

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. APOLINARIO CATARROJA, REYNALDO CATARROJA, AND ROSITA CATARROJA-DISTRITO, RESPONDENTS.

G.R. No. 171774. February 12, 2010

Ponente: ABAD, J.

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ABAD, J.:

This is about a petition for reconstitution of a lost original certificate of title in which the respondents have been unable to present evidence that such title had in fact been issued by an appropriate land registration court.

The Facts and the Case

Respondents Apolinario Catarroja, Reynaldo Catarroja, and Rosita Catarroja-Distrito (the Catarrojas) filed a petition for reconstitution of lost original certificate of title covering two lots in Zapang, Ternate, Cavite, one with an area of 269,695 square meters and the other with an area of 546,239 square meters.[1] The Catarrojas alleged that they inherited these lands from their parents, Fermin and Sancha Catarroja, who reportedly applied for their registration with the Court of First Instance of Cavite sometime before the last world war.[2]

The Land Registration Authority (LRA) issued a certification on August 3, 1998[3] and a report on February 4, 2002,[4] confirming that the land registration court issued Decree 749932 on May 21, 1941 covering the subject lots. A copy of this decree was, however, no longer available in the records of the LRA. The LRA report verified as correct the plans and technical descriptions of the subject lots which had been approved under LRA PR-19042 and LRA PR-19043.

The Catarrojas alleged that, pursuant to the decree, the Register of Deeds of Cavite issued an original certificate of title to their parents. But, as it happened, based on a certification issued by the Register of Deeds, the original on file with it was lost in the fire that gutted the old Cavite capitol building on June 7, 1959.[5] The Catarrojas also claimed that the owner's duplicate copy of the title had been lost while with their parents.[6]

Since the public prosecutor representing the government did not object to the admission of the evidence of the Catarrojas and since he said that he had no evidence to refute their claims, the case was submitted for decision.[7] On June 27, 2003 the Regional Trial Court (RTC) of Cavite issued an Order, granting the petition for reconstitution of title.[8]

On appeal, however, the Court of Appeals (CA) reversed the RTC decision.[9] It held that the evidence of the Catarrojas failed to establish any of the sources for reconstitution enumerated in Section 2 of Republic Act (R.A.) 26 (An act providing a special procedure for reconstitution of Torrens certificate of title lost or destroyed). The Catarrojas did not have proof that an original certificate of title had in fact been issued covering the subject lots. On motion for reconsideration, however, the CA rendered an amended decision dated February 23, 2006, setting aside its decision dated July 12, 2005 and finding sufficient evidence to allow reconstitution of the Catarrojas' title.[10] Petitioner Republic of the Philippines challenges that decision through this action.

The Issue Presented

The sole issue presented in this case is whether or not the CA erred in finding sufficient evidence to grant the petition for reconstitution of title.

The Court's Ruling

R.A. 26 governs the reconstitution of lost or destroyed Torrens certificates of title. Its Section 2 enumerates the following sources for the reconstitution of such titles:

- (a) The owner's duplicate of the certificate of title;
- (b) The co-owner's, mortgagee's, or lessee's duplicate of the certificate of title;
- (c) A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof;
- (d) An authenticated copy of the decree of registration or patent, as the case may be, pursuant to which the original certificate of title was issued;
- (e) A document, on file in the Registry of Deeds, by which the property, the description of which is given in said document, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that its original had been registered; and
- (f) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.

Admittedly, the Catarrojas have been unable to present any of the documents mentioned in paragraphs (a) to (e) above. Their parents allegedly lost the owner's duplicate certificate of title. They did not have a certified copy of such certificate of title or a co-owner's, a mortgagee's, or a lessee's duplicate of the same. The LRA itself no longer has a copy of the original decree or an authenticated copy of it. Likewise, the Register of Deeds did not have any document of encumbrance on file that shows the description of the property.

The only documentary evidence the Catarrojas could produce as possible sources for the reconstitution of the lost title are those other documents described in paragraph (f). Relying on this, they submitted the following documents:

- The Microfilm printouts of the Official Gazette dated February 25, 1941, Vol. 39, No. 24, Pages 542-543, showing a notice of hearing in LRC 482, GLRO Record 54798, respecting their parents' application for registration and confirmation of their title to the subject lots.[11]
- A certification issued by the LRA dated August 3, 1998, stating that, based on official records, GLRO Record 54798, Cavite, had been issued Decree 749932 on May 21, 1941.[12]
- A certification from the Register of Deeds of Cavite dated July 3, 1999, stating that it cannot ascertain whether the land covered by Decree 749932 and GLRO Record 54798 had been issued a certificate of title because its titles were arranged numerically and not by lot numbers, location, or names of registered owners. The Register of Deeds also certified that all their records were lost in the June 7, 1959 fire.[13]
- The Report of the LRA dated February 4, 2002, stating that based on their record book of decrees, Decree 749932 had been issued on May 21, 1941 covering the subject lots under GLRO Record 54798. The report also verified as correct the plans (Psu-111787 and Psu-111788) and technical descriptions of the subject lots and approved under LRA PR-19042 and LRA PR-19043.[14]
- An Affidavit of Loss dated December 14, 2001, stating that the duplicate certificate of title covering the subject lots had been lost.[15]

This Court has, in *Republic v. Intermediate Appellate Court*,^[16] applied the principle of *ejusdem generis* in interpreting Section 2(f) of R.A. 26. "Any other document" refers to reliable documents of the kind described in the preceding enumerations. This Court is not convinced that the above documents of the Catarrojas fall in the same class as those enumerated in paragraphs (a) to (e). None of them proves that a certificate of title had in fact been issued in the name of their parents. In *Republic v. Tuastumban*,^[17] the Court ruled that the documents must come from official sources which recognize the ownership of the owner and his predecessors-in-interest. None of the documents presented in this case fit such description.

Moreover the Catarrojas failed to show that they exerted efforts to look for and avail of the sources in paragraphs (a) to (e) before availing themselves of the sources in paragraph (f). The Court said in *Republic v. Holazo*^[18] that the documents referred to in Sec. 2(f) may be resorted to only in the absence of the preceding documents in the list. Only if the petitioner for reconstitution fails to show that he had, in fact, sought to secure such documents and failed to find them, can the presentation of the "other document" as evidence in substitution be allowed.

Further, in *Republic v. Tuastumban*^[19] the Court enumerated what needs to be shown before the issuance of an order for reconstitution: (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 or 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.

The microfilm printouts of the Official Gazette are not proof that a certificate of title was in fact issued in the name of the Catarrojas' parents. The publication in the Official Gazette only proved that the couple took the initial step of publishing their claim to the property. There was no showing, however, that the application had been granted and that a certificate of title was issued to them.

Although the LRA's certification and its report confirmed the issuance of a decree, these documents do not sufficiently prove that a title had in fact been issued to the parents of the Catarrojas pursuant to such decree. Indeed, it remains uncertain what kind of decree the land registration court issued in the case. Significantly, Act 496 (the 1903 Land Registration Act) which was then in force recognized two kinds of decrees in land registration proceedings: first, a decree issued under Section 37 that dismisses the application and, second, a decree issued under Section 38 confirming title of ownership and its registration.^[20]

SECTION 37. If in any case without adverse claim the court finds that the applicant has no proper title for registration, a decree shall be entered dismissing the application, and such decree may be ordered to be without prejudice x x x.

SECTION 38. If the court after hearing finds that the applicant or adverse claimant has title as stated in his application or adverse claim and proper registration, a decree of confirmation and registration shall be entered x x x.

Absent a clear and convincing proof that an original certificate of title had in fact been issued to their parents in due course, the Catarrojas cannot claim that their predecessors succeeded in acquiring title to the subject lots. The nature of reconstitution of a lost or destroyed certificate of title denotes a restoration of the instrument in its original form and condition. That cannot be done without proof that such certificate of title had once existed. The procedures laid down in R.A. 26 for reconstituting a title have to be strictly followed considering that reconstitution, if made easy, could be the source of anomalous titles. It could also be unscrupulously availed of by some as a convenient substitute for the rigid proceedings involved in original registration of title.^[21]

The Court observes that the subject property, supposedly located in Ternate, Cavite, where the naval reservation is

found, covers more than 81 hectares of land. It is hardly believable that it has remained untouched by any documented transaction since its supposed titling in May 1941. It is also curious that no photocopy of that title has ever been kept and preserved in some private or public repository.

Parenthetically, the Catarrojas did not present any tax declaration covering such vast piece of property. Although a tax declaration is not a proof of ownership, payment of realty tax is an exercise of ownership over the property and is the payer's unbroken chain of claim of ownership over it. Furthermore, the Catarrojas' procrastination of over five decades before finally seeking reconstitution of title has allowed laches to set in.

Once again, courts must be cautious against hasty and reckless grant of petitions for reconstitution, especially when they involve vast properties as in this case.[22]

WHEREFORE, the Court GRANTS the petition, REVERSES the amended decision of the Court of Appeals dated February 23, 2006, and REINSTATES its decision dated July 12, 2005 in CA-G.R. CV 80401 that denied the petition for reconstitution of title of respondents Apolinario Catarroja, Reynaldo Catarroja, and Rosita Catarroja-Distrito.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Perez, JJ., concur.

[1] Exhibit "A," records, pp. 1-6.

[2] Exhibit "Q" (inadvertently marked as Exhibit "F"), id. at 7-8.

[3] Exhibit "R" (inadvertently marked as Exhibit "G"), id. at 9.

[4] Exhibit "E," id. at 24-25.

[5] Exhibit "H," id. at 10.

[6] Exhibit "S" (inadvertently marked as Exhibit "H"), id. at 11.

[7] Manifestation and Comment dated May 20, 2003, id. at 115; RTC Order dated May 30, 2003, id. at 116.

[8] Id. at 117-120.

[9] CA rollo, pp. 94-104.

[10] Id. at 131-134.

[11] Exhibit "Q" (inadvertently marked as Exhibit "F"), records, pp. 7-8.

[12] Exhibit "R" (inadvertently marked as Exhibit "G"), id. at 110.

[13] Exhibit "H," id. at 10.

[14] Exhibit "E," id. at 24-25.

[15] Exhibit "S" (inadvertently marked as Exhibit "H"), id. at 11.

[16] 241 Phil. 75, 81 (1988).

[17] G.R. No. 173210, April 24, 2009.

[18] 480 Phil. 828, 840 (2004).

[19] Supra note 17.

[20] Registration of Land Titles and Deeds, Peña, 1988 Revised Edition, p. 86.

[21] Ortigas & Co. Ltd. Partnership v. Judge Velasco, 343 Phil. 115, 136 (1997).

[22] Angat v. Republic, G.R. No. 175788, June 30, 2009.

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