ENRIQUITA ANGAT AND THE LEGAL HEIRS OF FEDERICO ANGAT, PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

G.R. No. 175788. June 30, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court filed by petitioners Enriquita Angat (Enriquita) and the legal heirs of Federico Angat (Federico) against the respondent Republic of the Philippines (Republic), assailing the Decision[1] dated 5 December 2005 and Resolution[2] dated 4 December 2006 of the Court of Appeals in CA-G.R. CV No. 72740. In its assailed Decision, the Court of Appeals reversed the Order[3] dated 27 November 2000 of the Regional Trial Court (RTC), Branch XV, Naic, Cavite, in LRC Case No. 1331, which granted the Petition for Reconstitution of the original copy of Transfer Certificate of Title (TCT) No. T-4399 allegedly issued by the Register of Deeds of Cavite in the names of Federico[4] and Enriquita. The Court of Appeals denied petitioners' Motion for Reconsideration in its assailed Resolution dated 4 December 2006. Petitioners are also invoking in this Petition the power of this Court to issue a writ of certiorari under Rule 65 of the Revised Rules of Court, averring that the Court of Appeals acted without or in excess of jurisdiction or with grave abuse of discretion in dismissing the Petition for Reconstitution in LRC Case No. 1331.

The facts show that sometime in February 1999, Federico and Enriquita (sister of Federico) instituted LRC Case No. 1331 by filing before the RTC a verified Petition[5] for the reconstitution of the original copy of TCT No. T-4399 covering a 3,033,846-square meter parcel of land located in Sapang, Ternate, Cavite (subject property), presenting the owners' duplicate copy of said TCT in their possession. Federico and Enriquita claimed that since 6 October 1955, the subject property has been registered with the Registry of Deeds of Cavite in their names, as the true and absolute owners thereof, under TCT No. T-4399, covered by a certain plan PSU-91002. On 7 June 1959, the old Provincial Capitol Building housing the former office of the Register of Deeds of Cavite was burned to ashes, totally destroying all the titles and documents kept inside the office, including the original copy of TCT No. T-4399.

According to Federico and Enriquita, the owners' duplicate copy of TCT No. T-4399 was intact and has been in their possession since the time of its issuance and up to the present. The owners' duplicate copy of TCT No. T-4399 has not been delivered to any other person or entity to secure payment or performance of any obligation nor was any transaction or agreement relative to said TCT presented or pending before the Registry of Deeds of Cavite when its former office was burned. No other lien or encumbrance affecting TCT No. T-4399 exists, except the right of Federico and Enriquita therein.

Federico and Enriquita attached to their Petition for Reconstitution a photocopy of their owners' duplicate certificate of TCT No. T-4399.[6] They also appended to the Petition, however, a Certification[7] dated 25 March 1998 issued by the Register of Deeds of Cavite stating that:

> This is to certify that per records on file in this registry, Transfer Certificate of Title No. T-4399, registered in

> the names of Federico A. Angat and Enriquita A. Angat, located in the Municipality of Ternate, Cavite, containing an area of THREE MILLION THIRTY THREE THOUSAND AND EIGHT HUNDRED FORTY SIX SQUARE METERS (3,033,846), more or less, issued on October 6, 1955 is not existing and does not form part of our records. Based on the fact that all records and titles were burned during the June 7, 1959 fire which razed to the ground the Old Capitol Building of Cavite City housing the Office of the Register of Deeds we could not now find OCT No. 391 and TCT No. T-4399 or any trace thereof and their supporting papers for its issuance including the Entry Book on which the pertinent documents were inscribed.
>
> This certificate is issued upon the request of Federico A. Angat and Enriquita A. Angat of Bo. Sapang, Municipality of Ternate, Cavite.

Finding the Petition to be sufficient in form and substance, the RTC issued an Order dated 16 February 1999, setting the initial hearing in LRC Case No. 1331 on 10 June 1999 at 8:30 in the morning.[8]

In compliance with the publication and posting requirements, the RTC Order dated 16 February 1999 was published in the 3 May 1999 and 10 May 1999 issues of the Official Gazette. The said Order was also posted on the bulletin boards of the Provincial Capitol Building in Trece Martires City; the Municipal Building of Ternate, Cavite; and the Barangay Hall where the subject property is located.

Copies of the Petition and the RTC Order dated 16 February 1999 in LRC Case No. 1331 were served by registered mail on the Office of the Solicitor General (OSG), the provincial prosecutor, the Director of Lands, the Register of Deeds of Cavite, as well as the adjoining lot owners, namely, Ambrocio Arca, heirs of Mariano Angat, Santiago de Guia, and the Office of the Provincial Governor, Cavite, representing Palikpikan Creek. However, all the notices to the adjoining owners were returned unserved for the following reasons: Ambrocio Arca: unlocated, no such name; heirs of Mariano Angat: deceased; Santiago de Guia: unlocated, no such name; and the Office of the Provincial Governor, representing Palikpikan Creek: refused to receive.

On 9 June 1999, the OSG entered its appearance and deputized the Public Prosecutor of Naic, Cavite, to represent the Republic.

To establish the jurisdiction of the RTC over their Petition in LRC Case No. 1331, Enriquita and Federico presented and marked the following exhibits at the hearing held on 14 July 1999:

> Exhibit A
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> -
>
> verified petition dated 3 February 1999
>
> Exhibit A-1
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> -
>
> Page 2 of Exhibit A
>
> Exhibit A-2
>
> -
>
> Page 3 of Exhibit A;
>
> Exhibit B
>
> -
>
> Order of the Court dated 16 February 1999

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Exhibit B-1

-

Return Card from the LRA

Exhibit B-2

-

Return Card from the Register of Deeds of Cavite

Exhibit B-3

-

Return Card from the Provincial Prosecutor

Exhibit B-4

-

Return Card from the Solicitor General

Exhibit C

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Certificate of Publication dated 17 May 1999 issued by the Director of Bureau of Printing

Exhibit C-1

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Issue of the Official Gazette for 19 May 1999

Exhibit C-2

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Portion where Order was published

Exhibit C-3

-

Issue of the Official Gazette for 10 May 1999

Exhibit C-4

-

Portion where the Order was published

Exhibit D

-

Certification dated 7 June 1999 by Michael R. Antonio, adjoining owner

Exhibit D-1

-

Registry receipt showing notice to Ambrosio Arca, adjoining owner

Exhibit D-2

-

Registry receipt showing notice to Mariano Angat

Exhibit D-3

-

Registry receipt showing notice to Santiago de Guia

Exhibit D-4

-

Registry receipt showing notice to Palikpikan Creek

Exhibit E

-

Certificate of Posting issued by the Sheriff

Exhibit F

-

Notice of Appearance from the Solicitor General

Exhibit F-1

-

Letter to Public Prosecutor in Naic, Cavite[9]

On 26 August 1999, Federico and Enriquita, in compliance with the provisions of Land Registration Authority (LRA) Circular No. 35, submitted to the LRA the survey plan of the subject property, PSU-91002, the tracing cloth plan with two blueprint copies thereof; the technical description of the subject property; and the Certification dated 25 March 1998 of the Register of Deeds of Cavite.[10] The blueprint of the survey plan, PSU-91002, dated 27 May 1930, submitted by Federico and Enriquita to the LRA in accordance with LRA Circular No. 35, identifies the adjoining property owners as Ambrocio Arca, heirs of Mariano Angat, Santiago de Guia, and the Palikpikan Creek, to whom Federico and Enriquita sent notices, via registered mail, of the initial hearing of LRC Case No. 1331 set for 10 June 1999.

At the 9 September 1999 hearing, Enriquita and Federico presented and marked additional documentary exhibits to establish the jurisdiction of the RTC, namely:

Exhibit G - Compliance dated 26 August 1999 showing submission of copy of the Petition, tracing cloth plan of land subject of registration, copies of the technical description and proof of burning the original records

Exhibit G-1

-

Letter to the Administrator, LRA

Exhibit G-2

-

Copy of Petition for Reconstitution

Exhibit G-3

-

Blue print copy of the Plan Psu-91002

Exhibit G-4

-

Technical description of the property

Exhibit G-4-a

-

Technical description

Exhibit G-5

-

Certification issued by the Register of Deeds of Cavite

Exhibit H

-

Certification dated 5 June 1998 issued by the Administrator, LRA[11]

On 28 October 1999, the LRA submitted a Report[12] to the RTC, relaying the following information:

COMES NOW the Land Registration Authority and the Honorable Court, respectfully reports that:

(1)

The present petition seeks the reconstitution of the original Copy of Transfer Certificate of Title No. T-4399, allegedly lost or destroyed and supposedly covering plan PSU-91002, situated in the barrio of Sapang, Municipality of Ternate, Province of Cavite.

(2)

From our "Record Book of Decrees" GLRO Record No. 51767 in which plan PSU-91002 was applied, Decree No. 642113 was issued on July 27, 1937.

(3)

The technical description of plan PSU-91002, were verified correct by this Authority pursuant to the provisions of Section 3(a) of Republic Act No. 26.

WHEREFORE, the foregoing information anent the property in question is respectfully submitted for consideration in the resolution of the instant petition, and in (sic) the Honorable Court, after notice and hearing,

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finds justification pursuant to Section 3(a) of Republic Act No. 26 to grant the same. Provided, however, that no certificate of title covering the same parcel of land exist (sic) in the office of the Register of Deeds Concerned.

On motion of the counsel of Federico and Enriquita, there being no oppositor nor written opposition, the RTC declared a general default against the public.

During the ex parte hearing held on 19 January 2000, Federico testified that he was 78 years old, married, a real estate broker, and was one of the petitioners in LRC Case No. 1331. He further testified that he had in his possession the owners' duplicate certificate of TCT No. T-4399 in his and his sister Enriquita's names. The subject property covered by TCT No. T-4399 was previously owned by his grandfather, Mariano Angat (Mariano), to whom was issued Original Certificate of Title (OCT) No. 391. After Mariano's death, the subject property was inherited by his father, Gregorio Angat (Gregorio). Sometime in 1955, under unexplained circumstances, Gregorio[13] delivered to Federico (determined to be 34 years old at that time) and Enriquita TCT No. T-4399, already registered in their names. The original copy of TCT No. T-4399 was burned during the fire on 7 June 1959 at the old Provincial Capitol Building of Cavite, housing the Registry of Deeds. He referred to the LRA Report dated 28 October 1999 which affirmed the existence and accuracy of the technical description of PSU-91002. He also presented the Certification dated 18 November 1998 of the Municipal Treasurer of Ternate, Cavite, showing that the real property taxes on the subject property for 1998 were paid in the name of his grandfather, Mariano, under Tax Declaration No. 97-03524. Enriquita no longer took the witness stand.

On 6 July 2000, Ternate Development Corporation (TDC) filed a Motion for Leave to Intervene and a Complaint-in-Intervention, questioning the authenticity and genuineness of TCT No. T-4399. It claimed that a portion of the subject property covered by TCT No. T-4399, with an area of 1,783,084 square meters, is owned by and already registered in the name of TDC under TCT No. (T-97541) RT-19915 of the Registry of Deeds of Cavite.[14]

Federico and Enriquita opposed the Motion for Leave to Intervene of TDC.

The RTC, in an Order dated 10 November 2000, denied the Motion for Leave to Intervene of TDC reasoning that TDC could not challenge the validity of TCT No. T-4399 in the reconstitution proceedings since it would constitute a collateral attack on the title of Federico and Enriquita. The RTC declared that the reconstitution proceedings in LRC Case No. 1331 was not the proper forum to resolve the issue of authenticity/genuineness of title sought to be reconstituted, nor a remedy to confirm or adjudicate ownership.[15] It concluded that a separate civil action must be instituted to assail the validity of or seek the annulment of the certificate of title since the same cannot be done in the reconstitution proceedings where the issuance of the reconstituted title is ministerial on the part of the court after a factual finding that the original was indeed existing but was lost or destroyed.

After trial and consideration of the oral and documentary evidence submitted by Federico and Enriquita, the RTC proceeded to rule on the merits of the Petition for Reconstitution in LRC Case No. 1331. In an Order dated 27 November 2000, the RTC granted the Petition and decreed thus:

> WHEREFORE, this Court, finding the petition to be well-taken, hereby grants the same and orders the Register of Deeds of Cavite Province to reconstitute the original copy of Transfer Certificate of Title No. T-4399 as shown on plan Psu-91002 in the name of Federico A. Angat and Enriquita A. Angat, both of legal age, Filipino citizens, both single, and both with residence and postal address at Sapang, Ternate, Cavite, subject to existing liens and encumbrances with the annotation at the back thereof and that said title was reconstituted and issued in lieu of the lost one which is hereby declared null and void for all legal intents and purposes.[16]

The Republic appealed the RTC Order dated 27 November 2000 to the Court of Appeals, claiming that the RTC

did not acquire jurisdiction over the reconstitution proceedings on the following grounds: (a) no showing that the owners of the adjacent properties were duly notified according to Sections 12 and 13 of Republic Act No. 26; and (b) failure of Federico and Enriquita to prove their valid interest in the subject property covered by TCT No. T-4399. The appeal was docketed as CA-G.R. CV No. 72740.

On 5 December 2005, the Court of Appeals issued a Decision granting the appeal of the Republic and reversing the RTC Order dated 27 November 2000. The fallo of the Decision of the appellate court reads:

> WHEREFORE, the decision appealed from is REVERSED and SET ASIDE. The petition for reconstitution of Federico A. Angat and Enriquita A. Angat, is DISMISSED.[17]

The Court of Appeals sustained the arguments raised by the OSG, and held that the RTC did not acquire jurisdiction over the Petition for Reconstitution because the notices of the 10 June 1999 hearing sent to the owners of the adjoining properties via registered mail were returned without having been served on them. The names of the owners of the adjoining properties were taken from the survey plan made in 1930, and it was not surprising that by the time the notices were sent in 1999, 69 years later, these persons could no longer be located. If it were true that Federico regularly visited the subject property, he would know the present owners of the adjoining properties and accordingly sent notices to them. The Court of Appeals also found that Federico and Enriquita failed to prove that at the time the original copy of TCT No. T-4399 was lost, they were the only lawful owners of the subject property.

In a Resolution dated 3 July 2006, the Court of Appeals declared the Decision dated 5 December 2005 final and executory for the reason that no motion for reconsideration thereof had been filed. The appellate court pronounced:

> Considering the Judicial Records Division verification report that as of May 10, 2006, no Motion for Reconsideration nor Supreme Court Petition was filed, the decision promulgated on December 5, 2005 has attained finality on December 30, 2005. Said decision may now be ordered entered in the Book of Entries of Judgments.[18]

Only after the Court of Appeals issued the aforementioned Resolution did Federico and Enriquita file a Motion for Reconsideration dated 6 September 2006, asserting that a copy of the Decision dated 5 December 2005 "was secured" by their counsel through his clerk only on 5 September 2006. They argued in their Motion that based on Sections 2 and 3 of Republic Act No. 26, there is no requirement that the adjoining property owners be notified in a petition for reconstitution of the original copy of the TCT, where the reconstitution is based on an existing owners' duplicate thereof.

The Court of Appeals, in a Resolution dated 4 December 2006, denied the Motion for Reconsideration of Federico and Enriquita since its Decision dated 5 December 2005 had become final and executory.

Hence, the instant Petition, where petitioners Enriquita and the heirs of Federico[19] raise the following issues:

> I.
>
> WHETHER OR NOT THE RESPONDENT COURT OF APPEALS ERRED IN DISMISSING THE PETITION FOR RECONSTITUTION OF PETITIONERS FEDERICO A. ANGAT AND ENRIQUITA A. ANGAT ON THE GROUNDS RAISED BY THE OFFICE OF THE SOLICITOR GENERAL IN ITS APPEAL.
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> II.
>
> WHETHER OR NOT THE RESPONDENT COURT OF APPEALS ALSO ERRED IN REQUIRING THE

PETITIONERS TO NOTIFY THE ADJOINING OWNERS, ALTHOUGH THE PETITIONERS ALSO SUBSTANTIALLY COMPLIED WITH THE ADDITIONAL REQUIREMENTS IMPOSED BY THE TRIAL COURT.

III.

FINALLY, WHETHER OR NOT THE RESPONDENT COURT OF APPEALS ACTED IN EXCESS OF ITS JURISDICTION WHEN THE RESPONDENT COURT DID NOT APPLY THE CORRECT LAW IN THE PRESENT CASE WHICH IS R.A. 26, SECTIONS 2 AND 3.

Petitioners insist that the Petition for Reconstitution of the original copy of TCT No. T-4399 filed by Federico and Enriquita complied with all the legal requirements therefor. They claim that the Court of Appeals committed serious error in requiring notice to adjoining property owners. Petitioners cite Puzon v. Sta. Lucia Realty and Development, Inc.,[20] in which the Court ruled that notice to adjoining property owners is not necessary where the basis for reconstitution is the owner's duplicate, following Section 10, in relation to Section 9, of Republic Act No. 26. Assuming arguendo that such notice is mandatory, petitioners contend that they were able to substantially comply with the same, only that the notices they sent to the adjoining property owners were returned unserved.

The Republic, represented by the OSG, reiterates in its Comment the arguments it earlier raised before the Court of Appeals. According to the OSG, the RTC gravely erred when it assumed jurisdiction over the Petition for Reconstitution despite failure by Federico and Enriquita to comply with the notice requirements under Section 13 of Republic Act No. 26. It should be recalled that notices to the adjoining property owners were returned unserved for various reasons. The OSG is adamant in its stance that nothing but strict compliance with the requirements of the law will do, and failure to do the same prevents the RTC from acquiring jurisdiction over the Petition for Reconstitution and voids the whole reconstitution proceedings. Likewise, the OSG maintains that Federico and Enriquita were not able to show that they were the only owners of the subject property at the time of the loss of TCT No. T-4399. Finally, the OSG asserts that the Petition at bar deserves outright dismissal considering that the appealed Decision of the Court of Appeals had already become final and executory.

We find that there is no merit in the present Petition.

At the outset, we note that the assailed Decision of the Court of Appeals dismissing the Petition for Reconstitution of Federico and Enriquita is already final and executory. The Court of Appeals promulgated its Decision on 5 December 2005. However, petitioners insist that the counsel of Enriquita and Federico received a copy thereof only on 5 September 2006.[21] A simple examination of the records of the case would belie petitioners' claim, for the Registry Receipt[22] and Certification[23] from the Post Office indicate that a copy of the said Decision was received on behalf of Federico and Enriquita by one Melanie Angat on 14 December 2005.

Under Section 2, Rule 13 of the Revised Rules of Court on the service of pleadings, judgments and other papers, it is provided that if any party appeared by counsel, service upon him shall be made upon his counsel, or one of them, unless service upon the party himself is ordered by the court. The court may order service upon the party himself when the attorney of record cannot be located, either because he gave no address or changed his given address. According to Section 9, Rule 13 of the Revised Rules of Court, service of judgments, final orders or resolutions may be done either personally, by registered mail, or by publication.

The records clearly indicate that the notice and copy of the 5 December 2005 Decision, originally sent to Federico and Enriquita's counsel of record, had to be sent, instead, to Federico and Enriquita's address by registered mail, when the attorney of record could not be located because of a change in his given address without notifying the Court of Appeals. The appellate court ordered that the notice and copy of its Decision be sent to said address wherein they were received on 14 December 2005 by Melanie Angat - a person of suitable age and discretion,

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who undeniably bears the same surname and resided at the same address as petitioners. In addition, the registry return receipt stated that "a registered article must not be delivered to anyone but the addressee, or upon the addressee's written order." Thus, Melanie Angat, who received the notice and copy of the 5 December 2005 Decision of the Court of Appeals, was presumably able to present a written authorization to receive the same and we can assume that the said documents were duly received in the ordinary course of events. It is a legal presumption, borne of wisdom and experience, that official duty has been regularly performed; that the proceedings of a judicial tribunal are regular and valid, and that judicial acts and duties have been and will be duly and properly performed. The burden of proving the irregularity in official conduct, if any, is on the part of petitioners who in this case clearly failed to discharge the same.[24]

Section 1, Rule 52 of the Revised Rules of Court provides that a party may file a motion for reconsideration of a judgment or final resolution within 15 days from notice thereof, with proof of service on the adverse party. Evidently, the filing of the Motion for Reconsideration of the 5 December 2005 Decision only on 6 September 2006 was way beyond the reglementary period for the same.

The 15-day reglementary period for filing a motion for reconsideration is non-extendible.[25] Provisions of the Rules of Court prescribing the time within which certain acts must be done or certain proceedings taken are considered absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of judicial businesses. Strict compliance with such rules is mandatory and imperative.[26]

Without a motion for reconsideration of the 5 September 2005 Decision having been timely filed with the Court of Appeals, Enriquita and Federico, who was later on substituted by his heirs, had also lost their right to appeal the said Decision to us. For purposes of determining its timeliness, a motion for reconsideration may properly be treated as an appeal. As a step to allow an inferior court to correct itself before review by a higher court, a motion for reconsideration must necessarily be filed within the period to appeal. When filed beyond such period, the motion for reconsideration ipso facto forecloses the right to appeal.[27]

Thus, the Motion for Reconsideration, being filed beyond the reglementary period, did not toll the Decision dated 5 December 2005 of the Court of Appeals from becoming final and executory. As such, the Decision is past appellate review and constitutes res judicata as to every matter offered and received in the proceedings below as well as to any other matter admissible therein and which might have been offered for that purpose.[28]

We are without jurisdiction to modify, much less reverse, a final and executory judgment. In Paramount Vinyl Products Corporation v. National Labor Relations Commission,[29] we recognized the well-settled rule that the perfection of an appeal within the statutory or reglementary period is not only mandatory, but jurisdictional. The failure to interpose a timely appeal (or a motion for reconsideration) renders the assailed decision, order or award final and executory that deprives the appellate body of any jurisdiction to alter the final judgment. The rule is applicable indiscriminately to one and all since the rule is grounded on fundamental consideration of public policy and sound practice that at the risk of occasional error, the judgment of courts and award of quasi-judicial agencies must become final at some definite date fixed by law.

Although in few instances, we have disregarded procedural lapses so as to give due course to appeals filed beyond the reglementary period, we did so on the basis of strong and compelling reasons, such as serving the ends of justice and preventing a miscarriage thereof. We do not find such reasons extant in this case, especially considering that petitioners herein do not admit that the Motion for Reconsideration before the Court of Appeals was filed out of time and even attempt to mislead this Court on the true date the notice of the 5 December 2005 Decision of the Court of Appeals was received.

Clearly, we could no longer overturn the dismissal by the Court of Appeals of the Petition for Reconstitution of

Federico and Enriquita, its Decision dated 5 December 2005, decreeing the same, being already final and executory. However, we do find it necessary to clarify one problematic pronouncement made by the appellate court in its Decision in order to prevent a similar confusion on the matter in the future.

One of the reasons why the Court of Appeals ordered the dismissal of the Petition for Reconstitution of Federico and Enriquita was the lack of notice to the adjoining property owners, which supposedly deprived the RTC of jurisdiction over the said Petition.

Section 110 of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, as amended by Republic Act No. 6732, allows the reconstitution of lost or destroyed original Torrens title, to wit:

> SEC. 110. Reconstitution of lost or destroyed original of Torrens title. - Original copies of certificates of titles lost or destroyed in the offices of Register of Deeds as well as liens and encumbrances affecting the lands covered by such titles shall be reconstituted judicially in accordance with the procedure prescribed in Republic Act No. 26 insofar as not inconsistent with this Decree. The procedure relative to administrative reconstitution of lost or destroyed certificate prescribed in said Act may be availed of only in case of substantial loss or destruction of land titles due to fire, flood or other force majeure as determined by the Administrator of the Land Registration Authority: Provided, That the number of certificates of titles lost or damaged should be at least ten percent (10%) of the total number in the possession of the Office of the Register of Deeds: Provided, further, that in no case shall the number of certificates of titles lost or damaged be less than five hundred (500).

Based on the foregoing, reconstitution of a lost or destroyed certificate of title may be done judicially, in accordance with the special procedure laid down in Republic Act No. 26; or administratively, in accordance with the provisions of Republic Act No. 6732. By filing the Petition for Reconstitution with the RTC, docketed as LRC Case No. 1331, Federico and Enriquita sought judicial reconstitution of TCT No. T-4399, governed by Republic Act No. 26.

The nature of the action for reconstitution of a certificate of title under Republic Act No. 26, entitled "An Act Providing a Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed," denotes a restoration of the instrument, which is supposed to have been lost or destroyed, in its original form and condition.[30] The purpose of such an action is merely to have the certificate of title reproduced, after proper proceedings, in the same form it was in when its loss or destruction occurred.[31] The same Republic Act No. 26 specifies the requisites to be met for the trial court to acquire jurisdiction over a petition for reconstitution of a certificate of title. As we held in Ortigas & Co. Ltd. Partnership v. Velasco,[32] failure to comply with any of these jurisdictional requirements for a petition for reconstitution renders the proceedings null and void. Thus, in obtaining a new title in lieu of the lost or destroyed one, Republic Act No. 26 laid down procedures which must be strictly followed in view of the danger that reconstitution could be the source of anomalous titles or unscrupulously availed of as an easy substitute for original registration of title proceedings.

Sections 2 and 3 of Republic Act No. 26 identify the sources for reconstitution of title. Section 2 enumerates the sources for reconstitution of OCTs:

> Section 2. Original Certificates of Title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:
>
> (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.

TCTs, on the other hand, may be reconstituted from the sources recognized under Section 3, as may be available, and in the order they are presented:

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

(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) The deed of transfer or other document, on file in the registry of deeds, containing the description of the property, or an authenticated copy thereof, showing that its original had been registered, and pursuant to which the lost or destroyed transfer 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.

It is worth stressing that Federico and Enriquita sought the reconstitution of the original copy of TCT No. T-4399 based on the owner's duplicate of said TCT, a source named under Section 3(a) of Republic Act No. 26. The publication, posting and notice requirements for such a petition are governed by Section 10 in relation to Section 9 of Republic Act No. 26. Section 10 provides:

Sec.10. Nothing hereinbefore provided shall prevent any registered owner or person in interest from filing the petition mentioned in section five of this Act directly with the proper Court of First Instance, based on sources enumerated in Sections 2(a), 2(b), 3(a), 3(b), and/or 4(a) of this Act: Provided, however, That the Court shall cause a notice of the petition, before hearing and granting the same, to be published in the manner stated in section nine hereof: and, provided, further, That certificates of title reconstituted pursuant to this section shall not be subject to the encumbrance referred to in section seven of this Act. (Emphasis ours.)

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In relation to the foregoing, the provisions of Section 9 on the publication of the notice of the Petition for Reconstitution reads:

> Section 9. x x x Thereupon, the court shall cause a notice of the petition 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 lies, at least thirty days prior to the date of hearing, and after hearing, shall determine the petition and render such judgment as justice and equity may require. The notice shall specify, among other things, the number of the certificate of title, the name of the registered owner, the names of the interested parties appearing in the reconstituted certificate of title, the location of the property, and the date on which all persons having an interest in the property must appear and file such claim as they may have. x x x.

It is evident from a perusal of Section 10 of Republic Act No. 26, as quoted above, that it does not mandate that notice be specifically sent to adjoining property owners; it only necessitated publication and posting of the notice of the Petition for Reconstitution in accordance with Section 9 of the same Act.

Sections 12 and 13 of Republic Act No. 26,[33] requiring notice to adjoining property owners, are actually irrelevant to the Petition for Reconstitution filed by Federico and Enriquita considering that these provisions apply particularly to petitions for reconstitution from sources enumerated under Sections 2(c), 2(d), 2(e), 2(f), 3(c), 3(d), 3(e) and/or 3(f) of Republic Act No. 26.

In Puzon, we explained that when the reconstitution is based on an extant owner's duplicate TCT, the main concern is the authenticity and genuineness of the certificate, which could best be determined or contested by the government agencies or offices concerned. The adjoining owners or actual occupants of the property covered by the TCT are hardly in a position to determine the genuineness of the certificate; hence, their participation in the reconstitution proceedings is not indispensable and notice to them is not jurisdictional.

The foregoing discourse notwithstanding, the 5 December 2005 Decision of the Court of Appeals is already final and executory, and absolutely binds this Court, despite any errors therein. And even if it were otherwise, the error committed by the appellate court as regards the notice requirement would not necessarily result in a judgment favorable to petitioners.

We find that Federico and Enriquita were not able to prove that at the time the title was lost, he and his sister were the only lawful owners of the subject property. Federico and Enriquita claimed that the subject property was originally owned by their grandfather, Mariano. Federico and Enriquita, however, failed to establish the chain of transfers of the subject property from Mariano to their father, Gregorio; and finally to them. That the transmittal of rights through succession takes effect by operation of law, without any need for the testator or the heirs to perform any positive act, did not necessarily exempt Federico and Enriquita from having to prove that they became the owners of the subject property by legal succession, to the exclusion of all others. Mariano had several children, and so did Gregorio; hence, Mariano, as well as Gregorio, had several legal heirs who would have likewise succeeded to the subject property.

Federico and Enriquita further alleged that they had been in possession of the subject property since 1955. However, at the time they instituted the reconstitution proceedings in 1999, or 44 years later, no improvements or permanent structures could be found on the entire 300-hectare property. It is but contrary to common human experience that a real estate broker such as Federico would let 44 years pass by without introducing any improvements on this very vast tract of land, which he claimed to co-own with his sister Enriquita. Incidentally, if it were true that Federico regularly visited the 300-hectare property, then he would have been aware who the current adjoining property owners were.

We also observe that Federico and Enriquita failed to provide any explanation why it took them 40 years from the burning of the Office of the Register of Deeds of Cavite on 7 June 1959, before instituting the reconstitution proceedings. The failure of Federico and Enriquita to immediately seek the reconstitution of TCT No. T-4399, and their procrastination for four decades before actually filing their Petition, had allowed laches to attach. Laches is the negligence or omission to assert a right within a reasonable time, warranting the presumption that the party entitled to assert it either has abandoned or declined to assert it.[34] In Heirs of Eulalio Ragua v. Court of Appeals, we denied, on the ground of laches, therein petitioners' petition for reconstitution of title, which was filed only 19 years after the original of said title was allegedly lost or destroyed. [35]

The real property tax receipts in the name of Federico for the years 1989 to 1998 deserve little probative value. There is no showing that real property taxes were paid by Federico and/or Enriquita, or their alleged predecessors-in-interest prior to 1989. Despite Federico and Enriquita's claim of possession of the subject property since 1955, Federico himself admitted that he first paid the real estate taxes on the subject property only in 1989. Realty tax payments are not conclusive evidence of ownership but are mere indicia of possession in the concept of owners.[36] Neither are realty tax payment receipts sufficient to warrant reconstitution.

The foregoing circumstances raise doubt as to the authenticity and genuineness of the owner's duplicate of TCT No. T-4399, the basis for the Petition for Reconstitution of Federico and Enriquita. Our suspicions were, in fact, confirmed by a Manifestation by the Acting Register of Deeds of the Province of Cavite, that the LRA report dated 28 October 1999 allegedly signed by Benjamin M. Bustos, Reconstitution Officer and Chief, Reconstitution Division, and marked as Exhibit "K," was not the true, genuine and official report of the LRA in this case but the one dated 14 December 1999, which was duly signed by Benjamin M. Bustos. The Certification[37] issued by the LRA on 14 December 1999 stated, to wit:

> The Land Registration Authority to the Honorable Court respectfully reports that:
>
> (1)
>
> The present petition seeks the reconstitution of Transfer Certificate of Title No. T-4399, allegedly lost or destroyed, and supposedly covering a parcel of land (Plan Psu-91002), situated in the Barrio of Sapang, Municipality of Ternate, Province of Cavite, on the basis of the owner's duplicate thereof. A mere reproduction of what purports be a copy of Transfer Certificate of Title No. T-4399, not certified by the Clerk of Court, as required under LRC Circular 35, Series of 1983, was submitted to this Authority.
>
> (2)
>
> In the 1st Indorsement of Engr. Alberto H. Lingao, Acting Chief, Ordinary and Cadastral Decree Division, this Authority, dated November 26, 1999, it is stated therein, that upon examination and verification of the above-entitled petition and its enclosures, the following information were found, to wit:
>
> - As per "Book of Surveys" on file at the Plan Examination Section, Psu-9002, situated in the Province of Cavite was applied for registration under Record No. 51767;
>
> - As per "Decree Book" on file at the Ordinary Decree Section, Record No. 51767, Cavite, was issued Decree No. 642113 on July 7, 1937; however, copy of the said decree is not among the salvaged records of this Authority;
>
> - The technical description of Psu-91002 inscribed on the submitted xerox copy of TCT No. T-4399 was found to be an open polygon and when plotted on MIS 9009, 1621, 9017, 9619, 6121 and 15212, several parcels of land applied under Record Nos. N-63140, N-63142 and N-63143 were found to be inside this case. No decree of registration have as yet been issued to the aforesaid applications."

4.

WHEREFORE, the foregoing Report is respectfully submitted for the information and guidance of the Honorable Court, with the recommendation that the Lands Management Sector, be required to submit the Report relative to the status of the subject parcel of land, in the instant petition.

Quezon City, Philippines, December 14, 1999.

Alfredo R. Enriquez
Administrator

By:

Benjamin M. Bustos
Chief, Reconstitution Division

The Manifestation finds support in the Certification dated 20March 2001, issued by the Acting Chief of the Reconstitution Division of the LRA indicating the following:

> This is to certify that a perusal from the records of this Authority, a Report dated December 14, 1999 has been submitted to the Regional Trial Court, Branch XV, Naic, Cavite relative to the above-entitled petition, a certified copy of which is hereto attached for ready reference.
>
> Furthermore, a Report dated October 28, 1999, purportedly signed by Atty. Benjamin M. Bustos, Chief, Reconstitution Division, xerox copy hereto attached, was presented to this Authority by Atty. Antonio L. Leachon III, Acting Register of Deeds, Trece Martires, Province of Cavite, which upon verification from our records, it appears that the same is spurious and not prepared/issued by this Office.[38]

We are not persuaded that the pieces of evidence presented by Federico and Enriquita warrant the reconstitution of TCT No. T-4399. The purpose of reconstitution of title is to have the original title reproduced in the same form it was in when it was lost or destroyed. It is the duty of the court to scrutinize and verify carefully all supporting documents, deeds and certifications.

Once again, we caution the courts against the hasty and reckless grant of petitions for reconstitution, especially when they involve vast properties, such as in this case. And, should a petition for reconstitution be denied for lack of sufficient basis, the petitioner is not entirely left without a remedy. He may still file an application for confirmation of his title under the provisions of the Land Registration Act, if he is, in fact, the lawful owner.[39]

WHEREFORE, premises considered, the instant Petition for Review on Certiorari is hereby DENIED. The Decision dated 5 December 2005 of the Court of Appeals in CA-G.R. CV No. 72740 dismissing the Petition for Reconstitution of TCT No. T-4399, filed by Federico A. Angat and Enriquita A. Angat, is hereby AFFIRMED. Costs against petitioners.

SO ORDERED.

Ynares-Santiago, (Chairperson), Velasco, Jr., Nachura, and Brion,[*] JJ., concur.

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[*] Associate Justice Arturo D. Brion was designated to sit as additional member replacing Associate Justice Diosdado M. Peralta per Raffle dated 22 June 2009.

[1] Penned by Associate Justice Santiago Javier Ranada with Associate Justices Roberto A. Barrios and Mario L. Guarina III, concurring; rollo, pp. 131-140.

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[2] Rollo, p. 152.

[3] Issued by Judge Napoleon V. Dilag; rollo, pp. 67-81.

[4] Now deceased.

[5] Annex A; rollo, pp. 29-31.

[6] Annex A of the Petition for Reconstitution; id. at 32.

[7] Issued by Vicente A. Garcia, Registrar of Deeds, Cavite Province; id. at 33.

[8] Annex B of the Petition for Reconstitution; id. at 34.

[9] Id. at 69-70.

[10] Petitioners forwarded the following documents:

(a) Signed copy of the Petition for Reconstitution of the original copy of TCT No. T-4399 in the names of petitioners (plus annexes A and B);

(b) Tracing cloth plan of plan PSU-91002, plus two blueprint copies of plan PSU-91002, duly approved by the Director of Lands;

(c) Original and two photocopies of the technical description of the land covered by plan PSU-91002 and TCT No. T-4399 of the Registry of Deeds of Cavite; and

(d) Certification issued by the Register of Deeds of Cavite, regarding the burning of its former office, including the original copy of TCT No. T-4399 in the names of Federico and Enriquita.

[11] Rollo, p. 71.

[12] Id. at 41.

[13] Gregorio eventually passed away in 1967.

[14] CA rollo, pp. 65-72.

[15] Order dated 10 November 2000; rollo, pp. 62-66.

[16] Id. at 80-81.

[17] Id. at 139.

[18] CA rollo, p. 130.

[19] Federico passed away prior to the filing of the Petition at bar, but the records do not reveal the exact date of his death.

[20] 406 Phil. 263 (2001).

[21] Rollo, p. 12.

[22] CA rollo, p. 125.

[23] Id. at 127.

[24] Masagana Concrete Products v. National Labor Relations Commission, 372 Phil. 459, 471-472 (1999) .

[25] Philippine Coconut Authority v. Garrido, 424 Phil. 904, 902 (2002).

[26] Tan v. Tan, G.R. No. 133805, 29 June 2004, 433 SCRA 44, 49, citing Basco v. Court of Appeals, 383 Phil. 671, 685 (2000). See also Macabingkil v. People's Homesite and Housing Corp., 164 Phil. 328, 339-340 (1976).

[27] Insular Life Assurance Co., Ltd v. National Labor Relations Commission, G.R. No. L-74191, 21 December 1987, 156 SCRA 740, 746.

[28] Melotindos v. Tobias, 439 Phil. 910, 915 (2002).

[29] G.R. No. 81200, 17 October 1990, 190 SCRA 525.

[30] Strait Times, Inc. v. Court of Appeals, 356 Phil. 217, 230 (1998).

[31] Republic of the Philippines v. Holazo, 480 Phil. 828, 838 (2004).

[32] 343 Phil. 115 (1997).

[33] 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 have 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 to 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.

[34] Catholic Bishop of Balanga v. Court of Appeals, 332 Phil. 206, 218-219 (1996); Heirs of Eulalio Ragua and Regalado v. Court of Appeals, 381 Phil. 7, 22-23 (2000).

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[35] Id.

[36] Republic v. Holazo, 480 Phil. 828, 842 (2004).

[37] Records, pp. 165-166.

[38] Records, p. 167.

[39] Republic v. Santua, G.R. No. 155703, 8 September 2008, 564 SCRA 331, 340-341.

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