



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**REPUBLIC OF THE
PHILIPPINES,**

Petitioner,

- versus -

FRANKLIN M. MILLADO,
Respondent.

G.R. No. 194066

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

Promulgated:

JUN 04 2014

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DECISION

VILLARAMA, JR., J.:

Before the Court is a petition for review under Rule 45 which seeks to reverse and set aside the Decision¹ dated October 13, 2010 of the Court of Appeals (CA) in CA-G.R. CV No. 93056. The CA affirmed the Decision² dated January 14, 2009 of the Regional Trial Court (RTC) of Iba, Zambales, Branch 71 granting the petition for reconstitution in L.R.A. Case No. RTC-237-I.

On February 7, 2007, Franklin M. Millado (respondent) filed a petition³ for reconstitution of Original Certificate of Title (OCT) No. 2108 issued in favor of the following, in undivided equal shares: Isabel Bautista, single; Sixto Bautista, married to Elena Ela; and Apolonia Bautista, single. Respondent alleged that he and his wife are the vendees of the property covered by the said title, by virtue of a Deed of Extra-Judicial Settlement of Estate with Sale⁴ executed by the heirs of spouses Sixto and Elena Bautista on December 29, 2006. He further averred that the owner's duplicate of

¹ *Rollo*, pp. 21-34. Penned by Associate Justice Josefina Guevara-Salonga with Associate Justices Mariflor P. Punzalan Castillo and Franchito N. Diamante concurring.

² Records, pp. 98-101. Penned by Presiding Judge Consuelo Amog-Bocar.

³ Id. at 2-4.

⁴ Id. at 7-8.

any.

OCT No. 2108 was in his possession while he was securing clearances for the transfer of title in their names but he either left or misplaced the same.

Respondent claimed that despite efforts he exerted to locate the owner's duplicate of OCT No. 2108, he was unable to find it. Upon verification with the Registry of Deeds, the original copy of OCT No. 2108 was likewise not found in the files of said office, as per the certification⁵ issued by the Register of Deeds for the Province of Zambales stating that said title was "declared missing as per Inventory dated Dec. 17, 1981 and that despite d[i]ligent effort to locate it, the same could not be found."

On March 13, 2007, the trial court ordered respondent to submit the names and addresses of the occupants or persons in possession of the property, the owners of the adjoining properties and all persons who may have any interest in the property. In compliance, respondent submitted only the names and addresses of the owners/actual occupants of the adjoining lots. Thereupon, the trial court issued an Order setting the hearing of the petition on September 11, 2007.⁶

Considering that the National Printing Office could no longer accommodate the publication of the notice for the scheduled hearing date⁷, the trial court issued an Amended Order⁸ on August 28, 2007 setting a new hearing date for the petition, December 13, 2007, and directing that (a) the notice/order be published twice in the successive issues of the Official Gazette, posted in the premises of the subject property, the main entrance of the Provincial Capitol and at the entrance of the municipal building of San Narciso, Zambales; (b) copies of the notice/order together with the petition be sent to the Office of the Solicitor General (Makati City), the Provincial Prosecutor (Iba, Zambales), the Register of Deeds for the Province of Zambales, the Land Registration Authority (National Land Titles and Deeds, LRA), Atty. Jose T. Pacis (Palanginan, Iba, Zambales), Engr. Franklin M. Millado and the adjoining lot owners, namely; Remedios Fernandez and Pascual Fernandez (San Vicente, San Narciso, Zambales), Letecia Mariano (San Juan, San Narciso, Zambales) and Harris Fogata (Candelaria, San Narciso, Zambales); (c) the LRA thru its Records Section submit its report within 30 days from receipt of the order/notice, pursuant to Sections 10 and 12 of LRC Circular No. 35; and (d) the Register of Deeds to submit her verification in accordance with the aforesaid rule, within 30 days from receipt of notice/order.

At the hearing, Jovito Calimlim, Jr., Records Officer of the Registry of Deeds of Zambales, testified that based on the inventory files of titles in their office, OCT No. 2108 was declared missing as of December 17, 1981, with no pending transaction, per verification from the Primary Entry Book. Upon being notified that the owner's duplicate copy of said title was

⁵ Id. at 9.

⁶ Id. at 11-12, 14.

⁷ Id. at 22.

⁸ Id. at 24.

likewise lost, they advised respondent to file a petition for reconstitution with the court. No opposition to the petition was filed by their office and the LRA. As to the basis of the existence of OCT No. 2108, he said that their office relied on the decree of registration issued by the LRA. However, he is not aware of the circumstances of the loss of said title in their office.⁹

Respondent also took the witness stand and confirmed the loss of the owner's duplicate copy of OCT No. 2108 sometime in February or March 2007 while he was securing clearances from the Bureau of Internal Revenue for the payment of capital gains tax. He said that at that time he had a bunch of documents in an envelope but he forgot about it. He went back to the said office looking for the envelope but there were many people going in and out of said office. He secured a certification from the Register of Deeds on the lost or missing original OCT No. 2108 in their files, and also a certification from the LRA regarding the issuance of the decree of registration.¹⁰

After the formal offer of documentary evidence showing compliance with publication and posting of notice requirements, and receipt of the Report from the LRA, the case was submitted for decision. The LRA Report stated that: (1) based on the "Record Book of Cadastral Lots" on file at the Cadastral Decree Section, it appears that Decree No. 295110 was issued for Lot No. 4616, San Narciso Cadastre on October 8, 1927 in Cadastral Case No. 9, GLRO Cad. Rec. No. 371, and as per copy of said decree on file at the Vault Section, Docket Division, the decree was issued in favor of Isabel, Sixto and Apolonia, all surnamed Bautista, in undivided equal shares; (2) the technical description of the property does not appear to overlap previously plotted/decreed properties in the area; and (3) an authenticated copy of Decree No. 295110 which can be secured from the LRA may be used as a source of reconstitution pursuant to Section 2(d) of Republic Act No. 26 (R.A. 26).¹¹

On January 14, 2009, the trial court rendered its decision granting the petition for reconstitution, as follows:

WHEREFORE, the Register of Deeds of Zambales is directed to reconstitute Original Certificate of Title No. 2108.

Let copies of this decision be furnished the Register of Deeds of Zambales, the Land Registration Authority, Quezon City, the Solicitor General, Makati City, the Provincial Prosecutor, Iba, Zambales, Atty. Jose T. Pacis and the petitioner.

SO ORDERED.¹²

The Republic of the Philippines (petitioner) thru the Solicitor General,

⁹ Id. at 50, 52; TSN, April 8, 2008, pp. 2-8 (records, pp. 56-62).

¹⁰ Id. at 64; TSN, May 22, 2008, pp. 3-13 (id. at 70-A to 80).

¹¹ Id. at 82-90, 94-97.

¹² Id. at 100-101.

appealed to the CA, arguing that the trial court gravely erred in granting the petition for reconstitution despite non-compliance with all the jurisdictional requisites. It pointed out that respondent failed to notify all the interested parties, particularly the heirs of the registered owners.¹³

By Decision dated October 13, 2010, the CA dismissed petitioner's appeal and affirmed the trial court's ruling. It held that the respondent had satisfactorily complied with the statutory notice requirements so that the adjoining owners and any other persons who may have an interest in the property may be duly notified of the proceedings and given the opportunity to oppose the petition.

Petitioner is now before this Court assailing the CA in not ruling that respondent failed to comply with *all* the jurisdictional requisites for reconstitution of title.

The appeal is meritorious.

The nature of judicial reconstitution proceedings is the restoration of an instrument which is supposed to have been lost or destroyed in its original form and condition.¹⁴ The purpose of the reconstitution of title or any document is to have the same reproduced, after proper proceedings in the same form they were when the loss or destruction occurred.¹⁵

R.A. 26 provides for the special procedure and requirements for the reconstitution of Torrens certificates of title.

Section 2 of R.A. 26, which governs reconstitution of *original* certificates of title, provides:

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-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) 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

¹³ CA rollo, pp. 25-29.

¹⁴ *Heirs of de Guzman Tuazon v. Court of Appeals*, 465 Phil. 114, 126 (2004).

¹⁵ *Puzon v. Sta. Lucia Realty and Development, Inc.*, 406 Phil. 263, 277 (2001).

that its original had been registered; and

(f) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.

In order for the court to acquire jurisdiction over the petition for reconstitution, the following provisions must be observed, to wit:

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**; (f) 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, [now Commission of Land Registration] or with a certified copy of the description taken from a prior certificate of title covering the same property.

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. **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.¹⁶ (Emphasis supplied.)

¹⁶ Cited in *Republic of the Phil. v. Court of Appeals*, 368 Phil. 412, 422-423 (1999).

In this case, the source of reconstitution is an authenticated copy of Decree No. 295110 under Section 2(d), which as certified by the LRA, was issued on October 8, 1927 in favor of Isabel, Sixto and Apolonia, all surnamed Bautista, covering Lot 4616, San Narciso Cadastre in Cad. Case No. 9, GLRO Cad. Record No. 371. The said co-owners *pro indiviso* are supposedly the registered owners named in OCT No. 2108. The Deed of Extra-Judicial Settlement of Estate with Sale stated that Apolonia and Isabel died single and without any children and only the alleged heirs of spouses Sixto and Elena Bautista executed the said document conveying the 7,594-square meter lot to respondent. These supposed vendors claiming to be heirs of one of the registered owners were not notified of the judicial reconstitution proceedings.

The registered owners appearing in the title sought to be reconstituted, or in this case, their surviving heirs, are certainly interested parties who should be notified of reconstitution proceeding under Section 12 in relation to Section 13 of R.A. 26. Indeed, for petitions based on sources enumerated in Sections 2(c), 2(d), 2(e), 2(f), 3(c), 3(d), 3(e) and 3(f), Section 13 adds another requirement aside from publication and posting of notice of hearing: that the notice be *mailed* to occupants, owners of adjoining lots, and *all other persons who may have an interest in the property*.¹⁷ Notwithstanding the sale supposedly effected by vendors claiming to be heirs of the registered owners, they remain as interested parties entitled to notice of judicial reconstitution proceedings.

It is settled that the actual notice requirement in Section 13 in relation to Section 12 of R.A. 26 is mandatory and jurisdictional.¹⁸ In the early case of *Manila Railroad Company v. Hon. Moya, et al.*,¹⁹ this Court categorically declared:

It is clear from section 13 of Republic Act No. 26 that notice by publication is not sufficient under the circumstances. **Notice must be actually sent or delivered to parties affected by the petition for reconstitution. The order of reconstitution, therefore, having been issued without compliance with the said requirement, has never become final as it was null and void.** The Manila Railroad cannot then complain that the motion to set aside was filed beyond the reglementary period. (Emphasis and underscoring supplied.)

Where the authority to proceed is conferred by a statute and the manner of obtaining jurisdiction is mandatory, the same must be strictly complied with, or the proceedings will be void. As such, the court upon which the petition for reconstitution of title is filed is duty-bound to examine thoroughly the petition for reconstitution of title and review the record and

¹⁷ *Puzon v. Sta. Lucia Realty and Development, Inc.*, supra note 15, at 275; *Republic of the Phils. v. Sps. Sanchez*, 527 Phil. 571, 588 (2006).

¹⁸ *Republic of the Phils. v. Sps. Sanchez*, id. at 595, citing *Director of Lands v. Court of Appeals*, 190 Phil. 311, 369 (1981). See also *Ortigas & Company Limited Partnership v. Velasco*, G.R. Nos. 109645 & 112564, July 25, 1994, 234 SCRA 455, 482 and *Subido v. Republic of the Philippines*, 522 Phil. 155, 165 (2006).

¹⁹ 121 Phil. 1122, 1128 (1965).

the legal provisions laying down the germane jurisdictional requirements.²⁰ Thus, we have held that notwithstanding compliance with the notice publication, the requirement of actual notice to the occupants and the owners of the adjoining property under Sections 12 and 13 of R.A. 26 is itself mandatory to vest jurisdiction upon the court in a petition for reconstitution of title and essential in order to allow said court to take the case on its merits. The non-observance of the requirement invalidates the whole reconstitution proceedings in the trial court.²¹

For non-compliance with the actual notice requirement to all other persons who may have interest in the property, in this case the registered owners and/or their heirs, in accordance with Section 13 in relation to Section 12 of RA 26, the trial court did not acquire jurisdiction over L.R.A. Case No. RTC-237-I. The proceedings therein were therefore a nullity and the January 14, 2009 Decision was void.

WHEREFORE, the petition for review on certiorari is **GRANTED**. The Decision dated October 13, 2010 of the Court of Appeals in CA-G.R. CV No. 93056 is hereby **SET ASIDE**. We **ENTER** a new judgment declaring the reconstitution proceedings in L.R.A. Case No. RTC-237-I, as well as the January 14, 2009 Decision of the Regional Trial Court of Iba, Zambales, Branch 71 granting the petition for reconstitution, **NULL** and **VOID**.


Let a copy of this Decision be served on the Register of Deeds for the Province of Zambales.

No pronouncement as to costs.

SO ORDERED.



MARTIN S. VILLARAMA, JR.
Associate Justice

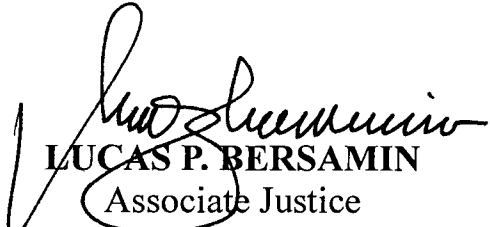
WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

²⁰ *Heirs of Marcela Navarro v. Go*, 577 Phil. 523, 532 (2008), citing *The Government of the Philippines v. Aballe*, 520 Phil. 181, 191-192 (2006).

²¹ *Republic of the Phil. v. Court of Appeals*, supra note 16, at 424.



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 Constitution, 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

