

EIGHTH DIVISION

[CA-G.R. CV No. 101804, March 23, 2015]

**LUISITA DEALO NOCHE, PETITIONER-APPELLEE, VS. REPUBLIC
OF THE PHILIPPINES, OPPOSITOR-APPELLANT.**

D E C I S I O N

LANTION, J.A.C., J.:

Before Us is an Appeal filed by Oppositor-Appellant Republic of the Philippines (Oppositor-Appellant), through the Office of the Solicitor General (OSG), from the Order^[1] dated 12 July 2013 rendered by the Regional Trial Court, Branch 57 of Lucena City (RTC) in MISC. CASE NO. 2009-70. The *fallo* of the assailed Order reads:^[2]

WHEREFORE, premises considered, the petition is GRANTED, and the Registry of Deeds of Quezon Province is hereby ordered to reconstitute the original copy of Original Certificate of Title No. 17687 registered in the name of Ariston Dealo, covering Lot No. 3831 of the Cadastral Survey of Tayabas, entered pursuant to Decree No. 218696 in Cadastral Case No. 22, GLRO Cad. Record No. 611, under the same terms and conditions set forth therein, to be considered as the original copy of the title for all legal intents and purposes, in lieu of the missing title, which is hereby declared null and void, upon finality of this Order and payment of the required legal fees.

As to the prayer for issuance of a second owner's copy, with the reconstituted Original Certificate of Title No. 17687, Section 16 of Republic Act No. 26 will apply which directs the register of deeds to issue the corresponding owner's duplicate.

SO ORDERED.

THE FACTS

On 27 May 2009, Petitioner-Appellee Luisita Dealo Noche (Petitioner-Appellee) filed a verified petition for reconstitution of Original Certificate of Title (OCT) No. 17687, allegedly under the name of Ariston Dealo (her father), before the RTC involving a parcel of land denominated as Lot 3831 located in the Municipality of Tayabas, Quezon containing an area of forty three thousand nine hundred thirty three (43,933) square meters (subject land).^[3] Petitioner-Appellee alleged that she inherited the subject land from her parents, but was not able to transfer the title of the same to her name. Petitioner-Appellee learned that the original copy of OCT No. 17687 on file with the Registry of Deeds of Quezon was missing as the same was believed to have been destroyed due to old age and natural causes. Thus, Petitioner-Appellee prayed for the issuance of an order granting her petition for

reconstitution of OCT No. 17687.

Finding the petition to be sufficient in form and substance, on 22 July 2009, the RTC set the initial hearing of the petition on 10 December 2009.^[4] Thereafter, notices of hearing were published in two (2) successive issues of the Official Gazette.^[5] The same were also posted in the following conspicuous places:^[6] at the RTC Hall of Justice; at the Provincial Capitol Building of Lucena City; at the Municipal Hall of Tayabas, Quezon; at the Barangay Hall of Barangay Camaysa, Tayabas, Quezon; and on the subject property itself.

The testimony of Petitioner-Appellee, the lone witness, is summarized as follows:^[7]

Petitioner Luisita Dealo Noche who testified on the basis of her Judicial Affidavit declared that she inherited the [subject property] from her deceased parents, Ariston Dealo and Milagros Dealo by virtue of a *Pagtalikod sa Karapatan*, dated March 5, 1985, executed by her mother, Milagros Dealo and her siblings, Grace Dealo and Ariston Dealo, Jr. and *Paglilipat sa Sarili ng Ari-arian ng Namatay na may Pagtalikod sa Karapatan*, dated April 30, 2009, however, she was not able to transfer the title of the property in her name as the original copy of [OCT] No. 17687 on file with the Registry of Deeds of Quezon Province was considered missing as it has already disintegrated due to old age, while the owner's duplicate copy thereof kept in her house at Zaballero Subdivvion, Lucena City was also found missing and could no longer be located. Consequently, she executed an Affidavit of Loss attesting to the circumstances surrounding the loss of the owner's copy of the subject title and she also secured a Certification from the Registry of Deeds of Quezon Province dated May 9, 2008, attesting to the fact that despite efforts exerted by the personnel of said office, the original copy on file could no longer be found from the Book/Volume where it is supposed to be kept and it is believed to have been destroyed by natural causes. Further, petitioner claimed that she is presently in possession of the property covered by [OCT] No. 17687, which is an agricultural land, and the one paying the realty taxes due thereon. (Citations omitted)

In support of her petition, Petitioner-Appellee marked and presented the following evidence:

Exhibits "A" to "F" and submarkings – to prove compliance with the jurisdictional requirements.

Exhibit "G" – Certificate of Live Birth of Ma. Luisita R. Dealo (Petitioner-Appellee).

Exhibit "H" – Death Certificate of Ariston Dealo.

Exhibit "I" – Death Certificate of Milagros R. Dealo.

Exhibit "J" – *Pagtalikod sa Karapatan*, dated 05 March 1985, executed by Milagros Dealo, Grace Dealo Zaballero and Ariston Dealo, Jr.

Exhibit "K" – *Pagtalikod sa Karapatan ng Ari-arian ng Namatay na may*

Pagtalikod sa Karapatan, dated 30 April 2009, executed by Petitioner-Appellee.

Exhibit "L" to "L-4" – Tax Declaration Nos. 38-032-1104, 38-032-0022, 032-0083, 20-13-044, and 4687.

Exhibit "M" – Certification Issued by the Land Registration Authority dated 02 December 2008.

Exhibit "N" – Certification issued by the Registry of Deeds of Quezon Province dated 09 May 2008.

Exhibit "O" – Certified Technical Description of Lot 3831 Cad-140 issued by the Regional Survey Division of the Bureau of Lands.

Exhibit "P" – Affidavit of Loss dated 27 May 2009 executed by Petitioner-Appellee to prove the fact of loss of the subject title.

Exhibit "Q" – Judicial Affidavit of Petitioner-Appellee.

On 12 July 2013, the RTC rendered the challenged Decision granting the petition and ordering the Registry of Deeds of Quezon to reconstitute the original copy of OCT No. 17687.^[8]

Finding the foregoing Decision contrary to law, evidence and jurisprudence, Oppositor-Appellant, through the OSG, filed a Notice of Appeal^[9] on 06 August 2013.

Hence, this Appeal.

ISSUE

Oppositor-Appellant raises the following lone assigned error:^[10]

THE TRIAL COURT ERRED WHEN IT GRANTED THE RECONSTITUTION OF OCT NO. 17687 EVEN IF PETITIONER FAILED TO PROVIDE HIGH INCONTROVERTIBLE EVIDENCE AS BASIS FOR SAID RECONSTITUTION.

OUR RULING

Oppositor-Appellant is of the position that the documentary evidence submitted by Petitioner-Appellee is insufficient to warrant the reconstitution of OCT No. 17687.^[11] According to Oppositor-Appellant, a reading of the Certification issued by the Register of Deeds of Lucena City, Quezon shows that OCT No. 17687 is missing from where it is supposed to be kept and presumed to have disintegrated by natural causes, but the same failed to state: that the said Title has been lost or destroyed; or that it was in force at the time it was lost or destroyed. Oppositor-Appellant further argues that the Certification of the Land Registration Authority merely indicates that Decree No. 218696 was issued on 24 July 1926 regarding Lot No. 3831 (the subject land), but did not provide that OCT No. 17687 was issued under the name Ariston Dealo. In support thereof, Oppositor-Appellant cites *Republic v. El Gobierno de las Islas Filipinas* in which the Supreme Court pronounced:^[12]

We also find insufficient the index of decree showing that Decree No. 365835 was issued for Lot No. 1499, as a basis for reconstitution. We noticed that the name of the applicant as well as the date of the issuance of such decree was illegible. **While Decree No. 365835 existed in the Record Book of Cadastral Lots in the Land Registration Authority as stated in the Report submitted by it, however, the same report did not state the number of the original certificate of title, which is not sufficient evidence in support of the petition for reconstitution.** The deed of extrajudicial declaration of heirs with sale executed by Aguinaldo and Restituto Tumulak Perez and respondent on February 12, 1979 did not also mention the number of the original certificate of title but only Tax Declaration No. 00393. As we held in *Tahanan Development Corp. vs. Court of Appeals*, the absence of any document, private or official, mentioning the number of the certificate of title and the date when the certificate of title was issued, does not warrant the granting of such petition. (Emphasis supplied)

Oppositor-Appellant continues that the tax declarations presented by Petitioner-Appellee cannot be the basis for reconstitution since jurisprudence holds that the same are, at most, only *prima facie* evidence of possession or a claim of ownership, which is not the issue in reconstitution proceedings.^[13] It is also emphasized by Oppositor-Appellant that Petitioner-Appellee admitted in court that she has not seen OCT No. 17687 nor had the same come into her possession.^[14] Thus, Oppositor-Appellant submits that Petitioner-Appellee failed to provide sufficient evidence as basis for the petition for reconstitution. Consequently, the RTC erred in granting the same.

We agree.

The reconstitution of a title or deed involves the re-issuance of the copy of the certificate of title purportedly lost or destroyed in its original form and condition;¹⁵ reconstitution proceedings do not pass upon the ownership of the the land covered by a lost or destroyed title. The purpose therefor is to have the instrument concerned reproduced, after observing the proper legal proceedings, in the same form as it was prior to the occurrence of its loss or destruction.^[16]

The law governing reconstitution of certificates of title is Republic Act (R.A.) No. 26. Section 15 thereof provides:^[17]

SECTION 15. If the court, after hearing, finds that the documents presented, as supported by parol (sic) evidence or otherwise, are sufficient and proper to warrant the reconstitution of the lost or destroyed certificate of title, and that the petitioner is the registered owner of the property or has an interest therein, that the said certificate of title was in force at the time it was lost or destroyed, and that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title, an order of reconstitution shall be issued. The clerk of court shall forward to the register of deeds a certified copy of said order and all the documents which, pursuant to said order, are to be used as the basis of the reconstitution. If the court finds that there is no sufficient evidence or basis to justify the reconstitution, the petition shall be dismissed, but

such dismissal shall not preclude the right of the party or parties entitled thereto to file an application for confirmation of his or their title under the provisions of the Land Registration Act.

In *Republic v. Tuastumban*, the Highest Court synthesized the requisites that must be observed before an order granting reconstitution of a title or deed is warranted, in this wise:^[18]

1. The certificate of title had been lost or destroyed.
2. The documents presented by petitioner are sufficient and proper to warrant reconstitution of the lost or destroyed certificate of title.
3. The petitioner is the registered owner of the property or had an interest therein.
4. The certificate of title was in force at the time it was lost and destroyed.
5. The description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title.

After carefully sifting through the evidence on record, this Court finds that Petitioner-Appellee was not able to show that all of the above requisites obtain.

Regarding the first requisite, it is emphasized that the law explicitly requires that the certificate of title concerned is lost or **destroyed**.^[19] The statute is clear, unambiguous, and leaves no room for interpretation. Guided by the latin maxim "*verba legis non est recedendum*" – from the words of a statute there should be no departure^[20] – the said law must be given its literal meaning and applied without interpretation.^[21] In the instant case, however, the Register of Deeds of Lucena City, Quezon Province did not declare that OCT No. 17687 was lost or destroyed, but found that the same was merely **missing** from where it is supposed to be kept, **presumed** to have disintegrated, and **believed** to have been destroyed.^[22] Therefore, absent any categorical certification that OCT No. 17687 was lost or destroyed, the first requisite is absent.

Anent the second requisite, that the documents presented by petitioner are sufficient and proper to warrant reconstitution of the lost or destroyed certificate of title, R.A. 26 mandates that the sources upon which reconstitution should issue are:^[23]

- (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;