Republic of the Philippines
SUPREME COURT
Manila

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES,	**G.R. No. 212388**
Petitioner,	Present:
- versus -	VELASCO, JR., *J.*, Chairperson, PERALTA, VILLARAMA, JR., REYES, and PERLAS-BERNABE,* *JJ.*
HEIRS OF SPOUSES DONATO SANCHEZ and JUANA MENESES, represented by RODOLFO S. AGUINALDO,	Promulgated:
Respondents.	December 10, 2014

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D E C I S I O N

VELASCO, JR., *J.*:

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court seeking the reversal and setting aside of the Decision[1] dated November 8, 2013 and Resolution dated April 29, 2014 of the Court of Appeals in CA-G.R. CV No. 94720, entitled *Heirs of the Spouses Donato Sanchez and Juana Meneses, represented by Rodolfo S. Aguinaldo v. Republic of the Philippines*.

Respondents filed an amended petition for reconstitution of Original Certificate of Title (OCT) No. 45361 that covered Lot No. 854 of the Cadastral Survey of Dagupan, pursuant to Republic Act (RA) No. 26.[2] In said petition, respondents made the following allegations:

1. That OCT No. 45361 was issued in the name of their predecessor-in-interest, the spouses Sanchez, pursuant to Decree No. 41812 issued in relation to a Decision dated March 12, 1930 of the then Court of First Instance (CFI) of Pangasinan;
2. Said lot was declared for taxation purposes in the name of the spouses Sanchez and that when the latter died intestate, they executed a Deed

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* Additional member per raffle dated December 9, 2014.

[1] Penned by Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justices Marlene Gonzales-Sison and Amy C. Lazaro-Javier.

[2] An Act Providing a Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed.

of Extrajudicial Partition. Said Deed, however, could not be registered because the owner's copy of OCT No. 45361 was missing; and

3. The Offices of the Register of Deeds (RD) of Lingayen and Dagupan, Pangasinan issued a certification that the copies of Decree No. 41812 and OCT No. 45361 could not be found among its records.

Finding the petition sufficient in form and substance, the CFI issued an Order dated June 24, 2001 giving due course thereto and ordered the requisite publication thereof, among others. Meanwhile, the Administrator of the Land Registration Authority (LRA) requested the trial court, which the latter granted through its October 11, 2002 Order, to require respondents to submit the following documents:

1. Certification from the RD that OCT No. 45361 was either lost or destroyed;
2. Copies of the technical description of the lot covered by OCT No. 45361, certified by the authorized officer of the Land Management Bureau/LRA; and
3. Sepia film plan of the subject lot prepared by the duly licensed geodetic engineer.

Due to difficulties encountered in securing said documents, respondents moved for the archiving of the case, which motion was granted by the trial court. It was later revived when respondents finally secured the said documents.

The petition was published anew and trial later ensued, with the following documents submitted by respondents in evidence, to wit:

1. Decision dated March 12, 1930 (written in Spanish) in Cadastral Case No. 40, GLRO Cad. Record No. 920 adjudicating Lot No. 854 in favor of the spouses Donato Sanchez and Juana Meneses which was certified by the LRA as a true copy of the original; and
2. Certified true copy of the Registrar's Index Card containing the notation that OCT No. 45361 covering Lot No. 854 was listed under the name of Donato Sanchez.

On January 11, 2008, the LRA submitted its Report pertaining to the legality of the reconstitution sought in favor of respondents, the relevant portions of which, as quoted by the CA in the assailed Decision, are as follows:

> (2) From Book No. 35 of the Record Book of Cadastral Lots on file at the Cadastral Decree Section, this Authority, it appears that Decree No. 418121 was issued to Lot No. 854, Dagupan Cadastre on January 12, 1931, in Cadastral Case No. 40, GLRO Cad. Record No. 920. Copy of the said decree, however, is no longer available in this Authority.
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> (3) The plan and technical description of lot 854, cad 217, Case 3, Dagupan Cadastre, were verified correct by this Authority to represent the

> aforesaid lot and the same have been approved under (LRA) PR-07-01555-R pursuant to the provisions of Section 12 of Republic Act No. 26.

On June 30, 2008, however, the Regional Trial Court (RTC) rendered its Decision[3] dismissing the petition for lack of sufficient evidence, ruling that RA No. 26 only applies in cases where the issuance of the OCT sought to be reconstituted has been established, only that it was lost or destroyed. While acknowledging the existence of Decree No. 418121 which was issued for the lot subject of the case, the RTC nevertheless held that there is no established proof that OCT No. 45361 was issued by virtue of said Decree.

Aggrieved, respondents moved for reconsideration of the above Decision, insisting that there was sufficient evidence to prove the issuance of OCT No. 45361. Instead of filing a comment thereto, the RD of Dagupan City manifested that OCT No. 45361 had been superseded by TCT No. 10202 issued to a certain Rufino Mariñas with notation that the land it covered was "originally registered on the 29th day of January, [1931] x x x as OCT No. 45361 pursuant to Decree No. 418121 issued in G.L.R.O. Cadastral Record No. 920." Furthermore, TCT No. 10202 was cancelled by TCT No. 44365 and later by TCT No. 80792 in the name of Dagupan Doctors Villaflor Memorial Hospital, both bearing a note which reads, "The name of the registered owner of OCT No. 45361 is not available as per certification of the [RD of Lingayen], dated August 18, 1982, entries nos. 107415 and 107416, respectively."

Disagreeing with the trial court's findings and holding that Lot 854 was judicially awarded to respondents' predecessor-in-interest in Cadastral Case No. 40, GLRO Cad. Record No. 920, the CA reversed the RTC ruling on appeal and directed the reconstitution of OCT No. 45361 in favor of herein respondents.

The CA held that even though respondents were unable to present the documents necessary for reconstitution of title as enumerated under Section 2 of RA No. 26, particularly (a) to (e) thereof, the documentary pieces of evidence presented by respondents fall under paragraph (f) of said provision and are sufficient to warrant the reconstitution of OCT No. 45361. In this regard, the CA emphasized that the certificates of title which the RD manifested to have superseded OCT No. 45361 all bear the notation to the effect that Lot No. 854 was originally registered on January 29, 1931 as OCT No. 45361 pursuant to Decree No. 418121 issued in G.L.R.O. Cadastral Record No. 920, the name of the registered owner of which is not available. This, to the CA, substantially complies with the requirement enunciated in *Republic v. Tuastumban*[4] that the documents must come from official sources which recognize the ownership of the owner and his predecessors-in-interest.

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[3] Rendered by Judge Robert O. Rudio.

[4] G.R. No. 173210, April 24, 2009, 586 SCRA 600.

Its motion for reconsideration having been denied by the appellate court in the assailed Resolution, petitioner lodged the instant petition questioning the sufficiency of the documents presented by respondents to warrant the reconstitution of the alleged lost OCT No. 45361.

We resolve to grant the petition.

The Court agrees with the trial court that no clear and convincing proof has been adduced that OCT No. 45361 was issued by virtue of Decree No. 418121. The Decision dated March 21, 1930 and the Registrar's Index Card containing the notation on OCT No. 45361 do not cite nor mention that Decree No. 418121 was issued to support the issuance of OCT No. 45361. At this point, it is well to emphasize that a petition for reconstitution of lost or destroyed OCT requires, as a condition precedent, that an OCT has indeed been issued, for obvious reasons.

Assuming arguendo that respondents were able to sufficiently prove the existence of OCT No. 45361 considering the totality of the evidence presented, the Court finds that reconstitution thereof is still not warranted, applying Section 15 of RA No. 26. Said provision reads:

> **Section 15.** If the court, after hearing, finds that the documents presented, as supported by parole evidence or otherwise, are sufficient and proper to warrant the reconstitution of the lost or destroyed certificate of title, and that the petitioner is the registered owner of the property or has an interest therein, **that the said certificate of title was in force at the time it was lost or destroyed**, and that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title, an order of reconstitution shall be issued. x x x

As explicitly stated in the above-quoted provision, before a certificate of title which has been lost or destroyed may be reconstituted, it must first be proved by the claimants that said certificate of title was *still in force at the time it was lost or destroyed*, among others. Here, the mere existence of TCT No. 10202, later cancelled by TCT No. 44365, which, in turn, was superseded by TCT No. 80792, which bear the notations:

> originally registered on the 29th day of January, [1931] x x x as OCT No. 45361 pursuant to Decree No. 418121 issued in G.L.R.O. Cadastral Record No. 920.
>
> The name of the registered owner of OCT No. 45361 is not available as per certification of the [RD of Lingayen], dated August 18, 1982, entries nos. 107415 and 107416, respectively.

clearly shows that the OCT which respondents seek to be reconstituted is no longer in force, rendering the procedure, if granted, a mere superfluity.

Additionally, if indeed OCT No. 45361 was lost or destroyed, it is necessary that the RD issue a certification that such was in force at the time

of its alleged loss or destruction. Definitely, the RD cannot issue such certification because of the dearth of records in support of the alleged OCT No. 45361 in its file. The presentation of alleged derivative titles—TCT No. 10202, TCT No. 44365 and TCT No. 80792—will not suffice to replace this certification because the titles do not authenticate the issuance of OCT No. 45361 having been issued by the RD without any basis from its official records. As a matter of fact, it is a wonder how the derivative titles were issued when the existence of OCT No. 45361 could not be established based on the RD's records. The RD failed to explain how it was able to make an annotation of the original registration of the lot under OCT No. 45361 when respondents are now asking for its reconstitution. It is also highly suspicious why respondents are asking the reconstitution of OCT No. 45361 when, supposedly, it has already been cancelled and new titles have already been issued based on transfers purportedly made by respondents. Lastly, of what use is the reconstituted OCT No. 45361 when the lot has already been transferred to other persons. It will practically be of no value or worth to respondents.

If the respondents still insist on the reconstitution of OCT No. 45361, the proper procedure is to file a petition for the cancellation and re-issuance of Decree No. 418121 following the opinion of then LRA Administrator Benedicto B. Ulep. In said Opinion, Administrator Ulep explained the reason for the necessity of the petition for cancellation of the old decree and its re-issuance, thus:

> ***1. Under the premises, the correct proceeding is a petition for cancellation of the old decree, re-issuance of decree and for issuance of OCT pursuant to that re-issued decree.***
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> In the landmark decision of *Teofilo Cacho vs. Court of Appeals, et al., G.R. No. 123361, March 3, 1997,* our Supreme Court had affirmed the efficacy of filing a petition for cancellation of the old decree; the re-issuance of such decree and the issuance of OCT corresponding to that re-issued decree.
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> > "Thus, petitioner filed an omnibus motion for leave of court to file and to admit amended petition, but this was denied. Petitioner elevated the matter to his Court (docketed as *Teofilo Cacho vs. Hon. Manindiara P. Mangotara,* G.R. No. 85495) but we resolved to remand the case to the lower court, ordering the latter to accept the amended petition and to hear it as one for **re-issuance of decree** under the following guidelines:
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> > > Considering the doctrines in *Sta. Ana vs. Menla*, 1 SCRA 1297 (1961) and *Heirs of Cristobal Marcos vs. de Banuvar*, 25 SCRA 315 [1968], and the lower court findings that the decrees had in fact been issued, the omnibus motion should have been heard as a motion to re-issue the decrees in order to have a basis for the

> issuance of the titles and the respondents being heard in their opposition.
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> Considering the foregoing, we resolve to order the lower court to accept the amended petition subject to the private respondent's being given the opportunity to answer and to present their defenses. The evidence already on record shall be allowed to stand but opportunity to controvert existing evidence shall be given the parties."

Following the principle laid down in the above-quoted case, a question may be asked: Why should a decree be canceled and re-issued when the same is valid and intact? Within the context of this discussion, there is no dispute that a decree has been validly issued. And in fact, in some instances, a copy of such decree is intact. What is not known is whether or not an OCT is issued pursuant to that decree. If such decree is valid, why is there a need to have it cancelled and re-issued?

Again, we invite you back to the highlighted provision of Section 39 of PD 1529 which states that: "**The original certificate of title shall be a true copy of the decree of registration**." This provision is significant because it contemplates an OCT which is an exact replica of the decree. If the old decree will not be canceled and no new decree issued, the corresponding OCT issued today will bear the signature of the present Administrator while the decree upon which it was based shall bear the signature of the past Administrator. This is not consistent with the clear intention of the law which states that the OCT ***shall be true copy of the decree of registration***. Ostensibly, therefore, the cancellation of the old decree and the issuance of a new one is necessary.

2. Republic Act No. 26 for reconstitution of lost OCT will not lie.

It is so basic under Republic Act No. 26 that the same shall only apply in cases where the issuance of OCT has been established, only that it was lost or destroyed under circumstances provided for under said law. Again, within the context of this discussion, RA No. 26 will not apply because in this case, there is no established proof that an OCT had been issued. In other words, the applicability of RA No. 26 hinges on the existence of priorly issued OCT.

Will reconstitution of Decree lie then? Again, the answer is no. There is no showing that the decree is lost. In fact, it can be established that a decree, pursuant either to a cadastral proceeding or an ordinary land registration case, has been issued. Under existing land registration laws and jurisprudence, there is no such thing as reconstitution of a decree. RA No. 26 cannot likewise be the basis because the latter refers to an OCT and not a decree of registration.

3. For as long as a decree has not yet been transcribed (entered in registration book of the RD), the court which adjudicated and ordered for the issuance of such decree continues to be clothed with jurisdiction.

This matter has been settled in several cases, to name a few:

> **"There is nothing in the law that limits the period within which the court may order or issue a decree**. The reason is what is stated in the consideration of the second assignment error, that the judgment is merely declaratory in character and does not need to be asserted or enforced against the adverse party. Furthermore, the issuance of a decree is a ministerial duty both of the judge and of the Land Registration Commission; failure of the court or of the clerk to issue the decree for the reason that no motion therefore has been filed can not prejudice the owner, or the person in whom the land is ordered to be registered."
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> "We fail to understand the arguments of the appellant in support of the above assignment, except in so far as it supports his theory that after a decision in a land registration case has become final, it may not be enforced after the lapse of a period of 10 years, except by another proceeding to enforce the judgment may be enforced within 5 years by motion, and after five years but within 10 years, by an action (Sec. 6, Rule 39). **This provision of the Rules refers to civil actions and is not applicable to special proceedings, such as a land registration case. This is so because a party in a civil action must immediately enforce a judgment that is secured as against the adverse party. And his failure to act to enforce the same within a reasonable time as provided in the Rules makes the decision unenforceable against the losing party**." (*Sta. Ana vs. Menla, 1 SCRA 1297* and *Heirs of Cristobal Marcos vs. de Banuvar*, 25 SCRA 315)

Furthermore, in *Gomez v. Court of Appeals, No. L-77770, December 15, 1988, 168 SCRA 503*, the Supreme Court declared that:

> ". . . Unlike ordinary civil actions, the adjudication of land in a cadastral or land registration proceeding does not become final, in the sense of incontrovertibility (,) until after the expiration of one (1) year after (sic) the entry of the final decree of registration. This Court, in several decisions, has held that *as long as a final decree has not been entered by the Land Registration Commission (now NLTDRA) and the period of one (1) year has not elapsed from the date of entry of such decree, the title is not finally adjudicated and the decision in the registration proceeding continues to be under the control and sound discretion of the court rendering it.*" (Also cited in Labarada v. CA and Ramos v. Rodriguez, 244 SCRA 418, 423-424)

4. The heirs of the original adjudicate may file the petition in representation of the decedent and the re-issued decree shall still be under the name of the original adjudicate.

It is a well settled rule that succession operates upon the death of the decedent. The heirs shall then succeed into the shoes of the decedent. The heirs shall have the legal interest in the property, thus, they cannot be prohibited from filing the necessary petition.

> As the term connotes, a mere re-issuance of the decree means that the new decree shall be issued which shall, in all respects, be the same as that of the original decree. Nothing in the said decree shall be amended nor modified; hence, it must be under the name of the original adjudicatee.
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> In sum, from the foregoing, it may be safely concluded that for as long as the decree issued in an ordinary or cadastral registration case has not yet been entered, meaning, it has not yet been transcribed in the Registration Book of the concerned Registrar of Deeds, such decree has not yet attained finality and therefore may still be subject to cancellation in the same land registration case. Upon cancellation of such decree, the decree owner (adjudicatee or his heirs) may then pray for the issuance of a new decree number and, consequently, pray for the issuance of an original certificate of title based on the newly issued decree of registration.

As such, We find no reason to disturb the ruling of the RTC that reconstitution of OCT No. 45361 is not warranted under the circumstances, albeit on a different ground.

WHEREFORE, premises considered, the instant petition is hereby **GRANTED**. Accordingly, the Decision of the Court of Appeals dated November 8, 2103 and its Resolution dated April 29, 2014 in CA-G.R. CV No. 94720 are hereby **REVERSED** and **SET ASIDE**. The Decision of the Regional Trial Court, Branch 40 in Dagupan City in Cad. Case No. 2001-0043-D is hereby **REINSTATED**.

SO ORDERED.

PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice