

Republic of the Philippines  
Supreme Court  
Manila

CERTIFIED TRUE COPY  
*Wilfredo V. Lapitan*  
WILFREDO V. LAPITAN  
Division Clerk of Court  
Third Division

NOV 11 2016

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES,

G.R. No. 209385

Petitioner,

Present:

VELASCO, JR., J.,  
Chairperson,  
PERALTA,  
PEREZ,  
MENDOZA,\* and  
REYES, JJ.

- versus -

SALUD ABALOS and JUSTINA CLARISSA P. MAMARIL,

Promulgated:

Respondents.

August 31, 2016

X-----*Wilfredo V. Lapitan*-----X

RESOLUTION

REYES, J.:

Before the Court is a petition for review on *certiorari*<sup>1</sup> under Rule 45 of the Rules of Court seeking the review and nullification of the Decision<sup>2</sup> dated September 23, 2013 of the Court of Appeals (CA) in CA-G.R. CV No. 96942, filed by the Republic of the Philippines (petitioner) through the Office of the Solicitor General (OSG).

Antecedent Facts

In 2007, Justina Clarissa Mamaril (Mamaril) bought on installment basis a parcel of land located in Barrio Concepcion, Municipality of Rosario, La Union from her aunt, Salud Abalos

\* Additional Member per Raffle dated March 11, 2015 *vice* Associate Justice Francis H. Jardeleza.  
<sup>1</sup> *Rollo*, pp. 9-20.  
<sup>2</sup> Penned by Associate Justice Pedro B. Corales, with Associate Justices Sesinando E. Villon and Florito S. Macalino concurring; *id.* at 23-32.

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(Abalos). The piece of land is covered by Transfer Certificate of Title (TCT) No. T-24567. Abalos entrusted to Mamaril the owner's duplicate copy of the TCT upon the first payment of installment made by the latter. Sometime in 2008, Mamaril agreed to lend the title of the land to Abalos who was in dire need of money. Abalos used the said title of land as collateral for the loan she intended to secure from the Rural Bank of Rosario, San Fabian Branch. The mortgage was cancelled in 2009. Upon full payment of the last installment due, Mamaril requested Abalos to return the owner's duplicate copy of the title. However, Mamaril discovered that the duplicate copy of the TCT was already missing.<sup>3</sup>

Mamaril went to the Register of Deeds (RD) of San Fernando City, La Union to secure a copy of the original certificate of title of the parcel of land. To her dismay, the said office claimed that no records pertaining to her title were found and such may have been one among those files not recovered from a fire which razed their office on August 26, 2000.<sup>4</sup>

On August 17, 2009, Mamaril and Abalos (respondents) filed a petition for reconstitution of title covering the subject parcel of land before the Regional Trial Court (RTC) of Agoo, La Union and prayed that a new owner's duplicate certificate of title be issued in lieu of the lost one.<sup>5</sup> In support of the petition, the respondents offered the following documents: Print Copy of the Microfilm Copy of TCT No. T-24567; Deed of Absolute Sale dated July 22, 2009; Certification from the RD of San Fernando City, La Union; Tax Receipts; Certification of Mortgage; and Withdrawal and Release Paper from the Rural Bank of Rosario.<sup>6</sup>

### **Ruling of the RTC**

In its Decision<sup>7</sup> dated January 31, 2011, the RTC partially granted the petition filed by the respondents. It granted the petition for reconstitution but denied the prayer for the issuance of new owner's duplicate copy of title due to their failure to file an affidavit of loss before the RD. The dispositive portion reads:

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<sup>3</sup> Id. at 52-53.

<sup>4</sup> Id. at 44.

<sup>5</sup> Id. at 11. The case was raffled to Branch 32.

<sup>6</sup> Id. at 53.

<sup>7</sup> Rendered by Presiding Judge Jennifer A. Pilar; id. at 51-54.

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**WHEREFORE**, the foregoing considered, the instant petition is partly granted. The Reconstituting Officer of the [RD] of La Union is ordered to reconstitute TCT No. T-24567, in exactly the same terms and conditions as the lost title with all the annotations and encumbrances imposed thereon, upon payment by the [respondents] of lawful fees.

Serve a copy of this Decision upon the [RD] of San Fernando City, La Union, Provincial Prosecutor's Office of Agoo, La Union, [OSG] and Land Registration Authority.

**SO ORDERED.**<sup>8</sup>

The petitioner, through the OSG, filed a motion for reconsideration which the RTC denied in its Order<sup>9</sup> dated April 1, 2011.

### **Ruling of the CA**

The OSG brought its case before the CA raising the issue of whether the RTC erred in granting the respondents' petition for reconstitution of title. The CA resolved the case in favor of the respondents finding the documents they submitted sufficient to serve as bases for reconstituting the lost certificate of title.<sup>10</sup> The CA disposed of the case as follows:

**WHEREFORE**, the appeal is **DISMISSED**. The January 31, 2011 Decision of the [RTC], Branch 32, Agoo, La Union in Administrative Case No. A-3581 is hereby **AFFIRMED** *in toto*.

**SO ORDERED.**<sup>11</sup>

Aggrieved, the petitioner, through the OSG, filed the present petition for review on *certiorari* under Rule 45 of the Rules of Court claiming that the CA erred in affirming the RTC decision granting the respondents' petition for reconstitution of the subject parcel of land.<sup>12</sup> In support of its argument, the OSG asserts that the documents presented by the respondents are not enough to warrant reconstitution of title.<sup>13</sup>

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<sup>8</sup> Id. at 54.

<sup>9</sup> Id. at 55-56.

<sup>10</sup> Id. at 31.

<sup>11</sup> Id. at 32.

<sup>12</sup> Id. at 12.

<sup>13</sup> Id. at 15.

### Ruling of the Court

The petition is impressed with merit.

In several occasions, the courts were reminded to be cautious in granting the reconstitution of lost or destroyed certificates of title. The respondents sought to restore TCT No. T-24567 in exactly the same way before its alleged loss during the fire on August 26, 2000 in the RD of San Fernando City, La Union. Reconstitution of certificate of title partakes of a land registration proceeding and must be granted only upon clear proof that the title sought to be restored was indeed issued to the petitioner.<sup>14</sup> Jurisprudence prescribed the requirements to warrant the order of reconstitution, namely: (a) that the certificate of title had been lost or destroyed; (b) that the documents presented by petitioner are sufficient and proper to warrant reconstitution of the lost or destroyed certificate of title; (c) that the petitioner is the registered owner of the property or had an interest therein; (d) that the certificate of title was in force at the time it was lost or destroyed; and (e) that the description, area and boundaries of the property are substantially the same and those contained in the lost or destroyed certificate of title.<sup>15</sup> The respondents failed to meet these requisites. Notably, the respondents claimed the loss, not only of the original of the Torrens title on file with the RD but also that of the owner's duplicate copy. Due to the inability of the respondents to comply with the required affidavit of loss, the RTC denied the issuance of the owner's duplicate copy.

Republic Act (R.A.) No. 26, which is also known as An Act Providing a Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed, governs the petition filed by the respondents. Section 3 of R.A. No. 26 enumerates the bases or the sources from which the certificates of title shall be reconstituted. It reads:

**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

<sup>14</sup> *The Republic of the Philippines v. Santua*, 586 Phil. 291, 297 (2008).

<sup>15</sup> *Republic of the Philippines v. Lorenzo, et al.*, 700 Phil. 584, 594 (2012).



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 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.

The petition for reconstitution filed by the respondents was accompanied by the following documents:

- a) Microfilm print copy of TCT No. T-24567;
- b) Deed of Absolute Sale dated July 22, 2009;
- c) Certification stating that TCT No. T-24567 is not among those recovered after the August 26, 2000 fire that destroyed the RD;
- d) Four receipts for real property taxes;
- e) Cancellation and Discharge of Mortgage issued by Rural Bank;
- f) List prepared by the Rural Bank showing the document it released to Mamaril on November 30, 2005; and
- g) Official Receipt No. 0554 pertaining to the full payment of Abalos' obligation to Rural Bank.

The OSG argues that none of the aforementioned documents falls under Section 3(a) to 3(e) of R.A. No. 26. Consequently, the petition of the respondents may be treated as one filed under Section 3(f) of R.A. No. 26 which requires that the petition for reconstitution be 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 pursuant to the provision of Section 12 of R.A. No. 26.<sup>16</sup>

According to the OSG, since the respondents failed to present in evidence the plan and technical description of the subject parcel of land, their petition for reconstitution cannot be granted as there are no sufficient bases for it.<sup>17</sup>

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<sup>16</sup> *Rollo*, pp. 14-15.

<sup>17</sup> *Id.* at 15.

On the face of the inability of the respondents to establish the loss of the owner's duplicate copy which is one of the specifically enumerated competent sources for the reconstitution of title, the other pieces of evidence presented also failed to justify their prayer. The respondents anchored their plea for the grant of reconstitution of title mainly on the certified print copy of the microfilm of TCT No. T-24567 which the respondents deemed to qualify under Section 3(c) of R.A. No. 26. However, its authenticity was relentlessly questioned by the OSG on the ground that the person who signed the certification was not established as a public officer and that she has the custody of the original microfilm.<sup>18</sup> The Court cannot just brush aside serious doubts on the veracity of the evidence presented by the respondents supporting their case for reconstitution of title. Entrenched in jurisprudence is a warning directing the courts to be careful in granting reconstitution of lost or destroyed certificates of title, both original and duplicate owner's on the basis of documents and decrees made to appear authentic from mere photocopies and certifications of officials supposedly signed with the seals of their office affixed thereon, bearing in mind the ease and facility with which documents are made to appear as official and authentic.<sup>19</sup>

In order to shield the Torrens system from possible fraudulent schemes which threaten the stability and integrity of land ownership in the country, the Court finds it proper to remand the instant case to the RTC for consideration and further evaluation of contentious factual questions surrounding the existence of the subject Torrens title as well as the circumstances of its loss. The trial courts are mandated to scrutinize and carefully verify all supporting documents so that no fact, circumstance, or incident which corroborates or relates to the existence and loss of the title will be left unexamined.<sup>20</sup>

**WHEREFORE**, the petition is hereby partly **GRANTED**. The Decision dated September 23, 2013 of the Court of Appeals in CA-G.R. CV No. 96942 is hereby **REVERSED and SET ASIDE**. The case is **REMANDED** to the court of origin for further proceedings and proper disposition.

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<sup>18</sup> Id.

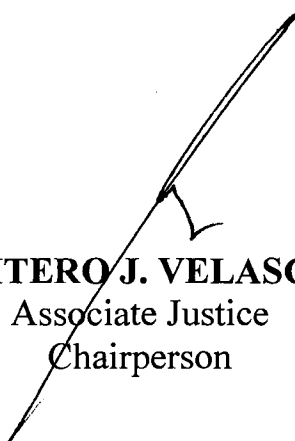
<sup>19</sup> *Heirs of Pastora Lozano v. The Register of Deeds of Lingayen, Pangasinan*, 530 Phil. 255, 270 (2006), citing *Tahanan Development Corporation v. CA, et al.*, 203 Phil. 652, 691-692 (1982).

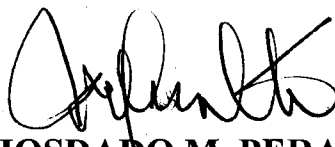
<sup>20</sup> *Pascua v. Republic of the Philippines*, 568 Phil. 746, 755 (2008).

**SO ORDERED.**

  
**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson


  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice

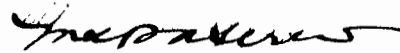
**ATTESTATION**

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Decision.

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

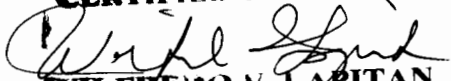
### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

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**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division

NOV 11 2016

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