

## **FIRST DIVISION**

**[ G.R. NO. 147212, March 24, 2006 ]**

**THE GOVERNMENT OF THE PHILIPPINES, REPRESENTED BY THE  
DIRECTOR OF LANDS, PETITIONER, VS. VICTORIANO ABALLE, ET  
AL, CLAIMANTS, VS. SALVADOR WEE, RESPONDENTS, .**

### **D E C I S I O N**

**AUSTRIA-MARTINEZ, J.:**

Petitioner filed the present Petition for Review under Rule 45 of the Rules of Court, assailing the Decision<sup>[1]</sup> dated February 14, 2001 rendered by the Court of Appeals (CA) in CA-G.R. CV No. 62477. The CA Decision affirmed the Order dated June 24, 1998 issued by the Regional Trial Court of Zamboanga City (RTC) in Cadastral Case No. 96-1 for Judicial Reconstitution of Original Certificate of Title No. 0-10046.

Respondent Salvador Wee (Wee) filed Cadastral Case No. 96-1 on January 2, 1996, seeking the judicial reconstitution of Original Certificate of Title No. 0-10046. The petition alleged: (1) Pursuant to an Extra-Judicial Settlement of Estate with Sale, Wee acquired from the heirs of Francisco Rivera the parcel of land subject of the petition, particularly described as follows:

A PARCEL OF LAND (Lot No. 4093 of the Cadastral Survey of Zamboanga City), with the improvements thereon, situated in the Municipality of Zamboanga. Bounded on the NE. by Lot No. 4094 and vecinal Road to Capisan; on the SE. by the Vecinal Road to Capisan; on the SW. by Lot No. 3303; and on the NW. by Lot No. 4105. Containing an area of Sixty Five Thousand Nine Hundred and twenty six (65,926) Square Meters, covered by Original Certificate of Title No. 0-10046 issued by the Register of Deeds of Zamboanga City.

(2) the copy of the Original Certificate of Title No. 0-10046 was lost and/or destroyed, as evidenced by the certification issued by the Register of Deeds of Zamboanga City, pursuant to Decree No. 199154 on December 11, 1925; (3) the property was declared by Francisco Rivera for taxation purposes under Tax Declaration No. 0-01-23-00046, and Wee is in actual possession of the property; (4) no co-owner's, mortgagee's or lessee's duplicate copy of the certificate of title has been issued; (5) the property is free from all liens and encumbrances and there is no pending claim or suit against the property; (6) no deed or other instrument adversely affecting the ownership of the property has been presented for registration in the Register of Deeds of Zamboanga City; and (7) the owners of the adjoining properties are Candido M. Cruz (Lot No. 4094 & road), Anastacio Atilano (Lot No. 3303) and Rufo Francisco (Lot No. 4105).[2]

The Office of the Solicitor General (OSG) appeared as Oppositor in behalf of the Government of the Philippines and authorized the City Prosecutor of Zamboanga

City to likewise appear in its behalf.<sup>[3]</sup>

On June 26, 1997, a Notice of Hearing for October 3, 1997 was posted in the Sheriff's Bulletin Board, the City Hall, and the public market, all in Zamboanga City.

<sup>[4]</sup> The notice was also published in the Official Gazette on August 25, 1997 and September 1, 1997.<sup>[5]</sup>

On June 24, 1998, the RTC issued its Order allowing reconstitution of Original Certificate of Title No. 0-10046. The dispositive portion of the Order reads:

WHEREFORE, upon payment of all the prescribed fees and taxes, the Register of Deeds of Zamboanga City is hereby ordered to reconstitute Original Certificate of Title No. 0-10046, covering Lot No. 4093 of the Cadastral Survey of Zamboanga, with the improvements thereon, situated in the Municipality of Zamboanga, with an area of 65,926 square meters, more or less, and registered in the name of Francisco Rivero, married to Catalina Padua, of Zamboanga, Province of Zamboanga P.I., as the owner in fee simple thereof based on Decree No. 199154 (Exh. "G"), pursuant to Section 2 of Republic Act No. 26.

SO ORDERED.<sup>[6]</sup>

Petitioner appealed the RTC Order to the CA on the sole ground that the trial court erred in ordering the reconstitution considering respondent's (Wee) failure to comply with the jurisdictional requisites therefor.<sup>[7]</sup> Petitioner argued that the RTC did not acquire jurisdiction over the case due to Wee's failure to comply with the requirement of notice to the adjoining owners, inasmuch as the Notice of Hearing was merely published and posted, but not furnished to the property's adjoining owners.<sup>[8]</sup>

The CA dismissed petitioner's appeal and affirmed the RTC's Order in its assailed Decision dated February 14, 2001,<sup>[9]</sup> ruling that Wee had satisfactorily complied with the requirements laid down in Section 13 of Republic Act No. 26.

Hence, the present petition.

Petitioner reiterates its argument that the trial court did not acquire jurisdiction over the case for non-compliance with the jurisdictional requirements set in Section 13 of R.A. No. 26.

A review of the records of this case shows that the petition is meritorious.

R.A. No. 26 provides for the procedure and requirements in the reconstitution of lost or destroyed Torrens Certificates of Title. Section 10, in relation to Section 9, of R.A. No. 26 specifically lays down the requirements for sources enumerated in Sections 2(a), 2(b), 3(a), 3(b), and 4(a) of R.A. No. 26; on the other hand, Sections 12 and 13 of R.A. No. 26 provide for the requirements for sources enumerated in Sections 2(c), 2(d), 2(e), 2(f), 3(c), 3(d), 3(e), and 3(f) of R.A. No. 26.<sup>[10]</sup>

The reconstitution proceedings before the RTC was based on Decree No. 199154 issued on December 11, 1925 from which Original Certificate of Title No. 0-10046

was issued on January 25, 1926; hence, it falls under Section 2(d) of R.A. No. 26, or reconstitution from an authenticated copy of the decree of registration, pursuant to which the original title was issued. The applicable provisions, therefore, are Sections 12 and 13 of R.A. No. 26, to wit:

SEC. 12. Petitions for reconstitution from sources enumerated in sections 2(c), 2(d), 2(e), 2(f), 3(c), 3(d), 3(e), and/or 3(f) of this Act, shall be filed with the proper Court of First Instance, by the registered owner, his assigns, or any person having an interest in the property. The petition shall state or contain, among other things, the following: (a) that the owner's duplicate of the certificate of title had been lost or destroyed; (b) that no co-owner's, mortgagee's or lessee's duplicate had been issued, or, if any had been issued, the same had been lost or destroyed; (c) the location, area and boundaries of the property; (d) the nature and description of the buildings or improvements, if any, which do not belong to the owner of the land, and the names and addresses of the owners of such buildings or improvements; (e) the names and addresses of the occupants or persons in possession of the property, of the owners of the adjoining properties and of all persons who may have any interest in the property; (f) a detailed description of the encumbrances, if any, affecting the property; and (g) a statement that no deeds or other instruments affecting the property had been presented for registration, or if there be any, the registration thereof has not been accomplished, as yet. All the documents, or authenticated copies thereof, to be introduced in evidence in support of the petition for reconstitution shall be attached thereto and filed with the same: *Provided*, That in case the reconstitution is to be made exclusively from sources enumerated in section 2(f) or 3(f) of this Act, the petition shall be further accompanied with a plan and technical description of the property duly approved by the Chief of the General Land Registration Office (now Commission of Land Registration), or with a certified copy of the description taken from a prior certificate of title covering the same property.

SEC. 13. The court shall cause a notice of the petition, filed under the preceding section, to be published, at the expense of the petitioner, twice in successive issues of the *Official Gazette*, and to be posted on the main entrance of the provincial building and of the municipal building of the municipality or city in which the land is situated, at least thirty days prior to the date of hearing. The court shall likewise cause a copy of the notice to be sent, by registered mail or otherwise, at the expense of the petitioner, to every person named therein whose address is known, at least thirty days prior to the date of hearing. Said notice shall state, among other things, the number of the lost or destroyed certificate of title, if known, the name of the registered owner, the names of the occupants or persons in possession of the property, the owners of the adjoining properties and all other interested parties, the location, area and boundaries of the property, and the date on which all persons having any interest therein must appear and file their claim or objections to the petition. The petitioner shall, at the hearing, submit proof of the publication, posting and service of the notice as directed by the court.