

## THIRD DIVISION

[ G.R. No. 130433, April 17, 2002 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. MAXIMO I. PLANES, REPRESENTED BY ATTORNEY-IN-FACT JOSE R. PEREZ, RESPONDENT.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

Trial courts should exercise extreme caution in granting petitions for reconstitution of land titles, lest they become unwitting accomplices in the reconstitution of questionable titles, instead of being instruments in promoting the stability of our system of land registration. Strict compliance with the jurisdictional requirements of the law in the reconstitution of a title is vital, especially when the title sought to be reconstituted covers an area of more than 2,000,000 square meters, as in the present case.

At bar is a petition for review filed by the Republic of the Philippines (Republic) assailing the (a) Resolution dated May 14, 1997<sup>[1]</sup> of the Court of Appeals in CA-G.R. CV No. 45112<sup>[2]</sup> dismissing petitioner's appeal on the ground that it was filed out of time; and the (b) Resolution dated July 31, 1997<sup>[3]</sup> denying the latter's motion for reconsideration.

The facts are:

On February 11, 1992, respondent Maximo I. Planes, represented by his Attorney-In-Fact, Jose R. Perez, filed with the Regional Trial Court (RTC), Branch 23, Trece Martires City, a verified petition for reconstitution<sup>[4]</sup> of the Original Certificate of Title (OCT) No. 219 of the Registry of Deeds, Province of Cavite, containing an area of 2,073,481 square meters.<sup>[5]</sup> The petition, docketed as GLRO Rec. No. 11867, alleges -

"1. That petitioner is of legal age, married, Filipino, with residence and postal address at Diamond Towers, 1201 Masangkay Street, Binondo Manila;

"2. That petitioner is one of the heir(s) of Carlos Planes, the registered owner of a parcel of land covered by Original Certificate of Title No. 219 of the Registry of Deeds for the Province of Cavite, a xerox copy of the original certificate of title is hereto attached as Annex "A";

"3. That the original copy of said O.C.T. No. 219 was destroyed or lost when the Provincial Capitol Building of Cavite was razed by fire on June 7, 1959, as per certification from the Register of Deeds hereto attached as Annex "B";

"4. That at the time of loss or destruction of the original of said O.C.T. No. 219 and up to the present, there has (been) no pending transaction or document concerning the land covered by said title;

"WHEREFORE, it is most respectfully prayed before this Honorable Court that judgment be rendered in favor of the petitioner, after due notice, publication and hearing, ordering the Register of Deeds for the Province of Cavite to reconstitute the original of said Original Certificate of Title No. 219 in the name of Carlos Planes based on the owner's duplicate certificate thereof."<sup>[6]</sup> (Emphasis supplied)

On the same date, the RTC issued a notice<sup>[7]</sup> setting the hearing of the petition on July 20, 1992, at 8:30 o'clock in the morning, and directing that any person interested in the petition should appear and show cause why the same should not be granted. It further directed that copies of the notice be furnished the Solicitor General, the Land Registration Authority (LRA), the Provincial Prosecutor and the Register of Deeds of Cavite.

However, the Solicitor General, the LRA, the Register of Deeds and the Director of Lands did not receive copies of the notice.

On February 17, 1992, Atty. Jose R. Bawalan, Clerk of Court of the same RTC, issued a Certificate of Posting<sup>[8]</sup> certifying that on said date, he "caused the posting of the notice of hearing of the petition in three (3) conspicuous places in Carmona, Cavite and at the bulletin board of the Provincial Capitol, Trece Martires City."

On **August 26, 1992**, the RTC issued another notice setting the hearing of the petition on **October 30, 1992** at 8:30 o'clock in the morning and directing that copies of the notice be published in the Official Gazette twice and be posted in three (3) conspicuous places in Carmona, Cavite where the property is located. A copy of this notice was not received by the Solicitor General.<sup>[9]</sup>

Meantime, on September 17, 1992, the Solicitor General filed his "Notice of Appearance"<sup>[10]</sup> as counsel for the REPUBLIC.

The notice of August 26, 1992 setting the hearing of the case on **October 30, 1992** was published twice in the Official Gazette - on October 19 and October 26, 1992. <sup>[11]</sup> We note, however, that this notice of hearing is not found in the records of this case.

When the petition was heard on **October 30, 1992**, only Maximo Planes, petitioner (now respondent) and his counsel appeared. Nobody opposed the petition. Thus, on the same date, the trial court issued an Order<sup>[12]</sup> granting respondent's petition for reconstitution. The pertinent portion of the Order reads:

"When the petition was called for hearing, nobody opposed the same despite the issuance of the Notice of Hearing (Exh. "A"), its publication in the Official Gazette (Exh. "C") posting of the same in three (3) conspicuous places in Carmona, Cavite, where the property subject matter of the petition is situated (Exh. "B"). The Solicitor General who

had been furnished with a copy of the petition and the notice of hearing filed its Notice of Appearance (Exh. "D"). **Thereupon, on motion of counsel for the petitioner, he was allowed to present his evidence for the petitioner *ex parte* in the presence of Asst. Provincial Prosecutor Onofre Maranan representing the Solicitor General.**

"From the evidence submitted, it has been shown that petitioner is one of the legal heirs of Carlos Planes, represented by his Atty.-in-fact Jose R. Perez, the registered owner of a parcel of land described on plan Psu-3372, G.L.R.O. Record No. 11867 with an area of x x x situated at Barrio Lantic, Carmona, Cavite and embraced in and covered by Original Certificate of Title No. OCT-219 of the Registry of Deeds of Cavite; that the original copy of said title was burned and/or destroyed when the old Provincial Capitol building in Cavite, housing the Office of the Register of Deeds of Cavite was totally razed by fire on June 7, 1959, while the **owner's duplicate copy** of the same is intact and exist in the possession of herein petitioner; that petitioner is in actual possession of the said parcel of land; that there is no subsisting encumbrance in the title; that there is no document adversely affecting the said title at the time of the destruction of its original; that the realty taxes of the said land had been fully paid, and that the Register of Deeds of Cavite, despite receipt of copy of the petition has not interposed any objection thereto.

**"WHEREFORE,** the Court, finding the petition to be well-taken, hereby **GRANTS** the same and orders the Register of Deeds of Cavite, upon payment of the corresponding fees, to reconstitute the original copy of Original Certificate of Title NO. T-219, making use as the basis thereof the owner's duplicate copy of the same.

**"SO ORDERED."** (Emphasis supplied)

Consequently, the Register of Deeds (Atty. Antonia Cabuco) issued Reconstituted Title No. (219) RO-11411 in the name of Carlos Planes, the registered owner. Thereafter, the property was subdivided into eleven (11) lots. OCT No. (219) RO-11411 was cancelled and in lieu thereof, Transfer Certificates of Title (TCT) Nos. T-366478 to T-366488 were issued, also in the name of Carlos Planes.<sup>[13]</sup>

It was only on **October 25, 1993**, or after one (1) year, when the Solicitor General **received** a copy of the October 30, 1992 Order granting respondent's petition for reconstitution.<sup>[14]</sup> Believing that the Order is contrary to law and evidence and that the proceedings conducted by the RTC were tainted with irregularities, the Republic, through the Solicitor General, interposed an appeal<sup>[15]</sup> to the Court of Appeals, docketed therein as CA-G.R. CV No. 45112. The Solicitor General alleged in the appellant's brief that respondent Planes did not comply with the jurisdictional requirements set forth by Republic Act No. 26 ("An Act Providing Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed"), particularly on the notice of hearing, publication and posting; and that, therefore, the trial court did not acquire jurisdiction over respondent's petition for reconstitution.

Specifically, the Solicitor General asserted that:

"I.

THE COURT A QUO DID NOT ACQUIRE JURISDICTION TO ORDER THE RECONSTITUTION OF OCT NO. 219 (since):

- A) THE NOTICE OF HEARING (allegedly) PUBLISHED IN THE OFFICIAL GAZETTE DOES NOT APPEAR ON THE RECORDS AND WAS NOT SUBMITTED DURING THE OCTOBER 30, 1992 HEARING;
- B) THE NOTICE OF HEARING WAS PUBLISHED IN THE OFFICIAL GAZETTE LESS THAN THIRTY DAYS BEFORE THE HEARING;
- C) THERE WAS NO PROOF OF POSTING OF THE NOTICE FOR THE OCTOBER 30, 1992 HEARING;
- D) THE PUBLISHED NOTICE OF HEARING DATED AUGUST 26, 1992 DID NOT CONTAIN THE NAME OF THE REGISTERED OWNER; (and)
- E) THE PUBLISHED NOTICE OF HEARING DATED AUGUST 26, 1992 DID NOT INDICATE TO WHOM IT WAS DIRECTED.

"II.

OCT NO. 219 WAS RECONSTITUTED WITHOUT A FINAL AND EXECUTORY DECISION."<sup>[16]</sup>

Respondent Planes, in his appellee's brief, claimed that he complied with all the requirements of the law and that petitioner's bare assertions cannot prevail over the evidence relied upon by the trial court in granting his petition. Moreover, in law, there is a presumption that official duty has been regularly performed.

Meanwhile, the Court of Appeals found that Landhaus Properties and Development Corporation (Landhaus) and respondent Planes are co-owners of the property subject of the petition.<sup>[17]</sup> Hence, it allowed the Canlapan and Monteclaro Law Offices to enter its appearance as counsel for Landhaus.

On April 29, 1996, respondent Planes died.<sup>[18]</sup>

In a Resolution dated May 14, 1997,<sup>[19]</sup> the Court of Appeals dismissed the appeal of the Republic, the dispositive portion of which reads:

"WHEREFORE, the appeal is hereby DISMISSED and the Order being appealed from AFFIRMED in all respects.

"SO ORDERED."<sup>[20]</sup>

In resolving the case, the Court of Appeals limited the issue on whether or not the remedy of appeal can still be availed of by the Republic. The Court of Appeals held

that **the period to appeal the trial court's Order of reconstitution had lapsed**, there being no appeal by the **Register of Deeds** and/or the **Administrator of the LRA**, through the Solicitor General within fifteen (15) days **from their receipt** of the said Order. In support of this ruling, the Court of Appeals cited the second paragraph of Section 110 of Presidential Decree No. 1529, as amended by Section 1 of R.A. No. 6732, providing among others, that no order or judgment ordering the reconstitution of a certificate of title shall become final until the lapse of fifteen (15) days from receipt by the **Register of Deeds** and by the **Administrator of the Land Registration Authority** of a notice of such order or judgment without any appeal having been filed by any such officials.

The pertinent portion of the Appellate Court's Resolution is quoted as follows:

"To explain the one (1) year and eleven (11) month tardiness in the filing of the notice of appeal, the Solicitor General's Office proffers the unconvincing excuse that it received a copy of the Challenged Order only on October 25, 1993. Given the peculiar circumstances obtaining herein, however, such inexcusable negligence in not checking up on the status of the case within such a prolonged period of time is simply too obvious as it is patent. Counsel have time and again cautioned to be vigilant and diligent in the handling of cases. Oppositor-appellant's counsel of record is no exception to this mandate. Suffice it to state that the requisite amount of diligence, vigilance and zeal demanded especially from government lawyers is unfortunately not shown by the records.

"Well-rooted is the principle that the perfection of an appeal within the statutory period is not only mandatory but also jurisdictional and failure to do so renders the questioned decision final and executory and deprives the appellate court or body of jurisdiction to alter the final judgment, much less, to entertain the appeal (*Pedros vs. Hill*, G.R. No. 1200804, 14 June 1996, 257 SCRA 373, citing *Acda vs. Minister of Labor*, 119 SCRA 306 [1982]). Concededly, appeal is an essential part of the judicial system and, as such, courts should proceed with caution so as not to deprive a party of the right to appeal particularly if the appeal is meritorious. Respect for the appellant's right, however, carries with it the corresponding respect for the appellee similar rights to fair play and justice. Appeal is merely a statutory privilege; corollarily, its requirements must strictly be complied with (*Pedrosa vs. Hill, supra*; *Republic vs. Register of Deeds of Quezon*, 244 SCRA 543 [1995] x x x.

x x x x x x." <sup>[21]</sup> (Emphasis supplied)

Forthwith, the OSG, filed a lengthy Motion for Reconsideration <sup>[22]</sup> alleging *inter alia* that:

"The Honorable Court is in error. Assuming the court *a quo* had jurisdiction, **there is no showing in the record that the Register of Deeds of Trece Martirez and the Commissioner of Land Registration Authority had been served a copy of the assailed Order.** Further, it is submitted that the October 30, 1992 Order, like any other final judgment or order, can be executed only after it is served on the parties, the Republic included, and that the reglementary period