

## SECOND DIVISION

[ G.R. No. 182980, June 22, 2011 ]

**BIENVENIDO CASTILLO, PETITIONER, VS. REPUBLIC OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

Petitioner Bienvenido Castillo (Bienvenido) filed the present petition for review on certiorari<sup>[1]</sup> of the Decision<sup>[2]</sup> dated 23 October 2007 as well as the Resolution<sup>[3]</sup> dated 7 May 2008 of the Court of Appeals (appellate court) in CA-G.R. CV No. 81916. The appellate court reversed the Decision<sup>[4]</sup> dated 3 October 2003 of Branch 22, Regional Trial Court of Malolos, Bulacan (trial court) in P-111-2002. The trial court ordered the reconstitution of the original copy of Transfer Certificate of Title (TCT) No. T-16755 as well as the issuance of another owner's duplicate copy, in the name of the registered owner and in the same terms and conditions as the original, in lieu of the lost original copy.

#### The Facts

Bienvenido filed on 7 March 2002 a Petition for Reconstitution and Issuance of Second Owner's Copy of Transfer Certificate of Title No. T-16755. The petition reads as follows:

1. That petitioner is of legal age, Filipino, widower and with residence and postal address at Poblacion, Pulilan, Bulacan;
2. That petitioner is the registered owner of a parcel of land situated at Paltao, Pulilan, Bulacan covered by Transfer Certificate of Title No. T-16755, a zerox [sic] copy of which is hereto attached as Annex "A";
3. That the zerox [sic] copy of technical description and subdivision plan of the parcel of land with an area of 50,199 [square meters] (Lot 6-A) are hereto attached as Annexes "B" and "C";
4. That the original copy of the said certificate of title on file with the Register of Deeds of Bulacan was lost and/or destroyed during the fire on March 7, 1987 in the Office of the Register of Deeds of Bulacan, certification from the said office is hereto attached as Annex "D";
5. That, the owner's copy of the said certificate of title was likewise lost and all efforts to locate the same proved futile and in vain, copy of the

the [sic] "Affidavit of Loss" is hereto attached as Annex "E";

6. That no co-owner's copy of duplicate of the same certificate has been issued;

7. The names and addresses of the boundary owners of said lot are the following:

- a. West - Jorge Peralta
- b. North - Lorenzo Calderon
- c. South - Lorenzo Calderon
- d. East - Melvin & Marlon Reyes

with postal address at Poblacion, Pulilan, Bulacan;

8. That said property has been declared for taxation purposes under Tax Declaration No. 97-19001-00019, zerox [sic] copy of which is hereto attached as Annex "F";

9. That the real estate tax for the current year has been paid per official receipt no. 0287074, zerox [sic] copy of which is hereto attached as Annex "G";

10. That said property is free from all liens and encumbrances;

11. That there exist no deeds or instruments affecting the said property which has been presented for and pending registration with the Register of Deeds of Bulacan;

WHEREFORE, it is most respectfully prayed of this Honorable Court that after due notice and hearing judgment be rendered:

1. Declaring the Original Owner's Duplicate Certificate of Title No. T-16755 that was lost as null and void;

2. Ordering the Register of Deeds of Bulacan to issue second owner's duplicate copy of the said certificate of title upon payment of proper fees.

[5]

The trial court furnished the Land Registration Authority (LRA) with a duplicate copy of Bienvenido's petition and its Annexes, with a note stating that "No Tracing Cloth of Plan [sic] and Blue print of plan attached."<sup>[6]</sup> As requested by the LRA in its letter dated 17 April 2002,<sup>[7]</sup> the trial court ordered Bienvenido to submit within 15 days from receipt of the order (a) the original of the technical description of the parcel of land covered by the lost/destroyed certificate of title, certified by the authorized officer of the Land Management Bureau/Land Registration Authority and two duplicate copies thereof, and (b) the sepia film plan of the subject parcel of land prepared by a duly licensed Geodetic Engineer, who shall certify thereon that its preparation was made on the basis of a certified technical description, and two blue print copies thereof.<sup>[8]</sup> Bienvenido complied with the order.<sup>[9]</sup>

The trial court, in an order dated 7 August 2002, ordered Bienvenido to supply the names and addresses of the occupants of the subject property.<sup>[10]</sup> Bienvenido manifested that there is no actual occupant in the subject property.<sup>[11]</sup>

On 4 October 2002, the trial court issued an order which found Bienvenido's petition sufficient in form and substance and set the same for hearing.<sup>[12]</sup>

Copies of the 4 October 2002 order were posted on three bulletin boards: at the Bulacan Provincial Capitol Building, at the Pulilan Municipal Building, and at the Bulacan Regional Trial Court.<sup>[13]</sup> The 4 October 2002 order was also published twice in the Official Gazette: on 13 January 2003 (Volume 99, Number 2, Pages 237 to 238), and on 20 January 2003 (Volume 99, Number 3, Pages 414 to 415).<sup>[14]</sup> After two cancellations,<sup>[15]</sup> a hearing was conducted on 12 March 2003.

During the hearing, the following were marked in evidence for jurisdictional requirements:

Exhibit "A" - Order of the Court dated 4 October 2002

Exhibit "A-1" - Second page of the Order of the Court dated 4 October 2002

Exhibit "A-2" - Third page of the Order of the Court dated 4 October 2002

Exhibit "A-3" - Registry return receipt of notice to the Office of the Solicitor General

Exhibit "A-4" - Registry return receipt of notice to the Land Registration Authority

Exhibit "A-5" - Registry return receipt of notice to the Register of Deeds

Exhibit "A-6" - Registry return receipt of notice to the Public Prosecutor

Exhibit "A-7" - Registry return receipt of notice to boundary owner Jorge Peralta

Exhibit "A-8" - Registry return receipt of notice to boundary owner Lorenzo Calderon

Exhibit "A-9" - Registry return receipt of notice to boundary owners Melvin and Marlon Reyes

Exhibit "B" - Certificate of Posting

Exhibit "C" - Certificate of Publication from the Director of the National Printing Office

Exhibit "D" - Official Gazette, Volume 99, Number 2, 13 January 2003

Exhibit "D-1" - Page 237, Publication of the trial court's Order dated 4 October 2002

Exhibit "D-2" - Page 238, Publication of the trial court's Order dated 4 October 2002

Exhibit "E" - Official Gazette, Volume 99, Number 3, 20 January 2003

Exhibit "E-1" - Page 414, Publication of the trial court's Order dated 4 October 2002

Exhibit "E-2" - Page 415, Publication of the trial court's Order dated 4 October 2002<sup>[16]</sup>

Fernando Castillo (Fernando), Bienvenido's son and attorney-in-fact, testified on his father's behalf. During the course of his testimony, Fernando identified the following:

Exhibit "F" - Photocopy of TCT No. T-16755

Exhibit "G" - Blueprint of the subject property

Exhibit "H" - Technical description of the property

Exhibit "I" - Affidavit of Loss executed by Bienvenido Castillo

Exhibit "I-1" - Entry of the Affidavit of Loss in the book of the Register of Deeds

Exhibit "J" - Certification issued by the Office of the Register of Deeds, Malolos, Bulacan that TCT No. T-16755 was burned in a fire on 7 March 1987

Exhibit "K" - Tax declaration

Exhibit "L" - 2002 Real Estate Tax Receipt

Upon presentation of the photocopy of TCT No. T-16755, Fernando stated that the title was issued in the names of his parents, Bienvenido Castillo and Felisa Cruz (Felisa), and that his mother died in 1982. Fernando did not mention any sibling. Fernando further testified that on 6 February 2002, Bienvenido executed an Affidavit of Loss which stated that he misplaced the owner's copy of the certificate of title sometime in April 1993 and that all efforts to locate the same proved futile. The title is free from all liens and encumbrances, and there are no other persons claiming interest over the land.<sup>[17]</sup>

The LRA submitted a Report dated 25 July 2003, portions of which the trial court quoted in its Decision. The LRA stated that:

(2) The plan and technical description of Lot 6-A of the subdivision plan Psd-37482 were verified correct by this Authority to represent the aforesaid lot and the same have been approved under (LRA) PR-03-00321-R pursuant to the provisions of Section 12 of Republic Act No. 26.

WHEREFORE, the foregoing information anent the lot in question is respectfully submitted for consideration in the resolution of the instant petition, and if the Honorable Court, after notice and hearing, finds justification pursuant to Section 15 of Republic Act No. 26 to grant the same, the plan and technical description having been approved, may be used as basis for the inscription of the technical description on the reconstituted certificate. Provided, however, that in case the petition is granted, the reconstituted title should be made subject to such encumbrances as may be subsisting; and provided further, that no certificate of title covering the same parcel of land exists in the office of the Register of Deeds concerned.<sup>[18]</sup>

### **The Trial Court's Ruling**

On 3 October 2003, the trial court promulgated its Decision in favor of Bienvenido. The trial court found valid justifications to grant Bienvenido's petition as the same is in order and meritorious.

The dispositive portion reads:

WHEREFORE, the Register of Deeds for the province of Bulacan is hereby ordered, upon payment of the prescribed fees, to reconstitute the original copy of Original Certificate of Title No. 16755 and to issue another owner's duplicate copy thereof, in the name of the registered owner and in the same terms and conditions as the original thereof, pursuant to the provisions of R.A. No. 26, as amended by P.D. No. 1529, in lieu of the lost original copy. The new original copy shall in all respects be accorded the same validity and legal effect as the lost original copy for all intents and purposes. Provided, that no certificate of title covering the same parcel of land exists in the office of the Register of Deeds concerned.

SO ORDERED.<sup>[19]</sup>

The Office of the Solicitor General (OSG) filed its Notice of Appeal on 18 November 2003. The OSG stated that it was grave error for the trial court to order reconstitution despite absence of any prayer seeking such relief in the petition and on the basis of a mere photocopy of TCT No. T-16755. Counsel for Bienvenido filed a motion for early resolution on 25 January 2006.

### **The Appellate Court's Ruling**

On 23 October 2007, the appellate court rendered its Decision which reversed the 3 October 2003 Decision of the trial court. Bienvenido's counsel withdrew from the case on 11 October 2007 and was substituted by Mondragon and Montoya Law