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WHEREFORE, the petition is DENIED for lack of merit. The Decision dated January 30, 2002 of the Court of Appeals and its April 12, 2002 Resolution in CA-G.R. CV No. 55122 are AFFIRMED. Costs against petitioner.

SO ORDERED.

Davide, Jr., C. J.(Chairman), Ynares-Santiago, and *Carpio, JJ .*, concur.

Azcuna, J., on leave.

THIRD DIVISION

[G.R. No. 155126. November 9, 2004]

GABI MULTI PURPOSE COOPERATIVE, INC., *petitioner, vs.* **REPUBLIC OF THE PHILIPPINES,** *respondent.*

SYNOPSIS

In a complaint filed before the Regional Trial Court in Cebu City, respondent prayed for the annulment and cancellation of the defendants' title which had been illegally obtained, alleging that the titled parcels were not classified as alienable and disposable land because they encroached on parts of the Sudlon National Park. Respondent moved for a court-supervised relocation survey of the disputed lots which was granted by the trial court. Upon motion of petitioner, the trial court subsequently invalidated the faithfully conducted relocation survey and ordered a new one. Aggrieved, respondent filed with the Court of Appeals (CA) a petition for *certiorari* which was granted. Hence, this petition.

In denying the petition, the Supreme Court ruled that the trial court grossly abused its discretion in setting aside the

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relocation survey and in ordering a new one. A relocation survey faithfully conducted pursuant to a trial court order cannot be invalidated on an unsubstantiated allegation of irregularities, as in the case at bar.

The Court likewise ruled that the CA did not err in giving due course to the present case despite respondent's failure to file a motion for reconsideration with the trial court. In general, a motion for reconsideration is needed before a petition for *certiorari* under Rule 65 can be resorted to. The circumstances that respondent raised were recognized exceptions to this general rule, to wit: (a) there was an urgent necessity to resolve the issue of whether the relocation survey had been validly conducted, because further delay would have prejudiced both the government and public interest; and (b) reconsideration would have been useless, considering that the trial court had not only declared the relocation survey to be invalid, but also scheduled a conference-in-chambers to prepare for a new survey.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; ADMINISTRATIVE CODE OF 1987; DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES; HAS GENERAL AUTHORITY TO CONDUCT LAND SURVEYS; CASE AT BAR.**— [T]he law clearly grants the DENR general authority to conduct land surveys. In the absence of a contradictory provision in the September 14, 1999 Order, the Department was clearly authorized to undertake the relocation survey directed by the trial court. Furthermore, we find no reason to disturb the CA's finding that since the proponent was the Republic of the Philippines, the proper government agency entrusted with the task of conducting relocation surveys would naturally be utilized.

2. **REMEDIAL LAW; CIVIL PROCEDURE; SPECIAL CIVIL ACTIONS; *CERTIORARI*; A MOTION FOR RECONSIDERATION IS NEEDED BEFORE A PETITION FOR *CERTIORARI* UNDER RULE 65 CAN BE RESORTED TO; EXCEPTIONS.**— In general, a motion for reconsideration is needed before a petition for *certiorari* under Rule 65 can be resorted to. However, the following have been recognized as exceptions to the rule: "(a) where the order is a patent nullity, as where the Court *a quo* has no jurisdiction; (b) where the questions raised in the *certiorari*

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proceeding have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceedings [were] *ex parte* or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or where public interest is involved."

3. **ID.; ID.; ID.; ID.; ID.; PRESENT IN CASE AT BAR.**— Respondent deliberately failed to ask for reconsideration on the ground that the RTC Orders dated August 25, 2000 and September 14, 1999 were patently void; thus, a motion for reconsideration was useless. We sustain the CA in giving due course to the present case despite respondent's failure to file a motion for reconsideration with the trial court. Indeed, the circumstances that respondent raised were recognized exceptions to the general rule. There was an urgent necessity to resolve the issue of whether the relocation survey had validly been conducted, because further delay would have prejudiced both the government and public interest. Considering that the survey had been submitted sometime in December 1999 and the challenged Order issued on August 25, 2000, it was no longer prudent to wait again for the resolution of a reconsideration that would raise the same issues already passed upon. Moreover, reconsideration would have been useless, considering that the trial court had not only declared the relocation survey to be invalid, but also scheduled a conference-in-chambers to prepare for a new survey.

APPEARANCES OF COUNSEL

Muntuerto Fernan Miel Cavada Law Offices for petitioner.
The Solicitor General for respondent.

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DECISION

PANGANIBAN, *J.:*

A relocation survey faithfully conducted pursuant to a trial court order cannot be invalidated on an unsubstantiated allegation of irregularities. Thus, the trial court grossly abused its discretion in setting aside the relocation survey and in ordering a new one.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, assailing the April 29, 2002 Decision[2] and the September 4, 2002 Resolution [3] of the Court of Appeals (CA) in CA-GR SP No. 61444. The challenged Decision disposed as follows:

> *"WHEREFORE,* premises considered, the present petition is hereby *GRANTED.* The Order of the lower court dated August 25, 2000 is hereby *REVERSED* and *SET ASIDE* for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. The public respondent is directed to continue the proceedings in this case with dispatch until its final termination."[4]

The assailed Resolution denied petitioner's Motion for Reconsideration.

The Facts

A Complaint for Annulment and Cancellation of Titles was filed before the Regional Trial Court (RTC) in Cebu City by the Republic of the Philippines ("Republic") against Arturo C. Larrazabal, Marta Larrazabal, Corazon C. Larrazabal, Millie

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[1] *Rollo,* pp. 34-67.

[2] *Id.*, pp. 69-89. Special Eleventh Division. Penned by Justice B. A. Adefuin-de la Cruz (Division chair), with the concurrence of Justices Juan Q. Enriquez, Jr. and Regalado E. Maambong (members).

[3] *Id.*, p. 91.

[4] Assailed Decision, p. 21; *rollo*, p. 89.

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de la Riva-Larrazabal, Carlos Marquez, Jr., and the Register of Deeds of Cebu City.[5] Docketed as Civil Case No. CEB-17639, the suit alleged that respondent Republic was the owner of a parcel of public land in Sudlon, Cebu City, which had been segregated and reserved as the Sudlon National Park by Presidential Proclamation No. 56, s. 1936, per Land Classification Map No. 2124, Project No. 3-C of Cebu City.

Respondent prayed for the annulment and cancellation of defendants' titles, which had allegedly been obtained illegally. It alleged that the titled parcels were not classified as alienable and disposable land,[6] because they encroached on parts of the Sudlon National Park.

In their Answer, defendants contended that prescription, laches and estoppel barred respondent from questioning the disposition of the subject land.[7]

On March 26, 1996, the Republic filed an Amended Complaint (1) impleading Petitioner GABI Multi-purpose Cooperative ("GABI"); and (2) substituting the heirs of Marta and Arturo Larrazabal for the original defendants, Marta and Arturo. The pertinent allegations in the Amended Complaint are the following:

"5. Included in the said Sudlon National Park are parcels of land that were patented and titled in favor of the following, *viz:*

"5.1 ARTURO C. LARRAZABAL x x x

"Lot No. 18454-C. 07-01-0000134
(formerly a portion of Psu-195981)
Original Certificate of Title No. 2017
Free Patent No. (VII-1) 6605
Issued on April 14, 1977
Area: 40,855 square meters
Location: Gabi, Sudlon, Cebu City

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[5] *Id.*, pp. 2 & 70.

[6] *Ibid.*

[7] *Ibid.*

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"5.2 CORAZON C. LARRAZABAL x x x

"Lot No. 18454-G, Csd 07-01-000034
(formerly a portion of Psu-195981)
Original Certificate of Title No. 2019
Free Patent No. (VII-1) 6607
Issued on April 14, 1977
Area: 40,857 square meters
Location: Gabi, Sudlon, Cebu City

"5.3 CORAZON C. LARRAZABAL x x x

"Lot No. 18454-B, Csd 07-01-000034
(formerly a portion of Psu-195981. Sudlon Cebu City)
Original Certificate of Title No. 2020
Free Patent No. (VII-1) 6606
Issued April 14, 1977
Area: 40,855 square meters
Location: Gabi, Sudlon, Cebu City

"5.4 MILLIE R. LARRAZABAL x x x

"Lot No. 18454-I, Csd 07-01-000034
(formerly a portion of Psu-195981)
Original Certificate of Title No. 2021
Free Patent No. (VII-1) 6606
Issued April 14, 1977
Area: 40,855 square meters
Location: Gabi, Sudlon, Cebu City

"5.5 MILLIE R. LARRAZABAL x x x

"Lot No. 18454-E, Csd-07-01-000034
(formerly a portion of Psu-195981)
Original Certificate of Title No. 2022
Free Patent No. (VII-1) 6603
Area: 40,856 square meters
Location: Gabi, Sudlon, Cebu City

"5.6 MARTA LARRAZABAL x x x

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"Lot No. 18454-H, Csd 07-01-000034
(formerly a portion of Psu-195981)
Original Certificate of Title No. 2023
Free Patent No. (VII-1) 6602
Area: 40,859 square meters
Location: Gabi, Sudlon, Cebu City

"5.7 MARTA LARRAZABAL x x x

"Lot No. 18454-F, Csd-07-01-000034
(formerly a portion of Psu-195981)
Original Certificate of Title No. 2024
Free Patent No. (VII-1) 6602
Location: Gabi, Sudlon Cebu City

"5.8. CARLOS MARQUEZ, JR. x x x

Lot No. 18454-D, Csd-07-01-000034
(formerly a portion of Psu-195981)
Original Certificate of Title No. 2025
Free Patent No. (VII-1) 6608
Area: 40,859 square meters
Location: Gabi, Sudlon, Cebu City

"5.9. CARLOS MARQUEZ, JR. x x x

Lot No. 18454-J, Csd-07-01-000034
(formerly a portion of Psu-195981)
Original Certificate of Title No. 2026
Free Patent No. (VII-1) 6609
Area: 40,899 square meters
Location: Gabi, Sudlon, Cebu City

"6. The subject parcels of land were never released by the Bureau of Forest Development (now Department of Environment and Natural Resources or DENR) as alienable and disposable, and hence are neither susceptible to disposition under the provisions of the Public Land Law (C.A. No. 141, as amended) nor under the Land Registration Law (Act No. 496, as amended).

"7. While the said parcels of land remain under the administrative jurisdiction, exclusive management and control of the [respondent],

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through the Bureau of Forest Development (now DENR), herein defendants *as well as the deceased Arturo C. Larrazabal and Marta Larrazabal* were able to illegally obtain their respective certificates of title from public defendant Register of Deeds of Cebu City, pursuant to patents issued by the Director of Lands who had no authority and jurisdiction to issue the said patents.

"8. The said free patents and certificates of Title *which are still in the name of private defendants and deceased Arturo Larrazabal and Marta Larrazabal* are, therefore, null and void, *ab initio*.

"9. *Herein private defendants, as well as the deceased Arturo C. Larrazabal and Marta Larrazabal sold the aforementioned parcels of land to [petitioner] Gabi Multi-Purpose Cooperative, a group associated with the Norkis Group of Companies, which proceeded to occupy and construct roads and introduce improvements inside the Sudlon National Park without authority from the DENR.*

"10. The issuance of said patents and titles *and the unauthorized construction of roads and other improvements inside the Sudlon National Park Cooperative by [petitioner] Gabi Multi-Purpose Cooperative* has obstructed government policies for the proper management, administration, and conservation of the aforesaid National Park in the City of Cebu, and had disrupted the ecological balance in the area to the detriment of the public.

PRAYER

"WHEREFORE, it is most respectfully prayed of this Honorable Court that judgment be rendered in favor of the [respondent] and against the defendants, declaring the nullity of the aforementioned patents and certificates of titles issued in the name of private defendants; *ordering [petitioner] Gabi Multi-Purpose Cooperative to cease and desist from undergoing unauthorized construction inside the Sudlon National Park and to surrender the possession thereof to the DENR*; and directing the Register of Deeds of the City of Ceb[u] to cancel the said certificates of title.

"Other reliefs just and suitable under the premises are likewise prayed for."[8]

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[8] Amended Complaint, pp. 3-6; *rollo*, pp. 132-135.

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In its Answer to the Amended Complaint, GABI — the newly impleaded defendant (now petitioner) — echoed the defenses of the original defendants, contending that respondent's claim was barred by prescription and laches.[9] Pre-trial then proceeded.[10]

A Complaint in Intervention, dated February 1, 1999, was filed by Ruby Minoza, Jedd Direck Villarin, Fritzie Jane Villarin, Chanelaye Joy Lumapguid, Marionne Hazelle Cabansay, Khris Kimberly Cabansay, Regienne Flora Cabansay, Vincent Kyle Cabansay and Christine Marie Buot, minors who were represented by one or both of their parents; Liza Felisilda; Leah Felisilda; Emily Minoza; Lory Lyn Romano; and the Bishop Businessmen's Conference for Human Development-Cebu Chapter ("BBC-Cebu"), through Co-chairmen Ricardo Cardinal Vidal and Ernesto Aboitiz and Members Josephine Booth and Philip Go. The intervenors alleged that their rights to a balanced and healthful ecology and to good health, guaranteed by Sections 15 and 16 of Article II of the Constitution, would be significantly prejudiced and their share of the national patrimony diminished if portions of the Mananga watersheds and the Sudlon National Park were not returned to the government.[11]

The trial court granted the intervention on March 17, 1999. After defendants filed their Answers to the Complaint-in-Intervention, the case was set for hearing on May 3, 1999.[12]

On June 2, 1999, respondents presented Nicomedes Armilla, the DENR land evaluation chief, who testified that he had been tasked to review the defendants' Amended Subdivision Plan. Finding the coordinates used therein to be erroneous, he thereafter recomputed these and consequently found that the subject lots were inside the Sudlon National Park.[13]

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[9] Assailed Decision, p. 6; *rollo*, p. 74.

[10] *Ibid.*

[11] Complaint in Intervention, pp. 1-4; *rollo*, pp. 144-147.

[12] Assailed Decision, p. 7; *rollo*, p. 75.

[13] *Ibid.*

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Also on June 2, 1999, respondent moved for a court-supervised relocation survey of the disputed lots. The Motion was opposed by petitioner, which argued that there was no need for a relocation survey. It explained that Armilla had already testified that a cadastral survey of the subject lots and the Sudlon National Park had already been undertaken.[14]

On September 14, 1999, the trial court granted the Motion for a relocation survey, holding thus:

"After going [over] the rather elongated arguments and counter-arguments of the parties x x x, the following stand out: [respondent and intervenors] claim that there is a need for a relocation survey alleging certain defects/mistakes in the present cadastral survey. On the other hand, [defendant] Larrazabal and [petitioner] Gabi Multi-Purpose argue that no such defect[s]/mistake[s] exist in the present survey; that a relocation survey will be too expensive considering the area involved.

"The matter of whether or not defects/mistakes in the present survey [exist] can best be answered by allowing the relocation survey. The Court in fact makes the observation that defendants in their Rejoinder x x x [have], in a way, agreed to a relocation based on the official cadastral survey provided that [they] shall not be made to contribute [to] the expenses thereof. The Court also makes the observation that [respondent] x x x expressed the willingness to shoulder the cost of relocation survey with [intervenors].

"Considering all the above, the Court is inclined to [g]rant the motion.

"WHEREFORE, the Court hereby grants the Motion. The Court hereby Orders the relocation survey of the questioned lots and the Sudlon National Park based on the technical description of the official government cadastral survey duly approved by the Republic of the Philippines, Bureau of Lands[.] Expenses for the relocation survey shall be shouldered jointly by [respondent] and [intervenors]. Reasonable notice of the date/dates of relocation survey should be furnished the defendants through their counsels and to this Court."[15]

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[14] *Ibid.*

[15] RTC Order dated September 14, 1999; *rollo*, pp. 180-181.

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The DENR Region VII Office in Banilad, Cebu City, subsequently scheduled the relocation survey to commence on October 25, 1999. Pertinently, on October 18, 1999, the DENR filed a Compliance with the trial court. The RTC and all the parties were informed that on the said date, the Department would undertake the survey until the task was completed.[16]

On November 8, 1999, petitioner filed an "Objection to the Survey Conducted by the Personnel of the Plaintiff with Motion to Constitute the Commissioners who shall undertake the Relocation/Retracement Survey." The Motion was set for hearing on November 12, 1999.[17]

On that date, the trial court issued an Order requiring respondent, intervenors and the other defendants to comment on the Motion. Moreover, the surveyors were ordered to suspend the relocation survey until the Motion was resolved.[18]

Respondent received this Order only on December 21, 1999.[19] When informed thereof, the DENR surveyors had already finished the relocation survey.[20] Meanwhile, the Department filed another Compliance dated December 13, 1999, attaching thereto their Report on the survey.[21]

The intervenors filed their Comment and Opposition dated December 21, 1999.[22] To the November 8, 1999 Objection to the

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[16] Assailed Decision, p. 8; *rollo*, p. 76. Compliance dated October 18, 1999, signed by Atty. Rodrigo O. Dapula, officer in charge, Office of the Regional Technical Director, Lands Management Sector, DENR Region VII, Banilad, Mandaue City; *rollo*, p. 182.

[17] Assailed Decision, p. 9; *rollo*, p. 77.

[18] RTC Order dated November 12, 1999; *rollo*, p. 190.

[19] Assailed Decision, p. 9; *rollo*, p. 77.

[20] The survey was finished on November 13, 1999. *Ibid.*

[21] Compliance dated December 13, 1999, signed by Atty. Ruben L. Dongallo as counsel for DENR Region VII, Banilad, Mandaue City.

[22] Intervenor's Comment and Opposition dated December 27, 1999, signed by Atty. Gabriel T. Ingles; *rollo*, pp. 199-201.

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Survey filed by petitioner, respondent submitted a Reply dated December 29, 1999.[23] On August 10, 2000, the latter filed a Manifestation and Motion asking that the Objection be finally denied.

On August 25, 2000, the trial court issued an Order resolving the DENR's Compliance and petitioner's Objection to the Survey. Ruling that the relocation survey had irregularly been conducted, the RTC scheduled a "conference-in-chambers" to set the guidelines for another survey.[24] Aggrieved, respondent filed with the CA a Petition for *Certiorari.*

Ruling of the Court of Appeals

The appellate court held that the trial court had committed grave abuse of discretion amounting to lack or excess of jurisdiction in holding that the relocation survey — undertaken by respondent through the officer in charge of the Office of the Regional Technical Director of DENR VII, Banilad, Mandaue City — was irregularly conducted.[25] Finding no such irregularity, the appellate court ruled that the trial court's reasons for invalidating the completed survey were capricious and designed to favor petitioner.[26]

Hence, this Petition.[27]

The Issues

Petitioner raises the following issues for our consideration:

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[23] Reply dated December 29, 1999; *rollo*, pp. 203-209.

[24] RTC Order dated August 25, 2000; *rollo*, pp. 220-223.

[25] Assailed Decision, p. 20; *rollo*, p. 88.

[26] *Id.*, pp. 20 & 88.

[27] This case was deemed submitted for resolution on January 21, 2004, upon receipt by the Court of petitioner's Memorandum, signed by Atty. Anastacio T. Muntuerto, Jr. Respondent's Memorandum — signed by Assistant Solicitor General Magdangal M. de Leon, Associate Solicitors Catherine Joy R. Mallari and Josephine D. Arias — was received by this Court on December 3, 2003.

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"I. The Court of Appeals gravely erred in declaring the honorable presiding judge of the court *a quo* to have acted with grave abuse of discretion in issuing the assailed August 25, [2000] Order.

"II. The Court of Appeals gravely erred in completely disregarding the legal and jurisprudential requirement that all available remedies (*e.g.*, motion for reconsideration of order) be exhausted before a petition for *certiorari* can be brought against an order of the lower court.

"III. The Court of Appeals gravely erred in declaring that the objection of herein petitioner on the relocation survey and the consequent denial of the report of herein respondent to be premature in the light of Sec. 35, 2nd paragraph of Rule 132 of the 1997 Rules of Civil Procedure."[28]

The Court's Ruling

The Petition has no merit.

First Issue:

Conduct of the Relocation Survey

The crux of the controversy originates from the September 14, 1999 Order of the trial court granting respondent's Urgent Motion for a court-supervised relocation survey. The RTC directed (1) "the relocation survey of the questioned lots and the Sudlon National Park [to be] based on the technical description of the official government cadastral survey duly approved by the Republic of the Philippines, Bureau of Lands," the expenses for which were to be shouldered by respondent and intervenors; and (2) "[r]easonable notice of the date/dates of relocation survey x x x [to] be furnished x x x [the trial court as well as petitioner and co-defendants] through their counsels x x x."[29]

Petitioner claims that it yearns (1) for a fair representation in the court-supervised relocation survey through the appointment of independent commissioners representing all the parties; and (2) for

[28] Petition, p. 17; *rollo* p. 50. Original in upper case.

[29] RTC Order dated September 14, 1999, p. 2; *rollo*, p. 181.

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the survey to be conducted strictly within the terms of the trial court's Order.[30]

Referral to Commissioners Not Contemplated

Clearly apparent from the trial court's Order is that a referral to a court-appointed officer[31] to undertake the relocation survey was not intended. This fact is evident from the Order itself, which required "reasonable notice to the Court and the defendants" as to when the survey was to take place. The RTC did not require that respondent be notified, a clear indication that the latter was to conduct such survey.

The trial court implicitly authorized the DENR, through the Lands Management Bureau, to conduct the relocation survey.[32] Section 4 of Title XIV of Executive Order 292, the "Administrative Code of 1987" enacted on July 25, 1987, states that the DENR shall undertake the following:

> "(9) Establish policies and implement programs for the:
>
> > "(a) Accelerated inventory, survey and classification of lands, forest and mineral resources, using appropriate technology, to be able to come up with a more accurate assessment of resource quality and quantity;
> >
> > "x x x x x x x x x

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[30] Petitioner's Memorandum, pp. 2-3; *rollo*, pp. 397-398.

[31] Reference to a commissioner or commissioners is governed by Rule 32 of the Rules of Court.

[32] The Lands Management Bureau, which absorbed the functions and powers of the Bureau of Lands, shall also "[a]ssist in the 'monitoring and evaluation of land surveys, management and disposition of lands to ensure efficiency and effectiveness thereof.'" Section 15, Title XIV.

See also Act 2259, "The Cadastral Act" enacted on February 11, 1913, which recognized that surveys for land registration purposes were to be conducted by the Bureau of Lands (now the Lands Management Bureau, DENR).

In *Bagaipo v. Court of Appeals*, 347 SCRA 443, 451, December 8, 2000, this Court denied a private survey plan that had not been submitted to the Office of the Director of Lands for approval.

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"(15) Exercise exclusive jurisdiction on the management and disposition of all lands of the public domain and *serve as the sole agency responsible for* classification, sub-classification, *surveying* and titling *of lands* in consultation with appropriate agencies;" (italics supplied)

True, under the particular circumstances of this case, it might have been prudent for the RTC to appoint commissioners to conduct the relocation survey.[33] It did not do so, however.

Since the Order granting the survey had neither been challenged nor reconsidered, it became final and binding on the parties. According to the guidelines of the "court-supervised" relocation survey, as decreed, the trial court and the defendants were to be informed of the schedule. Such notice was essential to the right to due process enjoyed by the defendants, so that they could observe the survey if they so desired.

Petitioner wants representation in the conduct of another relocation survey. Specifically, it pleads for an opportunity to choose one individual to be among those who would actually conduct a new survey. This plea, however, is inconsistent with the RTC's September 14, 1999 Order, which intended that petitioner be represented in the relocation survey, but not to the extent of having a direct hand in the conduct thereof.

Petitioner insists that the Lands Management Sector of DENR Region VII,[34] which conducted the survey, had no authority therefor.[35] We are not persuaded. As previously pointed out, the law clearly grants the DENR general authority to conduct land surveys. In the absence of a contradictory provision in the September 14, 1999 Order, the Department was clearly

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[33] See *Casimiro v. Court of Appeals*, 397 SCRA 236, 242, February 11, 2003. This Court recognized that the representation of both parties in the resurvey team would ensure that the interests of both sides would be protected. However, *Casimiro* is not on all fours with the present case, because there was an agreement therein regarding the constitution of the resurvey team.

[34] Compliance dated October 18, 1999; *rollo*, p. 182.

[35] Petitioner's Memorandum, pp. 16-17; *rollo*, pp. 211-212.

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authorized to undertake the relocation survey directed by the trial court.

Furthermore, we find no reason to disturb the CA's finding that since the proponent was the Republic of the Philippines, the proper government agency entrusted with the task of conducting relocation surveys would naturally be utilized.[36]

Conformity With the Trial Court's Order

GABI argues that the guidelines in the September 14, 1999 Order were not complied with. Petitioner presents the narrow view that the relocation survey should have been based solely on the technical description of the official government cadastral survey approved by the Bureau of Lands.[37] Allegedly, the survey should not have been conducted with additional reference to the land classification map of Cebu and the map of the Sudlon National Park.

Again, we are not convinced. As aptly explained by the CA, the September 14, 1999 Order "indeed mentioned that the survey be conducted on the approved cadastral survey on the land. This order was in fact observed by the [respondent;] only that, along with the approved cadastral survey, the petitioner also made reference to the Land Classification Map of Cebu and the Map of Sudlon National Park. x x x Let it be noted that the Order of September 14, 1999 did not state that the relocation survey be strictly and solely based on the alleged approved cadastral survey.

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[36] Assailed Decision, p. 8; *rollo*, p. 116.

[37] Petitioner's Memorandum, p. 18; *rollo*, p. 413. The relocation survey report states:

"1. That the relocation survey was executed using one of the latest technology surveying instruments, the Total Station (T1000) and Electronic Distance Measuring (EDM) DI 3000 and the respective Technical Descriptions of the Proclamation No. 56 dated April 11, 1936 and Cadastral Record on Lot 18454, Cad 12-Extension, Cebu Cadastre." Relocation Survey Report; *rollo*, p. 196.

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As can be gleaned, we find that there is compliance on the part of the [respondent] x x x."[38]

Additionally, we note that there exists a dispute on whether a cadastral survey of the subject land has been made.[39] Precisely, respondent filed the complaint for the cancellation of the Certificates of Title because, allegedly, the land had not yet been declared alienable. It was therefore necessary to refer to the land classification map of Cebu and the map of the Sudlon National Park in conducting the relocation survey. Moreover, it was prudent to verify the cadastral map of the subject lots with the land classification map of Cebu[40] — the primary document from which the former must have been derived.

Reasonable Notice

To further illustrate the alleged irregularity in the conduct of the relocation survey, petitioner claims that in violation of the September 14, 1999 Order, the surveyor did not give reasonable notice to all the parties.

Considering that the surveyor's Compliance dated October 18, 1999 was mailed only on October 19, 1999,[41] petitioner insists that respondent's counsel, the Office of the Solicitor General, could not have known about the relocation survey scheduled for October 25, 1999. Such notice was, however, unnecessary and superfluous because it was respondent that informed the DENR of the required survey. Note that the September 14, 1999 Order did not direct that notice of the scheduled dates be given to respondent.

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[38] Assailed Decision, p. 18; *rollo*, p. 86.

[39] *Ibid.* See also respondent's Memorandum, pp. 30-32; *rollo*, pp. 373-375. The contention of petitioner that respondent had admitted the existence of a cadastral survey of the Sudlon National Park was belied by the latter. Respondent alleged that during the testimony of its witness, Nicomedes Armilla, it referred to petitioner's Amendment Subdivision Plan and not to a cadastral survey.

[40] Respondent's Memorandum, p. 30; *rollo*, p. 373.

[41] Petitioner's Memorandum, p. 22; *rollo*, p. 417.

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Petitioner also avers that it was not given reasonable notice of the relocation survey scheduled for October 25, 1999.[42] We agree with the CA that GABI's receipt of the Compliance dated October 18, 1999, on October 19, 1999,[43] constituted reasonable notice.[44]

Considering that the trial court had directed the relocation survey a month before, specifically on September 14, 1999, petitioner was given ample time to be on guard and to prepare for an imminent survey. Please observe that, together with its co-defendants, it sent representatives — headed by Engineer Moises de Ama — for the relocation survey.[45]

No Knowledge of the Trial Court's Order to Suspend the Survey

The CA found that respondent and the surveyors had learned of the November 12, 1999 Order directing the suspension of the relocation survey only after the completion and termination of such undertaking. Hence, contrary to petitioner's allegation,[46] the surveyors could not be faulted for not suspending the survey.

That it was completed within a short period of time[47] does not necessarily imply irregularity. Respondent explained that, with the use of modern methods, a relocation survey of the lots — which measured only about 36.78[48] hectares — could be finished in less than a week.[49] The presumption that the

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[42] *Id.*, p. 24; *rollo*, p. 419.

[43] *Ibid.*

[44] Assailed Decision, p. 18; *rollo*, p. 116.

[45] Respondent's Comment, pp. 11 & 18-19; *rollo*, pp. 265 & 272-273 (citing the Joint Affidavit of the DENR geodetic engineers). Also averred in respondent's Memorandum, pp. 20 & 22; *rollo*, pp. 163 & 165. Further alleged in intervenor's "Comment and Opposition to [Petitioner's] Objection [to the Relocation Survey]," p. 2; *rollo*, p. 200.

[46] Petitioner's Memorandum, pp. 24–25; *rollo*, pp. 419-420.

[47] *Ibid.* The survey was conducted from October 25, 1999 to November 13, 1999. Report of the Surveyor; *rollo*, p. 196.

[48] Petitioner contends that the disputed area consists of 54.27 hectares. Petitioner's Memorandum, p. 26; *rollo*, p. 421.

[49] Respondent's Comment, p. 21; *rollo*, p. 275. Respondent's "Reply to [Petitioner's] Objection to the Survey," p. 3; *rollo*, p. 205.

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government surveyors regularly performed their duties[50] cannot be disputed by mere speculations and conjectures raised by petitioner.

Another Relocation Survey Unjustified

The trial court issued the August 25, 2000 Order for the conduct of another relocation survey alledgedly as an act of fair play.[51] With this intent, petitioner contends, the Order could not have been issued with grave abuse of discretion.

The Court finds no justification to invalidate the survey that was conducted in accordance with the September 14, 1999 Order. Respondent cannot be required to spend for a "joint relocation survey,"[52] as it already did so in accordance with the trial court's Order. Burdening it with the additional cost of an unjustified second survey cannot be countenanced.

Furthermore, a new relocation survey would unduly delay the disposition of the case. Time is of the essence. If respondent and intervenors can prove their allegations in their respective Complaints, the abatement of the detrimental effect to the watersheds and the water supply of Metro Cebu[53] would be called for. Hence, the immediate resolution of the case is paramount to public interest.

At any rate, petitioner appears to have a propensity for delaying the relocation survey. Instead of opposing such an undertaking, it should have requested a court-appointed commissioner earlier, if it wanted one. It failed to challenge the Order granting the survey despite the opportunity to do so. After being informed of the scheduled date of the relocation survey, it still failed to do anything. Instead, it prayed for court-appointed commissioners

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[50] §2, par. (m), Rule 131, Rules of Court.

[51] Petitioner's Memorandum, p. 28; *rollo*, p. 423.

[52] RTC Order dated August 25, 2000, p. 4; *rollo*, p. 223.

[53] Complaint in Intervention, pp. 4-7; *rollo*, pp. 147–150.

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only after the survey had already started. Hence, its objection was already too late.

Second and Third Issues:
Procedural Matters

In general, a motion for reconsideration is needed before a petition for *certiorari* under Rule 65 can be resorted to. However, the following have been recognized as exceptions[54] to the rule:

"(a) where the order is a patent nullity, as where the Court *a quo* has no jurisdiction; (b) where the questions raised in the *certiorari* proceeding have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceedings [were] *ex parte* or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or where public interest is involved."

Respondent deliberately failed to ask for reconsideration on the ground that the RTC Orders dated August 25, 2000 and September 14, 1999 were patently void; thus, a motion for reconsideration was useless.[55]

We sustain the CA in giving due course to the present case despite respondent's failure to file a motion for reconsideration

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[54] *Tan v. Court of Appeals,* 341 Phil. 570, 576-578, July 17, 1997, per Francisco, *J.* (citing Regalado, *Remedial Law Compendium* (4th ed. 1986), Vol. 1, p. 418). Also cited in *Metro Transit Organization, Inc. v. Court of Appeals,* 392 SCRA 229, 236, November 19, 2002 and *Abraham v. National Labor Relations Commission,* 353 SCRA 739, 744, March 6, 2001.

[55] Respondent's Comment, pp. 35–36; *rollo,* pp. 289-290.

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with the trial court. Indeed, the circumstances that respondent raised were recognized exceptions to the general rule.

There was an urgent necessity to resolve the issue of whether the relocation survey had validly been conducted, because further delay would have prejudiced both the government and public interest. Considering that the survey had been submitted sometime in December 1999 and the challenged Order issued on August 25, 2000, it was no longer prudent to wait again for the resolution of a reconsideration that would raise the same issues already passed upon. Moreover, reconsideration would have been useless, considering that the trial court had not only declared the relocation survey to be invalid, but also scheduled a conference-in-chambers to prepare for a new survey.[56]

Having ruled on the validity of the relocation survey, we no longer find it necessary to address the issue of the prematurity of petitioner's objection.

WHEREFORE, the Petition is *DENIED*, and the assailed Decision and Resolution *AFFIRMED*. Costs against petitioner.

SO ORDERED.

Sandoval-Gutierrez, *Carpio Morales*, and *Garcia*, *JJ.*, concur.

Corona, *J.*, on leave.

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[56] RTC Order dated August 25, 2000, p. 4; *rollo*, p. 223.