

SECOND DIVISION

[G.R. No. 170539, July 09, 2008]

**HEIRS OF LETICIA LOPEZ- CUEVAS, REPRESENTED BY EMILIO
AYTONA, JR., PETITIONERS, VS. REPUBLIC OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

TINGA, J.:

This Petition^[1] before the Court, dated 9 December 2005 assails the Decision^[2] of the Court of Appeals dated 28 February 2005, which declared null and void the new owner's duplicate certificate of title issued in favor of petitioners, and its Resolution^[3] dated 27 October 2005 which denied reconsideration.

The facts are as follows:

On 5 December 2001, petitioners, Heirs of Leticia Lopez-Cuevas, represented by Emilio Aytona, Jr. (Aytona), filed with the Regional Trial Court (RTC) of Labo, Camarines Norte, Branch 64 a Petition^[4] for the issuance of a new owner's duplicate copy of Transfer Certificate of Title (TCT) No. 11356 in replacement of the duplicate copy in Aytona's possession which was allegedly lost.

The petition alleges:

x x x

3. That Leticia Lopez[-] Cuevas is one of the registered owners of land located at Cabusay, Labo, Camarines Norte covered under Transfer Certificate of Title No. 11356 registered at the [O]ffice of the Registry of Deeds of Camarines Norte on December 19, 1974, certified photocopy of the aforesaid title is hereto attached and marked Annex "B" and made an integral part of this petition;
4. That said title consists of Lot 1 with FIFTY THOUSAND FIVE HUNDRED AND EIGHTY FOUR (50,584) square meters, [L]ot 2 with SIX HUNDRED AND FOUR (604) SQUARE METERS, Lot 3 with SIX HUNDRED AND SEVENTY SIX (676) SQUARE METERS, Lot 4 with ONE HUNDRED SIXTY NINE THOUSAND TWO HUNDRED THIRTY SIX (169,236) SQUARE METERS, Lot 5 with FIVE HUNDRED EIGHTY FOUR THOUSAND [sic] FOUR HUNDRED AND SIXTY FIVE (584,465) SQUARE METERS, Lot 6 with SEVENTY SIX THOUSAND [sic] (76,572) SQUARE METERS, Lot 7 with EIGHTY THREE THOUSAND FOUR HUNDRED AND FORTY EIGHT (83,448) SQUARE METERS, Lot 8 with TWENTY NINE THOUSAND ONE HUNDRED EIGHTY TWO (29,182) SQUARE METERS, and Lot 9 with NINE HUNDRED TWENTY

SIX (926) SQUARE METERS, more or less;

5. That since the said title was entrusted to herein petitioner for safekeeping, he had been in possession of the owner's duplicate copy of said title and he kept the same in his files;
6. That, however, lately when petitioner looked for the said title in his files he discovered that the same was among those personal belongings which he could no longer be found up to this date thereby creating a conclusion that the same has been lost and already beyond recovery;
7. That the required Notice of Loss of said Title was sent to the Office of the Registry of Deeds as evidenced by its receiving stamp appearing on the said Affidavit and Notice of Loss, a copy of which is hereto attached and marked as Annex "C;"
8. That the original copy of the said title is intact and on file with the Office of the Registry of Deeds of Camarines Norte as per Certification dated November 27, 2001 which the said office had issued is hereto attached and marked as Annex "D;"
9. That said Owner's Duplicate Copy of the Transfer Certificate of Title [N]o. 11356 has not been delivered to any person or entity to secure payment or performance of any obligation whatsoever, nor any transaction any transaction or document relating to the same was presented for or pending registration in the office of the Registry of Deeds of Camarines Norte.

The RTC, in an Order^[5] dated 23 September 2002, granted the petition, declared the owner's duplicate copy of TCT No. 11356 as null and void and directed the Registry of Deeds of Camarines Norte to issue a new owner's duplicate TCT.

In its assailed Decision, the Court of Appeals reversed the RTC's order and declared void the new owner's duplicate certificate of title issued by authority of this order.

Petitioners insist that their copy of TCT No. 11356 was lost and was not delivered to any third person or entity. They claim that the issuance of a new copy is a necessary condition to the payment to them by the Land Bank of the Philippines (LBP) of just compensation for the compulsory coverage of their property under the Comprehensive Agrarian Reform Program (CARP).

The Office of the Solicitor General (OSG) filed its Comment^[6] dated 16 August 2006, on behalf of the Republic of the Philippines, arguing that apart from the affidavit of loss executed by Aytona and the latter's testimony in court, petitioners had failed to sufficiently explain the circumstances leading to the alleged loss of their copy of TCT No. 11356. More importantly, the OSG points out that the memorandum of encumbrances on the certificate of title shows that several transactions involving the lots embraced therein have been entered into, proving that TCT No. 11356 had already been cancelled. These transactions allegedly belie petitioners' claim that the owner's duplicate copy of the "Transfer Certificate of Title No. 11356 has not been delivered to any person or entity to secure the payment or

performance of any obligation whatsoever, nor any transaction or document relating to the same was presented for or pending registration in the office of the Registry of Deeds of Camarines Norte."^[7]

In their Reply^[8] dated 15 January 2007, petitioners insist that the cancellation of TCT No. 11356 was merely partial because the transactions inscribed in the title pertain only to 75.5642 hectares out of the 99.5693 hectares comprising the entire landholding. They claim that except for the partial cancellation of the title in view of the Deed of Absolute Sale involving Lot 5 executed in favor of Eusebio Madera, *et al.*, all the other transactions in favor of the national government in connection with its implementation of the CARP and that the inscriptions pertaining to these transactions do not state that the owner's duplicate copy of the certificate of title was delivered to a third person. Thus, petitioners advance that they cannot be said to have misrepresented the fact that their copy of TCT No. 11356 had not been delivered to any third person or entity.

The case at bar is merely for the replacement of a lost owner's duplicate certificate of title. As such, Section 109, Chapter X of Presidential Decree No. 1529, which governs actions for the replacement of lost duplicate certificates of title, applies. The provision states:

Sec. 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.

Upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all purposes of this decree.

The record reveals that in compliance with the jurisdictional requirement that notice of the loss be sent to the Register of Deeds of the province where the land lies, petitioners submitted Aytona's Affidavit of Notice of Loss^[9] dated 28 November 2001, duly stamped "Received" by the Registry of Deeds of Daet, Camarines Norte. They then attached to their petition for the issuance of a new TCT Aytona's affidavit of loss which states that the title was entrusted to him but he later discovered that it was among the personal belongings which he could no longer locate. The relevant portions of the said affidavit state:

4. That since the same has been entrusted to me, I had been in possession of the Owner's duplicate copy of said title and I kept the same in my files;