

## THIRD DIVISION

[ G.R. No. 134895, June 19, 2001 ]

**STA. LUCIA REALTY AND DEVELOPMENT, INC., NEW NORTH FAIRVIEW DEVELOPMENT CORP., DBH DEVELOPMENT CORP. AND ACL DEVELOPMENT CORP., PETITIONERS, VS. LETICIA CABRIGAS AND MIGUEL CABRIGAS, RESPONDENTS.**

### DECISION

**GONZAGA-REYES, J.:**

Assailed in this petition for review is the 31 July 1998 Decision of the Court of Appeals in CA-G.R. SP No. 47601, affirming the 22 September 1997 and 24 February 1998 Orders of the Regional Trial Court of Quezon City, Branch 221, in Civil Case No. Q94-19651.

The main point of contention in the instant case is whether or not a judgment rendered by a trial court in an action for reconstitution may serve to bar an action for quieting of title pending before another court based upon the principle of *res judicata*.

The factual antecedents of this controversy, as culled from the pleadings of the parties and the assailed decision of the appellate court, are as follows:

On 5 February 1993, private respondents Leticia and Miguel Cabrigas filed a petition with the Regional Trial Court (RTC) of Quezon City for the judicial reconstitution of the originals of Transfer Certificates of Title (TCT) Nos. 259042 and 259043 of the Registry of Deeds of Quezon City, which were destroyed by the fire that gutted the Quezon City Hall on 11 June 1988. These certificates of title allegedly covered Lots 781 and 787 of the Tala Estate. The petition was docketed as LCR Case No. Q-60161(93) and raffled to Branch 94, presided by Judge Romeo Zamora. In support of their petition, private respondents presented a photocopy of their owner's duplicate of the transfer certificates of title, together with tax declarations in the name of private respondent Leticia Cabrigas corresponding to the land in dispute. It was alleged by private respondent Leticia Cabrigas that she bought the two parcels of land from her father, Ludovico Cajilig, who held such properties under TCT Nos. 180458 and 180459.

The Republic of the Philippines and petitioners opposed the petition for reconstitution primarily on the ground that TCT Nos. 259042 and 259043 were spurious and fabricated, offering an extensive amount of evidence on this point. In addition, an existing transfer certificate of title covering the disputed parcels of land (TCT No. 233694) was presented by petitioners, which they traced to TCT No. 200519 issued on 19 July 1974 to B.C. Regalado and Co., Inc., predecessor-in-interest of petitioners, covering over four million square meters. When the land was subdivided, TCT No. 200519 was cancelled and thousands of new certificates of title

were issued, including TCT No. 233694. According to the oppositors, TCT No. 233694 covers 166 road lots, thirteen of which fall within the area formerly encompassed by Lots 781 and 787 of the Tala Estate under TCT No. 200159.<sup>[1]</sup>

On 7 March 1994, during the pendency of LCR Case No. Q-60161(93), private respondents filed with the RTC of Quezon City a complaint for quieting of title against petitioners and the Register of Deeds of Quezon City, which was docketed as Civil Case No. Q94-19651 and assigned to Branch 221, presided by Judge Noel J. Tijam.

Meanwhile, a decision was rendered by Judge Zamora in LCR Case No. Q-60161(93) on 30 September 1996, dismissing the petition for reconstitution. The trial court held that it did not acquire jurisdiction to hear and decide the case due to petitioner's failure to comply with certain mandatory and jurisdictional requirements under Republic Act No. 26 (RA 26). Aside from this, the trial court found that, based upon the evidence presented by the oppositors, the titles presented by private respondents were not authentic and that the disputed property is covered by subsisting titles in the names of other persons which should first be annulled before the court could proceed with the reconstitution proceedings. The decision, which became final and executory, provided that -

Anent the issued [sic] of jurisdiction, Republic Act No. 26 (1946), entitled "An Act Providing a Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed", which was the basis of the petitioners for the constitution [sic], confers jurisdiction or authority on the Regional Trial Court to hear and decide petitions for judicial reconstitution. It provides that [a] petition for reconstitution must allege certain specific jurisdictional facts before the Court can acquire jurisdiction. The requirements and procedures under RA 26 are mandatory and jurisdictional, (*Ortigas vs Company Limited Partnership vs Judge Tirso Velasco, Et., Al.* (234 SCRA 455)). If these requirements are not strictly complied with, the proceedings will be utterly void (*Director of Lands vs. CA*, 102 SCRA 370). The law provides the following requirements:

Sections 12 and 13 of Republic Act No. 26 provide:

"SEC. 12. Petitions for reconstitution from sources enumerated in Sections 2 (c), 2 (d), 2 (e), 2 (f), 3 (c), 3 (d), 3 (e), and or 3 (f) of this Act, shall be filed with the proper Court of First Instance, by the registered owner, his assigns or any person having an interest in the property. The petition shall state or contain, among others, the following: (a) that the owner's duplicate of the certificate of title had been lost or destroyed; (b) that no co-owner's, mortgagee's or lessee's duplicate had been issued, or if any had been issued, the same had been lost or destroyed; (c) the location area and boundaries of the property; (d) the nature and description of the building or improvement, if any, which do not belong to the owners of such buildings or improvements; (e) the names

and addresses of the occupants or persons in possession of the property, of the owners of the adjoining properties and of all persons who may have any interest in the property; [(f) a detailed description of the encumbrances, if any, affecting the property;] and (g) a statement that no deeds or other instruments affecting the property have been presented for registration, or [if] there be [any, the registration thereof has not been] accomplished, as yet. All the documents, or authenticated copies thereof, to x x x [sic] [be] introduced in evidence in support x x x [sic] [of] the petition for reconstitution shall be attached thereto and filed with the same; Provided, That in case the reconstitution is to be made exclusively from sources enumerated in Section 2 (f) or 3 (f) of this Act, the petition shall be further accompanied with a plan and technical description of the property duly approved by the Chief of the General Land Registration Office (now Commission of Land Registration) or with a certified copy of the description taken from a prior certificate covering the same property."

"Sec. 13. The Court shall cause a notice of the petition, filed under the preceding section, 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 municipality or city in which the land is situated, at the provincial building and of the municipal building at least thirty days prior to the date of hearing. The Court shall likewise cause a copy of the notice to be sent, by registered mail or otherwise, at the expense of the petitioner, to every person named therein whose address is known, at least thirty days prior to the date of hearing. Said notice shall state, among other things, the number of the lost or destroyed certificate of title, if known, the name of the registered owner, the names of the occupants or persons in possession of the property, the owners of the adjoining properties and all other interested parties, the location, area and boundaries of the property, and the date on which, all persons having any interest therein must appear and filed [sic] their claim or objection[s] to the petition. The petitioner shall at the hearing, submit proof of the publication, posting and service of the notice as directed by the Court."

Petitioner did not allege the following: (a) the nature and description of the buildings or improvements, if any, which do not belong to the owner of the lot like the roads, sewer lines, drainage, club house, and other subdivision amenities introduced by intervenors; (b) the names and addresses of the occupants or persons in possession of the property, of the owners of the adjoining properties, and of all persons who may have interest in the property, particularly the buyers of the different subdivision lots; and (c) a statement that no deeds or other instruments affecting the property have been registered. There was no approved plan

and technical description with a certified copy with the description taken from a prior certificate of title covering the same property. Although the plan submitted by the petitioners was signed by the private surveyor, there was no seal of approval from any government agency. These omissions delve into the acquisition of jurisdiction by the Court, furthermore, Sec. 5, RA No. 26 (as amended) provides:

"The petition shall be accompanied with the necessary sources for reconstitution and with an affidavit of the registered owner stating, among other things:

- (1) That no deed or other instrument affecting the property had been presented for registration, of if there be any, the nature thereof, the date of its presentation, as well as the names of the parties, and whether the registration of such deed or instrument is still pending accomplishment;
- (2) That the owner's duplicate certificate or co-owner's duplicate is in due form without any apparent intention[al] alternation[s] or erasures;
- (3) That the certificate of title is not the subject of litigation or investigation, administrative or judicial, regarding its genuineness or due execution or issuance;
- (4) That the certificate of title was in full force and effect at the time it was lost or destroyed;
- (5) That the certificate of title is covered by a tax declaration regularly issued by the Assessor's Office and;
- (6) That real estate taxes have been fully paid up to at least two (2) years prior to the filing of the petition for reconstitution."

such that even assuming *arguendo* that the titles are valid and authentic the petition would still be inadequate. The petition is not accompanied by the affidavit required in this provision. The verification of the petition made by Leticia Cabrigas would not suffice because it does not contain the following: (a) that no deed or other instrument affecting the property had been presented for registration; (b) that the owner's duplicate certificate is in due form without any apparent intentional alternations or erasures; (c) that the certificate of title is not the subject of litigation or investigation, administrative or judicial, regarding its genuineness or due execution or issuance and (d) that the real estate taxes have been fully paid up to the last two years prior to the filing of the petition for reconstitution.

There is also the fact that there was a defect in the notice of hearing and posting. Sec. 13 of RA No. 26 requires notice to be sent to the individual

title holders and the Supreme Court has also ruled that actual notice of the petition must be sent to the registered owners of the property affected as notice by publication is not enough (*Manila Railroad & Co., Inc. vs Moya*, 14 SCRA 358, 363, 364). The petitioners did not comply with these jurisdictional facts which is mandatory (*Ortigas vs. Judge Velasco*, *supra*). As to the posting of the notice of hearing, Sec. 3 (e); 3 (f) and 13 of the law require that it be posted in the entrance of the city or municipal hall. The Certificate of Posting dated March 15, 1993 was posted only on the court's bulletin board, the sheriff's wall, and at the Barangay Hall as can be read from the very wording of the Certificate. The aforementioned case of *Tahanan vs CA*, (118 SCRA 273) teaches us that such defect is fatal to the acquisition of jurisdiction by the court.

Lastly, another important point which is relevant to the determination of whether or not the petition should be granted is the fact that the disputed property is covered by subsisting titles in the names of other persons. As was mentioned earlier in the facts of the case, intervenors and the lot buyers of Neopolitan Subdivision hold torrens titles to lands which petitioner's titles purport to cover this being the case, the Court could not proceed with the reconstitution proceedings without the titles of these buyers having [sic] first annulled.

In such a case, this Court is without jurisdiction to grant the petition. As was held in the case of *Alabang Development Co. vs Valenzuela* (116 SCRA 261), "The courts simply have no jurisdiction over petitions by such third parties for reconstitution of allegedly lost or destroyed titles over lands that are already covered by duly issued subsisting titles in the names of their duly registered owners." (see also *Ortigas vs Judge Velasco, Et. Al., supra*)

The court is mindful of the pronouncement of the Supreme Court in the case of *Director of Lands vs CA* (93 SCRA 238) which states that:

"This Tribunal can take judicial notice of innumerable litigations and [legal] controversies spawned by overlapping and encroaching boundaries, each party relying on certificates of titles issued under the Torrens [S]ystem or the Spanish registration laws or other deeds and documents which prima facie show their lawful interests or ownership therein. To the ordinary land purchaser not fully acquainted with the intricacies of the law nor the validity much less the authenticity of these instruments which in many instances are found to be forged or simply reconstituted with areas that have x x x increased in "table surveys" with the cooperation of unscrupulous officials, the courts by hastily stamping their approval on reconstituted titles have wittingly or unwittingly aided and abetted these fraudulent transactions resulting in the wiping out of the lifesaving[s] of many [a] poor, unlettered and inexperienced lot buyer. The court must guard against such haste and carefully take due precautions that the public [interest] be protected."