

NINTH DIVISION

[CA-G.R. CV NO. 93944, March 27, 2014]

**IN THE MATTER OF PETITION FOR JUDICIAL RECONSTITUTION
AND ISSUANCE OF TCT NO. 348500 OF THE REGISTER OF DEEDS
OF QUEZON CITY
ELSA LAPAK ATANACIO, PETITIONER-APPELLANT, VS. REPUBLIC
OF THE PHILIPPINES, OPPOSITOR-APPELLEE.**

D E C I S I O N

GARCIA-FERNANDEZ, J.:

This is an appeal filed by petitioner-appellant from the decision dated January 5, 2009^[1] issued by the Regional Trial Court of Quezon City, Br. 224 in LRC Case No. Q-05-20293, dismissing the petition for judicial reconstitution of Transfer Certificate of Title No. 257656 and issuance of a second owner's duplicate copy of said title.

The facts based on the record are as follows:

On August 9, 2005, petitioner-appellant filed a petition for judicial reconstitution of the original TCT No. 257656 and issuance of a second owner's duplicate copy^[2] thereof with the Regional Trial Court of Quezon City (RTC), alleging that she and her husband are the registered owners of the parcel of land registered under TCT No. 257656^[3], as shown by a photocopy of said title; that they bought the property from Honorata E. Cariaso by virtue of a deed of absolute sale; that the original copy of said title, kept on file with the Registry of Deeds of Quezon City, was among those lost or destroyed during the fire that razed the Quezon City Hall on June 11, 1988; that the owner's duplicate of the title, which was kept at her house was also lost due to flood in November 1998; and that petitioner-appellant executed an affidavit of loss^[4] attesting to the loss of the duplicate title. Petitioner-appellant claims that the original copy of TCT No. 257676 may be reconstituted on the basis of the following documents: 1) photocopies of the real property tax bill and original receipt^[5] issued by the Office of the Treasurer, Quezon City; 2) photocopies of the location plan^[6] and vicinity map^[7] of the subject property; and 3) photocopies of the owner's copy of declaration of real property for year 1995^[8] and the certification^[9] issued by the Office of the Treasurer, Quezon City to prove that the subject property was declared for tax purposes.

The RTC issued an the order dated October 11, 2005^[10], setting the hearing on the petition on January 25, 2006 and ordering the following: publication and posting of said order; service of said order and copy of the petition to the Office of the Solicitor General, Land Registration Authority, Register of Deeds of Quezon City, Regional Executive Director of the Department of Environment and Natural Resources, City Prosecutor's Office, and adjoining owners of the subject property.

During the hearing on January 25, 2006, only petitioner-appellant's counsel appeared; hence, the RTC reset the hearing to March 29, 2006.^[11]

On March 2, 2006, the Republic of the Philippines opposed^[12] the petition, alleging that the documents submitted by petitioner for the reconstitution are not recognized sources for reconstitution under Section 2 of Republic Act No. 26, entitled, "An Act Providing A Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed"; and that the petition must be held in abeyance since petitioner-appellant failed to submit the documents first to the Land Registration Authority (LRA).

The LRA filed a manifestation^[13] on March 3, 2006, stating that based on its records, petitioner-appellant did not submit the following documents to the LRA: 1) certification from the Register of Deeds of Quezon City that the original copy of said title was either lost or destroyed; 2) the original technical description of the subject property, certified by the authorized officer of the Land Management Bureau; and 3) the sepia film plan of the subject property prepared by a licensed Geodetic Engineer and two (2) blue print copies thereof, all of are required pursuant to LRC Circular No. 35 dated June 13, 1983 in relation to Supreme Court Circular No. 7-96 dated July 15, 1996.

During the hearing on June 14, 2006, petitioner-appellant was given ninety (90) days within which to comply with the documentary requirements. After several postponements, petitioner-appellant filed her amended petition with the RTC on April 10, 2007^[14], attaching therewith the following documents for the reconstitution of the original copy of TCT No. 257656: 1) original copy of the real property tax bill and official receipt issued by the Office of the Treasurer, Quezon City^[15]; 2) original copy of the special plan (sepia film plan) of the subject property^[16]; 3) original copy of the technical description of the subject property^[17]; and 4) photocopy of the certification from the Register of Deeds that the original of TCT No. 257656 was lost due to fire that razed the Quezon City Hall building on June 11, 1988^[18].

Meanwhile, the Republic as oppositor-appellee filed its opposition^[19] to the amended petition, claiming that the real property tax bill, sepia film plan, and the tax declaration of the subject properties cannot be considered as documents that are similar in nature to those enumerated in Sections 2(a), (b), (c), and (d) of R.A. No. 26.

During the hearing, petitioner-appellant presented her evidence^[20] and formally offered her evidence on October 3, 2008^[21].

In the decision dated January 5, 2009^[22], the RTC dismissed the petition without prejudice, ruling that petitioner-appellant failed to present the proper documents as bases for the reconstitution of TCT No. 257656, stating:

"Petitioner failed in this aspect. She prays that the original copy of Transfer Certificate of Title No. 257656 be reconstituted on the basis of the following documents: a)Original copy of the Real Property Tax Bill and Official Receipt, b) Original copy of the Special Plan (Sepia film Plan), c)

Original copy of the Technical Description, and d) Photocopy of the Certification from the Register of Deeds of Quezon City. The above-mentioned documents (a,b,c, and d) are not among those mentioned in Section 2 of Republic Act No. 26. Neither can these documents be classified as any other documents, which in the judgment of this Court is sufficient and proper basis for reconstituting TCT No. 257656 (Section 2, Par. (f), R.A. 26). These documents could not be similar to those enumerated in Section 2 (a), (b), (c) and (d) of R.A. 26 and not even the presentation of the Location plan (Sepia Film Plan) and the Technical Description are only additional documents required when the basis of the reconstitution is one of those stated in Section 2(f) of R.A. 26. Since the Court finds that the documents presented by the petitioner do not fall in Par. (f), Section 2 of R.A. 26, the submitted "technical description" and "the plan" do not serve their purpose. Moreso, they cannot be considered as bases in reconstituting the subject title because under the law, they are not recognized sources thereof."

Petitioner-appellant's motion for reconsideration was denied by the RTC in its order dated April 13, 2009^[23] for lack of merit. Hence, this appeal.

In this appeal, petitioner-appellant alleges that the RTC erred in ruling that the evidence she presented are not sufficient bases for the reconstitution of TCT No. 257656; that the decision was not in accord with the case of Republic vs. de la Raga (G.R. No. 161042, August 24, 2009), wherein the Supreme Court stated that the payment of real property taxes, the possession of the property and enjoyment of the fruits thereof, the absence of any encumbrance over the property and the fact that there are no other claimants are sufficient evidence for reconstitution of title.

The appeal is devoid of merit.

Section 2 of R.A. No. 26 enumerates in the following order the sources from which reconstitution of lost or destroyed original certificates of title may be based:

"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;