

THIRD DIVISION

[G.R. No. 195726, November 20, 2017]

**MARCELINO DELA PAZ, PETITIONER, VS. REPUBLIC OF THE
PHILIPPINES, RESPONDENT.**

DECISION

MARTIRES, J.:

Before this Court is a Rule 45 petition^[1] assailing the 4 October 2010 Decision^[2] and the 17 February 2011 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 91196 which reversed the Order^[4] of the Regional Trial Court, Branch 220 of Quezon City (RTC), to reconstitute Transfer Certificate of Title (TCT) No. 206714.

THE FACTS

On 5 June 2007, Marcelino Dela Paz (*Marcelino*) filed a verified petition for reconstitution of TCT No. 206714 covering a parcel of land described as follows:

A parcel of land (Lot 457-A-12-B-2-B-2-A) of the subdivision plan (LRC) Psd-2114428, being a portion of Lot 457-A-12-B-2-B-2 (LRC) Psd-1774344 L.R.C. Record No. 3563, situated in Barrio of Bagbag, Quezon City, Island of Luzon. Bounded on the N. points 2 to 3 by existing road 8 m. wide; on the E. and S. points 3 to 4 and 4 to 1 by Lot 457-A-12-B-2-B-1 (LRC) Psd-177344. Beginning at a point marked "1" on plan beginning 50 deg. 50'E., 457.01 m. from L.W. 22, Piedad Estate; thence N. 22 deg. 40'3., 28.02 m. to point 2; thence N. 85 deg. 54'3., 15.00 m. to point 3; thence S. 1 deg. 57'W., 25.06 m. to point 4; thence S. 85 deg. 54'W., 24.97 m. to the point of beginning; containing an area of FIVE HUNDRED (500) SQUARE METERS more or less.^[5] xxx

This parcel of land was the subject of an extrajudicial settlement dated 23 October 2000 among the heirs of Luz Dela Paz, namely: Franklin S. Bortado, Sr., Franklin P. Bortado, Jr., and Marylou Bortado. Thereafter, Marcelino and his mother, Jenny Rose Dela Paz, bought the subject land on 23 November 2005.

Based on the petition for reconstitution, the original copy of TCT No. 206714 was destroyed by fire that razed the Quezon City Hall building on 11 June 1988, thus, the owner's duplicate copy was lost as evidenced by the affidavit of loss duly registered and recorded with the Registry of Deeds of Quezon City. Marcelino submitted the following as evidence: (1) a photocopy of TCT No. 206714; (2) real property tax declarations; (3) receipts of payments of real property tax; and (4) the land's sketch plan and subdivision plan.

Marcelino likewise submitted a Land Registration Authority (LRA) report stating that the plan and technical description of the property may be used as basis for the

inscription of the technical description on the reconstituted title. In addition, Marcelino submitted a certified microfilm copy of the plan and a technical description of the property on file with the LRA, which he claimed to be a valid basis and reference for reconstitution. Marcelino believed that these documents corroborate the other documentary evidence covering the subject property.

After considering the evidence presented, the RTC granted the petition and ordered the reconstitution of TCT No. 206714 based on the approved subdivision plan and technical description submitted. The RTC said:

The [c]ourt, after considering the evidence presented, finds that this is a proper case for the judicial reconstitution of the original and owner's duplicate copy of Transfer Certificate of Title No. 206714 of the Register of Deeds of Quezon City based on the approved subdivision plan and technical description of the subject property.

WHEREFORE, premises considered, the petition is hereby GRANTED.

The Register of Deeds of Quezon City is hereby ordered to reconstitute the original copy of TCT No. 206714 in the name of Luz Dela Paz and to issue second owner's duplicate copy of the title to the petitioner Marcelino Dela Paz, based on the approved subdivision plan and technical description which may be used as basis for the inscription of the technical description of the reconstituted certificate, provided that the reconstituted title should be made subject to such encumbrance as may be subsisting, and provided further, that no certificate of title exists in the Register of Deeds of Quezon City.^[6]

The Assailed CA Rulings

When the case was elevated before the CA, the RTC's decision was reversed and set aside, and the petition for reconstitution was dismissed. The CA was not convinced that the evidence adduced in support of the petition for reconsideration was enough. It held:

First. The heirs of Luz Dela Paz, who allegedly executed the Extrajudicial Settlement and Deed of Absolute Sale relative to the subject property covered by TCT No. 206714 were not presented in court to acknowledge the same. The contract of sale was not even registered with the Register of Deeds as required under Section 3 of R.A. No. 26 for it to become a credible basis for the granting of [Marcelino]'s cause.

Second W[e] observe that the Certification issued by the Quezon City Registry of Deeds relative to the alleged loss of the original of TCT No. 206714 due to fire that razed the City Hall on June 11, 1988 was a form document as the name of Luz Dela Paz and the number of the TCT were merely entered on the blanks therein provided.

Further, it cannot be deduced from the wordings of the said certification that TCT No. 206714 was actually issued and registered under Luz Dela Paz. It states that "*xxx the original of TCT No. 206714 allegedly registered under the name of Luz P. Dela Paz was/were not included*

among those saved titles during the fire that razed the Quezon City Hall Building last June 11, 1988 xxx." Furthermore, it could hardly be concluded therefrom that TCT No. 206714 was indeed part of the Registry's, record. Although it was mentioned therein that TCT No. 204714 was not among those salvaged files during the fire incident, it does not necessarily follow that this document was among those records on file with the Quezon City Registry of Deeds.

Third. It should be remembered that the original TCT No. 206714 was allegedly destroyed during the June 11, 1988 fire incident. The owner's duplicate copy was allegedly lost in 2001. From 1988 to 2001, the heirs of Luz Dela Paz did not bother to file a petition for the reconstitution of the damaged TCT. They even failed to execute an affidavit concerning the loss of their copy in 2001 when at that time they were the alleged owners and presumably in possession of said property. It was only when the subject lot was transferred to [Marcelino] and his mother Jenny Rose Dela Paz on November 23, 2005 that said affidavit was made at [Marcelino]'s instance. In said document, he failed to explain the surrounding circumstances how said copy was lost. He just made a general statement therein that the duplicate original copy "got lost and could no longer be located despite diligent effort to locate the same." Inexplicably, the extant petition was filed only in 2007 or nineteen (19) years from the copy's destruction in 1988.

Fourth. The tax declaration and tax receipt presented cannot likewise be valid bases for reconstitution as these documents are issued for tax purposes only. Besides, a tax declaration is not a reliable source of reconstruction of a certificate of title. It can only be *prima facie* evidence of claim of ownership, which, however, is not the issue in a reconstitution proceeding. A reconstitution of title does not pass upon the ownership of the land covered by the lost or destroyed title but merely determines whether the issuance of such title is proper. (citations omitted)

Fifth. The photocopy of TCT No. 206714 offered by [Marcelino] can only be considered secondary evidence, hence, inadmissible. Absent any satisfactory proof that would establish its admissibility as provided under Section 5, Rule 130 of the Rules of Court, the same cannot be relied upon [for] the reconstitution of the subject certificate of title.

What further surprises this Court is that [in] the said copy, the name of the subject lot's registered owner was concealed as *the space provided for therein was deliberately covered*. [Marcelino] even failed to testify why he had a photocopy of the owner's duplicate copy and how he was able to secure the same. (italics supplied)

Sixth. The Sketch Plan and Subdivision Plan submitted by [Marcelino] are mere additional requirements under R.A. No. 26 and *per se* not sufficient bases for reconstitution. This is evident under Section 12 of R.A. No. 26, thus:

xxxx

We also examined the LRA Report dated January 21, 2008 verifying that the plan and technical description of Lot 457-A-12-B-2-B-2-A of the Subdivision Plan are true representations of the lot approved under (LRA) PR-08-01589-R. Despite said certification, [we] cannot still ascertain whether this lot was indeed covered by TCT No. 206714 and registered under Luz Dela Paz. The Report states "xxx Transfer Certificate of Title No. 206714, allegedly lost or destroyed and supposedly covering Lot 457-A-12-B-2-B-2-A of the subdivision plan (LRC) Psd-214428 xxx." The Technical Description and Sketch/Special Plan appended therewith do not even bear the TCT covering said property. Moreover, the officers who drafted and verified the plan and technical description of the land were not presented as witnesses to confirm the same.^[7]

Aggrieved by the reversal, Marcelino filed a motion for reconsideration that the CA eventually denied; hence, the present petition.

THE PETITION

Marcelino faults the CA in saying that the documentary evidence submitted are not enough to reconstitute TCT No. 206714. He argues that he has fully complied with the jurisdictional requirements set forth in Republic Act (R.A.) No. 26. The RTC even found it proper to reconstitute based on the approved subdivision plan and technical description of the property.

Marcelino submits that the documents he submitted are sufficient to establish the existence of TCT No. 206714 to warrant its reconstitution. Although the certification that the original copy of TCT No. 206714 was not included among those saved during the fire is *pro forma*, it is still a public document which contents are presumed to be true and accurate. Meanwhile, the LRA report favors reconstitution because (1) the approved plan and technical description were verified by the LRA; and (2) the report mentions that the approved plan and technical description may be used as basis for the property's description in the reconstituted title. As to the other documents, Marcelino maintains that they are genuine evidence for reconstitution as they are public documents. Therefore, considered all together, the pieces of documentary evidence are sufficient for reconstituting TCT No. 206714.

THE COURT'S RULING

The present petition is devoid of merit.

Preliminary considerations

The issue to be resolved in this case is whether Marcelino presented competent proof that TCT No. 206714 may be reconstituted based on the documentary evidence he submitted. We generally do not entertain a question of fact requiring a re-evaluation of the evidence on record, given the limited rule review provided us in Rule 45 that a petition shall only raise questions of law.

The Court, not being a trier of facts, does not routinely undertake the re-examination of the evidence presented by the contending parties during the trial of the case.^[8] Ordinarily, we will not review the factual findings of the lower courts as they are conclusive and binding. This rule, however, is subject to a number of

exceptions, i.e., when the findings of the CA are contrary to those of the trial court. Here, the CA reversed the RTC's Order because it found the submitted documentary evidence unsatisfactory to warrant reconstitution.

For this reason, we take cognizance of the issue before us and shall examine the probative weight of the pieces of evidence presented by Marcelino to support his petition for reconstitution.

Quantum of evidence required in reconstituting a Certificate of Title

Time and time again, we have cautioned the lower courts against the hasty and reckless grant of petitions for reconstitution. In such cases, it is the duty of the court to carefully scrutinize and verify all supporting documents, deeds, and certifications. In fact, we have warned the courts in reconstitution proceedings of the tampering of genuine certificates of title and the issuance of fake ones - a widespread occurrence that has seriously threatened the stability of our Torrens system. It is most unfortunate that our courts have been, at times, unwitting accomplices to these transactions and easy targets for corruption.^[9]

Reconstitution is the restoration of the instrument or title allegedly lost or destroyed in its original form and condition.^[10] Its only purpose is to have the title reproduced, after observing the procedure prescribed by law, in the same form they were when the loss or destruction occurred.^[11] The process involves diligent circumspect evaluation of the authenticity and relevance of all the evidence presented for fear of the chilling consequences of mistakenly issuing a reconstituted title when in fact the original is not truly lost or destroyed.^[12]

Henceforth, it is imperative that a proper standard be set in evaluating the probative value of the documentary evidence. Having such a standard would guide our courts accordingly in granting the reconstitution of a certificate of title, and would serve as a yardstick in determining whether trial court judges have grossly violated their judicial duty to warrant the imposition of administrative sanctions.

The established legal principle in actions involving land registration is that a party must prove its allegations not merely by a preponderance of evidence, but by clear and convincing evidence.^[13] Evidence is clear and convincing if it produces in the mind of the trier of fact a firm belief or conviction as to the allegation sought to be established.^[14] It is indeterminate, being more than preponderance, but not to the extent of such certainty as is required beyond reasonable doubt in criminal cases.^[15] Appropriately, this is the standard of proof that is required in reconstitution proceedings.^[16]

To our mind, clear and convincing evidence proving the jurisdictional requirements must exist before a court may order the reconstitution of a destroyed or lost title. An order reconstituting a title would produce two (2) effects: the cancellation of the alleged lost or destroyed title and the reissuance of a new duplicate title in its original form and condition. In addition, a reconstitution proceeding is an *in rem* proceeding; and when an order in such a proceeding becomes final, the findings therein can no longer be opened for review.^[17] With these in mind, evidence proving the petitioner's allegations in a petition for reconstitution is needed because,