

## THIRD DIVISION

[ G.R. No. 139518, March 06, 2001 ]

**EVANGELINE L. PUZON, PETITIONER, VS. STA. LUCIA REALTY  
AND DEVELOPMENT, INC., RESPONDENT.**

### DECISION

**PANGANIBAN, J.:**

Are notices to owners of adjoining lots and actual occupants of the subject property mandatory and jurisdictional in petitions for judicial reconstitution of destroyed original certificates of title, when the source for such reconstitution is the extant owner's duplicate transfer certificate of title? More specifically, is the failure to send those notices fatal to a trial court's final and executory decision granting the reconstitution? In other words, may the decision be annulled on the ground of lack of jurisdiction? The short answer to all of these questions is "No."

#### The Case

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the April 30, 1999 Decision<sup>[1]</sup> of the Court of Appeals (CA), as well as its July 21, 1999 Resolution<sup>[2]</sup> denying petitioner's Motion for Reconsideration. The dispositive part of the Decision reads:

"WHEREFORE, the petition is granted. The decision dated February 11, 1994 in LRC Case No. Q-6436 (93) of RTC, Br. 80, Quezon City is hereby ANNULLED and SET ASIDE. TCT Nos. RT-78673 (240131) and RT-78672 (213611) reconstituted in the name of private respondent Evangeline L. Puzon are declared cancelled and null and void for being in violation [of] Republic Act No. 26, Supreme Court Administrative Circular No. 7-96 and Land Registration Authority circulars.

SO ORDERED."

#### The Facts

On June 11, 1988, a fire in the office of the Register of Deeds of Quezon City destroyed, among others, the original copies of petitioner's Transfer Certificate of Title (TCT) Nos. 240131 and 213611 issued by the Register of Deeds of Quezon City, covering two lots with areas of 109,038 and 66,836 square meters respectively, both located in the District of Capitol, Quezon City.

In October 1993, petitioner filed before the Regional Trial Court (RTC) of Quezon City, Branch 80, a Petition for the judicial reconstitution of the two destroyed titles. The Petition, docketed as LRC Rec. No. Q-6436 (93), was based on the owner's duplicate copies of the TCTs, which were in petitioner's possession.

The October 26, 1993 RTC Order, which served as the notice for the hearing of the Petition for reconstitution, was published in two (2) successive issues of the Official Gazette. Thirty days before the date of hearing, the Order was also posted at the entrance of the Quezon City Hall Building and on the bulletin board of the trial court. Together with a copy of the Petition, it was served on the Office of the Solicitor General, the Register of Deeds for Quezon City, the Land Registration Authority (LRA), the Land Management Bureau, and the Office of the City Prosecutor for Quezon City.

During the trial which commenced on January 17, 1994, no opposition was registered. A representative from the Office of the Solicitor General, however, appeared and cross-examined petitioner, who was the sole witness. After trial, the RTC rendered its Decision dated February 11, 1994. The court disposed as follows:

"WHEREFORE, the Court hereby GRANTS the petition. Accordingly, the Register of Deeds of Quezon City is ordered to reconstitute the original copies of TCT Nos. 213611 and 240131 from and on the basis of the owner's duplicate copies thereof in possession of petitioner Evangeline L. Puzon, after payment of the prescribed legal fees."<sup>[3]</sup>

Accordingly, the Register of Deeds of Quezon City issued to herein petitioner TCT Nos. RT-78673 (240131) and RT-78672 (213611). These TCTs were for the lots covered by the destroyed certificates, whose numbers are indicated in the parentheses.

After discovering in 1996 that Sta. Lucia Realty and Development, Inc., herein respondent, was occupying a portion of the land covered by TCT No. RT-78673 (240131), petitioner filed against it and Garsons Co. Inc. a Complaint for *Accion Reinvindicatoria* with Damages and Prayer for the Issuance of Temporary Restraining Order/Writ of Injunction.

On March 25, 1998, while the *accion reinvindicatoria* was still pending before the RTC of Quezon City (Branch 104), respondent filed before the CA a Petition for Annulment of Judgment, seeking to annul and set aside the earlier Decision of the RTC of Quezon City (Branch 80) in the reconstitution case.

### **Ruling of the Court of Appeals**

Annulling the Decision of the RTC (Branch 80), the CA held that petitioner had failed to comply with the requirements of Section 13, Republic Act No. 26. Citing *Republic v. Marasigan*,<sup>[4]</sup> it ruled that notices to adjoining owners and actual occupants of the land were mandatory and jurisdictional in an action for the judicial reconstitution of a certificate of title. It also opined that the RTC Decision had been rendered without requiring a clearance from the LRA. Finally, it referred to earlier findings of the land registration commissioner that petitioner's TCT No. RT-78672 (213611) was fake.

Hence, this Petition.<sup>[5]</sup>

### **The Issues**

Petitioner raises the following issues for the consideration of this Court:

- "1. The Honorable Court of Appeals grossly erred in applying the provisions of Section 13 of R.A. No. 26, which is applicable only in relation to Section 12 of R.A. No. 26. Notices to adjoining owners and actual occupants of the land are not mandatory and jurisdictional in reconstitution of titles based on the owner's duplicate copy.
- "2. The Court of Appeals grossly erred in holding that 'clearance from the land registration authority' is a jurisdictional requirement.
- "3. The Court of Appeals grossly erred in holding that petitioner's TCT No. RT-87672 (213611) covering lot 119 is fake and spurious."<sup>[6]</sup>

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

The Petition is meritorious.

### **First Issue:** **Notice Requirement**

Respondent and the CA contend that notices to owners of adjoining lots are mandatory in the judicial reconstitution of a title. They cite as authority Section 13 of Republic Act No. 26,<sup>[7]</sup> which we reproduce hereunder:

"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."

The clear language of the law militates against the interpretation of respondent and the appellate court. The first sentence of Section 13 provides that the requirements therein pertain only to petitions for reconstitution filed under "the preceding section," Section 12, which in turn governs those petitions based on specified sources. We quote Section 12 below:

"SEC. 12. Petition for reconstitution from sources enumerated in Section 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 name 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 interest in the property; and (g) a statement that no deeds or other instruments affecting the property have 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 to 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 Commissioner of Land Registration, or with a certified copy of the description taken from a prior certificate of title covering the same property."

In other words, the requirements under Sections 12 and 13 do not apply to **all** petitions for judicial reconstitution, but only to those based on any of the sources specified in Section 12; that is, "sources enumerated in Section 2(c), 2(d), 2(e), 2(f), 3(c), 3(d), 3(e), and/or 3(f) of this Act."

Sections 2 and 3 of RA 26 provide as follows:

"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 had 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.

"SEC. 3. Transfer 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) The deed of transfer or other document on file in the registry of deeds, containing the description of the property, or an authenticated copy thereof, showing that its original had been registered, and pursuant to which the lost or destroyed transfer 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 documents, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that its original had been registered; and
- (f) Any other documents which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title." (italics supplied)

In the present case, the source of the Petition for the reconstitution of title was petitioner's duplicate copies of the two TCTs mentioned in Section 3(a). Clearly, the Petition is governed, not by Sections 12 and 13, but by Section 10 of RA 26. We quote said Section 10 in full:

"SEC. 10. Nothing hereinabove provided shall prevent any registered owner or person in interest from filing the petition mentioned in Section Five of this Act directly with the proper Court of First Instance, *based on sources enumerated in Section 2(a), 2(b), 3(a), 3(b), and/or 4(a) of this Act*: Provided, however, That the Court shall cause a notice of the petition, before hearing and granting the same, to be published in the manner stated in Section Nine<sup>[8]</sup> hereof: And provided, further, That certificates of title reconstituted pursuant to this section shall not be subject to the encumbrance referred to in Section Seven of this Act."

Nothing in this provision requires that notices be sent to owners of adjoining lots. Verily, that requirement is found in Section 13, which does not apply to petitions based on an existing owner's duplicate TCT.

Put differently, Sections 9 and 10 of RA 26 require that 30 days before the date of hearing, (1) a notice be published in two successive issues of the Official Gazette at the expense of the petitioner, and (2) such notice be posted at the main entrances of the provincial building and of the municipal hall where the property is located. The notice shall state the following: (1) the number of the certificate of title, (2) the