

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. THE HONORABLE
INTERMEDIATE APPELLATE COURT (NOW COURT OF APPEALS),
AND PRINCESS EMME ATIK KIRAM, RESPONDENTS.**

G.R. No. 68303. January 15, 1988

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

The Republic appeals from the decision of the Intermediate Appellate Court, now Court of Appeals,* ordering the reconstitution of title in favor of the private respondent.

The properties in dispute number three undivided lots [Lot No. 465-A; Bsd-864, CAD-159, Lot No. 2408-A, Bsd-864 (Lot 2457-Cad. 99), and Lot No. 2410-B, Bsd-864 (Lot 2461-Cad 99)] altogether consisting of a total of 1,024 hectares of ricelands. They are all located in Tiptipon, Panamao, Sulu. The title thereto stood allegedly in the name of Sultan Jamalul Kiram, who died in 1936. The private respondent, a niece of the late Sultan, now claims that the original certificate of title (No. P-133) thereto was destroyed as a consequence of a fire that gutted the office of the Register of Deeds of Sulu sometime in February, 1974. She likewise alleges that the owner's copy thereof was lost on account of the same misfortune. On October 18, 1979, she went to the then Court of First Instance of Sulu, Branch I, at Jolo, now Regional Trial Court, the Honorable Jainal D. Rasul, District Judge, presiding, for reconstitution.

The then Court of First Instance ruled for the private respondent, a ruling affirmed on appeal. The Republic would now have the application dismissed on the grounds of: (1) lack of proper publication; (2) absence of proof that Original Certificate of Title No. P-133 was in force and in effect at the time of its alleged loss; and (3) failure to comply with the provisions of Republic Act No. 26.

The then Court of First Instance granted reconstitution on the strength, among other things, of: (1) the sheriff's return of service; (2) certificate of publication in the Official Gazette; (3) the respective survey plans and technical descriptions of the properties; and (4) the tax declarations covering the same. The private respondent likewise presented a copy of Act No. 3430, "An Act to Provide for the Reservation of Certain Lands of the Public Domain on the Island of Sulu, the usufruct thereof to be granted to the Sultan of Sulu and his heirs," among them, those subject of the petition, as well as a copy of Proclamation No. 1530, "Reserving for resettlement purposes certain parcels of land situated in Panamao, Talipao and Tiptipon, Province of Sulu, Philippines, under the administration and disposition of the Department of Agrarian Reform," including the three parcels aforementioned. According to the private respondent, Sultan Kiram acquired the properties in question pursuant to these land grants.

The Solicitor General presented in the trial court no opposition to the application, and based on the evidence of the private respondent, the assailed order was issued on June 4, 1980. The Solicitor General appealed to the then Intermediate Appellate Court, now Court of Appeals, which however affirmed in toto, on May 24, 1984, the order of the trial court. Hence, this petition.

We rule for the Republic.

It is not disputed, to begin with, that the notices (of hearing) were not posted on the main entrances of the provincial and municipal halls of the locality in which the lands are located. Under Section 13, of Republic Act No. 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 municipality or city in which the land is situated, at the provincial building and of the municipal building 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.

We have held that such a mode of publication is a jurisdictional requirement. The failure on the part of the applicant to comply with it confers no jurisdiction upon the court.[1]

Neither is there any showing that the adjacent owners or other interested parties were actually notified of the pending application. This too taints the petition with a jurisdictional defect.[2]

It is not enough that there is publication in the Official Gazette. Publication of the notice in the Official Gazette is but one requirement. In addition, Republic Act No. 26 decrees that such a notice be posted "on the main entrance" of the corresponding provincial capitol and municipal building, as well as served actually upon the owners of adjacent lands. Failure to comply with such requisites will nullify the decree of reconstitution.

It shall be noted that a judicial reconstitution of title partakes of a land registration proceeding.[3] Thus, notice of the proceedings must be done in the manner set forth by the letter of the law.

It is futile for the private respondent, in connection with the charge that she failed to post the notice at the main entrance of the municipal building, to invoke the fiction of "performance of duty." [4] The question that remains unanswered is whether or not she had in fact complied with the requirement. The Court notes that all she presented was a certificate of service prepared by the sheriff, embodying an order addressed to the Station Commander of Panamao, Sulu, to post the proper notices and a certificate of publication in the Official Gazette. The order, however, of posting forwarded by the sheriff to the local Station Commander is not proof that the Station Commander had in fact complied with such an order. The presumption of "performance of duty" cannot therefore apply. Republic Act No. 26 itself specifically calls upon the applicant to submit proof of that posting.[5] He cannot rely on the presumption. In this case, fiction must yield to fact.

The Republic cannot be faulted for nursing doubts about the private respondent's assertions. In the first place, the private respondent claims that two deeds have been lost, the original and the duplicate certificates of title. She furthermore relies on quite doubtful sources as bases for the reconstitution sought, i.e., certain statutes making references to the properties. In such a case, the courts are admonished to take utmost caution that the petition and the evidence presented to support it can stand judicial scrutiny.[6]

It is not sufficient, as in the case at bar, that the Solicitor General failed to interpose an opposition to the application. The court must nonetheless convince itself that the petitioner's evidence is substantial enough to warrant reconstitution.

This Court agrees with the Republic that the private respondent, based on the evidence, has not sufficiently shown her right to a reconstitution. Neither Act No. 3430 nor Proclamation No. 1530 confers title to any party over the properties mentioned therein. On the other hand, Republic Act No. 26 entitled, "An Act Providing A Special Procedure For The Reconstitution Of Torrens Certificates Of Title Lost Or Destroyed," enumerates the sources on which the reconstituted certificate of title may be based. It should be noted that both Sections 2 and 3 thereof list sources that evidence title or transactions affecting title to property.[7] When Republic Act No. 26 [Sec. 2(f)] therefore speaks of "[a]ny other document,"[8] it must refer to similar documents previously enumerated therein. The statutes relied upon by the private respondent, so we hold, are not ejusdem generis as the documents earlier referred to. Furthermore, they do not contain the specifics required by Section 12(a) and (b) of the title reconstitution law.[9]

We, therefore, hold that for reconstitution purposes, the two pieces of legislation earlier adverted to, Act No. 3430 and Proclamation No. 1530, are not enough to support the petition for reconstitution. The private respondent must have sufficient proof that her predecessor-in-interest had in fact availed himself of the benefits of the land grant the twin statutes confer.

Proclamation No. 1530, moreover, does not specifically name Sultan Kiram as the owner of the lands reserved for resettlement. While Act No. 3430 does, this measure was enacted as far back as 1928.[10] Since then, the properties could have undergone successive transfers. What is more, there is no showing that the title certificate sought to be reconstituted, Original Certificate of Title No. P-133, stands, in fact, in the name of Sultan Kiram. The fact therefore that Act No. 3430 grants title to the Sultan (on the assumption that it does) does not yield the presumption that Original Certificate of Title No. P-133 refers to one and the same property.

The documents alluded to under Sections 2(f) and 3(f), finally, must be resorted to in the absence of those preceding in order. There is no showing here that the private respondent had in fact sought to secure such prior documents (except with respect to the owner's duplicate copy of title, which she claims had been likewise destroyed) and failed to find them. This engenders doubts, indeed, about the existence of the alleged title itself.

The tampering of genuine certificates of title and the issuance of fake ones are a widespread malaise that has seriously threatened the very stability of the Torrens system. Worse, the courts have been at times unwitting accomplices in these acts of corruption. In *Alabang, supra*, we sounded this admonition:

xxx We can take judicial notice of innumerable litigations and controversies that have been spawned by the reckless and hasty grant of such reconstitution of alleged lost or destroyed titles as well as of the numerous purchasers who have been victimized only to find that the "lands" purchased by them were covered by forged or fake titles or their areas simply "expanded" through "table surveys" with the cooperation of unscrupulous officials.

an admonition we find fitting and proper to reiterate here.

WHEREFORE, the Decision of the Intermediate Appellate Court (now Court of Appeals) dated May 24, 1984 and its Resolution dated August 1, 1984 are hereby REVERSED and SET ASIDE. The Petition for Reconstitution of Title is ordered DISMISSED. No costs.

Yap (Chairman), Melencio-Herrera, Paras, and Padilla. JJ., concur.

* Castro-Bartolome, Florelana, J.; Coquia, Jorge and Zosa, Mariano. JJ., Concurring.

[1] *Tahanan Development Corp. v. Court of Appeals*. No. L-55771. November 15, 1982. 118 SCR A 273 (1982); *Metropolitan Waterworks & Sewerage System v. Sison*, No. L-40309, August 31, 1983. 124 SCRA 394 (1983). .

[2] Metropolitan Waterworks and Sewerage System v. Sison, *supra*.

[3] *Supra*.

[4] RULES OF COURT, Rule 131. Sec. 5(m).

[5] *Supra*, Sec. 13.

[6] See *Alabang Development Corporation v. Valenzuela*. No. L-56094, August 30, 1982, 116SCRA261 (1982).

[7] SEC. 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-owners, 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 documents which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.

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
- (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 documents (sic) which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.

SEC. 4. Liens and other encumbrances affecting a destroyed or lost certificate of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:

- (a) Annotations or memoranda appearing on the owners, co-owners, mortgagee's, or lessee's duplicate;
- (b) Registered documents on file in the registry of deeds, or authenticated copies thereof showing that the originals thereof had been registered; and

(c) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the liens or encumbrances affecting the property covered by the lost or destroyed certificate of title.

[8] Supra.

[9] 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; (0 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 of 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, or with a certified copy of the description taken from a prior certificate of title covering the same property;.

[10] Act No. 3430 was promulgated on January 12. 1928.

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