THIRD DIVISION

[G.R. No. 264513. November 26, 2025]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. ESMERALDA S. PEREZ, DULY REPRESENTED BY HER ATTORNEY-IN-FACT, SAVINIANO M. PEREZ, OR IN HIS ABSENCE, EVELYN PEREZ DUMDUM, RESPONDENT.

D E C I S I O N

INTING, J.:

The Court resolves the Petition for Review on *Certiorari*[1] filed by the Republic of the Philippines (the Republic) assailing the Decision[2] dated September 9, 2022, and the Order[3] dated October 28, 2022, of Branch 91, Regional Trial Court, Quezon City (RTC) in LRC Case No. R-QZN-22-05206-LR.

The Antecedents

The case is rooted in a Petition[4] filed by Esmeralda S. Perez (respondent) before the RTC for the cancellation of the legal encumbrance on Transfer Certificate of Title (TCT) No. RT-86087 (319891) pursuant to Section 7 of Republic Act No. 26.[5]

Respondent alleged that she is the registered owner of the parcel of land covered by the subject title which is located in Brgy. Commonwealth, Capitol District, Quezon City. According to respondent, her owner's duplicate copy of the title was lost for which reason, a reconstituted title was subsequently issued to her under TCT No. 004-RT-86087 (319891).[6]

Notably, there is a legal encumbrance annotated in both TCT No. 004-RT-86087 (319891) and its owner's duplicate. The encumbrance states:

> Pursuant to Sec. 7 of Rep. Act No. 26[,] this certificate of title is without prejudice to any party whose right or interest in the project xxxxx noted on the original at the time it was lost or destroyed.[7]

Respondent filed the Petition before the RTC on May 19, 2022. The Petition being sufficient in form and substance, the RTC set the case for hearing on August 17, 2022.[8]

Ruling of the RTC

In the assailed Decision, the RTC granted the Petition and directed the Register of Deeds of Quezon City to cancel the legal encumbrance under Republic Act No. 26, *viz.*:

> WHEREFORE, the petition for cancellation of the encumbrance annotated in accordance with Section 7 of Republic Act No. 26 on the Memorandum of Encumbrance of Transfer Certificate of Title (TCT No.) RT-86087 (319891) registered under the name of herein petitioner Esmeralda Perez, is hereby GRANTED.
>
> The Register of Deeds of Quezon City is directed to cancel, after proper annotation, the subject encumbrance pursuant to Republic Act No. 26, upon finality of this decision and payment of the necessary fees.
>
> SO ORDERED.[9]

The RTC explained as follows:

> Having satisfied all the requirements of Republic Act No. 26 and after it was duly established that the two-year period had lapsed from the date of reconstitution of the subject title without any petition having [been] filed pursuant to Section 8 of Republic Act. No. 26, the Court hereby GRANTS the cancellation of the encumbrance annotated on TCT No. RT-86087 (319891) under Section 7 of Republic Act. No. 26.[10]

The Republic, represented by the Office of the Solicitor General (OSG), filed a Motion for Reconsideration,[11] praying for the dismissal of the case on the ground of lack of jurisdiction over the subject matter in view of respondent's failure to comply with the publication and posting requirements under Republic Act No. 26.[12]

In the assailed Order, the RTC denied the OSG's motion for lack of merit, viz.:

> Having said this, the contention of the OSG that the petition should have been published twice in successive issues of the Official Gazette, and the posting of notice of the petition at the main entrance of the provincial building and of the municipal building of the municipality or city in which the land lies, at least thirty (30) days prior to the date of hearing, finds no support in the foregoing last paragraph of Section 9. This is so because, the law requires only a mere *ex parte* motion filed before the Court to effect such cancellation of such encumbrance or lien.
>
> In any event, no such requirement of publication in the official gazette and the posting of notice at least 30 days prior to the hearing is required in the cancellation of lien especially so because the two-year lien had already expired. Inasmuch as in this case, the petitioner was able to present a

> certification from the LRA that the lien already lapsed, publication of the petition in the Official Gazette is no longer required.[13]

Unsatisfied, the OSG filed the present appeal directly before the Court, raising the sole legal issue of *whether the requirements of publication and posting under Republic Act No. 26 may be dispensed with after the lapse of two years from the date of the reconstitution of the lost or destroyed certificate of title*.[14]

The Petition

In the Petition, the OSG argues that the jurisdictional requirements of publication of the notice of the Petition in the Official Gazette and the posting thereof *cannot* be dispensed with, despite the lapse of two years from the date of the reconstitution of the title.[15] It explains as follows:

> Here, the plain meaning of the proviso in Section 9 only allows the petitioner to file an ex parte motion if no other person, as described in Section 8, has filed a petition to annotate his/her interest after the lapse of two (2) years from the date of the reconstitution of the lost or destroyed certificate of title. In other words, if these conditions are present, the court, upon motion of the petitioner, may proceed to hear the case ex parte or for the benefit of one party only and without notice by the court to any person having adverse interest, since, again, no person, described in Section 8, has annotated his/her interest in the reconstituted certificate of title. There is nothing in the proviso, however, that suggests or otherwise warrants dispensing with the jurisdictional requirements of publication and the posting before the petition may even be heard.[16]

The Comment

In her Comment,[17] respondent counters that the RTC correctly granted her Petition for the cancellation of the legal encumbrance in the subject title, as Section 9 of Republic Act No. 26 requires only an *ex parte* motion by the registered owner after the lapse of two years from the date of reconstitution of the title.[18] She further avers that she complied with all the jurisdictional requirements ordered by the RTC.[19]

The Court's Ruling

The Petition is devoid of merit.

The Court notes that the legal issue raised by the Republic regarding the interpretation of the *proviso* in Section 9 of Republic Act No. 26 has already been settled in the recent case of *Republic v. Bella*.[20]

Pertinently, Section 7 of Republic Act No. 26 states:

> SEC. 7. Reconstituted certificates of title shall have the same validity and legal effect as the originals thereof: *Provided, however*, That certificates of title reconstituted extrajudicially, in the manner stated in sections five and six hereof, shall be without prejudice to any party whose right or interest in the property was duly noted in the original, at the time it was lost or destroyed, but entry or notation of which has not been made on the reconstituted certificate of title. *This reservation shall be noted as an encumbrance on the reconstituted certificate of title*. (Italics supplied)

This provision requires every reconstituted certificate of title to bear an annotation of encumbrance, which is designed to protect the rights of individuals whose rights or interests were duly noted in the original title but not carried over to the reconstituted title. "This reservation acts as a safeguard, putting interested parties on notice that they may have a claim that needs to be re-annotated on the reconstituted title."[21]

In relation thereto, Section 9 of the same law provides:

> SEC. 9. A registered owner desiring to have his reconstituted certificate of title freed from the encumbrance mentioned in section seven of this Act, may file a petition to that end with the proper Court of First Instance, giving his reason or reasons therefor. A similar petition may, likewise, be filed by a mortgagee, lessees or other lien holder whose interest is annotated in the reconstituted certificate of title. Thereupon, the court shall cause a notice of the petition to be published, at the expense of the petitioner, twice in successive issues of the *Official Gazette*, and to be posted on the main entrance of the provincial building and of the municipal building of the municipality or city in which the land lies, at least thirty days prior to the date of hearing, and after hearing, shall determine the petition and render such judgment as justice and equity may require. The notice shall specify, among other things, the number of the certificate of title, the name of the registered owner, the names of the interested parties appearing in the reconstituted certificate of title, the location of the property, and the date on which all persons having an interest in the property must appear and file such claim as they may have. The petitioner shall, at the hearing, submit proof of the publication and posting of the notice: *Provided, however, That after the expiration of two years from the date of the reconstitution of a certificate of title. If no petition has been filed within that period under the preceding section, the court shall, on motion ex parte by the registered owner or other person having registered interest in the reconstituted certificate of title, order the register of deeds to cancel, proper annotation, the encumbrance mentioned in section seven hereof.* (Italics supplied)

It is true that as a general rule, in order to free a reconstituted certificate of title from the mandatory encumbrance under Section 7 of Republic Act No. 26, Section 9 requires that a notice of the petition filed for such purpose be: (i) published, at the expense of the petitioner, twice in successive issues of the Official Gazette; and (ii) posted on the main entrance of the provincial building of the municipality or city in which the land is situated, at least 30 days prior to the date of the hearing.

However, the *proviso* in Section 9 is explicit that the mandatory encumbrance may be cancelled upon an *ex parte* motion of the registered owner when two conditions are met: *first*, two years must have lapsed from the date of the reconstitution of the certificate of title; and *second*, no petition under Section 8 of Republic Act No. 26 was filed within the two-year period.

For clarity, Section 8 provides:

> SEC. 8. Any person whose right or interest was duly noted in the original of a certificate of title, at the time it was lost or destroyed, but does not appear so noted on the reconstituted certificate of title, which is subject to the reservation provided in the preceding section, may, *while such reservation subsists*, file a petition with the proper Court of First Instance for the annotation of such right or interest on said reconstituted certificate of title, and the court, after notice and hearing, shall determine the merits of the petition and render such judgment as justice and equity may require. The petition shall state the number of the reconstituted certificate of title and the nature, as well as a description, of the right or interest claimed. (Italics and underscoring supplied)

In other words, any person, who had rights or interests previously noted on the original certificate of title, may file a petition to have such right or interest annotated on the reconstituted certificate of title for as long as the mandatory encumbrance under Section 7 of Republic Act No. 26 *subsists*.

If two years have lapsed after the date of the reconstitution of the title *and* no petition under Section 8 was filed within such period, the registered owner may file an *ex parte* motion before the trial court to have the encumbrance cancelled, *without need to comply with the publication and posting requirements*,[22] pursuant to the proviso in Section 9.[23]

Here, it is undisputed that respondent filed her Petition for cancellation of the legal encumbrance *more than two years* after the date of reconstitution of the subject title. In fact, in a Certification dated April 4, 2022, of the Land Registration Authority, it is stated that the two-year reservation period had expired on September 13, 2001, "without anybody laying claim or interest thereon."[24] As in *Bella*, notice to any adverse party is no longer required, and respondent's Petition in the present case, *even without publication and posting*, is sufficient for the cancellation of the legal encumbrance under Section 7 of Republic Act No. 26 that was annotated on the subject title.

ACCORDINGLY, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated September 9, 2022, and the Order dated October 28, 2022, of Branch 91, Regional Trial Court, Quezon City in LRC Case No. R-QZN-22-05206-LR are hereby **AFFIRMED**.

The Register of Deeds of Quezon City is hereby directed to notify Branch 91, Regional Trial Court, Quezon City and the Court of the cancellation of the encumbrance on Transfer Certificate of Title No. 004-RT-86087 (319891).

SO ORDERED.

Caguioa (Chairperson) and *Gaerlan, JJ*., concur.
Dimaampao, [*] *J*., on official leave.
Singh, [**] *J*., on official business.

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[*] On official leave.

[**] On official business.

[1] *Rollo*, pp. 7-16.

[2] *Id.* at 18-19. Penned by Presiding Judge Kathleen Rosario D. De La Cruz-Espinosa.

[3] *Id.* at 26-28.

[4] *Id.* at 29-31.

[5] "An Act Providing a Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed." Approved on September 25, 1946.

[6] *Rollo*, p. 30, respondent's Petition.

[7] *Id.*

[8] *Id.* at 9, the Republic's Petition.

[9] *Id.* at 19.

[10] *Id.*

[11] *Id.* at 20-23.

[12] *Id.* at 23.

[13] *Id.* at 27.

[14] *Id.* at 10.

[15] *Id.* at 11-12.

[16] *Id.* at 12.

[17] *Id.* at 58-62.

[18] *Id.* at 60-61.

[19] *Id.* at 61.

[20] **G.R. No. 260831**, February 26, 2025.

[21] *Id.*

[22] *See* Concurring Opinion of Justice Alfredo Benjamin S. Caguioa in **Republic v. Bella**, *supra* note 20.

[23] **Republic v. Bella**, *id*.

[24] *Rollo*, p. 18, RTC Decision.

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