

ADJAP ALLAMA AND HATIB SALI MAHADDI, PETITIONERS, VS. THE REPUBLIC OF THE PHILIPPINES, RESPONDENT.

G.R. No. 88226. February 26, 1992

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This case was certified to us by the then Intermediate Appellate Court, now Court of Appeals, on the ground that the sole issue raised is a pure question of law.

The appellate court summarized the facts of the case as follows:

"This is an appeal from the order of the Court of First Instance of Sulu ordering the reconstitution of Transfer Certificate of Title No. T-784, registered in the names of Adjap Allama and Hativ Sali Mahaddi.

On March 20, 1980, they filed a verified petition for judicial reconstitution of their transfer certificate of title under Republic Act No. 26. They alleged that both the original and duplicate copies of Certificate of Title No. 784 were burned when the town of Jolo was attacked by rebels on February 7, 1974.

On the same date, the trial court set the hearing of the petition on June 27, 1980.

The notice of hearing was published in the Official Gazette (Exhibit D). Copies of the notice of hearing were also posted by the Deputy Sheriff of Jolo in four conspicuous places in Jolo (Exhibit C). Copies of the said notice were also served on the Provincial Fiscal of Jolo on April 1, 1980 (Exhibit C). On April 2, 1980, copies of the notice were sent by registered mail to the Office of the Solicitor General, to the Commissioner of the Land Registration Commission, and to the Director of Lands (Exhibit C).

On October 24, 1980, the Republic of the Philippines, through the Provincial Fiscal of Sulu, opposed the petition on the ground that it was not in accordance with the requirements prescribed by law and prayed for its dismissal.

On September 29, 1980, the court below granted the petition for reconstitution.

On November 11, 1981, the Republic of the Philippines filed a notice of appeal.

The appellant contends that the lower court did not acquire authority to hear, determine and decide the reconstitution case because the specific requirements and mode of procedures provided in Section 13 of Republic Act No. 26 were not complied with. The appellant contends that these requirements are mandatory and jurisdictional, and must, therefore, be strictly complied with.

The appellant raises a question of law. The determination of whether or not the lower court acquired jurisdiction over this case is a legal issue. As held in *Director of Lands v. Court of Appeals*, 102 SCRA 370, 434, jurisdiction is the basic and primary legal principle upon which the validity and legality of a proceeding conducted in a petition for reconstitution of an alleged lost certificate of title is based and the question of jurisdiction is always fundamental; it is basically one of law, involving the determination by the court of its right to proceed with the litigation or petition." (IAC Rollo, pp. 35-36)

In the case of *Tahanan Development Corp. v. Court of Appeals* (118 SCRA 273, 303 [1982]), we ruled:

"Republic Act No. 26 entitled 'An act providing a special procedure for the reconstitution of Torrens Certificates of Title lost or destroyed' approved on September 25, 1946 confers jurisdiction or authority to the Court of First Instance to hear and decide petitions for judicial reconstitution. The Act specifically provides the special requirements and mode of procedure that must be followed before the court can properly act, assume and acquire jurisdiction or authority over the petition and grant the reconstitution prayed for. These requirements and procedure are mandatory. The Petition for Reconstitution must allege certain specific jurisdictional facts; the notice of hearing must be published in the Official Gazette and posted in particular places and the same sent or notified to specified persons. Sections 12 and 13 of the Act provide specifically the mandatory requirements and procedure to be followed. x x x"

In the later case of *Register of Deeds of Malabon v. Regional Trial Court, Malabon, Metro Manila, Branch 120* (181 SCRA 788 [1990]) we reiterated the rule that "in all cases where the authority of the courts to proceed is conferred by a statute and when the manner of obtaining jurisdiction is mandatory, it must be strictly complied with, or the proceedings will be utterly void." Thus, in this case, we upheld the trial court's dismissal of the petition for reconstitution of an original Torrens Title under Republic Act No. 26 on the ground that publication of the petition did not conform with the requirements provided in Republic Act No. 26 which deprived the trial court of jurisdiction over the case.

In the instant case, the trial court, after issuing an order setting the petition for hearing, issued the mandatory notice of hearing under section 13 of Republic Act No. 26, to wit:

"TO: The Honorable Solicitor General, Manila

The Land Registration Commission,

Manila The Director of Lands, Manila;

Petitioners Adjap Allama and Hatib Sali

Mahaddi of Busbus, Jolo, Sulu; and

TO ALL WHOM IT MAY CONCERN:

WHEREAS, a verified petition was filed with Court by the petitioners Adjap Allama and Hatib Sali Mahaddi, through counsel, praying for the reconstitution of Transfer Certificate of Title No. T-784, of the Registry of Deeds of Sulu, pursuant to Republic Act No. 26, in view of the conflagration in Jolo, Sulu, on February 7, 1974.

WHEREFORE, you are hereby given notice that that said petition has been set for hearing on June 27, 1980, at 8:30 o'clock in the morning, at the Court of First Instance of Sulu, Building, Branch I, Jolo, Sulu, at which time date and place, you should appear and file your objection or claim, if you have any to the petition.

WITNESS the Honorable Jainal D. Rasul, Presiding Judge of this Court, this 21st day of March, 1980, at Jolo, Sulu, Philippines.

(SGD.) ANSAR A. ASPI

Officer-in-Charge"

(Record on Appeal, pp. 6-7)

The Solicitor General opines that the notice of hearing is defective in that there are requirements stated in Section 13 of R. A. No. 26 which were not followed, to wit:

"x x x [T]he 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. x x x" (Appellant's Brief, p. 6; Rollo, p. 13)

Indeed, the notice of hearing failed to state: (a) the name of Adjap Allama, the other registered owner; (b) the names of the occupants or persons in possession of the property; (c) the owner of the adjoining properties and all other interested parties; and (d) the location, area and boundaries of the property.

The non-compliance with these requirements provided for under Section 13 of Republic Act No. 26 as regards the notice of hearing is fatal and the trial court did not acquire jurisdiction over the petition for reconstitution. We held in the case of *Tahanan Development Corporation v. Court of Appeals*, *supra*;

"The failure or omission to notify Tahanan as the owner, possessor, or occupant of property adjacent to Lot 2 or as claimant or person having an interest, title or claim to a substantial portion (about 9 hectares more or less) of Lot 2, as well as the failure or omission to post copies of the Notice of Hearing on the main entrance of the municipality on which the land is situated, at the provincial building and at the municipal building thereat, are fatal to the acquisition and exercise of jurisdiction by the trial court. This was Our ruling in *Director of Lands v. Court of Appeals*, 102 SCRA 370, 438. It was also stressed in *Alabang Development Corp., et al. v. Hon. Manuel E. Valenzuela, et al.*, G.R. No. 54094, August 30, 1982. And we reiterated it herein, to wit:

'In view of these multiple omissions which constitute non-compliance with the above-cited sections of the Act, We rule that said defects have not invested the Court with the authority or jurisdiction to proceed with the case because the manner or mode of obtaining jurisdiction as prescribed by the statute which is mandatory has not been strictly followed, thereby rendering all proceedings utterly null and void. We hold that the mere Notice that 'all interested parties are hereby cited to appear and show cause if any they have why said petition should not be granted' is not sufficient for the law must be interpreted strictly; it must be applied rigorously, with exactness and precision. We agree with the ruling of the trial court granting the motion to amend the original petition provided all the requisites for publication and posting of notices be complied with, it appearing that the amendment is quite substantial in nature. As we have pointed above, respondent Demetria Sta. Maria Vda. de Bernal failed to comply with all the requirements for publication and posting of notices, which failure is fatal to the jurisdiction of the Court.'

The above rule is a reiteration of the doctrine laid down in *Manila Railroad Company v. Hon. Jose M. Moya, et al.*, L-17913, June 22, 1965, 14 SCRA 358, thus:

'If no notice of the date of hearing of a reconstitution case is served on a possessor or one having interest in the property involved, he is deprived of his day in court and the order of reconstitution is null and void, even if otherwise the said order should have been final and executory.

Under Section 13 of Republic Act no. 26, notice of publication is not sufficient but such notice must be actually sent or delivered to parties affected by the petition for reconstitution.'" (at pp. 309-310) (Underlining supplied)

In view of this defective notice of hearing, the trial court lacked jurisdiction to take cognizance of the case, as well as lacked authority over the whole case and all its aspects. All the proceedings held by the court including its order granting the petition for reconstitution are, therefore, considered null and void for lack of jurisdiction.

WHEREFORE, the appeal is GRANTED. The questioned order dated September 29, 1981 of the then Court of First Instance of Sulu, 16th Judicial District, Branch I, Jolo is set aside as NULL and VOID. The petition for reconstitution is DISMISSED. No costs.

SO ORDERED.

Feliciano, Bidin, Davide, Jr., and Romero, JJ., concur.

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