

THIRD DIVISION

[G.R. No. 136588, July 20, 2000]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. PILAR
ESTIPULAR, RESPONDENT.**

DECISION

PANGANIBAN, J.:

Republic Act No. 26 requires that a petition for reconstitution of a lost or destroyed certificate of title must be published in the Official Gazette and posted at the main entrance of the provincial and the municipal buildings of the place where the property is situated. This requirement is mandatory; strict compliance therewith is jurisdictional. Without such publication and *posting* at the main entrances of *both* the municipal and the provincial edifices, the trial court Decision granting the reconstitution is void.

The Case

This is the principle used by this Court in granting the Petition for Review before us, assailing the December 9, 1998 Decision^[1] of the Court of Appeals^[2] (CA) in CA-GR CV No. 53846. The dispositive portion of the challenged Decision reads as follows:

"WHEREFORE, premises considered, the appealed judgment is hereby
AFFIRMED in toto."^[3]

The decretal part of the Decision^[4] of the Regional Trial Court affirmed by the CA is worded thus:

"WHEREFORE, the Court finds the petition to be well-taken and supported by evidence. Hence, the petition is hereby GRANTED. The destroyed/burned original copy of Certificate of Title No. 154 is declared cancelled and the Register of Deeds of La Union is hereby directed to reconstitute in lieu thereof, the Original Certificate of Title No. 154, in favor of Fermin Estipular, which shall bear the annotation that the same is being issued in place of the destroyed/burned original copy in exactly the same terms and conditions using as basis the corresponding Owner's Duplicate Certificate of Title previously issued by the Registry of Deeds of La Union but shall in all respects be entitled to like faith and credit as the destroyed/burned original copy filed with the Registry Office, and shall thereafter be regarded as such for all purposes of the Property Registration Decree."^[5]

The Facts

This case is rooted in a Petition for Reconstitution of Title filed by Pilar Estipular

before the Regional Trial Court of La Union. The factual and the procedural antecedents of the case are summarized in the assailed CA Decision as follows:

"In her Petition for Reconstitution of Title, the petitioner, Pilar Estipular, declared that she [was] the only surviving legal heir of the late Fermin Estipular, who died intestate in Caba, La Union. During his lifetime, Fermin was issued Certificate of Title No. 154 duly registered in his own name by the Register of Deeds of La Union covering a parcel of land located at Barrio Liquicia, Caba, La Union, with an area of 6.1253 hectares. The said Certificate of Title was either destroyed or burned as a result of the burning of the Register of Deeds of La Union during the last World War. Further, it was alleged that the aforesaid parcel of land was declared for taxation purposes by Fermin and his heirs; that said estate is not mortgaged to any financial institution; nor is there any document pending registration affecting the said land. As the land was already declared and distributed to ten persons who have succeeded him, the petitioner prayed that the said Certificate of Title be reconstituted in accordance with law.

"On June 15, 1994, the court *a quo* ordered that a Notice of Hearing be published for two successive issues of the Official Gazette and be posted at the main entrance of the Municipal Building of Caba, La Union at least thirty (30) days from the initial hearing set for September 8, 1994 (*Records*, p. 8). A Certificate of Posting was submitted by Branch Sheriff Romeo Obiena proving that copies of the Petition and Notice of Hearing were posted at the main entrance of Municipal Building of Caba, La Union (*Records*, p. 9). However, the National Printing Office advised the lower court to reschedule its original date of hearing as it could not meet the schedule of publication (*Records*, p. 11). On August 12, 1994, another Notice of Hearing was issued by the trial court, resetting the initial hearing to December 7, 1994. (*Records*, p. 13). In view thereof, a second Certificate of Posting was issued by Branch Sheriff concerning the administrative case (*Records*, p.16). In the same manner, the National Printing Office issued a Certificate of Publication showing that the said petition for reconstitution was published in the Official Gazette for two successive weeks on October 17 and 24, 1994.

"On November 2, 1994, the Office of the Solicitor General entered its appearance as counsel for the respondent Republic and deputized the Provincial Prosecutor of La Union to appear [o]n its behalf in connection with the subject case (*Records*, p.20).

"The initial hearing materialized on December 7, 1994. The petitioner and the public prosecutor appeared [i]n such hearing. The case was called to invite private oppositors to come forthwith, but nobody registered his/her opposition. Due to the absence of the counsel for the petitioner, the latter was allowed to establish jurisdictional facts at the next hearing date, January 24, 1995. On the latter date, the petitioner presented the jurisdictional facts with the corresponding documentary requirements prescribed by law, to wit:

"Exhibit "A".... - Petition dated June 9, 1994;
Exhibit "A-1".... - Verification of petition;
Exhibit "B".... - Certified True Copy of Certificate of Title No. 154;
Exhibit "C".... - Survey Plan for the Titles;
Exhibit "D".... - Technical Description;
Exhibit "E".... - Certification of the Provincial Assessor;
Exhibit "F".... - Notice of Hearing;
Exhibit "G".... - Certificate of Publication issued by the National Printing Office;
Exhibit "H".... - Certificate of Posting;
Exhibit "I".... - Notice of Appearance of the Solicitor General."

"When the Exhibits were offered in evidence, the Public Prosecutor never interposed any objection, hence, all the exhibits were admitted. Petitioner Pilar Estipular's testimony was offered to prove that she caused the reconstitution of Certificate of Title No. 154 of the Register of Deeds of La Union.

"Two (2) other witnesses, Davidson Estipular and Juvenal Estacio, testified for the petitioner. The grandson of the petitioner, Davidson Estipular, stated that the land covered by the title in question (owner's duplicate) [was] existing and that the original title was burned in the Register of Deeds of La Union. Mr. Juvenal Estacio, the representative of the Register of Deeds of La Union, testified that all the pre-war records in the said office were either burned, destroyed or stolen during the last World War.

"After the presentation of evidence, the lower court rendered the questioned decision."

The CA Ruling

Although the Notice of Hearing had not been posted at the main entrance of the provincial building, the CA held that there was substantial compliance with the requirements of the law. It ruled:

"It is a settled rule that proceedings for judicial reconstitution of certificates of title are proceedings *in rem*. Thus, NOTICE OF HEARING BY PROPER PUBLICATION IS SUFFICIENT TO CLOTHE THE COURT WITH JURISDICTION (*Calalang vs. Register of Deeds of Quezon City*, 231 SCRA 88, emphasis ours). The purpose of such publication is to apprise the whole world that such a petition has been filed and that whoever is minded to oppose it for good cause may do so within thirty (30) days before the date set by the court for hearing the petition. It is the publication of such notice that brings in the whole world as a party in the case and vests the court with jurisdiction to hear and decide it (*Republic vs. Court of Appeals*, 218 SCRA 773). Since there was a valid publication of the Notice of Hearing in the Official Gazette, then it is sufficient to vest jurisdiction upon the court to hear and determine the petition."^[6]

"Viewed in proper perspective, the failure of the petitioner to post the Notice of Hearing at the main entrance of the provincial capitol building does not detract from the fact that there was a substantial compliance with the provisions of the law. It must be noted that the Branch Sheriff issued two (2) Certificates of Posting (*Records*, pp. 9 and 16) at the main entrance of the municipal building where the land [lay]. Coupled with the successive publications in the Official Gazette, it was more than enough to serve the purpose of notifying all the parties concerned that a petition ha[d] been filed and that whoever ha[d] an interest therein to oppose it for good cause should come to court and prove his claim. As it [was], no private parties opposed the petition. No other claimant x x x came forward. On the other hand, the government was ably represented by the Public Prosecutor so the appellant Republic was not in any manner deprived of the opportunity to protect its rights or interests over the land subject of the petition."^[7]

Hence, this recourse by the Republic.^[8]

The Issue

Petitioner submits this lone issue for the resolution of this Court:

"The sole issue for resolution is whether or not supposed substantial compliance with the requirements of Republic Act No. 26 is sufficient to confer jurisdiction on the trial court over the case."^[9]

The Court's Ruling

The Petition is meritorious.

Main Issue:

Requirements for Reconstitution of Title Are Mandatory and Jurisdictional

Jurisdiction over the subject matter or nature of the action is conferred only by the Constitution or by law. It cannot be (1) granted by the agreement of the parties; (2) acquired, waived, enlarged or diminished by any act or omission of the parties; or (3) conferred by the acquiescence of the courts.^[10] Republic Act No. 26^[11] lays down the special requirements and procedure that must be followed before jurisdiction may be acquired over a petition for reconstitution of title. In Section 13 of said Act, these requirements and procedure are provided as follows:

"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