

SECOND DIVISION

[G.R. No. 193874, July 24, 2013]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. RICORDITO
N. DE ASIS, JR., RESPONDENT.**

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the January 26, 2010 Decision^[2] and October 1, 2010 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 79569 which affirmed *in toto* the May 27, 2003 Decision^[4] of the Regional Trial Court of Quezon City, Branch 77 (RTC) in LRC Case No. Q-15289(02), granting the verified amended petition for reconstitution of title filed by respondent Ricordito N. De Asis, Jr. (De Asis).

The Facts

On August 7, 2002, De Asis filed a verified amended petition for reconstitution^[5] (amended petition) of Transfer Certificate of Title (TCT) No. 8240 of the Register of Deeds of Quezon City (Register of Deeds) in the name of his uncle, Lauriano De Asis (Lauriano), covering Lot No. 804-C located at Pasong Tamo, Caloocan, Rizal (now No. 4, Panama St., Veterans Village, Brgy. Holy Spirit, Quezon City),^[6] with an area of 30,052 square meters, more or less (subject property).

De Asis alleged that he purchased the subject property from Lauriano through a Deed of Absolute Sale^[7] dated January 5, 1978 and that the same is free from any encumbrances. Likewise, no deed affecting it has been presented or is pending before the Register of Deeds. Unfortunately, the original copy of TCT No. 8240 was destroyed by the fire that gutted the Quezon City Hall on June 11, 1988,^[8] hence, the amended petition based on the owner's duplicate copy of TCT No. 8240,^[9] which was in his possession.

Finding the amended petition to be sufficient in form and substance, the RTC, in its September 4, 2002 Order,^[10] scheduled the initial hearing on January 30, 2003 and directed that the Land Registration Authority (LRA), *inter alia*, be furnished a copy thereof. The RTC likewise ordered that notice of the amended petition be published in the Official Gazette once a week for two (2) consecutive weeks. The notice was published in the December 23, 2002 (Vol. 98, No. 51) and December 30, 2002 (Vol. 98, No. 52) issues of the Official Gazette.^[11]

On January 30, 2003, after compliance with the jurisdictional requirements and without any opposition having been raised, the RTC allowed^[12] De Asis to present his evidence *ex-parte*. Later, on February 7, 2003, the Office of the Solicitor General

(OSG), as counsel for herein petitioner Republic of the Philippines (Republic), filed a notice of appearance^[13] and deputized^[14] the City Prosecutor of Quezon City to assist the OSG and appear in the case on its behalf, which the RTC noted.^[15]

On February 20, 2003, upon request of the LRA^[16] and in accordance with paragraph 4(a)^[17] of LRC Circular No. 35, De Asis was required to submit a certified true copy of the owner's duplicate certificate of title of the subject property,^[18] with which he complied.^[19] Subsequently, the LRA submitted its April 29, 2003 Report^[20] (LRA's report) before the RTC stating that "[t]he technical description of Lot [No.] 804-C of the subdivision plan Psd-2341, appearing on the reproduction of [TCT] No. T-8240, was found correct after examination and due computation. Said technical description, however, when plotted in the Municipal Index Sheet No. 5708-B, it overlaps with (LRC) Psd-372628 and (LRC) Psd-314053."^[21]

The RTC Ruling

In its May 27, 2003 Decision,^[22] the RTC granted the amended petition based on the evidence presented *ex parte* by De Asis.

The Republic appealed the RTC Decision to the CA, arguing^[23] that De Asis failed to strictly comply with the mandatory jurisdictional requirement on publication. It pointed out that while the notice of the amended petition was indeed published in the December 23 and 30, 2002 issues of the Official Gazette, the last issue was, however, officially released only on *January 3, 2003*, or less than thirty (30) days prior to the date of hearing set on January 30, 2003, per Certificate of Publication^[24] of the National Printing Office (NPO).

Likewise, the Republic argued^[25] that the RTC erred in granting the amended petition despite the LRA's report that the technical description of the subject property overlaps with other properties, rendering doubtful the authenticity of the title sought to be reconstituted.

The CA Ruling

In its assailed Decision, the CA affirmed the RTC Decision *in toto*, ratiocinating that the thirty-day notice should be reckoned from the *date of issue* of the Official Gazette, not from the date of its *actual release*, citing Section 13^[26] of Republic Act No. 26 (RA 26).^[27] While the CA conceded the stringent and mandatory nature of the requirement of publication, it however considered the fact that the source of the reconstitution in this case was the owner's duplicate copy of title in De Asis' possession, the authenticity of which was never disputed by the Republic.

Further, the appellate court cited the case of *Imperial v. CA (Imperial)*,^[28] where the Court upheld the validity of the publication of the notice of the petition in the March 27, 1995 and April 3, 1995 issues of the Official Gazette despite the NPO certification that the last issue (pertaining to the April 3, 1995 issue) was officially released on *March 28, 1995*. The Court observed in the *Imperial* case that it is not uncommon among publishing companies to release issues before the actual date of issue reflected on the cover of the publication. What matters is that the petitioner in

a reconstitution case caused the publication of the notice of the petition in two (2) consecutive issues of the Official Gazette thirty (30) days prior to the date of hearing.

Following the Court's pronouncement in *Imperial*, the CA ruled in the present case that since the notice of the amended petition was duly published in the December 23 and 30, 2002 issues of the Official Gazette, De Asis had sufficiently complied with the requirement of publication, despite the NPO's certification that the second issue was officially released on January 3, 2003, or three (3) days short of the thirty-day period before the scheduled January 30, 2003 hearing. Consequently, the RTC acquired jurisdiction over the case.

With respect to the Republic's second assigned error, the CA found that the RTC did not err in giving little credence to the LRA's report declaring that the technical description of the subject property overlaps with (LRC) Psd-372628 and (LRC) Psd-314053, which failed to mention sufficient details in support of its finding or to identify the specific titles with which TCT No. 8240 supposedly overlaps. Moreover, the CA held that the LRA's report was not even a condition *sine qua non* before a petition for reconstitution could be given due course.

The Republic's motion for reconsideration was denied in the CA's October 1, 2010 Resolution, hence, the present recourse.

The Issues Before The Court

The Republic insists that the CA committed reversible error in affirming the RTC Decision which granted the amended petition on the basis of (a) non-compliance with Sections 9 and 10 of RA 26 requiring publication of the notice of hearing in two (2) successive issues of the Official Gazette at least thirty (30) days prior to the date of hearing, a jurisdictional requisite; and (b) the LRA's report which declared that the technical description of the subject property overlaps with other properties. The Republic also bewails that it was not afforded its day in court despite the RTC's receipt of its notice of appearance.

The Court's Ruling

The petition is meritorious.

At the outset, the Court notes that the present amended petition for reconstitution is anchored on the owner's duplicate copy of TCT No. 8240 – a source for reconstitution of title under Section 3(a)^[29] of RA 26 which, in turn, is governed by the provisions of Section 10 in relation to Section 9 of RA 26 with respect to the publication, posting, and notice requirements.^[30] Section 10 reads:

SEC. 10. Nothing hereinbefore provided shall prevent any registered owner or person in interest from filing the petition mentioned in section five of this Act directly with the proper Court of First Instance, **based on sources enumerated in sections 2(a), 2(b), 3(a), 3(b), and/or 4(a) of this Act: Provided, however, That the court shall cause a notice of the petition, before hearing and granting the same, to be published in the manner stated in section nine hereof:** And,

provided, further, That certificates of title reconstituted pursuant to this section shall not be subject to the encumbrance referred to in section seven of this Act. (*Italics and emphasis supplied*)

Corollarily, Section 9 reads in part:

SEC. 9. x x x Thereupon, **the court shall cause a notice of the petition 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 lies, **at least thirty days prior to the date of hearing**, and after hearing, shall determine the petition and render such judgment as justice and equity may require. x x x. (*Emphasis supplied*)

The foregoing provisions, therefore, clearly require that (a) notice of the petition should be published in two (2) successive issues of the *Official Gazette*; and (b) publication should be made at least thirty (30) days prior to the date of hearing. Substantial compliance with this jurisdictional requirement is not enough; it bears stressing that the acquisition of jurisdiction over a reconstitution case is hinged on a *strict compliance* with the requirements of the law.^[31]

The factual antecedents of this case are undisputed: De Asis caused the publication of the notice of the amended petition in the December 23 and 30, 2002 issues of the *Official Gazette*. However, the NPO certified that the December 30, 2002 issue was officially released only on *January 3, 2003*, evidently short of the thirty-day period preceding the *January 30, 2003* scheduled hearing. Indubitably, therefore, there was a defect in the mandatory publication of the notice required under Section 10 in relation to Section 9 of RA 26.

In *The Register of Deeds of Malabon, Metro Manila v. RTC of Malabon, Metro Manila, Branch 170*,^[32] the Court struck down as invalid the actual publication of the notice of the petition in the *Official Gazette* forty-seven (47) days after the August 17, 1988 hearing, despite the fact that notice of the petition was published in the May 23 and 30, 1988 issues of the *Official Gazette*. Finding that the May 30, 1988 issue was *released for circulation* only on October 3, 1988 and declaring that the said publication was not sufficient to vest jurisdiction upon the RTC to hear and decide the petition, the Court held:

x x x The purpose of the publication of the notice of the petition for reconstitution in the *Official Gazette* is to apprise the whole world that such a petition has been filed and that whoever is minded to oppose it for good cause may do so within thirty (30) days before the date set by the court for hearing the petition. It is the **publication of such notice that brings in the whole world as a party in the case and vests the court with jurisdiction** to hear and decide it.^[33] (*Emphasis supplied*)

Hence, while Section 9 merely required that the notice of the petition should be