

## SECOND DIVISION

[ G.R. No. 162097, February 13, 2008 ]

**LOURDES A. PASCUA, Petitioner, vs. REPUBLIC OF THE PHILIPPINES, Respondent.**

### D E C I S I O N

**VELASCO JR., J.:**

The instant petition for review under Rule 45 seeks the reversal of the July 22, 2003 Decision<sup>[1]</sup> and February 10, 2004 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 74050, affirming the trial court's denial of petitioner's action for reconstitution of title covering Lot No. 3209 of the Pagsanjan, Laguna Cadastre in her name.

#### The Facts

Petitioner claimed that she is the owner in fee simple of Lot No. 3209, Pagsanjan, Laguna Cadastre, having inherited it from her parents, Guillermo Abinsay and Leoncia Rivera. She and her predecessors-in-interest had allegedly been in open, public, continuous, and peaceful possession of the disputed lot since it was bought from Serafin Limuaco in 1956. On December 4, 1930, the cadastral court awarded the lot to Limuaco, who sold the lot to petitioner's parents on December 24, 1956, as evidenced by a Deed of Absolute Sale.<sup>[3]</sup>

Due to the ravages of World War II, however, the owner's duplicate certificate of the Torrens title covering Lot No. 3209, its original copy on file with the Laguna Register of Deeds (RD), and other pertinent papers were lost and/or destroyed, and diligent efforts to find them were futile. Thus, on December 8, 1999, petitioner filed a petition for judicial reconstitution of the original certificate of title (OCT) covering Lot No. 3209 with the Sta. Cruz, Laguna, Regional Trial Court (RTC), Branch 27. She alleged that there were no deeds or instruments covering the disputed lot that were presented or pending registration with the RD, and that no co-owners, mortgagees, or lessees' duplicate of the OCT was issued by the RD.

After complying with the jurisdictional requirements, petitioner was allowed to present evidence *ex-parte*. She testified that her parents bought a piece of land from Limuaco and that after her parents' death, her siblings partitioned the land and Lot No. 3209 was allocated to her. She learned from the Land Registration Authority (LRA) that Decree No. 412846 was issued in the cadastral case in 1930, but the records, including those in the Laguna RD, were destroyed during the war. She said the lot was declared for tax purposes in her name and she had been paying taxes due on the lot, as evidenced by the Tax Clearance dated March 2, 2000. She stated that the adjoining lot owners were Olivar Pening on the north, Hernan Zaide on the east; and that there is a stream on the south and west. Petitioner submitted in evidence the tracing cloth plan and technical description of Lot No. 3209.

The RTC denied the petition for reconstitution for insufficiency of evidence in its October 30, 2000 Order, ruling as follows:

The certification issued by Acting Chief Alberto H. Lingayo of the Ordinary and Cadastral Decree Division (Exh. "F") and another certification of the Chief of the Docket Division of the Land Registration Authority (Exh. "G") speak of Decree No. 412846 issued on December 4, 1930 covering Lot No. 3209. On the other hand, Tax Declaration No. 5471 in the name of spouses Guillermo Abinsay and Leoncia Rivera (Exh. "I") did not indicate any certificate of title number, cadastral lot number or even an assessor's lot number while Tax Declaration No. 1376 (Exh. "J") only indicated Assessor's Lot No. 19-pt. Petitioner failed to establish that Assessor's Lot No. 19-pt and Lot No. 3209 are one and the same.

Assuming that Assessor's Lot No. 19-pt refers to Lot No. 3209, still, the petition could not be granted because there is no showing that an original certificate of title was actually issued pursuant to Decree No. 412846. The certifications issued by the Land Registration Authority dated October 26, 1999 and September 23, 1998 and the Report of the same office dated May 5, 2000 are bereft of any allusion to the issuance of a title. The documents presented in evidence by petitioner not only failed to prove the issuance of an original certificate of title but also the name of the adjudicatee.<sup>[4]</sup>

On appeal to the CA, petitioner argued that Assessor's Lot No. 19-pt and Lot No. 3209 are the same; that she is the adjudicatee of the disputed lot; and that an OCT was issued in accordance with Decree No. 412846. For respondent Republic of the Philippines, the Solicitor General contended that what petitioner's predecessors-in-interest bought from Limuaco was Assessor's Lot No. 19-pt, which was neither designated nor mentioned as Lot No. 3209. Also, the Solicitor General said the property described in the documents presented is still unregistered land of the public domain and there is no evidence that an OCT was actually issued to Lot No. 3209. The Solicitor General added that the trial court did not acquire jurisdiction over the petition since petitioner failed to submit proof of notices to all adjoining lot owners.

The July 22, 2003 Decision of the CA affirmed the trial court's order *in toto*. The CA held that petitioner failed to present the documents enumerated in Section 2, Republic Act No. (RA) 26 entitled *An Act Providing a Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed*, as amended by RA 6732, or any other document that could be a sufficient basis for reconstituting title.

Petitioner's motion for reconsideration was denied by the CA in its February 10, 2004 Resolution.

### **The Issues**

Thus, petitioner elevated the matter to us, interposing that:

The CA erred in holding that petitioner failed to present any of the documents enumerated in Sec. 2 of RA 26.

## II

The CA erred in holding that the certification of the LRA that Decree No. 412846 was issued over Lot 3209 cannot qualify as a proper document for reconstituting the lost or destroyed titled because Lot 3209 is different from Lot 19-pt.

## III

The CA erred in holding that the lot sold by Serafin Limuaco to the Sps. Abinsay and Rivera is not Lot 3209 but Lot 19-pt which are different from each other.

## IV

The CA erred in holding that statements in the Deed of Sale and Deed of Co-owners Partition that the land is not registered under Act 496 are fatal to the instant Petition.<sup>[5]</sup>

### **The Court's Ruling**

The petition lacks merit.

Sec. 2 of RA 26 provides:

SEC. 2. Original certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available in the following order:

- (a) The owner's duplicate of the certificate of title;
- (b) The co-owner's, mortgagee's, or lessee's duplicate of the certificate of title;
- (c) A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof;
- (d) An authenticated copy of the decree of registration or patent, as the case may be pursuant to which the original certificate of title was issued;
- (e) A document, on file in the Registry of Deeds by which the property, the description of which is given in said document, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that its original has been registered; and
- (f) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.