

FIRST DIVISION

[CA-G.R. CV NO. 82844, August 16, 2006]

**MARIA THERESA T. TUGADI-DAVID, PETITIONER-APPELLEE, VS.
REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.**

DECISION

DE GUIA-SALVADOR, J.:

Challenged in this appeal is the decision dated May 28, 2004 rendered by the Regional Trial Court of Quezon City, Branch 223, in LRC Case No. 16687 (03),^[1] the dispositive portion of which states:

"WHEREFORE, premises considered, pursuant to Section 15 of Republic Act No. 26 as amended by Section 110 of Presidential Decree No. 1529, the Register of Deeds of Quezon City is hereby ordered to RECONSTITUTE the Original Copy of Transfer Certificate of Title No. 117459 in the names of Orlando Tiamson and Erlinda Tiamson, upon finality of this Order and upon payment by the petitioner of the fees required therefore, subject to such encumbrances as may be subsisting thereon and provided that no certificate of title covering the same parcel of land exists in the office of the Register of Deeds concerned.

SO ORDERED."^[2]

The Facts

It appears that, under Transfer Certificate of Title No. 117459 of the Quezon City registry, the siblings Orlando and Erlinda Tiamson were the owners of the 310.80 square meter parcel of land denominated as Lot No. 14-B of the subdivision plan (LRA) Psd 71300, situated in Diliman, Quezon City.^[3] Upon his death on September 18, 1969, Orlando Tiamson was survived in intestacy by his wife, Violeta Servero and their only son, Orlando Tiamson. Erlinda Tiamson also died intestate on August 27, 1994 and was, in turn, survived by her children with her husband Simeon Tuonquin Tugadi, namely, Jose Christopher, Maria Susana and appellee Maria Theresa, all surnamed Tugadi. It was on August 31, 2002 that said heirs of the registered owners executed the Deed of Extrajudicial Settlement of Estate adjudicating the subject parcel unto themselves in accordance with the rules on succession.^[4]

On June 24, 2003, appellee commenced the case at bench with the filing of her petition for reconstitution of Transfer Certificate of Title No. 117459. She alleged, among other matters, that the owner's duplicate copy of said title had been lost one week prior to the loss of the original thereof in the fire that razed the Quezon City Hall Building on June 11, 1988; and that having already executed the aforesaid deed of extrajudicial settlement of the estate of their predecessors-in-interest, she and

her co-heirs were unable to complete the process in view of the loss and/or destruction of the original and duplicate copies of said title. In support of her prayer for the reconstitution thereof, appellee attached to her petition^[5] plain copies of the same title,^[6] the special power of attorney executed in her favor by her brother, Jose Christopher Tugadi,^[7] the certification regarding the loss of the original issued by the Quezon City Registry of Deeds,^[8] the tax declaration filed for the property,^[9] the certifications issued by the Office of the Quezon City Assessor regarding its boundaries^[10] and the assessed value of the land as well as the improvements thereon,^[11] together with copies of the August 31, 2002 Deed of Extrajudicial Settlement of Estate^[12] and the affidavit attesting to the due publication thereof in the weekly newspaper **Thunderer**.^[13]

Finding the petition sufficient in form and substance, the trial court issued the July 11, 2003 order setting the same for hearing on November 7, 2003 and directing, among others, the sending of copies thereof to appellee, the Office of the Solicitor General, the Register of Deeds of Quezon City, the Secretary of the Department of Environment and Natural Resources, the Land Registration Authority and the Office of the Quezon City Prosecutor.^[14] At the request of the Chief of the Reconstitution Division of the Land Registration Authority,^[15] the trial court likewise directed appellee to submit to said office copies of the petition, the certification regarding the loss of the original of the title sought to be reconstituted, the technical description of the subject parcel as well as the sepia film plan therefore and the blue print copies thereof.^[16] Alongside the compliance with its service^[17] and posting requirements,^[18] the trial court's July 11, 2003 was, likewise, published in the September 8 and 15, 2003 issues of the Official Gazette.^[19]

With the initial hearing having been reset thrice,^[20] the trial court received evidence of appellee's compliance with the jurisdictional requirements for the petition on March 5, 2004. Authorized thereat to present her evidence **ex parte**,^[21] appellee went on to take the witness stand^[22] and to proffer the following additional pieces of documentary evidence, viz: (a) the Technical Description of the property;^[23] (b) the report from the Land Registration Authority that said technical description had been verified to be correct;^[24] and, (c) the Sketch/Special Plan for the subject property.^[25] Having been appointed as commissioner, the Branch Clerk of Court also submitted her report dated May 7, 2004.^[26]

On May 28, 2004, the trial court rendered the appealed decision upon the following findings and conclusions, to wit:

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"Accordingly, considering that all records, deeds and documents filed with the Register of Deeds were burned in the fire that razed the Quezon City Hall on June 11, 1988, petitioner's recourse is only to submit the documentary evidence under par. (f), Section 3 of Republic Act No. 26, consisting of the above-cited Report from the LRA based on the Special Plan of Lot 14-B (LRC) PSD-71300 covered by the TCT No. 117459, and the technical description of the property as prepared by the DENR on

February 27, 2001, and certified and found correct by the Land Registration Authority; as well as the Tax Declaration I the name of Orlando Tiamson and Erlinda Tiamson.

All premises considered, the Court finds that petitioner has substantially established and shown that the reconstitution of Transfer Certificate of Title No. 117459 is warranted under the premises on the basis of the plan and description of Lot 14-B of the subdivision plan (LRC) Psd-71300, as recommended by the Department of Environment and Natural Resources and approved by the Land Registration Authority. Notices and other fundamental requirements of the law for reconstitution having been complied with and on the basis of the evidence adduced in support thereof, the Court finds that petitioner has sufficiently established her claim with clear and convincing evidence as warranting the relief prayed for.”^[27]

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Dissatisfied with the foregoing decision, the Office of the Solicitor General filed the June 18, 2004 Notice of Appeal on behalf of appellant Republic of the Philippines.^[28]

The Issues

Appellant seeks the reversal of the appealed decision on the ground that the trial court reversibly erred as follows:

“I

THE TRIAL COURT ERRED IN GRANTING THE PRESENT PETITION FOR RECONSTITUTION BECAUSE APPELLEE FAILED TO COMPLY WITH THE MANDATORY REQUIREMENTS PROVIDED FOR UNDER SECTIONS 12 AND 13 OF REPUBLIC ACT (R.A.) NO. 26 IN RELATION TO SECTION 110 OF P.D. NO. 1529.

II

THE TRIAL COURT ERRED IN GRANTING THE PETITION FOR RECONSTITUTION OF THE ORIGINAL COPY OF TRANSFER CERTIFICATE OF TITLE (T.C.T.) NO. 117459 FOR FAILURE OF APPELLEE TO PRESENT CLEAR AND CONVINCING EVIDENCE OF PROOF OF OWNERSHIP OF SUBJECT PARCEL OF LAND.”^[29]

The Court’s Ruling

We find the appeal impressed with merit.

Reconstitution is simply a remedy which prays for the reissuance of a new certificate of title allegedly lost or destroyed in its original form and condition.^[30] Its purpose is to have the same reproduced, after observing the procedure prescribed by law,^[31] in the same form they were when the loss or destruction occurred.^[32] The rule is settled that the trial court is duty bound to issue an order of reconstitution where,

after hearing, it finds: (a) that the evidence presented is sufficient and proper to warrant reconstitution of the lost or destroyed certificate; (b) that the petitioner is the registered owner or has an interest in the property; and, (c) that said certificate was in force at the time it was lost or destroyed. The aforesaid duty is mandatory, *i.e.*, the law does not give the court discretion to deny the reconstitution if all the basic requirements have been complied with.^[33]

It goes without saying, however, that the application of the foregoing principles requires that the person seeking judicial reconstitution should comply with the requirements and procedures therefor laid down by law. Insofar as the petition at bench is concerned, appellant calls our attention to Sections 12 and 13 of Republic Act No. 26 which provides as follows:

"Section 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 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 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 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) of 3(f) of this Act, the petition shall be further be accompanied with a plan and technical description of the property duly approved by the Chief of the General Land Registration Office, or with a certified copy of the description taken from a prior certificate of title covering the same property.

Section 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