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**SECOND DIVISION**

[G.R. No. 207159; February 28, 2022]

**REPUBLIC OF THE PHILIPPINES,** *Petitioner*, *v.* **HEIRS OF EDUARDO BOOC, MERCEDES BOOC, AURELIA BOOC, PEDRO BOOC, FLORENTINO BOOC, and FELICIANA BOOC,*** *Respondents*.

**D E C I S I O N**

**HERNANDO, *J.*:**

This petition for review on *certiorari*[1] assails the April 24, 2013 Decision[2] of the Court of Appeals (CA) in CA-G.R. CV No. 03247, which affirmed the November 19, 2008 Decision[3] of the Regional Trial Court (RTC), Branch 27 of Lapu-Lapu City, Cebu, in Cadastral Case No. 20 granting the reconstitution of Original Certificate of Title (OCT) of Lot Nos. 4749, 4765 and 4777 in favor of Eduardo Booc, Mercedes Booc, Aurelia Booc, Pedro Booc, Florentino Booc, and Feliciana Booc (collectively, respondents).

**The Antecedent Facts**

Subject of the controversy are three lots located in Lapu-Lapu City, Cebu known as: (a) Lot No. 4749 with a lot area of 2,813 square meters; (b) Lot No. 4765 with a lot area of 5,507 square meters; and (c) Lot No. 4777 with a lot area of 6,973 square meters.[4]

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* Feliciana Booc is also referred as Feliciano Booc and Feleciana Booc in some parts of the records.

[1] *Rollo*, pp. 22-39.

[2] Id. at 8-20. Penned by Associate Justice Maria Elisa Sempio Diy and concurred in by Associate Justices Edgardo L. Delos Santos (now a retired member of the Court) and Pamela Ann Abella Maxino.

[3] Id. at 70-76. Penned by Presiding Judge Toribio S. Quiwag.

[4] Id. at 58.

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On July 9, 1998, respondents filed a petition for reconstitution[5] of OCT of Lot Nos. 4749, 4765, and 4777 alleging that sometime in 1930, the Court of First Instance (CFI) of Cebu rendered three January 20, 1930 Decisions[6] declaring the late Eduardo Booc, Mercedes Booc, Aurelia Booc, Pedro Booc and Florentino Booc (collectively, the Boocs) as the registered owners of Lot Nos. 4749, 4765, and 4777. As a result thereof, in 1934, Decree Nos. 531394, 531367, and 531382 were separately issued by the CFI-Cebu directing the registration of the subject lots in the name of the Boocs.[7]

OCTs were thereafter allegedly issued to the Boocs relative to the subject lots. Unfortunately, the OCTs were lost or destroyed during the World War II as evidenced by the Certification[8] dated June 26, 1998 issued by the Register of Deeds of Lapu-Lapu City. Respondents exerted diligent efforts to recover the certificates of title but still failed to find the same.[9]

Respondents further averred that the certificates of title were still in force at the time they were lost or destroyed. Also, no co-owner's, mortgagee's, or lessee's duplicate certificates of title were issued.[10]

Respondents likewise alleged that the lots adjoining the subject lots are as follows:[11]

Lot No. 4749:

North – Lot 4736 owned by Nemesio Fernandez of Buaya, Lapu-Lapu City;
East – Lot 4748 owned by Eusebio Pino of Buaya, Lapu-Lapu City;

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[5] Records, pp. 1-5.

[6] Id. at 12-14.

[7] *Rollo*, p. 10.

[8] Records, p. 15.

[9] *Rollo*, p. 10.

[10] Id. at 71.

[11] Records, p. 4.

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South – Lot 4750 owned by Hilarion Fernandez of Buaya, Lapu-Lapu City; and
West – Lot 4735 owned by Jorge Linao of Buaya, Lapu-Lapu City.

x x x x

Lot No. 4765:

Northeast – Lot 4764 owned by Juan Inot of Buaya, Lapu-Lapu City;
North West – Lot 4757 owned by Juan Booc of Buaya, Lapu-Lapu City;
Southeast – Lot 4766 owned by Miguel Linao of Buaya, Lapu-Lapu City;
South West – Lot 4755 owned by Calixto Inot of Buaya, Lapu-Lapu City; and Lot 4769 owned by Lazaro Cabuco of Buaya, Lapu-Lapu City;
West – Lot 4756 owned by Santiago Fernandez of Buaya, Lapu-Lapu City.

x x x x

Lot No. 4777:

East – Lot 4779 owned by Laureana Talingting of Buaya, Lapu-Lapu City;
South – Lot 4780 owned by Bonifacio Malingin of Buaya, Lapu-Lapu City;
West – Lot 4776 owned by Joaquin Patalinghug of Buaya, Lapu-Lapu City;
North – Lot 4775 owned by Sotera Catagcatag of Buaya, Lapu-Lapu City.[12]

At present, Lot No. 4749 is in the material possession of the Mactan Export Processing Zone Authority (MEPZA).[13] On the other hand, the Mactan International Airport Authority (MIAA) possesses Lot Nos. 4765 and 4777.[14]

In support of their petition for reconstitution, respondents presented the following pieces of evidence:

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[12] *Rollo*, p. 71.

[13] Records, p. 4.

[14] Id.

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1. Certified true copy of the January 20, 1930 Decision of the CFI Cebu awarding to the Boocs Lot No. 4749;[15]
2. Certified true copy of the January 20, 1930 Decision of the CFI Cebu awarding to the Boocs Lot No. 4765;[16]
3. Certified true copy of the January 20, 1930 Decision of the CFI Cebu awarding to the Boocs Lot Nos. 4777 and 4765;[17]
4. Certified true copy of Decree No. 531367 issued by the CFI-Cebu dated June 1, 1934 declaring the Boocs as the owners of Lot No. 4749;[18]
5. Certified true copy of Decree No. 531382 issued by the CFI-Cebu dated June 2, 1934 declaring the Boocs as the owners of Lot No. 4765;[19]
6. Certified true copy of Decree No. 531394 issued by the CFI-Cebu dated May 1, 1934 declaring the Boocs as the owners of Lot No. 4777;[20]
7. Certification by the Registry of Deeds of Lapu-Lapu City dated June 26, 1998;
8. Certified true copies of the respective technical description of Lot Nos. 4749, 4765, and 4777;[21]
9. June 18, 1998 Certification from the Clerk of Court of RTC of Lapu-Lapu City stating that no application for reconstitution of original certificates of title for the subject lots was filed before the said trial court;[22]
10. Certifications from Branch Clerks of Court of Branch Nos. 27, 53 and 54 of RTC of Lapu-Lapu City which similarly stated that no application for reconstitution of

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[15] Id. at 13.

[16] Id. at 14.

[17] Id. at 15.

[18] Id. at 6-7.

[19] Id. at 8-9.

[20] Id. at 10-11.

[21] Id. at 19-21.

[22] Id. at 111.

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original certificates of title for the subject lots was filed before the said trial court;[23] and

11. Sketch plans for the subject lands.[24]

In its Amended Order[25] dated February 18, 2000, the RTC: (a) set the initial hearing of the case; (b) directed the Branch Clerk of Court to cause the publication of the Notice of Hearing in the three successive issues of the Official Gazette; and (c) ordered the posting of the copies thereof at the Capitol Building of Cebu City and the place where the subject lots were located. The RTC further ordered the Branch Clerk of Court to furnish the Office of the Solicitor General (OSG), the Register of Deeds-Cebu, the Bureau of Lands, and the Land Registration Authority (LRA), copies of the RTC Amended Order. Subsequently, the OSG entered its appearance and deputized the City Prosecutor of Lapu-Lapu City to appear for the State.[26]

Pursuant to the aforementioned order, an Amended Notice of Hearing[27] was issued on the same date.

The initial hearing was thereafter conducted wherein respondents established the jurisdictional facts. The RTC initially entered an order of general default when no opposition to the petition for reconstitution was filed, and scheduled the initial presentation of respondent's evidence on August 29, 2000. However, it did not push through when the Mactan-Cebu International Airport Authority (MCIAA) filed its opposition.[28]

In its opposition,[29] MCIAA asserted that the government, through the Civil Aeronautics Administration (CAA), owned the subject lots. The CAA bought the said lots from Julian Cuizon

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[23] Id. at 112-114.

[24] Id. at 110-6.

[25] Id. at 54.

[26] Id. at 243.

[27] Id. at 55.

[28] Id. at 243-244.

[29] Id. at 93-95.

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(Julian), Modesta Cuizon (Modesta), and Paulino Cuizon (Paulino), as evidenced by three Deeds of Absolute Sale dated September 5, 1957,[30] April 4, 1958,[31] and July 16, 1958.[32] Since then, the government has been in continuous, uninterrupted, and adverse possession of the subject lots which it declared for taxation purposes under Tax Declaration Nos. 00357, 00371, and 00086.[33] The ownership of the subject lots were then transferred to MCIAA pursuant to Republic Act No. (RA) 6985.[34]

Respondents filed their reply[35] to the opposition, averring that Julian, Modesta, and Paulino, were not the legal heirs of the Boocs; hence, they cannot sell the subject lots. MCIAA was a possessor in bad faith since it grossly neglected its duty to determine who were the actual owners of the subject lots before purchasing the same. Respondents also insisted that since the subject lots are covered by Torrens certificates of title, the action relative thereto is imprescriptible.[36]

MCIAA then filed its rejoinder asserting that respondents are not real parties-in-interest in the case because they are not the registered owners of the subject lots. MCIAA also sought the dismissal of the petition for reconstitution on the ground that it was prematurely filed. MCIAA reasoned that there is still a need to resolve the issue of ownership which could only be ventilated in an ordinary court action and not before a cadastral court.[37]

In its February 19, 2003 Order,[38] the RTC dismissed MCIAA's opposition on the ground that respondents, being the heirs of the

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[30] Id. at 104-107.

[31] Id. at 100-103.

[32] Id. at 96-99.

[33] Id. at 108-110.

[34] Id. at 244.

[35] Id. at 129-135.

[36] Id.

[37] Id. at 244.

[38] Id. at 135-136.

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Boocs, and MCIAA, claiming ownership over the subject lots, are both real parties-in-interest in the petition for reconstitution under RA 26,[39] which only determines if the re-issuance of a title is proper.[40]

During the trial, respondents presented their sole witness, Ismael Limalima (Ismael), son-in-law of the heirs of Eduardo Booc, who identified the pieces of documentary evidence. During his cross-examination, Ismael averred that sometime in 1976, respondents were surprised to find out that another person had occupied the land of Eduardo.[41] They then searched for the duplicate copy of the OCT but did not find it.[42] Believing it was lost, Ismael claimed that they went to the municipal hall of Lapu-Lapu City afterwards.[43]

In a Report[44] dated April 17, 2009 submitted to the RTC, the LRA states:

(1) The present petition seeks the reconstitution of Original Certificates of Title Nos. N.A., allegedly lost or destroyed and supposedly covering Lot Nos. 4749, 4765 and 4777 of the Cadastral Survey of Opon, situated in the Municipality of Opon, Province of Cebu, on the basis of Decree Nos. 531394, 531382 and 531367.

(2) From Book No. 8 of the "Record Book of Cadastral Lots" on file at the Cadastral Decree Section, this Authority, it appears that Decree Nos. 531367, 531382 and 531394 were issued to Lot Nos. 4749, 4765 and 4777 on June 1, 1934, June 2, 1934 and May 31, 1934, respectively, all of Opon Cadastre, in Cadastral Case No. 20, GLRO Cad. Record No. 1004. As per copies of said decrees on file at the Vault Section, Docket Division, this Authority, it appears that it were issued in favor of Eduardo, Mercedes, Aurelio, Pedro, Florentino and Feliciana, all surnamed Booc.

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[39] Entitled "AN ACT PROVIDING A SPECIAL PROCEDURE FOR THE RECONSTITUTION OF TORRENS CERTIFICATES OF TITLE LOST OR DESTROYED." Approved: September 25, 1946.

[40] Records, pp. 135-11136.

[41] TSN, November 7, 2001, p. 6.

[42] Id. at 7.

[43] Id.

[44] Records, pp. 239-240.

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(3) The technical descriptions of Lot Nos. 4749, 4765 and 4777 of the Cadastral Survey of Opon, appearing on Decree Nos. 531367, 531382 and 531394 has been examined and found correct after examination and due computation. Said technical descriptions when plotted in the Municipal Index Sheet No. 7323, do not appear to overlap previously plotted/decreed properties in the area.

x x x x[45]

**Ruling of the Regional Trial Court:**

In its Decision[46] dated November 19, 2008, the RTC held that respondents sufficiently proved that the OCTs of the subject lots were issued in the name of the Boocs and that these were lost or destroyed during the war. Thus, reconstitution of the same is in order.

The *fallo* of the RTC Decision reads:

WHEREFORE, viewed in the light of the foregoing facts and circumstances, reconstitution is hereby granted. The Register of Deeds of Lapu-Lapu City is hereby directed to reconstitute the original certificate of title of Lot Nos. 4749, 4765, and 4777, of Opon Cadastre, upon payment of the corresponding fees in the name of the decreed owners, namely: Eduardo Booc, Mercedes Booc, Aurelia Booc, Pedro Booc, Florentino Booc and Feliciana Booc based on the Index of Decrees, sketch plans, technical descriptions and Report of the Land Registration Authority, subject to the following conditions:

1. A first lien in favor of the National Government to guarantee the payment of the special taxes assessed pursuant to Section 18 of Act 2259, as amended; and,

2. A lien in favor of E. Bunagan Surveying Co. to guarantee the payment of the costs of cadastral survey and monumenting pursuant to Act 3327, as amended, unless the same has previously been cancelled; and provided further, that no certificate of title covering the same parcel of land exists in the office of the Register of Deeds concerned.

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[45] Id. at 239.

[46] *Rollo*, pp. 70-76.

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The Register of Deeds of Lapu-lapu City is hereby directed to deliver the title thereof to the decreed owners or their successors-in-interest.

SO ORDERED.

Petitioner Republic of the Philippines then appealed[47] to the CA arguing that the RTC erred in granting the petition mainly because the numbers of the purported OCTs of the subject lots were not identified. Hence, respondents failed to prove that the said certificates exist and were in force at the time they were allegedly lost or destroyed.[48]

**Ruling of the Court of Appeals:**

In its April 24, 2013 Decision,[49] the CA ruled that the failure to mention the numbers of the lost OCTs of Lot Nos. 4749, 4765 and 4777 is not a fatal defect to the reconstitution thereof. The CA held that the existence of the decisions and decrees awarding the subject lots to the Boocs, and the Register of Deeds' certification stating that the OCT was lost or destroyed, are sufficient to warrant the reconstitution of the purported lost or destroyed certificates of title.

The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the instant appeal is DENIED without prejudice to the determination of the issue of ownership of Lot Nos. 4749, 4765, and 4777 in a separate proceeding. The Decision of Branch 27, Regional Trial Court, 7th Judicial Region, Lapu-lapu City dated November 19, 2008 is AFFIRMED.

SO ORDERED.[50]

Undaunted, petitioner filed this petition for review on *certiorari*.[51]

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[47] Records, pp. 250-251.

[48] *Rollo*, p. 12.

[49] Id. at 8-20.

[50] Id. at 19.

[51] Id. at 22-39.

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**Issues**

Petitioner raises the following grounds:

I

THE RECONSTITUTION OF THE PURPORTED ORIGINAL CERTIFICATES OF TITLE COVERING LOT NOS. 4749, 4765 AND 4777 OF OPON CADASTRE HAS NO BASIS AS THERE IS NO PROOF THAT THESE LOTS WERE REGISTERED UNDER THE TORRENS SYSTEM. HENCE, THERE ARE NO TITLES THAT MAY BE VALIDLY RECONSTITUTED.

II

THE DECISIONS AND THE DECREES ALLEGEDLY PERTAINING TO THE SUBJECT LOTS, WITHOUT ANY INDICATION OF THE NUMBERS OF THE CERTIFICATES OF TITLE, CANNOT SUFFICIENTLY SUPPORT A PETITION FOR RECONSTITUTION.[52]

Simply put, the sole issue for resolution is whether or not respondents are entitled to the reconstitution of the OCTs of the subject lots.

Petitioner avers that the CA erred in affirming the RTC Decision since there is no proof that the subject lands were indeed registered under the Torrens System to warrant the reconstitution of the purported lost or destroyed certificates of title. Further, the numbers of the certificates of titles of the subject lots were not indicated in the decrees and the CFI-Cebu Decisions which allegedly awarded the same to the Boocs.[53]

Respondents, on other hand, insist that OCTs were issued on the subject lots as proved by the Register of Deeds' certification. Also, the absence of the numbers of the certificates of title is not a ground to deny or infirm the petition since Section 13 of RA 26 merely states that the number of the lost or destroyed certificate of title shall only be stated in the notice "if known."[54]

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[52] Id. at 22-39.

[53] Id. at 29-37.

[54] Id. at 81-84.

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**Our Ruling**

The petition is impressed with merit.

It is settled that only questions of law may be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court. There is a question of law when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts.[55] The question must therefore not involve an examination of the probative value of the evidence presented by the litigants or any of them.[56] The resolution of the issue must rest solely on what the law provides on the given set of circumstances.[57] If the issue raised entails a review of the evidence presented, the question posed is one of fact.[58]

As such, as a general rule, the factual findings of the CA will not be reviewed on appeal by this Court as it is not a trier of facts. It will therefore not entertain questions of fact since the factual findings of the appellate courts are final, binding, or conclusive on the parties and upon this Court when supported by substantial evidence.[59]

Nonetheless, the Court deals with questions of fact in resolving a petition for review on *certiorari* when there is the presence of any of the following exceptional circumstances:

(1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) when the finding is grounded entirely on speculations, surmises, or conjectures; (4) when the judgment of the CA is based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the CA, in making its findings, went beyond the issues of the case and the same

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[55] *Century Iron Works v. Banas*, 711 Phil. 576, 585-586 (2013).

[56] Id. at 586.

[57] Id.

[58] Id., citing *Leoncio v. De Vera*, 569 Phil. 512, 516 (2008), citing *Binay v. Odeña*, 551 Phil. 681, 689 (2007).

[59] *Pascual v. Burgos*, 776 Phil. 167, 182 (2016).

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is contrary to the admissions of both parties; (7) when the findings of the CA are contrary to those of the trial court; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the CA manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (10) when the findings of fact of the CA are premised on the absence of evidence and are contradicted by the evidence on record.[60]

The fourth and ninth exceptions are present in the case which warrant a review of the issues presented in the petition.

**The RTC failed to acquire jurisdiction over the petition for reconstitution due to procedural infirmities.**

RA 26, otherwise known as "Special Procedure for Reconstitution of Lost or Destroyed Torrens Certificate of Title," on judicial reconstitution of a certificate of title, governs the restoration of a lost or destroyed certificate of title in its original form and condition.[61] The purpose of the reconstitution is to enable, after observing the procedures prescribed by law, the reproduction of the lost or destroyed Torrens certificate in the same form and in exactly the same way it was at the time of the loss or destruction.[62]

The trial court can only acquire jurisdiction over a petition for reconstitution if the mandatory requirements and procedures laid down in RA 26 have been strictly complied with. In *Tahanan Development Corp. v. Court of Appeals*,[63] the Court emphasized the mandatory nature of the requirements and procedures in RA 26 in this wise:

Republic Act No. 26 entitled "An act providing a special procedure for the reconstitution of Torrens Certificates of Title lost or destroyed"

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[60] *Republic v. Heirs of Ramos*, 627 Phil. 123, 133-134 (2010).

[61] See *Republic v. Susi*, 803 Phil. 348, 357 (2017).

[62] Id.

[63] 203 Phil. 652 (1982).

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approved on September 25, 1946 confers jurisdiction or authority to the Court of First Instance to hear and decide petitions for judicial reconstitution. The Act specifically provides the special requirements and mode of procedure that must be followed before the court can properly act, assume and acquire jurisdiction or authority over the petition and grant the reconstitution prayed for. These requirements and procedure are mandatory. The Petition for Reconstitution must allege certain specific jurisdictional facts; the notice of hearing must be published in the Official Gazette and posted in particular places and the same sent or notified to specified persons. x x x[64]

There are two procedures and sets of requirements under RA 26 which must be observed depending on the source of the petition for reconstitution.[65] Section 10, in relation to Section 9, provides the procedure and requirements for sources falling under Sections 2(a), 2(b), 3(a), 3(b), and 4(a).[66] On the other hand, Sections 12 and 13 lay down the procedure and requirements for sources falling under Sections 2(c), 2(d), 2(e), 2(f), 3(c), 3(d), 3(e), and 3(f).[67]

Sections 12 and 13 of RA 26, in particular, state:

SECTION 12. Petitions for reconstitution from sources enumerated in sections 2(c), 2(d), 2(e), 2(f), 3(c), 3(d), 3(e) and/or 3(f) of this Act, shall be filed with the proper Court of First Instance, by the registered owner, his assigns, or any person having an interest in the property. The petition shall state or contain, among other things, the following: (a) that the owner's duplicate of the certificate of title had been lost or destroyed; (b) that no co-owner's mortgagee's or lessee's duplicate had been issued, or, if any had been issued, the same had been lost or destroyed; (c) the location, area and boundaries of the property; **(d) the nature and description of the buildings or improvements, if any, which do not belong to the owner of the land, and the names and addresses of the owners of such buildings or improvements**; **(e) the names and addresses of the occupants or persons in possession of the property, of the owners of the adjoining properties and all persons who may**

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[64] Id. at 681.

[65] *Republic v. Susi*, supra.

[66] Id.

[67] Id.

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**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 further be accompanied with a plan and technical description of the property duly approved by the Chief of the General Land Registration Office, or with a certified copy of the description taken from a prior certificate of title covering the same property.

SECTION 13. The court shall cause a notice of the petition, filed under the preceding section, to be published, at the expense of the petitioner, twice in successive issues of the Official Gazette, and to be posted on the main entrance of the provincial building and of the municipal building of the municipality or city in which the land is situated, at least thirty days prior to the date of hearing. The court shall likewise cause a copy of the notice to be sent, by registered mail or otherwise, at the expense of the petitioner, to every person named therein whose address is known, at least thirty days prior to the date of hearing. **Said notice shall state**, among other things, **the number of the lost or destroyed certificate of title**, if known, the name of the registered owner, **the names of the occupants or persons in possession of the property**, the owners of the adjoining properties and all other interested parties, **the location, area and boundaries of the property**, and **the date on which all persons having any interest therein must appear and file their claim or objections to the petition**. The petitioner shall, at the hearing, submit proof of the publication, posting and service of the notice as directed by the court.

The requirements in Section 12, on the contents of a petition, and Section 13, on the publication of the notice of petition, are mandatory and jurisdictional in nature.[68] Hence, non-observance thereof fatally affects the whole proceedings in all its aspects and renders the same void.[69]

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[68] *Republic v. Castro*, 594 Phil. 127, 134 (2008).

[69] See Id.

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In the case at bench, the petition for reconstitution did not comply with the requirements laid down in Section 12 of RA 26. Although respondents stated in their petition that MEPZA possesses Lot No. 4749 while the MIAA occupies Lot Nos. 4765 and 4777, they failed to indicate their present addresses. Despite being aware that the subject lots are in the material possession of the MIAA and MEPZA, respondents did not stipulate if a building or improvements which do not belong to the Boocs are erected in the subject lots, and the nature thereof. They also did not state the encumbrances affecting the property, which are the deeds of absolute sale executed in 1957 and 1958 in favor MCIAA. Verily, the petition for reconstitution is fatally defective due to the presence of severe infirmities.

Not only did respondents violate Section 12 of RA 26, they likewise did not strictly adhere to the procedures on notice of hearing laid down in Section 13 of the said law.

The Amended Notice of Hearing[70] dated February 18, 2000 states:

> TO: Atty. Froilan Quilano, Don Mariano Cui, St., Fuente Osmena, Cebu City
> Hrs. of Eduardo Booc, Rep. by Bartolome Booc, et al., Medellin, Cebu
> The City Fiscal, Lapu-Lapu City, Personal Service
> The Register of Deeds of Cebu, Prov'l. Capitol Bldg., Cebu City
> The Register of Deeds of Lapu-Lapu City, Personal Service Reg/m/rrr
> The Director Bureau of Lands, Manila, Reg/m/rrr
> The Administrator, LRAZ, Quezon City, Reg/m/rrr
> The Director National Printing Office, Quezon City, Reg/m/rrr
> The Solicitor General, Makati, Metro Manila, Reg/m/rrr
> Lot No. 4749, Eduardo Booc, et al., (Decreed Owners) Onofre Seño, Heirs of Jorge Linao, Memesio Fernandez, Eusebio Pino and Heirs of Hilarion Fernandez (Adjoining Owners) Lot No. 4765 Eduardo Booc, et al., (Decreed Owners) Lazaro Cobuco, Calixto Inot Santiago Fernandez, Juan Booc, Juan Inot and Miguel Linao Lot No. 4777 Eduardo Booc, et al., (Decreed Owners) Bonifacio

[70] Records, p. 55.

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Malingin, et al., Joaquin Patalinghug, Sotera Catagcatag and Laureana Talingting (Adjoining Owners) All residing at Buaya, Lapu-Lapu City

GREETINGS:

Please take notice that the petition filed with this Court by movant through counsel, seeking an Order for the reconstitution of the Original Certificate of Title of Lot Nos. 4749, 4765 and 4777, all of Opon Cadastre, is set for hearing on July 13, 2000 at 8:30 in the morning, before this Branch of the Court, stationed at Lapu-Lapu City, Philippines.

Lot Nos. 4749, 4765 & 4777 are situated in the Barrio Buaya, Lapu-Lapu City and bounded by the properties of the last Fifteen (15) aforementioned persons.

WITNESS THE HONORABLE RUMOLDO R. FERNANDEZ, Presiding Judge of this Court, this 18th day of February 2000 at Lapu-Lapu City, Philippines.

(sgd.) ATTY. NANCY C. ARRIESGADO
Branch Clerk of Court

A close scrutiny of the amended notice shows that it did not indicate the number of the lost of destroyed OCTs. It simply stated "Original Certificate of Title of Lot Nos. 4749, 4765 and 4777." Consequently, the failure to identify the exact title number "defeats the purpose of the twin notice and publication requirements since persons who have interest in the property or who may otherwise be affected by the reconstitution of the supposed title thereto would not be able to readily identify the said property or could even be misled by the vague or uncertain title reference."[71]

The amended notice also failed to indicate the following in violation of the *in rem* character of the reconstitution proceedings and the mandatory nature of the requirements under RA 26: (a) the names of MEPZA and MIAA who are the occupants and possessors of the subject lots; (b) the area and the boundaries of the subject lots; and (c) the date on which all persons having any interest therein must appear and file their claim or objections to the petition.

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[71] *Republic v. Castro*, supra note 68.

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Undoubtedly, the RTC did not acquire jurisdiction over private respondents' petition due to these fatal defects in gross violation of Sections 12 and 13 of RA 26. As a result thereof, its proceedings, as well as those of the CA, are null and void.[72]

Remarkably, although petitioner overlooked the jurisdictional infirmities in the petition for reconstitution and failed to incorporate them as additional issues in its petition, the Court still has sufficient authority to pass upon and resolve the same since they affect jurisdiction.[73] As held in *Castillo v. Republic*:[74]

> We cannot simply dismiss these defects as "technical." Liberal construction of the Rules of Court does not apply to land registration cases. Indeed, to further underscore the mandatory character of these jurisdictional requirements, the Rules of Court do not apply to land registration cases. In all cases where the authority of the courts to proceed is conferred by a statute, and when the manner of obtaining jurisdiction is prescribed by a statute, the mode of proceeding is mandatory, and must be strictly complied with, or the proceeding will be utterly void. When the trial court lacks jurisdiction to take cognizance of a case, it lacks authority over the whole case and all its aspects. All the proceedings before the trial court, including its order granting the petition for reconstitution, are void for lack of jurisdiction.[75]

Besides, even if respondents complied with the procedural rules under RA 26, still, the petition for reconstitution should have been denied.

**There is insufficient evidence showing that OCTs of the subject lots in the name of the Boocs exist.**

Section 2 of RA 26 enumerates in the following order the sources from which reconstitution of lost or destroyed original certificates of title may be based:

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[72] *Republic v. Heirs of Ramos*, supra note 60.

[73] Id.

[74] 667 Phil. 729 (2011).

[75] Id. at 746.

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SEC. 2. Original 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) An authenticated copy of the decree of registration or patent, as the case may be, pursuant to which the original 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 has 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 Ours.)

In *Republic v. Tuastumban*,[76] the Court laid down the requirements for an order for reconstitution to be issued: (a) that the certificate of title had been lost or destroyed; (b) that the documents presented by petitioner are sufficient and proper to warrant reconstitution of the lost or destroyed certificate of title; (c) that the petitioner is the registered owner of the property or had an interest therein; (d) that the certificate of title was in force at the time it was lost or destroyed; and (e) that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title.[77]

Respondents anchored their petition for reconstitution on Sections 2(d) and 2(f) of RA 26. To recall, respondents attached to their petition the following documentary evidence: (a) decisions of the CFI-Cebu awarding the subject lots to the Boocs; (b)

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[76] 604 Phil. 491 (2009).

[77] Id. at 504.

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decrees issued by the cadastral court pursuant to which an original certificate of title of the subject lots was issued in favor of the Boocs; (c) Register of Deeds' certification; (d) technical description of the subject lots; and (e) certifications from the Branch Clerk of Court, and Branch Clerks of Court of Branch Nos. 27, 53 and 54 of RTC of Lapu-Lapu City stating that no application for reconstitution of original certificate of title for the subject lots was filed before the said trial courts; and (f) sketch plans of the subject lots.[78]

Respondents also presented the testimony of Ismael on the authenticity of the documentary evidence, and that the duplicate copy of the certificate of title was lost and/or destroyed.[79]

Unfortunately, however, these pieces of evidence are not adequate proof that certificates of title were in fact issued to the Boocs, and the same were in force at the time they were lost or destroyed. At best, the CFI-Cebu decisions and Decree Nos. 531367, 531382 and 531394 only proved that Lot Nos. 4749, 4765 and 4777 were awarded to the Boocs and that the lots were to be registered in their names pursuant to Land Registration Act. Neither can the Register of Deeds' certification be considered as a competent evidence as it simply states that "the Original Certificate of Title of Lot No./s. 4749, 4765 and 4777 of Opon Cadastre as per records on file has/have been lost or destroyed during the last Global War,"[80] without even stating the title numbers of the certificates of title, and the names for which they were issued.

Interestingly, the LRA Report merely corroborated the award of the subject lots to the Boocs pursuant to the decrees. It did not even state if the certificates of title covering the subject lots were in fact issued to them. Verily, respondents' failure to present any competent evidence, private or official, indicating the number of the purported OCTs of the subject lots is a fatal defect which warrants the dismissal of their petition for reconstitution.[81]

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[78] See notes 13-22.

[79] *Rollo*, p. 12.

[80] Records, p. 15.

[81] See *Tahanan Development Corp. v. Court of Appeals*, supra note 63.

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Respondents' non-submission of an affidavit of loss further casts doubt if the certificates of title of the subject lots in the name of the Boocs exist.[82]

Section 109[83] of Presidential Decree No. 1529[84] mandates that the owner must file with the proper Registry of Deeds a notice of loss executed under oath. Here, as early as 1976, respondents knew that the duplicate certificates of title were already lost. Yet, they did not execute an affidavit of loss or had submitted the same as evidence if there is one giving rise to serious doubts if the purported certificates of title indeed existed.

The Court cannot give credence and weight to the testimony of Ismael which pertained only to the authenticity and existence of the documentary evidence presented, and that the duplicate of the certificates of title were lost in 1976. He neither testified as to who among the Boocs possessed the certificates of title nor attested that he had seen the duplicate thereof. Worse, Ismael's testimony is nothing but a mere sweeping general statement that the duplicate certificates of title were lost and that they tried to look for the same. He did not recount in detail who participated in the search and how it was conducted.

Respondents did not also submit any tax declarations relative to the subject lots. While a tax declaration does not prove ownership,

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[82] See *Republic v. Heirs of Ramos*, supra note 60.

[83] SECTION 109. Notice and replacement of lost duplicate certificate. — In case of loss or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or destroyed, or cannot be produced by a person applying for the entry of a new certificate to him or for the registration of any instrument, a sworn statement of the fact of such loss or destruction may be filed by the registered owner or other person in interest and registered.

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[84] Entitled "AMENDING AND CODIFYING THE LAWS RELATIVE TO REGISTRATION OF PROPERTY AND FOR OTHER PURPOSES." Approved: June 11, 1978.

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payment of realty tax is an exercise of ownership over the said lots and is the payor's unbroken chain of claim of ownership over it.[85]

Moreover, respondents are guilty of laches. Lathes is negligence or omission to assert a right within a reasonable time, warranting the presumption that the party entitled to assert it either has abandoned or declined to assert it.[86] Here, respondents only filed the petition for reconstitution 12 years after they first discovered that the titles were allegedly lost or destroyed.

All told, the RTC did not acquire jurisdiction over the case. Respondents failed to comply with the legal requirements under RA 26 for the petition for reconstitution to be given due course. Furthermore, respondents did not adduce competent evidence that the OCTs of the subject lots existed and were indeed issued in the name of the Boocs. To stress, the purpose of the reconstitution of a certificate of title under RA 26 is to have the same reproduced, after proper proceedings in the same form it was when the loss or destruction occurred.[87] Thus, before any reconstitution may be made, there should be sufficient and competent proof that the title sought to be reconstituted had actually existed.[88]

On a final note, We have emphasized time and again that the trial courts should be circumspect in granting a petition for reconstitution. It is the duty of said courts to first examine carefully the petition and its supporting documents, and ensure that the legal provisions on jurisdictional requirements under RA 26 are strictly complied.[89] In *Republic v. Sanchez*,[90] the Court emphasized that the strict observance of the rules laid down in the law is necessary to prevent parties from resorting and exploiting reconstitution proceedings to obtain Torrens title over a parcel of land, to wit:

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[85] *Republic v. Catarroja*, 626 Phil. 389, 397 (2010).

[86] *Ragua v. Court of Appeals*, 381 Phil. 7, 22-23 (2000).

[87] *Republic v. Castro*, supra note 64; *Dela Paz v. Republic*, 820 Phil. 907, 919 (2017).

[88] *Republic v. Castro*, supra note 64.

[89] See *Republic v. Planes*, 430 Phil. 848, 869 (2002).

[90] 527 Phil. 571 (2006).

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Reconstitution proceedings under RA 26 has for their purpose the restoration in the original form and condition of a lost or destroyed instrument attesting the title of a person to a piece of land. Thus, reconstitution must be granted only upon clear proof that the title sought to be restored was indeed issued to the petitioner. Strict observance of this rule is vital to prevent parties from exploiting reconstitution proceedings as a quick but illegal way to obtain Torrens certificates of titles over parcels of land which turn out to be already covered by existing titles. The social and economic costs of such modus operandi cannot be underestimated. As we observed in Director of Lands v. Court of Appeals:

> The efficacy and integrity of the Torrens System must be protected and preserved to ensure the stability and security of land titles for otherwise land ownership in the country would be rendered erratic and restless and can certainly be a potent and veritable cause of social unrest and agrarian agitation. x x x The real purpose of the Torrens System which is to quiet title to the land must be upheld and defended, and once a title is registered, the owner may rest secure, without the necessity of waiting in the portals of the court or sitting in the mirador de su casa to avoid the possibility of losing his land.[91] (Citations omitted)

**WHEREFORE,** the Petition for Review on *Certiorari* is hereby **GRANTED**. The April 24, 2013 Decision of the Court of Appeals in CA-G.R. CV No. 03247 is **REVERSED and SET ASIDE**. The petition for reconstitution filed by the respondents before the Regional Trial Court, Branch 27 of Lapu-Lapu City, Cebu docketed as Cadastral Case No. 20, is **DISMISSED**.

**SO ORDERED.**

*Perlas-Bernabe, S.A.J. (Chairperson), Zalameda, Rosario,* and *Marquez, JJ.*, concur.

**APPEARANCES OF COUNSEL**

*Office of the Solicitor General* for petitioner.
*Zosa and Quijano Law Offices* for respondents.

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[91] Id. at 598-599.