 and Isabela Colleges, Inc. v. Heirs of Nieves Tolentino-Rivera, G.R. No. 132677, October 20, 2000, 344 SCRA 95, 107.

[37] Heirs of Anacleto B. Nieto v. Municipality of Meycauayan, Bulacan, G.R. No. 150654, December 13, 2007, 540 SCRA 100, 107-108, citing Pineda v. Heirs of Eliseo Guevara, G.R. No. 143188, February 14, 2007, 515 SCRA 627, 635 and Heirs of Juan and Ines Panganiban v. Dayrit, G.R. No. 151235, July 28, 2005, 464 SCRA 370, 382.

[38] Records, pp. 538-559.

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