

SECOND DIVISION

[G.R. No. 167709, September 19, 2008]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HEIRS OF
PASCUAL OCARIZA, REPRESENTED BY CO-HEIR REMEDIOS
BACALSO, RESPONDENTS.**

D E C I S I O N

CARPIO MORALES, J.:

In 1993, Remedios Bacalso, in representation of the Heirs of Pascual Ocariza, filed before the Regional Trial Court (RTC) of Cebu an **Application for Original Registration** of a parcel of land, identified as Lot No. 4147 of the Cebu Cadastre 12, situated in Inayawan, Cebu City.

In a Report dated September 17, 1993 submitted to the Cebu RTC Branch 17 to which the application for original registration was lodged, Silverio Perez, Director of the Department of Registration of the Land Registration Authority (LRA), recommended the dismissal of the application for original registration in light of the following statements:

x x x x

2. Upon verification of our "Record Books of Cadastral Lots" on file in this Authority, it was found that "**lot 4147, Cebu Cadastre was issued Decree No. 99211, on November 23, 1920** in the Cadastral proceeding, Cadastral Case No. 13, LRC Cadastral Record No. 9469 pursuant to the decision rendered thereon. Copy of said decree **is not** among the salvaged decrees on file in this Authority;"
3. Letter of this Authority of even date (September 17, 1993), a copy is attached hereto as Annex "A", was sent to the Register of Deeds, Cebu City, requesting for a certified xerox copy of the certificate of title issued to lot 4147, Cebu Cadsatre 12, pursuant to Decree No. 99211, issued on November 23, 1920 in Cadastral Case No. 13, LRC Cadastral Record No. 9469 be furnished to the Honorable Court.

WHEREFORE, the foregoing are respectfully submitted to the Honorable Court for its information & guidance, with the **recommendation that the application in the instant proceedings be dismissed.**

x x x x^[1] (Italics, emphasis and underscoring supplied)

On November 5, 1993, Branch 17 of the RTC Cebu, on motion of herein respondents, issued an order considering the application of the Heirs of Pascual Ocariza "deemed withdrawn."

Years later or in 1997, respondents filed, this time, **a Petition for the Reconstitution of Lost Certificate of Title** covering the same lot before the RTC of Cebu, alleging, *inter alia*,

x x x x

4. That pursuant to the said DECREE No. 99211, **an original certificate of title** to said Lot No. 4147 had been **issued** by the Register of Deeds of Cebu, **in the name of Pascual Ocariza**, but the owner's duplicate and original copy of which on file in the office of the Register of Deeds of Cebu, were **lost during the last World War**; and **a certificate to the effect** that the original copy of said certificate of title on file in the office of the Register of Deeds of Cebu was indeed either lost or destroyed during the Last World War, **which certificate is hereto attached and marked as Annex "B"**;

x x x x^[2] (Emphasis and underscoring supplied)

The Annex "B"^[3] which respondents attached to their petition, which was later marked as Exhibit "M,"^[4] was a Certification dated March 23, 1995 issued by the Deputy Register of the Registry of Deeds of Cebu City reading:

x x x x

IT IS HEREBY CERTIFIED that records on file with this office do **not show that there is an existing OCT/TCT** covering Lot. No. 4147 situated at Bulacao, Pardo, Cebu City claimed to be owned by PASCUAL OCARIZA. However, this office is **not in position to certify as to whether a title is issued or not** as verified by the undersigned personnel.

This certification is issued upon the request of MARIA QUIMADA for whatever legal purpose it may serve.

x x x x (Emphasis and underscoring supplied)

The Office of the Solicitor General, which was notified of the petition, entered its appearance and deputized the City Prosecutor of Cebu City to render assistance in the case.^[5]

After respondents rested their case, the Cebu City Prosecutor did not present any evidence against the petition.^[6]

Branch 5 of the Cebu City RTC to which the petition was lodged, by Decision^[7] of February 27, 2001, ordered the reconstitution of the "lost original certificate of title in the name of Pascual Ocariza," upon payment of the required fees.

In granting respondents' petition for reconstitution, the trial court synthesized their evidence as follows:

Remedios Bacalso, 60 years old, single, government employee and a resident of Inayawan, Pardo, Cebu City, **testified** that she is one of the

petitioners in this petition; that she is familiar with subject parcel of land known as Lot No. 4147, Cebu Cadastre 12, described on Plan Ap-072217-001065 situated in the Barangay of Inayawan, Cebu City with an area of 438 square meters which is decreed in the name of Pascual Ocariza pursuant to Decree No. 99211 per Report dated September 29, 1998 (Exh. "K") from Alfredo R. Enriquez, Administrator and signed by Benjamin M. Bustos, Reconstituting Officer and Chief Reconstitution Division and another Report dated September 17, 1993 (Exh. "L" and "L-1" from Silverio Perez, Director, Department of Registration Land Registration Authority; that she knows Pascual Ocariza because he is the cousin of her father and her grandfather; that Pascual Ocariza is already dead; that she **knows that a title of this land was issued to Pascual Ocariza based on Decree No. 99211 but the owner's duplicate copy of said title was lost; that the original copy of the certificate of title in the possession of the Register of Deeds, Cebu City was also lost per Certification dated March 23, 1995 (Exh. "M") issued by the Register of Deeds, Cebu City** x x x.

On cross-examination, witness testified that Pascual Ocariza was her grandfather who died single; that the brothers and sisters of Pascual Ocariza died already long time ago; that her father, Alejandro Bacalso, is the nephew of Pascual Ocariza; that there are plenty of other persons who are related to Pascual Ocariza; that she is the one who represented her grandfather Pascual Ocariza because they were plenty and that is the reason why the title should be issued in the name of Pascual Ocariza because they are going to subdivide this lot; that they have been in possession of this land for fifteen (15) years; that the tax declaration of said land was registered in the name of Pascual Ocariza.^[8] (Emphasis and underscoring supplied)

The Solicitor General appealed^[9] the trial court's decision, arguing that respondents failed to prove their interest in Lot No. 4147,^[10] he citing *Heirs of Pedro Pinote v. Dulay*^[11] which held that

x x x Courts x x x should not only require strict compliance with the requirements of R.A. 26 but, in addition, should ascertain the identity of every person who files a petition for reconstitution of title to land. If the petition is filed by someone other than the registered owner, the court should spare no effort to assure itself of the authenticity and due execution of the petitioner's authority to institute the proceeding.^[12] (Underscoring supplied)

By Decision^[13] of April 6, 2005, the Court of Appeals affirmed the RTC decision, reasoning as follows:

It must be emphasized that the instant case involves a petition to reconstitute the **lost** certificate of title covering Lot 4147, Cebu Cadastre in the name of the decreed owner Pascual Ocariza. As such, no right has been prejudiced for the fact that the reconstituted certificate of title is in the name of the decreed owner Pascual Ocariza. Since Pascual Ocariza is already dead, suffice it to state that his heirs are the most interested in the property, who are considered the assigns and/or