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THIRD DIVISION

[G.R. No. 195726. November 20, 2017]

MARCELINO DELA PAZ, *petitioner, vs.* **REPUBLIC OF THE PHILIPPINES,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; THE SUPREME COURT WILL NOT REVIEW THE FACTUAL FINDINGS OF THE LOWER COURTS AS THEY ARE CONCLUSIVE AND BINDING, EXCEPT WHEN THE FINDINGS OF THE CA ARE CONTRARY TO THOSE OF THE TRIAL COURT.— The issue to be resolved in this case is whether Marcelino presented competent proof that TCT No. 206714 may be reconstituted based on the documentary evidence he submitted. We generally do not entertain a question of fact requiring a re-evaluation of the evidence on record, given the limited rule review provided us in Rule 45 that a petition shall only raise questions of law. The Court, not being a trier of facts, does not routinely undertake the re-examination of the evidence presented by the contending parties during the trial of the case. Ordinarily, we will not review the factual findings of the lower courts as they are conclusive and binding. This rule, however, is subject to a number of exceptions, i.e., when the findings of the CA are contrary to those of the trial court. Here, the CA reversed the RTC's Order because it found the submitted documentary evidence unsatisfactory to warrant reconstitution. For this reason, we take cognizance of the issue before us and shall examine the probative weight of the pieces of evidence presented by Marcelino to support his petition for reconstitution.

2. CIVIL LAW; LAND REGISTRATION; RECONSTITUTION OF LOST OR DESTROYED CERTIFICATE OF TITLE; RECONSTITUTION, DEFINED; PURPOSE THEREOF.— Reconstitution is the restoration of the instrument or title allegedly lost or destroyed in its original form and condition. Its only purpose is to have the title reproduced, after observing the procedure prescribed by law, in the same form they were

Supreme Court E-Library

when the loss or destruction occurred. The process involves diligent circumspect evaluation of the authenticity and relevance of all the evidence presented for fear of the chilling consequences of mistakenly issuing a reconstituted title when in fact the original is not truly lost or destroyed.

3. ID.; ID.; ID.; QUANTUM OF EVIDENCE REQUIRED; IN RECONSTITUTION PROCEEDINGS, A PARTY MUST PROVE ITS ALLEGATIONS NOT MERELY BY A PREPONDERANCE OF EVIDENCE BUT BY CLEAR AND CONVINCING EVIDENCE, OR ONE WHICH PRODUCES IN THE MIND OF THE TRIER OF FACT A FIRM BELIEF OR CONVICTION AS TO THE ALLEGATION SOUGHT TO BE ESTABLISHED.— The established legal principle in actions involving land registration is that a party must prove its allegations not merely by a preponderance of evidence, but by clear and convincing evidence. Evidence is clear and convincing if it produces in the mind of the trier of fact a firm belief or conviction as to the allegation sought to be established. It is indeterminate, being more than preponderance, but not to the extent of such certainty as is required beyond reasonable doubt in criminal cases. Appropriately, this is the standard of proof that is required in reconstitution proceedings.

4. ID.; ID.; ID.; ORDER RECONSTITUTING A DESTROYED OR LOST TITLE, EFFECTS THEREOF; IN RECONSTITUION PROCEEDINGS, THE PETITIONER MUST CLEARLY SHOW WITH CONVINCING EVIDENCE THAT A CERTIFICATE OF TITLE WAS LOST OR DESTROYED, THAT THE CERTIFICATE OF TITLE SOUGHT TO BE RECONSTITUTED IS IN ITS ORIGINAL FORM BEFORE IT WAS LOST, AND THAT THE PETITION HAS LEGAL INTEREST OVER THE LAND COVERED BY THE LOST OR DESTROYED TITLE.— [C]lear and convincing evidence proving the jurisdictional requirements must exist before a court may order the reconstitution of a destroyed or lost title. An order reconstituting a title would produce two (2) effects: the cancellation of the alleged lost or destroyed title and the reissuance of a new duplicate title in its original form and condition. In addition, a reconstitution proceeding is an *in rem* proceeding; and when an order in such a proceeding becomes final, the findings therein can no longer be opened for review.

Supreme Court E-Library

With these in mind, evidence proving the petitioner's allegations in a petition for reconstitution is needed because, without proof that a certificate of title existed and was eventually lost or destroyed, this alleged lost or destroyed title is still presumed to exist. Therefore, in order to forestall, if not eliminate entirely, anomalous or irregular reconstitution of a lost or destroyed title, the petitioner must clearly show with convincing evidence: (1) that a certificate of title was lost or destroyed; (2) that the certificate of title sought to be reconstituted is in its original form before it was lost; and (3) that the petition has legal interest over the land covered by the lost or destroyed title.

5. **ID.; ID.; ID.; PROPERTY REGISTRATION DECREE (PD NO. 1529); A RECONSTITUTION OF A LOST OR DESTROYED CERTIFICATE OF TITLE MAY BE DONE JUDICIALLY IN ACCORDANCE WITH R.A. NO. 26, OR ADMINISTRATIVELY IN ACCORDANCE WITH R.A. NO. 6732.—** Section 110 of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, as amended by R.A. No. 6732, allows the reconstitution of lost or destroyed original Torrens title. Based on the foregoing, reconstitution of a lost or destroyed certificate of title may be done judicially, in accordance with the special procedure laid down in R.A. No. 26; or administratively, in accordance with the provisions of R.A. No. 6732. By filing the Petition for Reconstitution with the RTC, Marcelino sought judicial reconstitution of TCT No. 206714.

6. **ID.; ID.; ID.; RECONSTITUTION OF TORRENS CERTIFICATES OF TITLE LOST OR DESTROYED (R.A. NO. 26), SECTION 3 THEREOF; AN EXTRAJUDICIAL SETTLEMENT AND DEED OF ABSOLUTE SALE WHICH WERE NOT REGISTERED AND WHICH DO NOT REFLECT UNDER WHOSE NAME THE TITLE TO THE PROPERTY SHOULD BE REGISTERED CANNOT BE USED AS BASIS FOR THE RECONSTITUTION OF LOST OR DESTROYED CERTIFICATE OF TITLE.—** Section 3 of R.A. No. 26 enumerates the sources for reconstitution of TCTs: x x x. Not one of the documentary evidence Marcelino had presented falls under the enumeration. x x x. [T]he extrajudicial settlement and the deed of absolute sale cannot fall under paragraph (d) of Section 3 of R.A. No. 26 because (1) these were not filed

Supreme Court E-Library

with the Registry of Deeds and, more importantly, (2) these were not the basis for the issuance of TCT No. 206714. True, they involve the same property covered by TCT No. 206714; however, neither the extrajudicial settlement nor the deed of sale reflects under whose name the title should be registered. If we were to use the extrajudicial settlement between the heirs of Luz Dela Paz as basis for a reconstituted title, the title should reflect that the land is registered under their names. By analogy, the same logic applies if we were to use the deed of absolute sale in favor of Marcelino. As clearly alleged in the petition, Marcelino seeks to reconstitute the title under the name of Luz Dela Paz; hence, for the court to order the reconstitution of a title where the registered owner is Luz Dela Paz, a deed of transfer or other document transferring ownership to such person should be presented.

7. ID.; ID.; ID.; ID.; THE REPRODUCTION OF A TRANSFER CERTIFICATE OF TITLE (TCT) BASED ON A DOCUMENT THAT DOES NOT IDENTIFY THE REGISTERED OWNER IS NOT ALLOWED.— [T]he photocopy of TCT No. 206714 that Marcelino offered as evidence is not a certified copy previously issued by the Registry of Deeds of Quezon City or by the legal custodian thereof. The requirement for a certified true copy of the title has practical considerations: (1) a copy of a document, without a certification that it is an exact copy of the original from its legal custodian, lacks credibility and weight as evidence; and (2) it would be impossible to reconstitute a title not based on an exact and accurate copy of its original. As noted by the CA, the name of the registered owner in the photocopy of TCT No. 206714 was concealed as the space provided for therein was deliberately covered. Following the purpose of reconstitution, we cannot allow the reproduction of a title based on a document that does not identify the registered owner. This circumstance on its own already raises doubt as to the authenticity and genuineness of the photocopy of TCT No. 206714.

8. ID.; ID.; ID.; ID.; THE DOCUMENTS MENTIONED IN PARAGRAPH (F) SECTION 3 OF RA NO. 26 MUST BE RESORTED TO IN THE ABSENCE OF THOSE PRECEDING IN ORDER; IF THE PETITIONER FOR RECONSTITUTION FAILS TO SHOW THAT HE HAD, IN FACT, SOUGHT TO SECURE SUCH PRIOR DOCUMENTS AND HAD FAILED TO FIND THEM, THE PRESENTATION OF THE SUCCEEDING DOCUMENTS AS SUBSTITUTIONARY

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EVIDENCE IS PROSCRIBED.— [N]one of the documents submitted by Marcelino fall under paragraph (f) because they are not similar to those mentioned in paragraphs (a) to (e), which all pertain to documents issued or are on file with the Registry of Deeds of Quezon City. Under the principle of *ejusdem generis*, where general words follow an enumeration of persons or things by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same kind or class as those specifically mentioned. Thus, in *Republic of the Phils. v. Santua*, we held that when paragraph (f) speaks of any other document, the same must refer to similar documents previously enumerated therein, that is, those mentioned in paragraphs (a), (b), (c), (d), and (e). The documents alluded to in paragraph (f) must be resorted to *in the absence* of those preceding in order. If the petitioner for reconstitution fails to show that he had, in fact, sought to secure such prior documents (except with respect to the owner's duplicate copy of the title which it claims had been, likewise, destroyed) and had failed to find them, the presentation of the succeeding documents as substitutionary evidence is proscribed.

9. ID.; ID.; ID.; ID.; RECONSTITUTION ON THE BASIS OF A SURVEY PLAN AND TECHNICAL DESCRIPTION IS VOID FOR WANT OF FACTUAL SUPPORT.— [I]t is settled that reconstitution on the basis of a survey plan and technical description is void for want of factual support. In themselves, such plan and technical description are not recognized sources of reconstitution of title under Section 3 of R.A. No. 26. In fact, under Section 12 of R.A. No. 26 and LRA Circular No. 35 dated 13 June 1983, the submitted survey plan and technical description are mere additional documents that accompany the competent sources for reconstitution.

10. ID.; ID.; ID.; ID.; A TAX DECLARATION PRESENTED BY THE PARTY IS NOT A COMPETENT SOURCE OF RECONSTITUTION, AS THE SAME CAN ONLY BE *PRIMA FACIE* EVIDENCE OF CLAIM OF OWNERSHIP, WHICH IS NOT THE ISSUE IN A RECONSTITUTION PROCEEDING.— Neither does the tax declaration submitted support Marcelino's cause. A tax declaration can only be *prima facie* evidence of claim of ownership, which, however, is not the issue in a reconstitution proceeding. A reconstitution of title does not pass upon the ownership of the land covered by

Supreme Court E-Library

the lost or destroyed title but merely determines whether a re-issuance of such title is proper. At most, the tax declaration is merely a *prima facie* evidence that the subject land has been declared for taxation purposes by Marcelino.

11. ID.; ID.; ID.; ID.; THE PETITIONER IS BURDENED TO ADDUCE IN EVIDENCE THE DOCUMENTS IN THE ORDER STATED IN SECTION 3 OF R.A. NO. 26 AS SOURCES OF THE DEED TO BE RECONSTITUTED, AND LIKEWISE BURDENED TO PROVE THE EXECUTION OR EXISTENCE OF THE ORIGINAL COPY OF THE TITLE, WHICH IS THE COPY ON FILE WITH THE REGISTRY OF DEEDS, AND THE CONTENTS THEREOF.— The requirements under R.A. No. 26 are indispensable and must be strictly complied with. In a reconstitution proceeding, the petitioner is burdened to adduce in evidence the documents in the order stated in Section 3 of R.A. No. 26 as sources of the deed to be reconstituted, and likewise burdened to prove the execution or existence of the original copy of the title, which is the copy on file with the Registry of Deeds, and the contents thereof. Here, Marcelino failed to do both; thus, the CA did not commit a reversible error in reversing the RTC's order, and in dismissing the petition for reconstitution.

APPEARANCES OF COUNSEL

Edilberto C. Cruz for petitioner.
Office of the Solicitor General for respondent.

D E C I S I O N

MARTIRES, *J.*:

Before this Court is a Rule 45 petition[1] assailing the 4 October 2010 Decision[2] and the 17 February 2011

[1] *Rollo*, pp. 7-17.

[2] *Id*. at 20-30; penned by Associate Justice Priscilla J. Baltazar-Padilla, and concurred in by Associate Justices Fernanda Lampas Peralta and Danton Q. Bueser.

Supreme Court E-Library

Resolution[3] of the Court of Appeals *(CA)* in CA-G.R. CV No. 91196 which reversed the Order[4] of the Regional Trial Court, Branch 220 of Quezon City *(RTC),* to reconstitute Transfer Certificate of Title *(TCT)* No. 206714.

THE FACTS

On 5 June 2007, Marcelino Dela Paz *(Marcelino)* filed a verified petition for reconstitution of TCT No. 206714 covering a parcel of land described as follows:

> A parcel of land (Lot 457-A-12-B-2-B-2-A) of the subdivision plan (LRC) Psd-2114428, being a partion of Lot 457-A-12-B-2-B-2 (LRC) Psd-1774344 L.R.C. Record No. 3563, situated in Barrio of Bagbag, Quezon City, Island of Luzon. Bounded on the N. points 2 to 3 by existing road 8 m. wide; on the E. and S. points 3 to 4 and 4 to 1 by Lot 457-A-12-B-2-B-1 (LRC) Psd-177344. Beginning at a point marked "1" on plan beginning 50 deg. 50'E., 457.01 m. from L.W. 22, Piedad Estate; thence N. 22 deg. 40'3., 28.02 m. to point 2; thence N. 85 deg. 54'3., 15.00 m. to point 3; thence S. 1 deg. 57'W., 25.06 m. to point 4; thence S. 85 deg. 54'W., 24.97 m. to the point of beginning; containing an area of FIVE HUNDRED (500) SQUARE METERS more or less.[5] x x x

This parcel of land was the subject of an extrajudicial settlement dated 23 October 2000 among the heirs of Luz Dela Paz, namely: Franklin S. Bortado, Sr., Franklin P. Bortado, Jr., and Marylou Bortado. Thereafter, Marcelino and his mother, Jenny Rose Dela Paz, bought the subject land on 23 November 2005.

Based on the petition for reconstitution, the original copy of TCT No. 206714 was destroyed by fire that razed the Quezon City Hall building on 11 June 1988, thus, the owner's duplicate copy was lost as evidenced by the affidavit of loss duly registered

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[3] *Id*. at 33-34.

[4] *Id*. at 31-32; penned by Presiding Judge Jose G. Paneda.

[5] *Id*. at 59-60; mentioned in the OSG's comment and transcribed from a photocopy of the alleged TCT No. 206714 attached as Annex "A" of the Petition for Reconstitution of Title.

Supreme Court E-Library

and recorded with the Registry of Deeds of Quezon City. Marcelino submitted the following as evidence: (1) a photocopy of TCT No. 206714; (2) real property tax declarations; (3) receipts of payments of real property tax; and (4) the land's sketch plan and subdivision plan.

Marcelino likewise submitted a Land Registration Authority *(LRA)* report stating that the plan and technical description of the property may be used as basis for the inscription of the technical description on the reconstituted title. In addition, Marcelino submitted a certified microfilm copy of the plan and a technical description of the property on file with the LRA, which he claimed to be a valid basis and reference for reconstitution. Marcelino believed that these documents corroborate the other documentary evidence covering the subject property.

After considering the evidence presented, the RTC granted the petition and ordered the reconstitution of TCT No. 206714 based on the approved subdivision plan and technical description submitted. The RTC said:

> The [c]ourt, after considering the evidence presented, finds that this is a proper case for the judicial reconstitution of the original and owner's duplicate copy of Transfer Certificate of Title No. 206714 of the Register of Deeds of Quezon City based on the approved subdivision plan and technical description of the subject property.
>
> WHEREFORE, premises considered, the petition is hereby GRANTED.
>
> The Register of Deeds of Quezon City is hereby ordered to reconstitute the original copy of TCT No. 206714 in the name of Luz Dela Paz and to issue second owner's duplicate copy of the title to the petitioner Marcelino Dela Paz, based on the approved subdivision plan and technical description which may be used as basis for the inscription of the technical description of the reconstituted certificate, provided that the reconstituted title should be made subject to such encumbrance as may be subsisting, and provided further, that no certificate of title exists in the Register of Deeds of Quezon City.[6]

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[6] *Id*. at 32.

Supreme Court E-Library

The Assailed CA Rulings

When the case was elevated before the CA, the RTC's decision was reversed and set aside, and the petition for reconstitution was dismissed. The CA was not convinced that the evidence adduced in support of the petition for reconsideration was enough. It held:

First. The heirs of Luz Dela Paz, who allegedly executed the Extrajudicial Settlement and Deed of Absolute Sale relative to the subject property covered by TCT No. 206714 were not presented in court to acknowledge the same. The contract of sale was not even registered with the Register of Deeds as required under Section 3 of R.A. No. 26 for it to become a credible basis for the granting of [Marcelino]'s cause.

Second. W[e] observe that the Certification issued by the Quezon City Registry of Deeds relative to the alleged loss of the original of TCT No. 206714 due to fire that razed the City Hall on June 11, 1988 was a form document as the name of Luz Dela Paz and the number of the TCT were merely entered on the blanks therein provided.

Further, it cannot be deduced from the wordings of the said certification that TCT No. 206714 was actually issued and registered under Luz Dela Paz. It states that "*x x x the original of TCT No. 206714 allegedly registered under the name of Luz P. Dela Paz was/ were not included among those saved titles during the fire that razed the Quezon City Hall Building last June 11, 1988 x x x.*" Furthermore, it could hardly be concluded therefrom that TCT No. 206714 was indeed part of the Registry's record. Although it was mentioned therein that TCT No. 204714 was not among those salvaged files during the fire incident, it does not necessarily follow that this document was among those records on file with the Quezon City Registry of Deeds.

Third. It should be remembered that the original TCT No. 206714 was allegedly destroyed during the June 11, 1988 fire incident. The owner's duplicate copy was allegedly lost in 2001. From 1988 to 2001, the heirs of Luz Dela Paz did not bother to file a petition for the reconstitution of the damaged TCT. They even failed to execute an affidavit concerning the loss of their copy in 2001 when at that time they were the alleged owners and presumably in possession of said property. It was only when the subject lot was transferred to

Supreme Court E-Library

[Marcelino] and his mother Jenny Rose Dela Paz on November 23, 2005 that said affidavit was made at [Marcelino]'s instance. In said document, he failed to explain the surrounding circumstances how said copy was lost. He just made a general statement therein that the duplicate original copy "got lost and could no longer be located despite diligent effort to locate the same." Inexplicably, the extant petition was filed only in 2007 or nineteen (19) years from the copy's destruction in 1988.

Fourth. The tax declaration and tax receipt presented cannot likewise be valid bases for reconstitution as these documents are issued for tax purposes only. Besides, a tax declaration is not a reliable source of reconstruction of a certificate of title. It can only be *prima facie* evidence of claim of ownership, which, however, is not the issue in a reconstitution proceeding. A reconstitution of title does not pass upon the ownership of the land covered by the lost or destroyed title but merely determines whether a re-issuance of such title is proper. (citations omitted)

Fifth. The photocopy of TCT No. 206714 offered by [Marcelino] can only be considered secondary evidence, hence, inadmissible. Absent any satisfactory proof that would establish its admissibility as provided under Section 5, Rule 130 of the Rules of Court, the same cannot be relied upon [for] the reconstitution of the subject certificate of title.

What further surprises this Court is that [in] the said copy, the name of the subject lot's registered owner was concealed as *the space provided for therein was deliberately covered*. [Marcelino] even failed to testify why he had a photocopy of the owner's duplicate copy and how he was able to secure the same. (italics supplied)

Sixth. The Sketch Plan and Subdivision Plan submitted by [Marcelino] are mere additional requirements under R.A. No. 26 and *per se* not sufficient bases for reconstitution. This is evident under Section 12 of R.A. No. 26, thus:

x x x x x x x x x

We also examined the LRA Report dated January 21, 2008 verifying that the plan and technical description of Lot 457-A-12-B-2-B-2-A of the Subdivision Plan are true representations of the lot approved under (LRA) PR-08-01589-R. Despite said certification, [we] cannot still ascertain whether this lot was indeed covered by TCT No. 206714 and registered under Luz Dela Paz. The Report states "x x x Transfer

Certificate of Title No. 206714, allegedly lost or destroyed and supposedly covering Lot 457-A-12-B-2-B-2-A of the subdivision plan (LRC) Psd-214428 xxx." The Technical Description and Sketch/ Special Plan appended therewith do not even bear the TCT covering said property. Moreover, the officers who certified and verified the plan and technical description of the land were not presented as witnesses to confirm the same.[7]

Aggrieved by the reversal, Marcelino filed a motion for reconsideration that the CA eventually denied; hence, the present petition.

THE PETITION

Marcelino faults the CA in saying that the documentary evidence submitted are not enough to reconstitute TCT No. 206714. He argues that he has fully complied with the jurisdictional requirements set forth in Republic Act *(R.A.)* No. 26. The RTC even found it proper to reconstitute based on the approved subdivision plan and technical description of the property.

Marcelino submits that the documents he submitted are sufficient to establish the existence of TCT No. 206714 to warrant its reconstitution. Although the certification that the original copy of TCT No. 206714 was not included among those saved during the fire is *pro forma*, it is still a public document which contents are presumed to be true and accurate. Meanwhile, the LRA report favors reconstitution because (1) the approved plan and technical description were verified by the LRA; and (2) the report mentions that the approved plan and technical description may be used as basis for the property's description in the reconstituted title. As to the other documents, Marcelino maintains that they are genuine evidence for reconstitution as they are public documents. Therefore, considered all together, the pieces of documentary evidence are sufficient for reconstituting TCT No. 206714.

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[7] *Id*. at 26-29.

Supreme Court E-Library

THE COURT'S RULING

The present petition is devoid of merit.

Preliminary considerations

The issue to be resolved in this case is whether Marcelino presented competent proof that TCT No. 206714 may be reconstituted based on the documentary evidence he submitted. We generally do not entertain a question of fact requiring a re-evaluation of the evidence on record, given the limited rule review provided us in Rule 45 that a petition shall only raise questions of law.

The Court, not being a trier of facts, does not routinely undertake the re-examination of the evidence presented by the contending parties during the trial of the case.[8] Ordinarily, we will not review the factual findings of the lower courts as they are conclusive and binding. This rule, however, is subject to a number of exceptions, i.e., when the findings of the CA are contrary to those of the trial court. Here, the CA reversed the RTC's Order because it found the submitted documentary evidence unsatisfactory to warrant reconstitution.

For this reason, we take cognizance of the issue before us and shall examine the probative weight of the pieces of evidence presented by Marcelino to support his petition for reconstitution.

Quantum of evidence required in reconstituting a Certificate of Title

Time and time again, we have cautioned the lower courts against the hasty and reckless grant of petitions for reconstitution. In such cases, it is the duty of the court to carefully scrutinize and verify all supporting documents, deeds, and certifications. In fact, we have warned the courts in reconstitution proceedings of the tampering of genuine certificates of title and the issuance of fake ones – a widespread occurrence that has seriously

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[8] *Republic of the Phils. v. Heirs of Julio Ramos*, 627 Phil. 123, 133 (2010), citing *Cosmos Bottling Corporation v. Nagrama, Jr.*, 571 Phil. 281, 298 (2008).

Supreme Court E-Library

threatened the stability of our Torrens system. It is most unfortunate that our courts have been, at times, unwitting accomplices to these transactions and easy targets for corruption.[9]

Reconstitution is the restoration of the instrument or title allegedly lost or destroyed in its original form and condition.[10] Its only purpose is to have the title reproduced, after observing the procedure prescribed by law, in the same form they were when the loss or destruction occurred.[11] The process involves diligent circumspect evaluation of the authenticity and relevance of all the evidence presented for fear of the chilling consequences of mistakenly issuing a reconstituted title when in fact the original is not truly lost or destroyed.[12]

Henceforth, it is imperative that a proper standard be set in evaluating the probative value of the documentary evidence. Having such a standard would guide our courts accordingly in granting the reconstitution of a certificate of title, and would serve as a yardstick in determining whether trial court judges have grossly violated their judicial duty to warrant the imposition of administrative sanctions.

The established legal principle in actions involving land registration is that a party must prove its allegations not merely by a preponderance of evidence, but by clear and convincing evidence.[13] Evidence is clear and convincing if it produces in

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[9] See *Republic of the Phils. v. Intermediate Appellate Court*, 241 Phil. 75, 83 (1988), cited in *Republic of the Phils. v. Holazo*, 480 Phil. 828, 829 (2004). See also *Alabang Development Corporation v. Valenzuela*, 201 Phil. 727, 743 (1982).

[10] *Anciano v. Caballes*, 93 Phil. 875, 876 (1953).

[11] *Lee v. Republic of the Phils.*, 418 Phil. 793, 800 (2001); *Heirs of the late Pedro Pinote v. Dulay*, 265 Phil. 12, 21 (1990); *Alipoon v. Court of Appeals*, 364 Phil. 591, 598 (1999).

[12] *Republic of the Phils. v. Pasicolan*, 758 Phil. 121, 141 (2015).

[13] *Manotok Realty, Inc. v. CLT Realty Development Corporation*, 565 Phil. 59, 92 (2007); *Republic v. Imperial Credit Corporation*, 578 Phil. 300, 308 (2008); *Diaz-Enriquez v. Republic of the Phils.*, 480 Phil. 787, 798 (2004); *Manotok v. Heirs of Homer Barque*, 643 Phil. 57, 67 (2010),

Supreme Court E-Library

the mind of the trier of fact a firm belief or conviction as to the allegation sought to be established.[14] It is indeterminate, being more than preponderance, but not to the extent of such certainty as is required beyond reasonable doubt in criminal cases.[15] Appropriately, this is the standard of proof that is required in reconstitution proceedings.[16]

To our mind, clear and convincing evidence proving the jurisdictional requirements must exist before a court may order the reconstitution of a destroyed or lost title. An order reconstituting a title would produce two (2) effects: the cancellation of the alleged lost or destroyed title and the reissuance of a new duplicate title in its original form and condition. In addition, a reconstitution proceeding is an *in rem* proceeding; and when an order in such a proceeding becomes final, the findings therein can no longer be opened for review.[17] With these in mind, evidence proving the petitioner's allegations in a petition for reconstitution is needed because, without proof that a certificate of title existed and was eventually lost or destroyed, this alleged lost or destroyed title is still presumed to exist.

Therefore, in order to forestall, if not eliminate entirely, anomalous or irregular reconstitution of a lost or destroyed title,

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citing *Alonso v. Cebu Country Club, Inc.*, 462 Phil. 546, 562 (2003); *Director of Lands v. Court of Appeals*, 181 Phil. 432, 439 (1979). Reiterated in *Alabang Development Corporation v. Valenzuela*, 201 Phil. 727, 744 (1982); *Metropolitan Waterworks and Sewerage System v. Sison*, 209 Phil. 325, 337 (1983); *Serra Serra v. Court of Appeals*, 272-A Phil. 467, 478 (1991); and *Ortigas & Co., Ltd. Partnership v. Judge Velasco*, 343 Phil. 115, 136 (1997).

[14] *Black's Law Dictionary, 5th Edition,* p. 227.

[15] *Id*.

[16] See *Republic of the Phils. v. Catarroja*, 626 Phil. 389, 396 (2010); *Republic of the Phils. v. Heirs of Spouses Sanchez*, 749 Phil. 999, 1004 (2014).

[17] *Metropolitan Waterworks and Sewerage System v. Sison*, 209 Phil. 325, 335 (1983); *Esso Standard Eastern, Inc. v. Lim*, 208 Phil. 394, 406 (1983).

Supreme Court E-Library

the petitioner must clearly show with convincing evidence: (1) that a certificate of title was lost or destroyed; (2) that the certificate of title sought to be reconstituted is in its original form before it was lost; and (3) that the petition has legal interest over the land covered by the lost or destroyed title.

The petition lacks competent evidentiary basis to reconstitute TCT No. 206714.

In his petition, Marcelino enumerates the documents he had submitted, which the RTC relied upon in granting the petition for reconstitution:

(1) Extrajudicial Settlement dated 23 October 2000 executed by the heirs of the late Luz Dela Paz involving the property covered by TCT No. 206714;

(2) Affidavit of Publication of the extrajudicial settlement issued by the newspaper *Remate* dated 20 March 2000;

(3) Deed of Absolute Sale dated 23 November 2005 excuted by the heirs of Luz Dela Paz in Marcelino's favor concerning the subject lot;

(4) Certification dated 17 November 2006 issued by the LRA to the effect that TCT No. 206714 was not included among those saved titles during the fire that razed the Quezon City Hall Building on 11 June 1988 and the records leading to its issuance were burned;

(5) Affidavit of Loss dated 23 November 2005 executed by Marcelino as to the loss of the duplicate owner's copy of TCT No. 206714 duly annotated by the Registry of Deeds of Quezon City;

(6) Tax Declaration or Official Receipt issued by the Office of the City Treasurer of Quezon City showing payment of real property tax covering the subject lot;

(7) A photocopy of TCT No. 206714;

(8) Extrajudicial Sketch Plan of TCT No. 206714;

Supreme Court E-Library

(9) Subdivision Plan certified by the microfilming officer of the LRA; and

(10) The LRA Report to the trial court which states:

1. The present petition seeks the reconstitution of TCT No. 206714, allegedly lost or destroyed and supposedly covering Lot 457-A-12-B-2-B-2-A of the subdivision plan (LRC) Psd-214428 situated in the Barrio of Bagbag, Quezon City.

2. The plan and technical description of Lot 457-A-12-B-2-B-2-A of the subdivision plan (LRC) Psd-214428, were verified correct by this Authority to represent the aforesaid lot and the same have been approved under (LRA) PR-08-01589-R pursuant to the provisions of Section 12 of Republic Act No. 26.

WHEREFORE, the foregoing information anent the property in question is respectfully submitted for consideration in the resolution of the instant petition, and if the Honorable Court, after notice and hearing, finds justification pursuant to Section 15 of Republic Act No. 26 to grant the same, the plan and technical description having been approved, may be used as basis for the inscription of the technical description on the reconstituted certificate."[18]

Section 110 of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, as amended by R.A. No. 6732, allows the reconstitution of lost or destroyed original Torrens title.[19] Based on the foregoing, reconstitution of a lost

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[18] *Rollo,* pp. 13-14.

[19] Section 110. *Reconstitution of lost or destroyed original of Torrens title.* Original copies of certificates of titles lost or destroyed in the offices of Register of Deeds as well as liens and encumbrances affecting the lands covered by such titles shall be reconstituted judicially in accordance with the procedure prescribed in Republic Act No. 26 insofar as not inconsistent with this Decree. The procedure relative to administrative reconstitution of lost or destroyed certificate prescribed in said Act may be availed of only in case of substantial loss or destruction of land titles due to fire, flood or other *force majeure* as determined by the Administrator of the Land Registration Authority: *Provided*, That the number of certificates of titles lost or damaged should be at least ten percent (10%) of the total number in the possession of the Office of the Register of Deeds: *Provided*, *further*, that in no case shall the number of certificates of titles lost or damaged be less than five hundred (500).

Supreme Court E-Library

or destroyed certificate of title may be done judicially, in accordance with the special procedure laid down in R.A. No. 26;[20] or administratively, in accordance with the provisions of R.A. No. 6732. By filing the Petition for Reconstitution with the RTC, Marcelino sought judicial reconstitution of TCT No. 206714.

Section 3 of R.A. No. 26 enumerates the sources for reconstitution of TCTs:

> 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 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. (emphasis supplied)

Not one of the documentary evidence Marcelino had presented falls under this enumeration. Our reasons, apart from those that the CA had already discussed, are as follows:

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[20] An Act Providing a Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed.

Supreme Court E-Library

First. The extrajudicial settlement and the deed of absolute sale cannot fall under paragraph (d) of Section 3 of R.A. No. 26 because (1) these were not filed with the Registry of Deeds and, more importantly, (2) these were not the basis for the issuance of TCT No. 206714. True, they involve the same property covered by TCT No. 206714; however, neither the extrajudicial settlement nor the deed of sale reflects under whose name the title should be registered. If we were to use the extrajudicial settlement between the heirs of Luz Dela Paz as basis for a reconstituted title, the title should reflect that the land is registered under their names. By analogy, the same logic applies if we were to use the deed of absolute sale in favor of Marcelino. As clearly alleged in the petition, Marcelino seeks to reconstitute the title under the name of Luz Dela Paz; hence, for the court to order the reconstitution of a title where the registered owner is Luz Dela Paz, a deed of transfer or other document transferring ownership to such person should be presented.

Second. The photocopy of TCT No. 206714 that Marcelino offered as evidence is not a certified copy previously issued by the Registry of Deeds of Quezon City or by the legal custodian thereof. The requirement for a certified true copy of the title has practical considerations: (1) a copy of a document, without a certification that it is an exact copy of the original from its legal custodian, lacks credibility and weight as evidence; and (2) it would be impossible to reconstitute a title not based on an exact and accurate copy of its original. As noted by the CA, the name of the registered owner in the photocopy of TCT No. 206714 was concealed as the space provided for therein was deliberately covered.[21] Following the purpose of reconstitution, we cannot allow the reproduction of a title based on a document that does not identify the registered owner. This circumstance on its own already raises doubt as to the authenticity and genuineness of the photocopy of TCT No. 206714.

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[21] *Rollo,* p. 28.

Supreme Court E-Library

Third. None of the documents submitted by Marcelino fall under paragraph (f) because they are not similar to those mentioned in paragraphs (a) to (e), which all pertain to documents issued or are on file with the Registry of Deeds of Quezon City. Under the principle of *ejusdem generis*, where general words follow an enumeration of persons or things by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same kind or class as those specifically mentioned.[22] Thus, in *Republic of the Phils. v. Santua*,[23] we held that when paragraph (f) speaks of any other document, the same must refer to similar documents previously enumerated therein, that is, those mentioned in paragraphs (a), (b), (c), (d), and (e).

The documents alluded to in paragraph (f) must be resorted to *in the absence* of those preceding in order.[24] If the petitioner for reconstitution fails to show that he had, in fact, sought to secure such prior documents (except with respect to the owner's duplicate copy of the title which it claims had been, likewise, destroyed) and had failed to find them, the presentation of the succeeding documents as substitutionary evidence is proscribed.[25]

Moreover, it is settled that reconstitution on the basis of a survey plan and technical description is void for want of factual support.[26] In themselves, such plan and technical description are not recognized sources of reconstitution of title under Section 3 of R.A. No. 26. In fact, under Section 12 of R.A. No. 26 and LRA Circular No. 35 dated 13 June 1983, the submitted survey plan and technical description are mere additional documents that accompany the competent sources for reconstitution. This can clearly be gleaned from the wording of the law:

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[22] *Republic of the Phils. v. Holazo*, 480 Phil. 828, 840 (2004), citing *Republic of the Phils. v. Intermediate Appellate Court*, *supra* note 9.

[23] 586 Phil. 291, 298 (2008). See also *Heirs of Felicidad Dizon v. Hon. Discaya,* 362 Phil. 536, 545 (1999).

[24] *Republic of the Phils. v. Holazo*, *supra* note 22.

[25] *Id*.

[26] *Lee v. Republic of the Phils.*, 418 Phil. 793, 802-803 (2001); *Dordas v. CA*, 337 Phil. 59 (1997).

Supreme Court E-Library

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 [Regional Trial Court], 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 owners duplicate of the certificate of title had been lost or destroyed; (b) that no co-owners, mortgagees, or lessees 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 building 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 of 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) or 3(f) of this Act, the petition shall be <u>further accompanied</u> 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.** (emphasis and underlining supplied)

Similarly, paragraph 5 of LRA Circular No. 35 dated 13 June 1983 states that:

In case the reconstitution is to be made exclusively from sources enumerated in Sections 2 (f) and 3 (f) of Republic Act No. 26, in relation to Section 12 thereof, the signed duplicate copy of the petition to be forwarded to this Commission shall be **<u>accompanied</u>** by the following:

(a) A duly prepared plan of said parcel of land in tracing cloth, with two (2) print copies thereof, prepared by the government agency which issued the certified technical description, or by a duly certified technical description. Where the plan as submitted is certified by the government agency which issued the same, it is sufficient that the technical description be prepared by a duly licensed Geodetic Engineer on the basis of said certified plan. (emphasis and underlining supplied)

Supreme Court E-Library

Fourth. Neither does the tax declaration submitted support Marcelino's cause. A tax declaration can only be *prima facie* evidence of claim of ownership, which, however, is not the issue in a reconstitution proceeding. A reconstitution of title does not pass upon the ownership of the land covered by the lost or destroyed title but merely determines whether a re-issuance of such title is proper.[27] At most, the tax declaration is merely a *prima facie* evidence that the subject land has been declared for taxation purposes by Marcelino.

In sum, all these documentary evidence being considered, we find that not one of them is a competent source for reconstitution.

The requirements under R.A. No. 26 are indispensable and must be strictly complied with. In a reconstitution proceeding, the petitioner is burdened to adduce in evidence the documents in the order stated in Section 3 of R.A. No. 26 as sources of the deed to be reconstituted, and likewise burdened to prove the execution or existence of the original copy of the title, which is the copy on file with the Registry of Deeds, and the contents thereof.[28] Here, Marcelino failed to do both; thus, the CA did not commit a reversible error in reversing the RTC's order, and in dismissing the petition for reconstitution.

WHEREFORE, premises considered, the instant petition is **DENIED**. The 4 October 2010 Decision and the 17 February 2011 Resolution of the Court of Appeals in CA-G.R. CV No. 91196 are **AFFIRMED** *in toto*.

SO ORDERED.

Velasco, Jr. (*Chairperson*), *Bersamin, Leonen,* and *Gesmundo, JJ.,* concur.

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[27] *Republic of the Phils. v. Santua*, *supra* note 23 at 299.

[28] *Heirs of Pastora Lozano v. Register of Deeds of Lingayen, Pangasinan*, 530 Phil. 255, 267 (2006).