

THE REGISTER OF DEEDS OF MALABON, METRO MANILA, PETITIONER, VS. THE HONORABLE REGIONAL TRIAL COURT, MALABON, METRO MANILA, BRANCH 170, RESPONDENT.

G.R. No. 88623. February 05, 1990

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

On March 17, 1988, a Deed of Absolute Sale of a property covered by Transfer Certificate of Title No. R-3899 in the name of Salome Castillo in favor of Jose M. Castillo, was presented to the Register of Deeds (Atty. Francisco Romero) at the Glovic Bldg. in Caloocan City for registration. It could not be given due course because the original of said TCT No. R-3899 in the Registry of Deeds was missing.

According to the petitioner, the Registry of Deeds for Malabon became operational on April 5, 1988. As the missing title covered a parcel of land in Malabon, Atty. Gaudencio Cena, the Register of Deeds for Malabon, filed on April 12, 1988 in the Regional Trial Court of Malabon, a verified petition for reconstitution of the original of TCT No. R-3899 under Rep. Act No. 26. The petition was given due course on April 22, 1988. The court directed that a copy of its order giving due course to the petition and setting it for hearing on August 17, 1988 be published in two (2) consecutive issues of the Official Gazette as provided in Section 9 of Republic Act No. 26.

At the hearing on August 17, 1988, for the purpose of establishing the jurisdictional requirement of publication of the notice of the hearing of the petition, the petitioner submitted the following exhibits:

- a) a certification dated August 10, 1988 of the Director of the National Printing Office certifying that the order dated April 22, 1988 was included in Volume 84, Nos. 21 and 22, May 23 and May 30, 1988 issues of the Official Gazette (Exh. B);
- b) the sheriff's certificate of posting (Exh. D); and
- c) the registry return receipts for the copies of the notices which were sent to the Director of Lands, the Office of the Solicitor General, the National Land Titles and Deeds Registration Administration (NLTDRA), Salome Castillo, and Jose Castillo (Exhs. C, C-1 to C-4).

At the continuation of the hearing on November 3, 1988, the petitioner caused to be marked as Exhibit G the certificate of publication issued by the Director of the National Printing Office stating that the order of the court dated April 22, 1988 was published in Volume 84, Nos. 21 and 22, May 23 and May 30, 1988 issues of the Official Gazette and that the May 30, 1988 issue was released for circulation on October 3, 1988. The May 23 and May 30 issues of the Official Gazette were also marked as Exhibits B-1 and B-2, respectively.

The Register of Deeds of Caloocan City testified that the original TCT No. R-3899 had been missing from the files of his office since 1981, as revealed by an inventory team of the Land Registration Commission (Exh. H); that the Deed of Sale of the property of Salome Castillo in favor of Jose Castillo (Exh. E) was presented for registration but it could not be registered because the original of TCT No. R-3899 in the Registry of Deeds of

Caloocan City could not be found; and that he was authorized by the administrator of the NLTDRA to file a petition for reconstitution of the lost original copy of TCT No. R-3899 (Exhs. I, J, K and L).

Respondent Judge of the Regional Trial Court in Malabon dismissed the petition for lack of jurisdiction because the notice of the petition was not published in the Official Gazette "at least thirty (30) days prior to the date of hearing" (Sec. 9, R.A. No. 26) which had been set on August 17, 1988. The May 23 and May 30 issues of the Official Gazette were actually released for circulation on October 3, 1988, or forty-seven (47) days after the scheduled hearing of the petition.

Section 9 of Republic Act No. 26 provides:

"Sec. 9. A registered owner desiring to have his reconstituted certificate of title freed from the encumbrance mentioned in section seven of this Act, may file a petition to that end with the proper Court of First Instance, giving his reason or reasons therefore. A similar petition may, likewise, be filed by a mortgagee, lessees or other lien holder whose interest is annotated in the reconstituted certificate of title. 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. The petitioner shall, at the hearing, submit proof of the publication and posting of the notice." (Italics supplied.)

Citing the ruling of this court in *Tahanan Development Corporation vs. Court of Appeals*, 118 SCRA 273, 303, the respondent judge ruled that: "Republic Act No. 26 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." As the publication required by law was null and void and of no effect because of its tardiness, the court held that it did not acquire jurisdiction to hear and grant the petition for reconstitution.

The petitioner filed a petition for certiorari in this Court raising a purely legal issue: whether the actual publication of the notice of the petition in the Official Gazette forty-seven (47) days after the hearing, instead of "at least thirty (30) days prior to the date of hearing" was sufficient to vest jurisdiction in the court to hear and determine petition.

Evidently, it did not. 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.

In *Director of Lands vs. The Court of Appeals and Demetria Sta. Maria de Bernal, Greenfield Development Corporation, Alabang Development Corporation and Ramon Bagatsing*, 102 SCRA 370, this Court ruled 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."

Where there is a defect in the publication of the petition, such defect deprives the court of jurisdiction (*Po vs. Republic*, 40 SCRA 37). And when the court a quo lacks jurisdiction to take cognizance of a case, it lacks authority over the whole case and all its aspects (*Pinza vs. Aldovino*, 25 SCRA 220, 224).

Apart from the defective publication of the petition, another reason for its dismissal is that the Register of Deeds for Malabon is not the proper party to file the petition for reconstitution. Section 6 of Republic Act No. 26, which allowed the Register of Deeds to motu proprio reconstitute a lost or destroyed certificate of title from its corresponding owner's duplicate certificate, was expressly repealed or declared to be "inoperative" by Section 6 of Republic Act 6732, approved on July 17, 1989. A petition for reconstitution may now be filed only by "the registered owner, his assigns, or any person who has an interest in the property" (Section 12, Republic Act No. 26). In other respects, the special procedure provided in Republic Act No. 26 remains unchanged and therefore still applies (*Zuñiga vs. Vicencio*, 153 SCRA 720).

WHEREFORE, the petition for certiorari is denied for lack of merit. No costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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