



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

**REPUBLIC OF THE
PHILIPPINES,**

Petitioner,

- versus -

**CONCEPCION LORENZO,
ORLANDO FONTANILLA,
SAMUEL FONTANILLA,
JULIET FONTANILLA,
ELIZABETH FONTANILLA,
ROSELA FONTANILLA,
RENATO FONTANILLA AND
EVELYN FONTANILLA,**

Respondents.

G.R. No. 172338

Present:

SERENO, *CJ.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

Promulgated:

DEC 10 2012

X- - - - -X

DECISION

LEONARDO-DE CASTRO, J.:

Before the Court is a petition for review under Rule 45 of the 1997 Rules of Civil Procedure assailing the Decision¹ dated April 17, 2006 of the Court of Appeals in CA-G.R. CV No. 80132, entitled “*Concepcion Lorenzo, Orlando Fontanilla, Samuel Fontanilla, Juliet Fontanilla, Elizabeth Fontanilla, Rosela Fontanilla, Renato Fontanilla and Evelyn Fontanilla v. Republic of the Philippines.*” Said Court of Appeals Decision affirmed the Decision² dated August 26, 2003 in LRC Case No. 24-2692 of Branch 24, Regional Trial Court (RTC), Echague, Isabela.

¹ *Rollo*, pp. 11-14; penned by Associate Justice Eliezer R. de los Santos with Associate Justices Jose C. Reyes, Jr. and Arturo G. Tayag, concurring.

² *Id.* at 42-44.

The genesis of the present case can be traced back to the filing before the trial court on February 11, 2002 of a Petition³ for the reconstitution of Original Certificate of Title (OCT) No. 3980 covering a parcel of land measuring 811 square meters, situated in Echague, Isabela.

In seeking the reconstitution of OCT No. 3980, respondents averred before the trial court:

3. That during the lifetime of Pedro Fontanilla and herein petitioner Concepcion Lorenzo, husband and wife, respectively, they acquired a parcel of residential land, x x x;

4. That subject parcel of land is identical to Lot 18 of Echague Cadastre 210, covered by and embraced under ORIGINAL CERTIFICATE OF TITLE NO. 3980 of the Land Records of Isabela, in the name of Antonia Pascua as her paraphernal property and being the mother of Pedro Fontanilla;

5. That because of the death of Pedro Fontanilla the lot as covered by the aforesaid title was settled and adjudicated among the herein petitioners, x x x;

6. That the OWNER'S DUPLICATE COPY OF OCT NO. 3980 was handed and delivered unto the spouses Pedro Fontanilla and Concepcion Lorenzo which they have been keeping only to find out thereafter that it was eaten by white ants (Anay);

7. That the original and office file copy of said OCT NO. 3980 kept and to be on file in the Registry of Deeds of Isabela is not now available, utmost same was included burned and lost beyond recovery when the office was razed by fire sometime in 1976, a certification to this effect as issued by the office is hereto marked as ANNEX "D";

8. That for taxation purposes, the lot as covered by OCT NO. 3980, still in the name of Antonia Pascua for Lot 18, Cad. 210, with an assessed value of ₱16,920.00, x x x;

9. That no mortgagee's and/or lessee's co-owner's copy to the subject OCT NO. 3980 was ever issued, and likewise no related documents affecting the land covered thereby is presented and pending for registration in favor of any person whomsoever, and henceforth, it is free from lien and encumbrance;

³

Id. at 45-47.

X X X X

11. That in support for the reconstitution of [OCT] No. 3980, the following documents which may constitute as source or basis for the purpose are herewith submitted:

- (a) S[E]PIA PLAN with Blue Prints x x x;
- (b) Certified technical description of Lot 18, Cad. 210 x x x;
- (c) Certification by LRA as to the non-availability of a copy of DECREE NO. 650254 x x x[.]⁴

During the trial, the testimony of co-respondent Evelyn Fontanilla-Gozum was offered in order to prove the above-mentioned allegations in the petition. In her testimony, she declared that she is the daughter of the late Pedro Fontanilla and co-respondent Concepcion Lorenzo who, during their marriage, acquired a parcel of land covered and embraced by OCT No. 3890 from her grandmother Antonia Pascua as evidenced by a Deed of Sale. She also averred that the owner's duplicate of the said Torrens certificate of title was later discovered to have been eaten by termites and that the original copy of the said Torrens certificate of title on file with the Register of Deeds of Isabela was certified to be burned and lost beyond recovery when the office was razed by fire of unknown origin on December 4, 1976 as certified to by the Register of Deeds. Since both the original copy on file and the owner's duplicate copy are non-existent, she and her co-heirs, who are also co-respondents in this case, instituted the petition for reconstitution of lost or destroyed Torrens certificate of title.⁵

In its Decision dated August 26, 2003, the trial court granted respondents' petition and directed the Register of Deeds of Isabela to reconstitute OCT No. 3980 in the name of Antonia Pascua on the basis of the deed of sale, the technical description and the sketch plans, and to issue

⁴ Records, pp. 1-2.

⁵ TSN, March 7, 2003, pp. 1-7.

another owner's duplicate copy of the said Torrens certificate of title. The dispositive portion of the said ruling states:

WHEREFORE, premises considered, judgment is hereby rendered ordering the Register of Deeds of Isabela to reconstitute the original copy of OCT No. 3980 in the name of Antonia Pascua, on the basis of the deed of sale, the technical description and the sketch plans, and to issue another Owner's Duplicate of the said title after payment of the necessary legal fees.

Furnish copy of this Order to the Land Registration Authority, The Register of Deeds of Isabela and the Office of the Solicitor General.⁶

Petitioner Republic of the Philippines, through the Office of the Solicitor General, appealed the ruling to the Court of Appeals arguing that the trial court erred in granting respondents' petition for reconstitution of Torrens title since they failed to present substantial proof that the purported original certificate of title was valid and existing at the time of its alleged loss or destruction, and that they failed to present sufficient basis or source for reconstitution.

The Court of Appeals dismissed petitioners appeal in the assailed Decision dated April 17, 2006, the dispositive portion of which states:

WHEREFORE, premises considered, the appeal is hereby **DISMISSED** for lack of merit.⁷

Hence, the petitioner sought relief before this Court and relied on the following grounds to support its petition:

⁶ *Rollo*, p. 44.

⁷ *Id.* at 14.

I

THE COURT OF APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S ORDER GRANTING RECONSTITUTION OF ORIGINAL CERTIFICATE OF TITLE NO. 3980.

II

THE COURT OF APPEALS ERRED IN ITS APPLICATION OF PARAGRAPH F, SECTION 2 OF REPUBLIC ACT NO. 26.⁸

On the other hand, respondents put forward the following issues for consideration:

- (a) HAS THERE BEEN SUFFICIENT COMPLIANCE OF ACT 26, REQUIREMENTS RECONSTITUTING OCT NO. 3890 AND ISSUANCE OF ANOTHER OWNER'S DUPLICATE COPY?
- (b) DID THE HONORABLE COURT OF APPEALS CORRECTLY SUSTAIN THE RENDERED DECISION OF THE COURT OF ORIGIN?⁹

Petitioner argues that the alleged loss or destruction of the owner's duplicate copy of OCT No. 3980 has no evidentiary basis and that there is no sufficient basis for the reconstitution of OCT No. 3980. Petitioner likewise maintains that the findings of fact of the Court of Appeals are not supported by the evidence on record. Lastly, petitioner insists that, contrary to respondents' assertion, the government of the Republic of the Philippines is not estopped by the mistakes, negligence or omission of its agents.

For their part, respondents maintain that they have complied with Section 2 of Republic Act No. 26 considering that there was no opposition from the Office of the Solicitor General (OSG); that the OSG is guilty of estoppel; that there was a valid basis for reconstitution of OCT No. 3980; that there was compliance with jurisdictional requirements; that both the

⁸ Id. at 22.

⁹ Id. at 115.

original file copy and the owner's copy of the subject OCT for reconstitution were lost or destroyed beyond discovery; and that questions of fact are not subject to review by this Court.

In essence, the focal issue of the present case is whether or not the reconstitution of OCT No. 3980 was in accordance with the pertinent law and jurisprudence on the matter.

The petition is impressed with merit.

The relevant law that governs the reconstitution of a lost or destroyed Torrens certificate of title is Republic Act No. 26. Section 2 of said statute enumerates the following as valid sources for judicial reconstitution of title:

SECTION 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 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.

As borne out by the records of this case, respondents were unable to present any of the documents mentioned in paragraphs (a) to (e) above. Thus, the only documentary evidence the respondents were able to present as possible sources for the reconstitution of OCT No. 3980 are those that they believed to fall under the class of “any other document” described in paragraph (f).

In the assailed April 17, 2006 Decision of the Court of Appeals, the appellate court affirmed the trial court’s ruling by granting respondents’ petition for reconstitution of OCT No. 3980 merely on the bases of a purported deed of sale,¹⁰ sketch plan,¹¹ and technical description.¹² The relevant portion of said Decision reads:

The appeal is bereft of merit.

In granting the petition, the trial court ratiocinated:

“As basis for the reconstitution of the lost title, the deed of sale, Exh “M”, evidencing transaction over the property, in addition to the sketch plan, Exh. “E” and the technical description, Exh. “D”, duly approved under (LRA) PR-02-00022-R pursuant to the provisions (of) Section 12 of Republic Act No. 26, as embodied in the report filed by the Land Registration Authority, Exh. “J”, would be sufficient basis for the reconstitution of the lost title.” (p. 3, Rollo, p. 38)

Appellees presented the approved sketch plan with its blue print, the certified technical description of the subject lot, the Deed of Sale executed by Antonia Pascua, the Tax Declaration, and Tax Payment Receipts. To the mind of this Court, there was sufficient and preponderant evidence thus presented to warrant the reconstitution of the original of OCT No. 3980 and the issuance of another Owner’s Duplicate Copy thereof. The enumeration of the preferential documents to be produced, as provided under Section 2 of Republic Act 26 had been substantially complied with. Certifications of loss of documents were attested to by the custodian thereof, the Land Registration Authority of Ilagan, Isabela and Quezon City (Exh. “F”, *Supra* & Annex “H”, Record, p. 13, respectively). It is on this premise that paragraph (f) of Section 2, RA 26 comes to the

¹⁰ Records, p. 6.

¹¹ Id. at 4.

¹² Id. at 11.

fore, viz: “Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.”¹³

As correctly pointed out by petitioner, we had emphasized in *Republic v. Holazo*¹⁴ that the term “any other document” in paragraph (f) refers to reliable documents of the kind described in the preceding enumerations and that the documents referred to in Section 2(f) may be resorted to only in the absence of the preceding documents in the list. Therefore, the party praying for the reconstitution of a title must show that he had, in fact, sought to secure such documents and failed to find them before presentation of “other documents” as evidence in substitution is allowed. Thus, we stated in *Holazo* that:

When Rep. Act No. 26, Section 2(f), or 3(f) for that matter, speaks of “any other document,” it must refer to similar documents previously enumerated therein or documents *ejusdem generis* as the documents earlier referred to. The documents alluded to in Section 3(f) must be resorted to in the absence of those preceding in order. If the petitioner for reconstitution fails to show that he had, in fact, sought to secure such prior documents (except with respect to the owner’s duplicate copy of the title which it claims had been, likewise, destroyed) and failed to find them, the presentation of the succeeding documents as substitutionary evidence is proscribed.¹⁵ (Citation omitted.)

Furthermore, in a more recent case, this Court enumerated what should be shown before an order for reconstitution can validly issue, namely: (a) that the certificate of title had been lost or destroyed; (b) that the documents presented by petitioner are sufficient and proper to warrant reconstitution of the lost or destroyed certificate of title; (c) that the petitioner is the registered owner of the property or had an interest therein; (d) that the certificate of title was in force at the time it was lost or destroyed; and (e) that the description, area and boundaries of the property

¹³ *Rollo*, pp. 13-14.

¹⁴ 480 Phil. 828 (2004).

¹⁵ *Id.* at 840.

are substantially the same and those contained in the lost or destroyed certificate of title.¹⁶

In the case at bar, the respondents were unable to discharge the burden of proof prescribed by law and jurisprudence for the reconstitution of lost or destroyed Torrens certificate of title. First, respondents failed to prove that the owner's duplicate copy of OCT No. 3980 was indeed eaten by termites while in the custody of respondent Concepcion Lorenzo and her late husband Pedro Fontanilla who, inexplicably, did not execute an affidavit of loss as required by Section 109¹⁷ of Presidential Decree No. 1529. Second, The Certification¹⁸ dated April 23, 2001 issued by the Register of Deeds of Ilagan, Isabela did not categorically state that the original copy of OCT No. 3980, which respondents alleged to be on file with said office, was among those destroyed by the fire that gutted the premises of said office on December 4, 1976. The document only stated that said office "could not give any information/data involving the existence of Original/Transfer Certificate of Title No. Lot No. 18, area 770 sq. m., located at Taggapan, Echague, Isabela." Third, a comparison between the aforementioned certification and the technical description and sketch plan will reveal that there was a discrepancy in the land area of the lot allegedly covered by OCT No. 3980. What was reflected on the former was a land area of 770 sq. m. while the latter two documents pertained to a land area of 811 sq. m. Furthermore, respondents were not able to show adequate proof that a Torrens certificate of title was issued covering the subject parcel of land or

¹⁶ *Republic v. Catarroja*, G.R. No. 171774, February 12, 2010, 612 SCRA 472, 478, citing *Republic v. Tuastumban*, G.R. No. 173210, April 24, 2009, 586 SCRA 600, 613-614.

¹⁷ SECTION 109. *Notice and replacement of lost duplicate certificate.* – In case of loss or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or destroyed, or cannot be produced by a person applying for the entry of a new certificate to him or for the registration of any instrument, a sworn statement of the fact of such loss or destruction may be filed by the registered owner or other person in interest and registered.

¹⁸ Records, p. 9.

that the same piece of land is what is covered by the allegedly lost or destroyed OCT No. 3980. The Certification¹⁹ dated December 3, 2001 issued by the Land Registration Authority (LRA) which indicates that Decree No. 650254 issued on September 1, 1937 is not among the salvaged decrees on file in the LRA and is presumed to have been lost or destroyed as a consequence of World War II does not support respondents' assertion that OCT No. 3980 did exist prior to its loss or destruction because said document failed to show a connection between Decree No. 650254 and OCT No. 3980. From the foregoing, it is apparent that the conclusion of the Court of Appeals that "(t)he enumeration of the preferential documents to be produced as provided under Section 2 of Republic Act 26 had been substantially complied with" had no foundation based on the evidence on record.

Likewise, the deed of sale purportedly between Antonia Pascua, as seller, and Pedro Fontanilla, as buyer, which involves OCT No. 3980 cannot be relied upon as basis for reconstitution of Torrens certificate of title. An examination of the deed of sale would reveal that the number of the OCT allegedly covering the subject parcel of land is clearly indicated, however, the date when said OCT was issued does not appear in the document. This circumstance is fatal to respondents' cause as we have reiterated in *Republic v. El Gobierno de las Islas Filipinas*²⁰ that the absence of any document, private or official, mentioning the number of the certificate of title and the date when the certificate of title was issued, does not warrant the granting of a petition for reconstitution. We held that:

We also find insufficient the index of decree showing that Decree No. 365835 was issued for Lot No. 1499, as a basis for reconstitution. We noticed that the name of the applicant as well as the date of the issuance of such decree was illegible. While Decree No. 365835 existed in the Record

¹⁹ Id. at 13.
²⁰ 498 Phil. 570 (2005).

Book of Cadastral Lots in the Land Registration Authority as stated in the Report submitted by it, however, the same report did not state the number of the original certificate of title, which is not sufficient evidence in support of the petition for reconstitution. The deed of extrajudicial declaration of heirs with sale executed by Aguinaldo and Restituto Tumulak Perez and respondent on February 12, 1979 did not also mention the number of the original certificate of title but only Tax Declaration No. 00393. As we held in *Tahanan Development Corp. v. Court of Appeals*, **the absence of any document, private or official, mentioning the number of the certificate of title and the date when the certificate of title was issued, does not warrant the granting of such petition.**²¹ (Citation omitted, emphasis supplied.)

Lastly, on the peripheral issue of whether or not the OSG should be faulted for not filing an opposition to respondents' petition for reconstitution before the trial court, we rule that such an apparent oversight has no bearing on the validity of the appeal which the OSG filed before the Court of Appeals. This Court has reiterated time and again that the absence of opposition from government agencies is of no controlling significance because the State cannot be estopped by the omission, mistake or error of its officials or agents.²² Neither is the Republic barred from assailing the decision granting the petition for reconstitution if, on the basis of the law and the evidence on record, such petition has no merit.²³

WHEREFORE, premises considered, the petition is **GRANTED**. The Decision dated April 17, 2006 of the Court of Appeals in CA-G.R. CV No. 80132 and the August 26, 2003 Decision of the Regional Trial Court, Branch 24 of Echague, Isabela are hereby **REVERSED** and **SET ASIDE**. The petition for reconstitution is **DENIED**.

²¹ Id. at 582.


²² *Republic v. Manimtim*, G.R. No. 169599, March 16, 2011, 645 SCRA 520, 537.

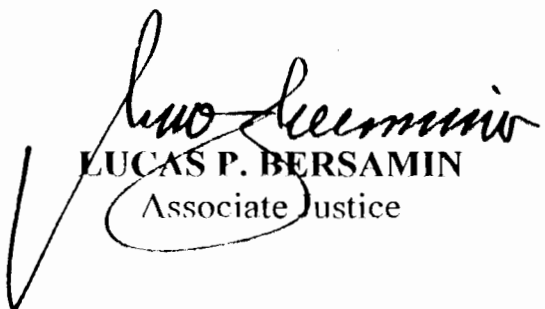
²³ *Republic v. Castro*, G.R. No. 172848, December 10, 2008, 573 SCRA 465, 477.

SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
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