

FOURH DIVISION

[CA-G.R. CV NO. 73082, August 28, 2006]

**MAXIMO UMALI AND LUNINGNING GALLARDO, APPLICANTS-
APPELLEES, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-
APPELLANT.**

D E C I S I O N

GUARIÑA III, J.:

At issue is the validity of a lower court decision canceling an already existing decree of registration and ordering the issuance of another decree in favor of the present applicants based on evidence that they possess sufficient title.

The spouses Maximo Umali and Luningning Gallardo filed an application for registration of land with the Municipal Trial Court in Cities (MTCC) of Lipa City in September 1998. The property is described as Lot 3528 of the Lipa cadastre and located at Cumba, Lipa City with an area of 16,000 square meters. They presented witnesses and documents to show that they purchased the property in August 1995 from one Leticia Litan who was in adverse possession since 1964 when it was donated to her by the previous owner Pablo Litan. There appears to be a Tax Declaration 84200 issued for the year beginning 1966 in the name of Leticia Litan canceling Tax Declaration 32510 in the name of Pablo Litan for the year 1955.^[1] Pablo's grandnephew Rodolfo Litan testified that he was 9 years old in 1954 when he first came to know the property. It was already in the possession of Pablo.^[2] A number of fruit trees grew on the land and were fruit-bearing when the Umalis took over. Immigrating to the United States in 1997, they left the property to the care of Maximo's brother Benedicto Umali. Benedicto lives near the land and visits it every day.^[3]

The property has been certified by the DENR to be within the alienable and disposable block of the public domain.^[4] For its part, the LRA^[5] transmitted a report^[6] that upon verification of its record book of cadastral lots, *Lot 3528, Cad. 218, Lipa Cadastre was previously applied for original registration of title and issued a decree in cadastral case No. 20, GLRO Cadastral Record No.1293 under Decree No. 632593 issued on May 6, 1937*. While disclosing that the decree was no longer among its salvaged records, it provided the following opinion :

4. It is undisputed that Decree No. 632593 was issued on May 7, 1937 for Lot 3528 Lipa Cadastre, pursuant to a decision rendered thereon. It cannot also be denied that said decree was forwarded to the Register of Deeds of Lipa for transcription in the registration book and issuance of the corresponding original certificate of title;

5. It is, therefore, presumed consistent with presumption established by law, that "official duty has been regularly performed" (Section 5, par. M.

Rule 131 of the Rules of Court) that the corresponding original certificate of title was issued for the lot by the Register of Deeds of Lipa;

6. Consequently, the appropriate and proper procedure is for the party-in-interest to file a petition for reconstitution of the lost or destroyed original certificate of title, conformably to the provision of Republic Act No. 26;

7. On the other hand, if the non-issuance of the original certificate of title can convincingly be shown to overcome the legal presumption of regularity the cancellation of previously issued decree (Decree No. 632593) and issuance of a new one in the name of the same decreed owner may be feasible. However, considering the issuance, cancellation of decree of registration are part of judicial process, a court order is indispensable before this Authority may issue another decree.

From the Register of Deeds of Lipa City, a certification issued that as per its available records – *Lot 3528 appears to be not covered by a title, whether judicial or patent, or subjected to CLOA under the Comprehensive Agrarian Reform Program.* [7]

The trial court's first reaction was to deny the application. In a decision on July 31, 2000, [8] it relied on the portion of the LRA report that the property was already covered by Decree 632593 issued in 1937 pursuant to a decision in a cadastral case and assumed in accordance with the legal precept of regularity in the performance of official duty that the decree was forwarded to the Register of Deeds of Lipa who transcribed it in his registration book and issued the original certificate of title. The court held that a second application may not be permitted under these circumstances in order to avoid duplication in the issuance of the decree for Lot 3528.

On a motion for reconsideration, [9] the court saw things in a different light. It followed the line of reasoning of the applicants that the certification of the Register of Deeds constitutes proof that no title was issued in relation to Decree 632593. Hence, there is a basis for the application of the last paragraph of the LRA report that if it can be shown that the original certificate of title was not issued, the previous decree may be cancelled and a new one ordered through a judicial proceeding. The suitable remedy is none other than an application or petition for ordinary registration of land. The court pleaded guilty to oversight in not recognizing this point. Having found from the evidence in the case that the applicants possess sufficient title, it cancelled Decree 632593 and ordered that another decree be issued in the name of the applicants over the lot in question. [10]

The Office of the Solicitor General, in its appeal, stands foursquare behind the results of the first decision. [11] It prays for the denial of the present application on the theory that since there is already a decree issued in a previous land registration case, the property must already be deemed registered and a court has no jurisdiction to decree its registration again in the name of the applicants. It has been held that the doctrine behind original registration is to register a parcel of land only once.