



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**REPUBLIC OF THE
PHILIPPINES,**

Petitioner,

G.R. No. 174185

Present:

*PERALTA,
**BERSAMIN,
Acting Chairperson,
PEREZ,
PERLAS-BERNABE, and
***LEONEN, JJ.

- versus -

Promulgated:

WILFREDO MANCAO,
Respondent.

JUL 22 2015

x-----x
DECISION

BERSAMIN, J.:

No petition for the judicial reconstitution of a Torrens title that does not strictly adhere to the requirements of Republic Act No. 26,¹ albeit unopposed, should be granted even on the pretext that the reconstitution would not affect the ownership or possession of the property.

The Case

The Republic of the Philippines appeals to undo the decision promulgated on August 8, 2005,² whereby the Court of Appeals (CA) upheld the judgment dated November 6, 2001³ directing the judicial reconstitution

* Acting member per Special Order No. 2103.

** Acting Chairperson per Special Order No. 2102.

*** Acting member per Special Order No. 2108.

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

² *Rollo*, pp. 32-40; penned by Associate Justice Isaias P. Dicedican, and concurred in by Associate Justice Vicente L. Yap (retired) and Associate Justice Enrico A. Lanzanas (retired).

³ *CA rollo*, pp. 23-26.

of Original Certificate of Title (OCT) No. 11097 of the Registry of Deeds of Cebu Province covering land located in Carcar, Cebu rendered by the Regional Trial Court, Branch 6, in Cebu City (RTC).

Antecedents

On July 28, 1999, the respondent filed his petition for judicial reconstitution of OCT No. 11097, alleging therein as follows:⁴

X X X X

2.- THAT petitioner is one of the present owners of a parcel of land embraced in and covered by Original Certificate of Title No. 11097, the location, area and boundaries of which are as follows:

A parcel of land (Lot No. 2291 of the Cadastral Survey of Carcar), situated in the Municipality of Catcar (sic). Bounded on the East by the Bohol Strait; on the South East by Lot No. 2290; on the West by Lot o. 2353-C-38 (sic); and on the North West by Lot No. 2292, containing an area of four hundred and thirty-four square meters (434 e.g.)(sic) more or less.

3.- THAT the original copy of said Certificate Title which used to be kept in the custody of the Register of Deeds of Cebu Province was either lost or destroyed, but the Owner's Duplicate thereof is still held by herein Petitioner. The Office of the Register of Deeds of Cebu Province issued a certification that the records of all deeds/conveyances were either burned or destroyed during the last World War, copy of which is hereto attached and forms part hereof as Annex "A", while the photocopy of the said Certificate of Title is hereto attached as Annex "B";

4.- THAT no co-owner's or other duplicates of said Certificate of Title had been issued (other than the copy held by herein Petitioner);

5.- THAT there are no buildings or improvements existing on said land which do not belong to the Petitioner as its owner;

6.- THAT herein Petitioner is in actual possession of the above-described property;

7.- THAT the names and addresses of the owners of adjoining properties, as listed in the Tax Declaration of the subject lot (copy of which is hereto attached and forms part hereof as Annex "C"), are as follows:

a./ EAST - Bohol Strait;

b./ SOUTHEAST - Lot No. 2290 – Public land-No listed claimant;

⁴ Rollo, pp. 41-43.

c./ WEST - Lot No. 2353-C-38- Hacienda
Esperanza c/o Ricardo Lañas (tenant),
Mahayahay, Tuyom, Carcar, Cebu;

d./ NORTHWEST - Lot No. 2292 – Wilfredo Mancao, Bas,
Perrelos, Carcar, Cebu;

8.- THAT the property is free from all liens and encumbrances of
any kind whatsoever.

X X X X

On January 24, 2000, the RTC set the initial hearing of the petition for judicial reconstitution on July 26, 2000, and directed the publication of the notice of hearing in the Official Gazette, the posting of the notice of hearing in conspicuous public places, and the service of the notice of hearing to the adjoining owners.⁵ Copies of the order were caused to be served on the Land Registration Authority, the Land Management Bureau, the Office of the Register of Deeds of Cebu Province, the Bureau of Forestry and the Office of the Solicitor General (OSG).⁶

On February 8, 2000, the OSG entered its appearance for the Republic, and deputized the City Prosecutor of Cebu City to appear thereafter in its behalf.⁷

As stated, the RTC rendered its judgment dated November 6, 2001 granting the petition,⁸ decreeing:

WHEREFORE, judgment is hereby rendered granting the petition—

1. declaring the original copy of the Original Certificate of Title No. 11097 as irretrievably lost; and

2. directing the Register of Deeds of the Province of Cebu to reconstitute the said certificate of title under the same terms and conditions as the original thereof.

SO ORDERED.⁹

The Republic appealed the judgment.

⁵ Id. at 33.

⁶ Id.

⁷ Id.

⁸ Supra note 3.

⁹ Id. at 25-26.

On August 8, 2005, the CA promulgated its assailed decision,¹⁰ viz.:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us **DISMISSING** the appeal filed in this case and **AFFIRMING** the Decision dated November 6, 2001 of the RTC of Cebu City, Branch 6 in Carcar, Cebu Cad.

SO ORDERED.¹¹

On September 1, 2005, the Republic moved for the reconsideration of the assailed decision,¹² but the CA denied its motion in the resolution promulgated on August 10, 2006.¹³

Issue

In this appeal by petition for review on *certiorari*, the Republic submits that:

THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE LOWER COURT'S DECISION GRANTING THE RECONSTITUTION OF THE ALLEGED ORIGINAL CERTIFICATE OF TITLE NO. 11097 ALLEGEDLY COVERING LOT NO. 2291.¹⁴

Ruling of the Court

The appeal is meritorious.

The judicial reconstitution of a Torrens title under Republic Act No. 26 means the restoration in the original form and condition of a lost or destroyed Torrens certificate attesting the title of a person to registered land. The purpose of the reconstitution is to enable, after observing the procedures prescribed by law, the reproduction of the lost or destroyed Torrens certificate in the same form and in exactly the same way it was at the time of the loss or destruction.

To ensure the reconstitution proceedings from abuse, Republic Act No. 26 has laid down the mandatory requirements to be followed. For the judicial reconstitution of an existing and valid *original* certificate of Torrens title, Section 2 of Republic Act No. 26 has expressly listed the acceptable bases, viz.:

¹⁰ Supra note 2.

¹¹ *Rollo*, pp. 37-38.

¹² Supra note 2.

¹³ *Rollo*, pp. 39-40; penned by Associate Justice Dicdican, with the concurrence of Associate Justice Yap and Associate Justice Apolinario D. Bruselas, Jr.

¹⁴ *Id.* at 22.

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.

It was clear to both the RTC and the CA that the respondent did not comply with the requirements for judicial reconstitution prescribed in Republic Act No. 26. Hence, they should have dismissed the petition for judicial reconstitution instead of granting it.¹⁵ The RTC and the CA thereby unwarrantedly disregarded the respondent's abject non-compliance with the mandatory requirements for judicial reconstitution prescribed in Republic Act No. 26. Accordingly, they did not exercise "*the greatest caution*" in entertaining and processing petitions for judicial reconstitution of allegedly lost or destroyed Torrens title despite the frequent warning from the Court for the lower courts to exercise the greatest caution in the interest of preventing the filing of such petitions after an unusual delay from the time of the alleged loss or destruction. Indeed, they ought to have been aware that innumerable litigations and controversies have been spawned by the reckless and hasty grant of such petitions.¹⁶

There is no gainsaying the need for all courts to proceed with extreme caution in proceedings for reconstitution of titles to land under Republic Act No. 26. Experience has shown that such proceedings have many times been misused as the means of divesting property owners of the title to their

¹⁵ *Saint Mary Crusade To Alleviate Poverty Of Brethren Foundation, Inc. v. Riel*, G.R. No. 176508, January 12, 2015.

¹⁶ *Ortigas and Company Limited Partnership v. Velasco*, G.R. No. 109645, July 25, 1994, 234 SCRA 455, 492; citing *Republic v. Court of Appeals*, Nos. L-46626-27, December 27, 1979, 94 SCRA 865; *Director of Lands v. Court of Appeals*, No. L-45168, January 27, 1981, 102 SCRA 370; *Tahanan Development Corporation v. Court of Appeals*, No. L-55771, November 15, 1982, 118 SCRA 273.

properties. The owners wake up one day to discover that their certificates of title had been cancelled and replaced by reconstituted titles in other persons' names through fraudulent reconstitution proceedings. To prevent the fraud, the courts should not only require strict compliance with the requirements of Republic Act No. 26 but should also ascertain the identities of the persons who file petitions for reconstitution of title to land. The filing of petitions by persons other than the registered owners should already raise a red flag that should signal to the courts to spare no effort to assure themselves of the authenticity and due execution of the petitioners' authority to institute the proceedings.¹⁷

It is essential that the person initiating the petition for reconstitution must have an interest in the property. Section 12 of Republic Act No. 26 expressly provides as follows:

Section 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 building 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 by any, the registration thereof has not been accomplished, as yet. All the documents, or authenticated copies thereof, to be introduced in evidence in support to 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. (Emphasis supplied)

Here, however, the respondent should have sufficiently averred in his petition his interest in Lot No. 2291 and how he had acquired said interest, and should have presented credible evidence proving such interest. But he did not. Surprisingly, the CA ignored such failure of the respondent as the applicant, and affirmed the RTC's granting of the petition for reconstitution. That was a very grave error on the part of the CA, especially considering

¹⁷ *Heirs of Pedro Pinote v. Dulay*, 187 SCRA 12, 20.

that the RTC had expressed serious misgivings about the respondent's interest, to wit:

The only issue now that the Court must resolve is whether the petition has a legal interest in the subject lot. The evidence of the petitioner to establish this fact is solely testimonial as **he did not present any documentary evidence to support his oral declarations. Likewise, he failed to present evidence as to how he became one of the owners of the subject lot. His testimony as regards this fact was sketchy, leaving so much room for speculation.**¹⁸

In addition, the supposed owner's copy of OCT No. 11097 indicated that one of the owners of Lot No. 2291 was a certain Roman Oamar. In his testimony, however, the respondent declared that he had acquired his interest from Romana Oamar. Neither the RTC nor the CA could have reasonably inferred that Roman Oamar and Romana Oamar were one and the same person because the respondent did not present credible evidence on the matter.

Also, the certification issued by the Register of Deeds of Cebu City rendered the ownership of Simona Satira and Roman Oamar of Lot No. 11097 highly questionable, *viz.*:

THIS IS TO CERTIFY that according to the records of this office, per index cards on file, no certificate of title covering Lot No. 2291, Cad. 30, situated in the Municipality of Carcar, Province of Cebu, was issued in the name of and/or as claimed to be owned by Roman Oamar and Simona Satira.

That the copy of the supposed OCT No. 11097 was seemingly issued in the 1920s but the respondent did not present a certification from the Register of Deeds of the Province of Cebu to the effect that OCT No. 11097 was still existing and had not been cancelled as of the filing of the petition for judicial reconstitution was a further indication of the unreliability of the application for judicial reconstitution. The respondent directly disregarded the absolute requirement under Section 15 of Republic Act No. 26 for him to show that the Torrens certificate of title to be reconstituted was "in force at the time it was lost or destroyed."

Lastly, the supposed OCT No. 11097 did not bear the signature of the Register of Deeds.

The foregoing accented the grave errors committed by the CA, and should have sufficed to deter the CA from affirming the granting by the RTC

¹⁸ CA rollo, p. 25.

of the respondent's unwarranted application for the judicial reconstitution of OCT No. 11097. That the CA was not so deterred made its errors glaring and inexcusable. Reversal is the only result.

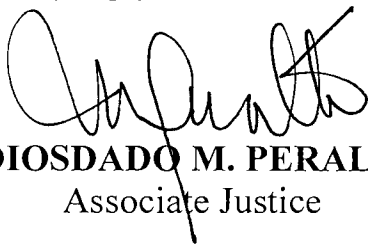
WHEREFORE, the Court **REVERSES** and **SETS ASIDE** the decision promulgated on August 8, 2005; **DISMISSES** the petition for judicial reconstitution of Original Certificate of Title No. 11097 of the Register of Deeds of the Province of Cebu filed by respondent Wilfredo Mancao; and **ORDERS** the respondent to pay the costs of suit.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice


WE CONCUR:



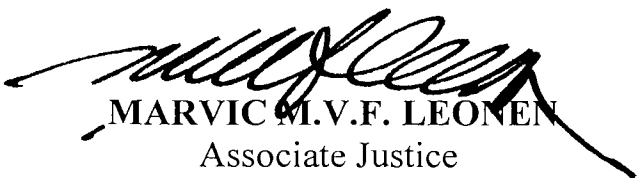
DIOSDADO M. PERALTA
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



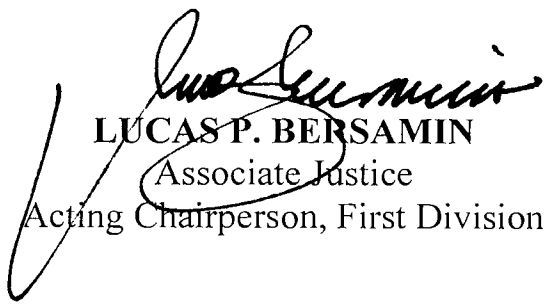
ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

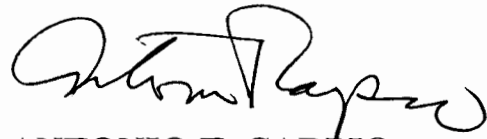
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting 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.

A handwritten signature in black ink, appearing to read 'Antonio T. Carpio', with a stylized, flowing script.

ANTONIO T. CARPIO
Acting Chief Justice