

[Act No. 3110, March 19, 1923]

AN ACT TO PROVIDE AN ADEQUATE PROCEDURE FOR THE RECONSTITUTION OF THE RECORDS OF PENDING JUDICIAL PROCEEDINGS AND BOOKS, DOCUMENTS, AND FILES OF THE OFFICE OF THE REGISTER OF DEEDS, DESTROYED BY FIRE OR OTHER PUBLIC CALAMITIES, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Legislature assembled and by the authority of the same:

SECTION 1. As soon as practicable after the occurrence of any fire or other public calamity resulting in the loss of all or part of the records of judicial proceedings on file in the office of the clerk of a Court of First Instance, said officer shall send a notice by registered mail to the Secretary of Justice, the Attorney-General, the Director of Lands, the Chief of the General Land Registration Office, the clerk of the Supreme Court, the judge of the province, the register of deeds of the province, the provincial fiscal, and all lawyers who may be interested, stating the date on which such fire or public calamity occurred and whether the loss or destruction was total or partial, and giving a brief list of the proceedings not affected in case the loss or destruction was partial.

SEC 2. Upon receipt of the notice mentioned in the preceding section, the court shall issue or cause to be issued a general notice which shall be addressed and sent by registered mail to the lawyers and officers mentioned in the preceding section, and to such other persons as might be interested, advising them of the destruction of the records, with a brief list of the proceedings not affected in case the destruction was partial, and of the time fixed by this Act for the reconstitution of the destroyed records.

This notice shall also be published in the Official Gazette and in one of the newspapers most widely read in the province, once a week, for four consecutive weeks.

PENDING CIVIL CASES

SEC. 3. The parties to civil cases, or their counsels, shall appear and file, within thirty days after having been notified in accordance with the next preceding section, an application for the reconstitution of the records in which they are interested, and the clerk of the court, upon receiving such application, shall send notice to all parties interested, or their counsels, of the day, hour, and place when the Court will proceed to the reconstitution, requesting them to present, on said day and hour, and at said place, all copies of motions, decrees, orders, and other documents in their possession, having reference to the record or records to be reconstituted.

SEC. 4. Civil cases pending trial shall be reconstituted' by means of the copies presented and certified under oath as correct by the counsels or the parties interested. In case it is impossible to find a copy of a motion, decree, order, document, or other proceeding of vital importance for the reconstitution of the record, the same may be replaced by an agreement on the facts entered into

between the counsels or the parties interested, which shall be reduced to writing and attached to the proper record.

SEC. 5. In case the counsels or parties are unable to come to an agreement, the Court shall determine what may be proper in the interest of equity and justice, and may also consider the proceeding in question as non-existent and reconstitute only that part of the record which can stand without such proceeding, and continue proceedings upon the record so reconstituted.

SEC. 6. Testimony of witnesses taken in civil cases shall be reconstituted by means of an authentic copy thereof or a new transcript of the stenographic notes. If no authentic copy can be obtained and the stenographic notes have also been destroyed, the cases shall be tried de novo as if called for trial for the first time.

SEC. 7. If a civil case has already been decided, the decision shall be reconstituted by means of an authentic copy. In case an authentic copy cannot be found, the Court shall make a new decision, as if the case had never been decided.

PENDING SPECIAL PROCEEDINGS

SEC. 8. Special proceedings shall be reconstituted in the same manner as ordinary civil cases, with the sole addition that a copy of the statement to be made by the parties or their counsels, setting forth the status of the proceedings at the time when the fire or other public calamity occurred, shall be attached to the reconstituted record.

PENDING REGISTRATION. PROCEEDINGS

SEC. 9. Registration proceedings pending the issuance of a decree shall be reconstituted by means of copies furnished by the Chief of the General Land Registration Office. It shall be the duty of this officer, immediately upon receipt of the notice provided for in section one of this Act, to direct duly certified true copies of all destroyed registration proceedings pending at the time of the destruction, and of all decrees destroyed, to be sent to the clerk of the Court of First Instance concerned.

PENDING CADASTRAL CASES

SEC. 10. Pending cadastral cases shall be reconstituted as follows:

The Court shall issue an order directing the person interested to file anew their replies, for which purpose reasonable time may be allowed. The order shall be published in the Official Gazette and by local notices during a period fixed in said order.

Immediately upon receipt of the notice provided for in section one of this Act, the Chief of the General Land Registration Office shall cause duly certified true copies of all destroyed cadastral proceedings to be sent to the clerk of the Court concerned.

The new replies filed by the parties interested and the copies furnished by the

General Land Registration Office shall form the reconstituted record.

PROVISIONS COMMON TO THE RECONSTITUTION OF PENDING REGISTRATION AND CADASTRAL PROCEEDINGS

SEC. 11. The Director of Lands shall cooperate with the Chief of the General Land Registration Office in furnishing copies of the plans, certificates, reports, and other documents necessary for the reconstitution of destroyed registration or cadastral proceedings. The expense of the reconstitution of such records shall be reimbursable to said Bureau and office out of the public calamity or emergency funds.

SEC. 12. In case there is anything in the registration or cadastral proceedings which cannot be reconstituted by means of the procedure provided for in sections nine and ten hereof and which is of vital importance to the interested parties, the reconstitution procedure established for ordinary civil cases shall be used.

PENDING CRIMINAL ACTIONS

SEC. 13. Pending criminal actions shall be reconstituted by means of copies filed by the fiscal and the counsel for the defendant or the defendant himself, or certified by them under oath as being correct, and whatever cannot be reconstituted in this manner shall be reconstructed by means of the supplementary procedure, provided for the reconstitution of ordinary civil cases.

SEC. 14. The testimony of witnesses, if any has already been taken, shall be reconstituted by means of an authentic copy thereof or by a new transcript of the stenographic notes; but if it is impossible to obtain an authentic copy of the evidence and if the stenographic notes have been destroyed, the case shall be heard anew as if it had never been tried. Documentary evidence shall be replaced by secondary evidence.

SEC. 15. If the case has already been decided, the decision shall be reconstituted by means of an authentic copy. If an authentic copy is not obtainable, the case shall be decided anew, as if it had never been decided.

SEC. 16. A duly certified copy of the proper entries of the docket of the justice of the peace court concerned shall be attached to the reconstituted record and shall be sufficient evidence that a preliminary investigation was held.

SEC. 17. In case the records of the office of the provincial fiscal have also been destroyed, said provincial fiscal shall ascertain the criminal actions pending in the Court of First Instance and may for this purpose make use of the data obtainable from the dockets of the justice of the peace courts of the province, the reports of the provincial commander of the Constabulary, the records of the warden of the provincial jail and of the municipal police, and from any other sources that might be of assistance to him in the investigation.

SEC. 18. The provincial fiscal shall investigate the facts in each pending criminal action, and if he should find sufficient merits to sustain the action, he shall without loss of time file the proper information which, after being registered, shall, together with a certified copy of the proper entries in the docket of the justice of

the peace court concerned, if any, form the reconstituted record, which shall be used as point of departure in the continuation of the proceedings.

SEC. 19. If the provincial fiscal does not find sufficient merits to sustain the accusation, he shall present to the court a motion for dismissal, specifying all the facts of the case and all steps taken by him in the investigation required in section seventeen hereof. This motion for dismissal, after being registered, shall, together with a certified copy of the proper entries in the docket of the justice of the peace court concerned, if any, form the reconstituted record, which shall be used as point of departure in the continuation of the proceedings.

SEC. 20. If the provincial fiscal finds that evidence has already been taken in the case, which has not been destroyed or which can be reproduced by a new transcription of the proper stenographic notes, he may, in view of such evidence, enter into an agreement with the defendants, or with their counsel, as to the substantial facts alleged in the information, and may reproduce it in this form. In case he does not come to an agreement with the defendants or their counsel, the Court, in view of the evidence, shall determine in what terms the information shall be reproduced, and shall give the defendants an opportunity to file a demurrer against the information so reproduced or introduce additional evidence.

If the defendants have no counsel and state to the Court that they desire one, the court shall assign to them a counsel who shall represent them in the proceedings for the reproduction of the information.

SEC. 21. Upon the reproduction of the information in the manner set forth in the next preceding section, the defendant shall be informed thereof, and if he enters a plea of not guilty, the proper hearing shall be held, in which shall be admitted all evidence previously introduced and such additional evidence, if any, as may be lawfully offered by the parties.

SEC. 22. If the case has already been decided, the decision shall be reconstituted by means of an authentic copy, and in case it is impossible to obtain an authentic copy, the case shall be decided anew, as if it had never been decided.

SEC. 23. The provincial fiscal shall give absolute preference to the reconstitution of criminal actions in which the defendants are confined awaiting decision, and shall act with all possible dispatch.

SEC. 24. All informations reproduced by the provincial fiscal shall be entitled "Reproduced Information," and at the end thereof shall appear the date on which they were actually reproduced and a statement to the effect that they were reproduced in accordance with the provisions of this Act.

COMMON PROVISIONS

SEC. 25. The records of civil actions, special proceedings, and registration and cadastral proceedings which at the time of their destruction were ready to be sent to the Supreme Court of the Philippine Islands on appeal, shall be reconstituted by means of an authentic copy of the bill of exceptions or appeal record, which, together with the reconstituted evidence, shall form the reconstituted record for the purposes of the appeal.

SEC. 26. If it is not possible to obtain an authentic copy of the bill of exceptions or appeal record, or if the evidence cannot be reconstituted, the records referred to in the next preceding section shall be reconstituted by means of the other procedure established in the preceding sections.

SEC. 27. The records of criminal actions which at the time of their destruction were ready to be sent to the Supreme Court of these Islands on appeal, shall be reconstituted in the manner established in sections thirteen to twenty-four. At any event, if there shall be any question as to the appeal record or the time within which the same was filed, the court may authorize the defendant to reproduce it within a reasonable time.

SEC. 28. In case it has been possible to save or preserve the dockets of the clerk's office relative to the civil actions, registration and cadastral proceedings, criminal actions, and special proceedings, destroyed, which were pending at the time of their destruction, the entries in said dockets shall be proof of the judicial proceedings therein made of record and shall prevail over any agreement entered into between the parties or their counsels.

SEC. 29. In case the parties interested in a destroyed record fail to petition for the reconstitution thereof within the six months next following the date on which they were given notice in accordance with section two hereof, they shall be understood to have waived the reconstitution and may file their respective actions anew without being entitled to claim the benefits of section thirty-one hereof.

SEC. 30. When it shall not be possible to reconstitute a destroyed judicial record by means of the procedure established in this Act or for any reason not herein provided for, the interested parties may file their actions anew, upon payment of the proper fees, and such actions shall be registered as new actions and shall be treated as such.

SEC. 31. For all legal effects, the time that has elapsed from the initiation of the destroyed record until the date when its reconstitution was declared impossible, shall not be counted against the interested party or his heirs and other successors in interest.

SEC. 32. All reconstituted civil and criminal actions and [special proceedings, and those initiated anew after the calamity, shall be registered and entered in the respective docket and shall be numbered consecutively in the chronological order of their reconstitution and filing. Reconstituted cases shall be numbered with figures preceded by a dash and a capital letter R.

SEC. 38. In case it has been possible to save or preserve the dockets of the civil and criminal actions and special proceedings, the reconstituted records shall be numbered as they were in said dockets, with the sole addition of a dash and a capital letter R preceding their respective numbers, and without prejudice to their being-registered and entered in the "Docket of Reconstituted Cases" prescribed in section thirty-five hereof.

Sec. 34. Reconstituted registration and cadastral proceedings shall be registered and entered in their respective dockets under the same numbers they had before