

FIRST DIVISION

[G.R. NO. 137548, September 03, 2007]

**HEIRS OF THE LATE DOMINGO N. NICOLAS, PETITIONERS, VS.
METROPOLITAN BANK & TRUST COMPANY, RESPONDENT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, seeking to reverse the Decision^[1] of the Court of Appeals (Sixteenth Division) dated January 14, 1999 in CA-G.R. SP No. 49926.

The facts of the case are not in dispute, thus:

Spouses Domingo and Josefa Nicolas are the registered owners of two (2) parcels of land located at Sanville Subdivision, Quezon City as evidenced by Transfer Certificates of Title (TCT) Nos. 156339 and 156341 of the Registry of Deeds, same city. On these lots is the residential house of spouses Nicolas and their two children, herein petitioners. These properties are conjugal.

On May 19, 1986, Domingo Nicolas passed away.

On June 11, 1988, a fire gutted the office of the Register of Deeds of Quezon City. Among the records destroyed were the original copies of TCTs Nos. 156339 and 156341.

Sometime in 1988, Josefa Nicolas, the surviving spouse of Domingo, filed with the Land Registration Administration (LRA) an application for reconstitution of the two (2) land titles.

In 1991, the LRA approved the application and ordered the reconstitution of the destroyed TCTs but only in the name of applicant Josefa Nicolas.

In 1998, petitioners learned that their mother mortgaged the lots with the Metropolitan Bank & Trust Co., herein respondent; that the mortgage had been foreclosed; that respondent had the land titles consolidated in its name; and that respondent filed with the Regional Trial Court (RTC), Branch 77, Quezon City a petition for the issuance of a writ of possession (LRC Case No. Q-8019[96]) which was granted on January 15, 1998.

Petitioners then filed with the RTC, Branch 22, Quezon City Civil Case No. Q-98-34312 for Annulment of Reconstituted Titles, Mortgage and Sale at Public Auction. This case is still pending trial.