

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. RICORDITO N. DE ASIS, JR., RESPONDENT.

G.R. No. 193874. July 24, 2013

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Assailed in this petition for review on certiorari[1] are the January 26, 2010 Decision[2] and October 1, 2010 Resolution[3] of the Court of Appeals (CA) in CA-G.R. CV No. 79569 which affirmed in toto the May 27, 2003 Decision[4] of the Regional Trial Court of Quezon City, Branch 77 (RTC) in LRC Case No. Q-15289(02), granting the verified amended petition for reconstitution of title filed by respondent Ricordito N. De Asis, Jr. (De Asis).

The Facts

On August 7, 2002, De Asis filed a verified amended petition for reconstitution[5] (amended petition) of Transfer Certificate of Title (TCT) No. 8240 of the Register of Deeds of Quezon City (Register of Deeds) in the name of his uncle, Lauriano De Asis (Lauriano), covering Lot No. 804-C located at Pasong Tamo, Caloocan, Rizal (now No. 4, Panama St., Veterans Village, Brgy. Holy Spirit, Quezon City),[6] with an area of 30,052 square meters, more or less (subject property).

De Asis alleged that he purchased the subject property from Lauriano through a Deed of Absolute Sale[7] dated January 5, 1978 and that the same is free from any encumbrances. Likewise, no deed affecting it has been presented or is pending before the Register of Deeds. Unfortunately, the original copy of TCT No. 8240 was destroyed by the fire that gutted the Quezon City Hall on June 11, 1988,[8] hence, the amended petition based on the owner's duplicate copy of TCT No. 8240,[9] which was in his possession.

Finding the amended petition to be sufficient in form and substance, the RTC, in its September 4, 2002 Order,[10] scheduled the initial hearing on January 30, 2003 and directed that the Land Registration Authority (LRA), inter alia, be furnished a copy thereof. The RTC likewise ordered that notice of the amended petition be published in the Official Gazette once a week for two (2) consecutive weeks. The notice was published in the December 23, 2002 (Vol. 98, No. 51) and December 30, 2002 (Vol. 98, No. 52) issues of the Official Gazette.[11]

On January 30, 2003, after compliance with the jurisdictional requirements and without any opposition having been raised, the RTC allowed[12] De Asis to present his evidence ex-parte. Later, on February 7, 2003, the Office of the Solicitor General (OSG), as counsel for herein petitioner Republic of the Philippines (Republic), filed a notice of appearance[13] and deputized[14] the City Prosecutor of Quezon City to assist the OSG and appear in the case on its behalf, which the RTC noted.[15]

On February 20, 2003, upon request of the LRA[16] and in accordance with paragraph 4(a)[17] of LRC Circular No. 35, De Asis was required to submit a certified true copy of the owner's duplicate certificate of title of the subject property,[18] with which he complied.[19] Subsequently, the LRA submitted its April 29, 2003 Report[20] (LRA's report) before the RTC stating that "[t]he technical description of Lot [No.] 804-C of the

subdivision plan Psd-2341, appearing on the reproduction of [TCT] No. T-8240, was found correct after examination and due computation. Said technical description, however, when plotted in the Municipal Index Sheet No. 5708-B, it overlaps with (LRC) Psd-372628 and (LRC) Psd-314053.”[21]

The RTC Ruling

In its May 27, 2003 Decision,[22] the RTC granted the amended petition based on the evidence presented ex parte by De Asis.

The Republic appealed the RTC Decision to the CA, arguing[23] that De Asis failed to strictly comply with the mandatory jurisdictional requirement on publication. It pointed out that while the notice of the amended petition was indeed published in the December 23 and 30, 2002 issues of the Official Gazette, the last issue was, however, officially released only on January 3, 2003, or less than thirty (30) days prior to the date of hearing set on January 30, 2003, per Certificate of Publication[24] of the National Printing Office (NPO).

Likewise, the Republic argued[25] that the RTC erred in granting the amended petition despite the LRA’s report that the technical description of the subject property overlaps with other properties, rendering doubtful the authenticity of the title sought to be reconstituted.

The CA Ruling

In its assailed Decision, the CA affirmed the RTC Decision in toto, ratiocinating that the thirty-day notice should be reckoned from the date of issue of the Official Gazette, not from the date of its actual release, citing Section 13[26] of Republic Act No. 26 (RA 26).[27] While the CA conceded the stringent and mandatory nature of the requirement of publication, it however considered the fact that the source of the reconstitution in this case was the owner’s duplicate copy of title in De Asis’ possession, the authenticity of which was never disputed by the Republic.

Further, the appellate court cited the case of *Imperial v. CA (Imperial)*,[28] where the Court upheld the validity of the publication of the notice of the petition in the March 27, 1995 and April 3, 1995 issues of the Official Gazette despite the NPO certification that the last issue (pertaining to the April 3, 1995 issue) was officially released on March 28, 1995. The Court observed in the *Imperial* case that it is not uncommon among publishing companies to release issues before the actual date of issue reflected on the cover of the publication. What matters is that the petitioner in a reconstitution case caused the publication of the notice of the petition in two (2) consecutive issues of the Official Gazette thirty (30) days prior to the date of hearing.

Following the Court’s pronouncement in *Imperial*, the CA ruled in the present case that since the notice of the amended petition was duly published in the December 23 and 30, 2002 issues of the Official Gazette, De Asis had sufficiently complied with the requirement of publication, despite the NPO’s certification that the second issue was officially released on January 3, 2003, or three (3) days short of the thirty-day period before the scheduled January 30, 2003 hearing. Consequently, the RTC acquired jurisdiction over the case.

With respect to the Republic’s second assigned error, the CA found that the RTC did not err in giving little credence to the LRA’s report declaring that the technical description of the subject property overlaps with (LRC) Psd-372628 and (LRC) Psd-314053, which failed to mention sufficient details in support of its finding or to identify the specific titles with which TCT No. 8240 supposedly overlaps. Moreover, the CA held that the LRA’s report was not even a condition sine qua non before a petition for reconstitution could be given due course.

The Republic’s motion for reconsideration was denied in the CA’s October 1, 2010 Resolution, hence, the present recourse.

The Issues Before The Court

The Republic insists that the CA committed reversible error in affirming the RTC Decision which granted the amended petition on the basis of (a) non-compliance with Sections 9 and 10 of RA 26 requiring publication of the notice of hearing in two (2) successive issues of the Official Gazette at least thirty (30) days prior to the date of hearing, a jurisdictional requisite; and (b) the LRA's report which declared that the technical description of the subject property overlaps with other properties. The Republic also bewails that it was not afforded its day in court despite the RTC's receipt of its notice of appearance.

The Court's Ruling

The petition is meritorious.

At the outset, the Court notes that the present amended petition for reconstitution is anchored on the owner's duplicate copy of TCT No. 8240 – a source for reconstitution of title under Section 3(a)[29] of RA 26 which, in turn, is governed by the provisions of Section 10 in relation to Section 9 of RA 26 with respect to the publication, posting, and notice requirements.[30] Section 10 reads:

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. (*Italics and emphasis supplied*)

Corollarily, Section 9 reads in part:

SEC. 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. x x x. (*Emphasis supplied*)

The foregoing provisions, therefore, clearly require that (a) notice of the petition should be published in two (2) successive issues of the Official Gazette; and (b) publication should be made at least thirty (30) days prior to the date of hearing. Substantial compliance with this jurisdictional requirement is not enough; it bears stressing that the acquisition of jurisdiction over a reconstitution case is hinged on a strict compliance with the requirements of the law.[31]

The factual antecedents of this case are undisputed: De Asis caused the publication of the notice of the amended petition in the December 23 and 30, 2002 issues of the Official Gazette. However, the NPO certified that the December 30, 2002 issue was officially released only on January 3, 2003, evidently short of the thirty-day period preceding the January 30, 2003 scheduled hearing. Indubitably, therefore, there was a defect in the mandatory publication of the notice required under Section 10 in relation to Section 9 of RA 26.

In *The Register of Deeds of Malabon, Metro Manila v. RTC of Malabon, Metro Manila, Branch 170*,[32] the Court struck down as invalid the actual publication of the notice of the petition in the Official Gazette forty-seven (47) days after the August 17, 1988 hearing, despite the fact that notice of the petition was published in the May 23 and 30, 1988 issues of the Official Gazette. Finding that the May 30, 1988 issue was released for circulation only on October 3, 1988 and declaring that the said publication was not sufficient to vest jurisdiction upon the RTC to hear and decide the petition, the Court held:

x x x The purpose of the publication of the notice of the petition for reconstitution in the Official Gazette is to apprise the whole world that such a petition has been filed and that whoever is minded to oppose it for good

cause may do so within thirty (30) days before the date set by the court for hearing the petition. It is the publication of such notice that brings in the whole world as a party in the case and vests the court with jurisdiction to hear and decide it.[33] (Emphasis supplied)

Hence, while Section 9 merely required that the notice of the petition should be “published x x x twice in successive issues of the Official Gazette,” jurisprudence expressly clarified that “publication” means the actual circulation or release of the issue of the Official Gazette on which the notice of the petition is printed. The law could not have possibly contemplated “publication” independent of its actual dissemination to the public, for whose benefit the requisite of publication is mandated in the first place. For sure, publication without actual circulation of the printed material is worthless.

Consequently, the thirty-day period that precedes the scheduled hearing should be reckoned from the time of the actual circulation or release of the last issue of the Official Gazette, and not on the date of its issue as reflected on its front cover. To interpret it otherwise, as the CA had erroneously done in this case, would render nugatory the purposes of publication in reconstitution proceedings, which are to safeguard against spurious and unfounded land ownership claims, to apprise all interested parties of the existence of such action, and to give them enough time to intervene.[34] Otherwise, unscrupulous parties would merely invoke compliance with the requirement of two-time publication in the Official Gazette, without regard to the date of its actual release, as a convenient excuse for their failure to observe the mandatory prerequisite of publication.

Moreover, while it is true that the thirty-day period in this case was short by only three (3) days, the principle of substantial compliance cannot apply, as the law requires strict compliance,[35] without which the Court is devoid of authority to pass upon and resolve the petition. As the Court has declared in the case of *Castillo v. Republic*:[36]

x x x In all cases where the authority of the courts to proceed is conferred by a statute, the mode of proceeding is mandatory, and must be strictly complied with, or the proceeding will be utterly void. When the trial court lacks jurisdiction to take cognizance of a case, it lacks authority over the whole case and all its aspects. All the proceedings before the trial court, including its order granting the petition for reconstitution, are void for lack of jurisdiction.[37] (Emphasis supplied)

Furthermore, there is dearth of reason to afford liberality in this case as the Court had similarly done in the *Imperial* case, as cited by the CA. A punctilious scrutiny of the factual milieu in *Imperial* shows that despite the apparent discrepancy between the dates of issue of the Official Gazette where the notice of the petition was published (March 27, 1995 and April 3, 1995) and the date of the official release of the last issue (March 28, 1995), the thirty-day period required under Section 9 of RA 26 was nonetheless complied with, considering that the hearing was scheduled on May 10, 1995. Hence, it is inconsequential whether the thirty-day period was to be reckoned either from April 3, 1995, the date of issue of the second Official Gazette, or from March 28, 1995, the date of its official release – as the notice of the petition would still be considered as having been published at least thirty (30) days prior to the date of hearing on May 10, 1995. As the Court had ardently observed in that case:

x x x We feel, too, that the petitioner can neither be faulted nor punished for the NPO’s act of releasing the April 3, 1995 issue early; it was a matter wholly outside the petitioner’s control given that this is a decision wholly for NPO to make. What is important, to the Court’s mind, is that the petitioner fulfilled his obligation to cause the publication of the notice of the petition in two consecutive issues of the Official Gazette 30 days prior to the date of hearing. We keenly realize that the early publication of the Official Gazette more than met these requirements, as the publication transpired more than 30 days before the date of hearing. Thus, there is every reason to exercise liberality in the greater interest of justice.[38] (Emphasis supplied)

Hence, in view of the defect in the mandatory requirement of publication set forth in Section 10 in relation to

Section 9 of RA 26, therefore, the RTC did not acquire jurisdiction in this case, rendering null and void the entire proceedings before it.

Finally, the Court notes that the RTC, as affirmed by the CA, failed to give due consideration to the LRA's report stating that the technical description of the subject property overlaps with other properties. In light of the LRA's finding, therefore, it behooved the RTC – in observance of diligence and prudence – to notify the adjoining lot owners of the proceedings or, at the very least, to order a resurvey of the subject property, at the expense of De Asis. As the Republic had pointed out,[39] the RTC ought to have proceeded with the utmost caution, having been apprised of the LRA's report on the overlapping of properties. Records show, however, that neither the Republic nor the LRA was afforded the opportunity to appear and present further evidence in support of the LRA's report. Instead, the RTC merely disregarded the same.

On this score, it bears stressing that the nature of reconstitution proceedings under RA 26 denotes a restoration of the instrument, which is supposed to have been lost or destroyed, in its original form and condition.[40] As such, reconstitution must be granted only upon clear proof that the title sought to be restored had previously existed and was issued to the petitioner.[41] Strict compliance with the requirements of the law aims to thwart dishonest parties from abusing reconstitution proceedings as a means of illegally obtaining properties otherwise already owned by other parties. As the Court had eloquently pronounced in *Director of Lands v. CA*:^[42]

The efficacy and integrity of the Torrens system must be protected and preserved to ensure the stability and security of land titles for otherwise land ownership in the country would be rendered erratic and restless and can certainly be a potent and veritable cause of social unrest and agrarian agitation. The courts must exercise caution and vigilance in order to guard the indefeasibility and imprescriptibility of the Torrens Registration System against spurious claims and forged documents concocted and foisted upon the destruction and loss of many public records as a result of the last World War. The real purpose of the Torrens System which is to quiet title to the land must be upheld and defended, and once a title is registered, the owner may rest secure, without the necessity of waiting in the portals of the court or sitting in the mirador de su casa to avoid the possibility of losing his land.^[43]

WHEREFORE, the instant petition is GRANTED. The assailed January 26, 2010 Decision and October 1, 2010 Resolution of the Court of Appeals in CA-G.R. CV No. 79569 are REVERSED and SET ASIDE. The amended petition for reconstitution docketed as LRC Case No. Q-15289(02) is DISMISSED.

SO ORDERED.

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

[1] Rollo, pp. 20-66.

[2] *Id.* at 70-82. Penned by Associate Justice Normandie B. Pizarro, with Associate Justices Hakim S. Abdulwahid and Florito S. Macalino, concurring.

[3] *Id.* at 83-84.

[4] *Id.* at 96-97. Penned by Presiding Judge Vivencio S. Bacilig.

[5] *Id.* at 85-88.

[6] *Id.* at 87.

[7] Records, pp. 19-20.

[8] Id. at 21. See Certification issued on July 16, 1992.

[9] Id. at 26, including the dorsal portion.

[10] Rollo, pp. 89-90.

[11] Records, p. 58. See Certificate of Publication of the National Printing Office issued on January 3, 2003.

[12] Id. at 61.

[13] Id. at 66. See Notice of Appearance dated January 23, 2003.

[14] Id. at 67. See Letter dated January 23, 2003.

[15] Id. at 68. See Order dated February 13, 2003.

[16] Id. at 78. See Letter-Request dated January 24, 2003.

[17] Paragraph 4(a) of LRC Circular No. 35 reads:

4. Where the reconstitution is to be made from the sources enumerated in Sections 2 and 3(a-e) of Republic Act No. 26, the signed duplicate copy of the petition to be forwarded to this Administration must be accompanied by the following:

(a) A copy of the document on file in the Registrar of Deeds or title on the basis of which the reconstitution is to be made duly certified by the Clerk of Court of the Regional Trial Court where the petition is filed that the same is true and faithful reproduction of the document or title presented by the petitioner or owner.

[18] Records, p. 79. See Order dated February 20, 2003.

[19] Id. at 98. See Compliance dated May 9, 2003.

[20] Id. at 99-100.

[21] Id. at 99.

[22] Id. at 112-113.

[23] Rollo, pp. 116-120.

[24] Records, p. 58.

[25] Rollo, pp. 120-121.

[26] 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. x x x.

[27] Otherwise known as “An Act Providing a Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed,” effective September 25, 1946.

[28] G.R. No. 158093, June 5, 2009, 588 SCRA 401.

[29] 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[.]

[30] See *Puzon v. Sta. Lucia Realty and Development, Inc.*, 406 Phil. 263, 274-275 (2001).

[31] *The Government of the Philippines v. Aballe*, 520 Phil. 181, 191 (2006).

[32] 260 Phil. 839 (1990).

[33] *Id.* at 843.

[34] *Republic of the Philippines v. Planes*, 430 Phil. 848, 869 (2002), citing *Republic of the Philippines v. Estipular*, 391 Phil. 211, 221 (2000).

[35] *Republic v. Estipular*, *id.*

[36] G.R. No. 182980, June 22, 2011, 652 SCRA 600.

[37] *Id.* at 614.

[38] *Imperial v. CA*, *supra* note 28, at 408-409.

[39] *Rollo*, p. 56.

[40] *Republic v. Camacho*, G.R. No. 185604, June 13, 2013.

[41] *Republic v. Santua*, G.R. No. 155703, September 8, 2008, 564 SCRA 331, 337.

[42] G.R. No. L-45168, January 27, 1981, 102 SCRA 370.

[43] *Id.* at 451.

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