



Republic of the Philippines

Supreme Court

Manila

FIRST DIVISION

**SAINT MARY CRUSADE TO
ALLEVIATE POVERTY OF
BRETHREN FOUNDATION, INC.,**

Petitioner,

G.R. No. 176508

Present:

- versus -

**HON. TEODORO T. RIEL,
ACTING PRESIDING JUDGE,
REGIONAL TRIAL COURT,
NATIONAL CAPITAL JUDICIAL
REGION, BRANCH 85, QUEZON
CITY,**

Respondent.

SERENO, C.J.,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

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**UNIVERSITY OF THE
PHILIPPINES,**

Intervenor.

JAN 12 2015

x-----x

DECISION

BERSAMIN, J.:

A petition for the judicial reconstitution of a Torrens title must strictly comply with the requirements prescribed in Republic Act No. 26;¹ otherwise, the petition should be dismissed.

This case is a direct resort to the Court by petition for *certiorari* and *mandamus*. The petitioner applied for the judicial reconstitution of Original Certificate of Title (OCT) No. 1609 of the Register of Deeds of Quezon City, and for the issuance of a new OCT in place thereof, docketed as L.R.C. Case No. Q-18987 (04), but respondent Acting Presiding Judge of Branch 85 of the Regional Trial Court (RTC) in Quezon City dismissed the petition for

¹ An Act Providing A Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed.

reconstitution through the assailed order dated September 12, 2006. The petitioner alleges that the respondent Judge thereby committed grave abuse of discretion and unlawful neglect of performance of an act specifically enjoined upon him. Equally assailed is the ensuing denial of its motion for reconsideration through the order dated February 5, 2007.

The antecedents follow.

On October 28, 2004, the petitioner claimed in its petition for reconstitution that the original copy of OCT No. 1609 had been burnt and lost in the fire that gutted the Quezon City Register of Deeds in the late 80's. Initially, respondent Judge gave due course to the petition, but after the preliminary hearing, he dismissed the petition for reconstitution through the first assailed order of September 12, 2006,² to wit:

With the receipt of Report dated July 14, 2006 from Land Registration Authority (LRA) recommending that the petition be dismissed, and considering the Opposition filed by the Republic of the Philippines and University of the Philippines, the above-entitled petition is hereby ordered DISMISSED.

On October 11, 2006, the petitioner moved for reconsideration of the dismissal,³ attaching the following documents to support its petition for reconstitution, namely: (1) the copy of the original application for registration dated January 27, 1955; (2) the notice of initial hearing dated June 23, 1955; (3) the letter of transmittal to the Court of First Instance in Quezon City; (4) the copy of the Spanish Testimonial Title No. 3261054 dated March 25, 1977 in the name of Eladio Tiburcio; (5) the copy of Tax Assessment No. 14238; and (6) the approved Plan SWD-37457.

On February 5, 2007, the RTC denied the motion for reconsideration for lack of any cogent or justifiable ground to reconsider.⁴

Hence, on February 22, 2007, the petitioner came directly to the Court alleging that respondent Judge had “unfairly abused his discretion and unlawfully neglected the performance of an act which is specifically enjoined upon him as a duly [sic] under Rule 7, Section 8, of the Revised Rules of Court;”⁵ that “in finally dismissing the herein subject Petition for Reconsideration, respondent Honorable Acting Presiding Judge has acted without and in excess of his authority and with grave abuse of discretion to the further damage and prejudice of the herein petitioner;”⁶ and that it had no

² *Rollo*, p. 24.

³ *Id.* at 25-29.

⁴ *Id.* at 32-33.

⁵ *Id.* at 5.

⁶ *Id.*

other remedy in the course of law except through the present petition for *certiorari* and *mandamus*.

Issues

The Court directed respondent Judge and the Office of the Solicitor General (OSG) to comment on the petition for *certiorari* and *mandamus*. Respondent Judge submitted his comment on May 23, 2007,⁷ and the OSG its comment on July 19, 2007.⁸ On November 13, 2007, the University of the Philippines (UP) sought leave to intervene, attaching to its motion the intended comment/opposition-in-intervention.⁹ The motion for the UP's intervention was granted on November 28, 2007.¹⁰ In turn, the petitioner presented its consolidated reply on February 8, 2008.¹¹ The parties, except respondent Judge, then filed their memoranda in compliance with the Court's directive.

Respondent Judge justified the dismissal of the petition for reconstitution by citing the opposition by the OSG and the UP, as well as the recommendation of the Land Registration Authority (LRA). He pointed out that the petitioner did not present its purported Torrens title to be reconstituted; that the petitioner's claim was doubtful given the magnitude of 4,304,623 square meters as the land area involved;¹² and that the UP's ownership of the portion of land covered by petitioner's claim had long been settled by the Court in a long line of cases.¹³

The OSG and the UP argued that by directly coming to the Court by petition for *certiorari* and *mandamus*, the petitioner had availed itself of the wrong remedies to substitute for its lost appeal; that the correct recourse for the petitioner was an appeal considering that the two assailed orders already finally disposed of the case; that the petitioner intended its petition for *certiorari* and *mandamus* to reverse the final orders;¹⁴ that the petitioner further failed to observe the doctrine of hierarchy of courts, despite the Court of Appeals (CA) having concurrent jurisdiction with the Court over special civil actions under Rule 65;¹⁵ that the RTC would have gravely erred had it proceeded on the petition for reconstitution despite the petitioner not having

⁷ Id. at 40-45.

⁸ Id. at 107-133.

⁹ Id. at 136-151.

¹⁰ Id. at 153.

¹¹ Id. at 155-158.

¹² Id. at 41.

¹³ Listing the cases as *Tiburcio v. P.H.H.C.*, 106 Phil 477 (1959); *Galvez v. Tuason*, No. L-15644, February 29, 1964, 10 SCRA 344; *People's Homesite and Housing Corporation v. Mencias*, No. L-24114, August 16, 1967, 20 SCRA 1031; *Varsity Hills, Inc. v. Mariano*, No. L-30546, June 30, 1998, 163 SCRA 132; *Heirs of Antonio Pael v. Court of Appeals*, G.R. No. 133547, November 11, 2003, 415 SCRA 451; *Cañero v. University of the Philippines*, G.R. No. 156380, September 8, 2004, 437 SCRA 630.

¹⁴ *Rollo*, pp. 275-276 (Memorandum of Republic); pp. 190-191 (Memorandum of UP).

¹⁵ Id. at 277-290; 191-192.

notified the adjoining owners of the land or other parties with interest over the land;¹⁶ that the petitioner had no factual and legal bases for reconstitution due to its failure to prove the existence and validity of the certificate of title sought to be reconstituted, in addition to the ownership of the land covered by the petition for reconstitution being already settled in a long line of cases; that the petitioner's claim over the land was derived from the Deed of Assignment executed by one Marcelino Tiburcio – the same person whose claim had long been settled and disposed of in *Tiburcio v. People's Homesite and Housing Corporation and University of the Philippines* (106 Phil. 477), which vested title in the UP, and in *Cañero v. University of the Philippines* (437 SCRA 630); and that the Deed of Transfer and Conveyance dated November 26, 1925 executed by Tiburcio in favor of St. Mary Village Association, Inc. was not a basis for the judicial reconstitution of title accepted under Section 2 of Republic Act No. 26.

In its memorandum, the petitioner indicates that the RTC gravely abused its discretion amounting to lack or excess of its jurisdiction in dismissing its petition for reconstitution on the basis of the recommendation of the LRA and the opposition of the Republic and the UP despite having initially given due course to the petition for reconstitution. It urges that the dismissal should be overturned because it was not given a chance to comment on the recommendation of the LRA, or to controvert the oppositions filed.¹⁷ It contends that the LRA report did not substantiate the allegation of dismissal of the application for registration of Marcelino Tiburcio on October 17, 1955, in addition to the veracity of the report being questionable by virtue of its not having been under oath.¹⁸

Ruling

The petition for *certiorari* and *mandamus*, being devoid of procedural and substantive merit, is dismissed.

Firstly, *certiorari*, being an extraordinary remedy, is granted only under the conditions defined by the *Rules of Court*. The conditions are that: (1) the respondent tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (2) there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law.¹⁹ *Without jurisdiction* means that the court acted with absolute lack of authority; there is *excess of jurisdiction* when the court transcends its power or acts without any statutory authority; *grave abuse of discretion* implies such capricious and whimsical exercise of judgment as to

¹⁶ Id. at 281-284; 189-190.

¹⁷ Id. at 309-311.

¹⁸ Id. at 310-311.

¹⁹ Section 1, Rule 65 of the *Rules of Court*.

be equivalent to lack or excess of jurisdiction; in other words, power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility; and such exercise is so patent or so gross as to amount to an evasion of a positive duty or to a virtual refusal either to perform the duty enjoined or to act at all in contemplation of law.²⁰

The petition for *certiorari* and *mandamus* did not show how respondent Judge could have been guilty of lacking or exceeding his jurisdiction, or could have gravely abused his discretion amounting to lack or excess of jurisdiction. Under Section 12²¹ of Republic Act No. 26, the law on the judicial reconstitution of a Torrens title, the Regional Trial Court (as the successor of the Court of First Instance) had the original and exclusive jurisdiction to act on the petition for judicial reconstitution of title. Hence, the RTC neither lacked nor exceeded its authority in acting on and dismissing the petition. Nor did respondent Judge gravely abuse his discretion amounting to lack or excess of jurisdiction considering that the petition for reconstitution involved land already registered in the name of the UP, as confirmed by the LRA. Instead, it would have been contrary to law had respondent Judge dealt with and granted the petition for judicial reconstitution of title of the petitioner.

Secondly, the petitioner did not present the duplicate or certified copy of OCT No. 1609. Thereby, it disobeyed Section 2 and Section 3 of Republic Act No. 26, the provisions that expressly listed the acceptable bases for judicial reconstitution of an existing Torrens title, to wit:

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;

²⁰ *De los Santos v. Court of Appeals*, G.R. No. 169498, December 11, 2008, 573 SCRA 691, 700.

²¹ 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 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) of 3(f) of this Act, the petition shall be further be 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.

(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 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.

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 destroyed transfer 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 document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.

Thirdly, with the questioned orders of the RTC having finally disposed of the application for judicial reconstitution, nothing more was left for the RTC to do in the case. As of then, therefore, the correct recourse for the petitioner was to appeal to the Court of Appeals by notice of appeal within 15 days from notice of the denial of its motion for reconsideration. By allowing the period of appeal to elapse without taking action, it squandered its right to appeal. Its present resort to *certiorari* is impermissible, for an extraordinary remedy like *certiorari* cannot be a substitute for a lost appeal. That the extraordinary remedy of *certiorari* is not

an alternative to an available remedy in the ordinary course of law is clear from Section 1 of Rule 65, which requires that there must be no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law. Indeed, no error of judgment by a court will be corrected by *certiorari*, which corrects only jurisdictional errors.²²

Fourthly, the filing of the instant special civil action directly in this Court is in disregard of the doctrine of hierarchy of courts. Although the Court has concurrent jurisdiction with the Court of Appeals in issuing the writ of *certiorari*, direct resort is allowed only when there are special, extraordinary or compelling reasons that justify the same. The Court enforces the observance of the hierarchy of courts in order to free itself from unnecessary, frivolous and impertinent cases and thus afford time for it to deal with the more fundamental and more essential tasks that the Constitution has assigned to it.²³ There being no special, important or compelling reason, the petitioner thereby violated the observance of the hierarchy of courts, warranting the dismissal of the petition for *certiorari*.

Finally, the land covered by the petition for judicial reconstitution related to the same area that formed the UP campus. The UP's registered ownership of the land comprising its campus has long been settled under the law. Accordingly, the dismissal of the petition for judicial reconstitution by respondent Judge only safeguarded the UP's registered ownership. In so doing, respondent Judge actually heeded the clear warnings to the lower courts and the Law Profession in general against mounting or abetting any attack against such ownership. One such warning was that in *Cañero v. University of the Philippines*,²⁴ as follows:

We strongly admonish courts and unscrupulous lawyers to stop entertaining spurious cases seeking further to assail respondent UP's title. These cases open the dissolute avenues of graft to unscrupulous land-grabbers who prey like vultures upon the campus of respondent UP. By such actions, they wittingly or unwittingly aid the hucksters who want to earn a quick buck by misleading the gullible to buy the Philippine counterpart of the proverbial London Bridge. It is well past time for courts and lawyers to cease wasting their time and resources on these worthless causes and take judicial notice of the fact that respondent UP's title had already been validated countless times by this Court. Any ruling deviating from such doctrine is to be viewed as a deliberate intent to sabotage the rule of law and will no longer be countenanced.²⁵

²² *Rigor v. Tenth Division of the Court of Appeals*, G.R. No. 167400, June 30, 2006, 494 SCRA 375, 378-379.

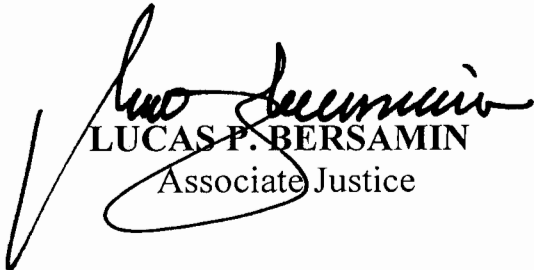
²³ *Bañez, Jr. v. Concepcion*, G.R. No. 159508, August 29, 2012, 679 SCR 237, 250.

²⁴ G.R. No. 156380, September 8, 2004, 437 SCRA 630.


²⁵ *Id.* at 646-647.

WHEREFORE, the Court **DISMISSES** the petition for *certiorari* and *mandamus* for lack of merit; and **ORDERS** the petitioner to pay the costs of suit.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the 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