

HEIRS OF LETICIA LOPEZ- CUEVAS, REPRESENTED BY EMILIO AYTONA, JR., PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

G.R. No. 170539. July 09, 2008

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-170539/>

TINGA, J.:

This Petition[1] before the Court, dated 9 December 2005 assails the Decision[2] of the Court of Appeals dated 28 February 2005, which declared null and void the new owner's duplicate certificate of title issued in favor of petitioners, and its Resolution[3] dated 27 October 2005 which denied reconsideration.

The facts are as follows:

On 5 December 2001, petitioners, Heirs of Leticia Lopez-Cuevas, represented by Emilio Aytona, Jr. (Aytona), filed with the Regional Trial Court (RTC) of Labo, Camarines Norte, Branch 64 a Petition[4] for the issuance of a new owner's duplicate copy of Transfer Certificate of Title (TCT) No. 11356 in replacement of the duplicate copy in Aytona's possession which was allegedly lost.

The petition alleges:

x x x

- That Leticia Lopez[-] Cuevas is one of the registered owners of land located at Cabusay, Labo, Camarines Norte covered under Transfer Certificate of Title No. 11356 registered at the [O]ffice of the Registry of Deeds of Camarines Norte on December 19, 1974, certified photocopy of the aforesaid title is hereto attached and marked Annex "B" and made an integral part of this petition;

- That said title consists of Lot 1 with FIFTY THOUSAND FIVE HUNDRED AND EIGHTY FOUR (50,584) square meters, [L]ot 2 with SIX HUNDRED AND FOUR (604) SQUARE METERS, Lot 3 with SIX HUNDRED AND SEVENTY SIX (676) SQUARE METERS, Lot 4 with ONE HUNDRED SIXTY NINE THOUSAND TWO HUNDRED THIRTY SIX (169,236) SQUARE METERS, Lot 5 with FIVE HUNDRED EIGHTY FOUR THOUSAND [sic] FOUR HUNDRED AND SIXTY FIVE (584,465) SQUARE METERS, Lot 6 with SEVENTY SIX THOUSAND [sic] (76,572) SQUARE METERS, Lot 7 with EIGHTY THREE THOUSAND FOUR HUNDRED AND FORTY EIGHT (83,448) SQUARE METERS, Lot 8 with TWENTY NINE THOUSAND ONE HUNDRED EIGHTY TWO (29,182) SQUARE METERS, and Lot 9 with NINE HUNDRED TWENTY SIX (926) SQUARE METERS, more or less;

- That since the said title was entrusted to herein petitioner for safekeeping, he had been in possession of the owner's duplicate copy of said title and he kept the same in his files;

- That, however, lately when petitioner looked for the said title in his files he discovered that the same was among those personal belongings which he could no longer be found up to this date thereby creating a conclusion that the same has been lost and already beyond recovery;

- That the required Notice of Loss of said Title was sent to the Office of the Registry of Deeds as evidenced by

its receiving stamp appearing on the said Affidavit and Notice of Loss, a copy of which is hereto attached and marked as Annex "C;"

- That the original copy of the said title is intact and on file with the Office of the Registry of Deeds of Camarines Norte as per Certification dated November 27, 2001 which the said office had issued is hereto attached and marked as Annex "D;"

- That said Owner's Duplicate Copy of the Transfer Certificate of Title [N]o. 11356 has not been delivered to any person or entity to secure payment or performance of any obligation whatsoever, nor any transaction any transaction or document relating to the same was presented for or pending registration in the office of the Registry of Deeds of Camarines Norte.

The RTC, in an Order[5] dated 23 September 2002, granted the petition, declared the owner's duplicate copy of TCT No. 11356 as null and void and directed the Registry of Deeds of Camarines Norte to issue a new owner's duplicate TCT.

In its assailed Decision, the Court of Appeals reversed the RTC's order and declared void the new owner's duplicate certificate of title issued by authority of this order.

Petitioners insist that their copy of TCT No. 11356 was lost and was not delivered to any third person or entity. They claim that the issuance of a new copy is a necessary condition to the payment to them by the Land Bank of the Philippines (LBP) of just compensation for the compulsory coverage of their property under the Comprehensive Agrarian Reform Program (CARP).

The Office of the Solicitor General (OSG) filed its Comment[6] dated 16 August 2006, on behalf of the Republic of the Philippines, arguing that apart from the affidavit of loss executed by Aytona and the latter's testimony in court, petitioners had failed to sufficiently explain the circumstances leading to the alleged loss of their copy of TCT No. 11356. More importantly, the OSG points out that the memorandum of encumbrances on the certificate of title shows that several transactions involving the lots embraced therein have been entered into, proving that TCT No. 11356 had already been cancelled. These transactions allegedly belie petitioners' claim that the owner's duplicate copy of the "Transfer Certificate of Title No. 11356 has not been delivered to any person or entity to secure the payment or performance of any obligation whatsoever, nor any transaction or document relating to the same was presented for or pending registration in the office of the Registry of Deeds of Camarines Norte." [7]

In their Reply[8] dated 15 January 2007, petitioners insist that the cancellation of TCT No. 11356 was merely partial because the transactions inscribed in the title pertain only to 75.5642 hectares out of the 99.5693 hectares comprising the entire landholding. They claim that except for the partial cancellation of the title in view of the Deed of Absolute Sale involving Lot 5 executed in favor of Eusebio Madera, et al., all the other transactions in favor of the national government in connection with its implementation of the CARP and that the inscriptions pertaining to these transactions do not state that the owner's duplicate copy of the certificate of title was delivered to a third person. Thus, petitioners advance that they cannot be said to have misrepresented the fact that their copy of TCT No. 11356 had not been delivered to any third person or entity.

The case at bar is merely for the replacement of a lost owner's duplicate certificate of title. As such, Section 109, Chapter X of Presidential Decree No. 1529, which governs actions for the replacement of lost duplicate certificates of title, applies. The provision states:

Sec. 109. Notice and replacement of lost duplicate certificate.—In case of loss or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or destroyed, or cannot be produced by a person applying for the entry of a new certificate to

him or for the registration of any instrument, a sworn statement of the fact of such loss or destruction may be filed by the registered owner or other person in interest and registered.

Upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all purposes of this decree.

The record reveals that in compliance with the jurisdictional requirement that notice of the loss be sent to the Register of Deeds of the province where the land lies, petitioners submitted Aytona's Affidavit of Notice of Loss[9] dated 28 November 2001, duly stamped "Received" by the Registry of Deeds of Daet, Camarines Norte. They then attached to their petition for the issuance of a new TCT Aytona's affidavit of loss which states that the title was entrusted to him but he later discovered that it was among the personal belongings which he could no longer locate. The relevant portions of the said affidavit state:

- That since the same has been entrusted to me, I had been in possession of the Owner's duplicate copy of said title and I kept the same in my files;
- That however, lately when I look for the same in my files I discovered that it was among those personal belongings which I could no longer locate and despite diligent efforts in search of the said title, the same could no longer be found up to this date [there by] creating in my mind a conclusion that the same has been lost and already beyond recovery;
- That said Owner's duplicate copy of TCT#11356 has not been delivered to any person of entity to secure payment of performance of any obligation [whatsoever], nor any transaction in the office of the [R]egistry of Deeds of Camarines Norte;[10]

To bolster the allegation that the certificate of title had been lost, Aytona gave the following testimony:

Q:

Do you have the title in your possession right now?

A:

I don't have.

Q:

Why?

A:

The title was somewhat lost because when I was looking for the title I cannot find the title in my possession.

Q:

What did you do after learning that said title has already been lost?

A:

Well, I check with my wife and other relative if they borrowed it from me and I found out that the said title is not in their possession so they advised me to search on it and what I did was I still kept on searching for it and

after that I really cannot find it anymore.

Q:

For how long did you search?

A:

More than a year.

Q:

After exerting diligent effort to locate the same and search seem to be futile[,] what did you do next, if any?

A:

I decided to execute an Affidavit of Loss of the title.[11]

We deem the foregoing evidence sufficient to prove the loss of the owner's duplicate copy of TCT No. 11356 and the consequent entitlement of petitioners to the issuance of a new owner's duplicate copy. After all, in civil cases such as the one at bar, mere preponderance of evidence suffices. Preponderance of evidence is a phrase which, in the last analysis, means probability of the truth. It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.[12]

In the case of *Strait Times, Inc. v. Court of Appeals*[13] cited by the OSG, the Court annulled the trial court's decision granting a petition for the issuance of an owner's duplicate certificate of title because there was clear proof that the same had not been lost but was in fact in the possession of another person. Similarly in *Rexlon Realty Group, Inc. v. Court of Appeals*,[14] also relied upon by the OSG, there was no proof adduced to support the actual loss of the owner's duplicate copies of the TCTs in question. Hence, the Court said that the trial court did not acquire jurisdiction and the new titles issued in replacement thereof were void.

Verily, the issuance of a new owner's duplicate of TCT No. 11356 is the only means by which petitioners can attain their ultimate objective of receiving just compensation for the parcels of land covered by the title which had been compulsorily taken by the government for agrarian reform purposes. To deny them the remedy under Section 109 of P.D. No. 1529 would leave them no recourse because the submission of the owner's duplicate of the title to the LBP is a condition to the payment of just compensation.

In this regard, we deem this an opportune time to steer the course which petitioners should take to finally put order to their property. P.D. No. 1529, specifically Section 49 thereof, provides the procedure by which the distinct parcels of land embraced by petitioners' title can be issued separate titles.[15] Section 58 of the same law also lays down the procedure in cases such as the one at bar where the conveyances involve only certain portions of land described in a certificate of title.[16]

WHEREFORE, the petition is GRANTED. The Decision of the Court of Appeals in CA-G.R. CV No. 77287, dated 28 February 2005, and its Resolution dated 27 October 2005 are REVERSED and SET ASIDE. The Order of the Regional Trial Court of Labo, Camarines Norte, Branch 64 dated 23 September 2002, is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Quisumbing, (Chairperson), Reyes, Leonardo-De Castro, and Brion, JJ., concur.

[1] Rollo, pp. 9-22.

[2] Id. at 23-33; penned by Associate Justice Eugenio S. Labitoria and concurred in by Associate Justices Noel F. Tijam and Arturo D. Brion (now Supreme Court Associate Justice).

[3] Id. at 34-35.

[4] Records, pp. 1-3.

[5] Id. at 40-41.

[6] CA rollo, pp. 101-111.

[7] Records, p. 2.

[8] Rollo, pp. 127-134.

[9] Records, p. 14.

[10] Id.

[11] TSN, 17 May 2002, pp. 9-10.

[12] Republic v. Orfinada, Sr., G. R. No. 141145, 12 November 2004, 442 SCRA 342, 351-352.

[13] 356 Phil. 217 (1998).

[14] 429 Phil. 31 (2002).

[15] Sec. 49. Splitting or consolidation of titles.—A registered owner of several distinct parcels of land embraced in and covered by a certificate of title desiring in lieu thereof separate certificates, each containing one or more parcels, may file a written request for that purpose with the Register of Deeds concerned, and the latter, upon the surrender of the owner's duplicate, shall cancel it together with its original and issue in lieu thereof separate certificates as desired. x x x

[16] Sec. 58. Procedure where conveyance involves portion of land.—If a deed or conveyance is for a part only of the land described in a certificate of title, the Register of Deeds shall not enter any transfer certificate to the grantee until a plan of such land showing all the portions or lots into which it has been subdivided and the corresponding technical descriptions shall have been verified and approved pursuant to Section 50 of this Decree. Meanwhile, such deed may only be annotated by way of memorandum upon the grantor's certificate of title, original and duplicate, said memorandum to serve as a notice to third persons of the fact that certain unsegregated portion of the land described therein has been conveyed, and every certificate with such memorandum shall be effectual for the purpose of showing the grantee's title to the portion conveyed to him, pending the actual issuance of the corresponding certificate in his name.

Upon the approval of the plan and technical descriptions, the original of the plan, together with a certified copy of the technical descriptions shall be filed with the Register of Deeds for annotation in the corresponding certificate of title and thereupon said officer shall issue a new certificate of title to the grantee for the portion conveyed, and at the same time cancel the grantor's certificate partially with respect only to said portion conveyed, or, if the

grantor so desires, his certificate may be cancelled totally and a new one issued to him describing therein the remaining portion: Provided, however, That pending approval of said plan, no further registration or annotation of any subsequent deed or other voluntary instrument involving the unsegregated portion conveyed shall be effected by the Register of Deeds, except where such unsegregated portion was purchased from the Government or any of its instrumentalities. If the land has been subdivided into several lots, designated by numbers or letters, the Register of Deeds may, if desired by the grantor, instead of canceling the latter's certificate and issuing a new one to the same for the remaining unconveyed lots, enter on said certificate and on its owner's duplicate a memorandum of such deed of conveyance and of the issuance of the transfer certificate to the grantee for the lot or lots thus conveyed, and that the grantor's certificate is cancelled as to such lot or lots.

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.