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THIRD DIVISION

[G.R. No. 127969. June 25, 1999]

REPUBLIC OF THE PHILIPPINES, represented by the LAND REGISTRATION AUTHORITY, *petitioner, vs.* **THE HONORABLE COURT OF APPEALS, JOSE M. ESTRADA and THE REGISTER OF DEEDS OF THE PROVINCE OF CAVITE,** *respondents.*

SYNOPSIS

The private respondent filed with the Regional Trial Court an action for the reconstitution of the lost and burned original copies of certificates of title and for issuance of new owner's duplicate copies of the same certificates. The trial court granted the petition. Pursuant thereto, the Acting Registrar of Deeds caused the reconstitution of the said certificates. A few months later, the Republic of the Philippines, through the Office of the Solicitor General, filed a petition for annulment of judgment with the Court of Appeals. The appellate court dismissed the petition. Hence, this petition for review, the Republic of the Philippines contending, among others, that: a) the amended order advancing the initial hearing of the case was not published; and b) no notice to actual occupants and other interested persons were sent.

The Court found merit in the petition. Among the conditions explicitly required by the law is publication of the petition twice in successive issues of the Official Gazette and such publication was made at least thirty (30) days prior to the date of hearing. This directive is mandatory and its compliance has been held to be jurisdictional. Private respondent admitted that the amended order has not been published. The flaw was fatal.

The requirement of actual notice to the occupants and the owners of the adjoining property under Sections 12 and 13 of Republic Act No. 26 is itself mandatory to vest jurisdiction upon the court in a petition for reconstitution of title and essential in order to allow said court to take the case on its

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merits. The non-observance of the requirement invalidates the whole reconstitution proceedings in the trial court.

SYLLABUS

1. **CIVIL LAW; LAND TITLES AND DEEDS; TORRENS SYSTEM OF LAND REGISTRATION; RECONSTITUTION OF TITLE; JURISDICTIONAL REQUIREMENTS.** — Reconstitution of a certificate of title, in the context of Republic Act No. 26, denotes 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. The purpose of the reconstitution is to have, *after observing the procedures prescribed by law*, the title reproduced in exactly the same way it has been when the loss or destruction occurred. Among the conditions explicitly required by the law is publication of the petition twice in successive issues of the Official Gazette, and its posting at 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*. This directive is mandatory; indeed, its compliance has been held to be jurisdictional.

2. **ID.; ID.; ID.; ID.; AMENDED ORDER OF DATE OF HEARING; NOTICE MUST BE MADE AT LEAST 30 DAYS PRIOR THERETO; 5 DAYS NOTICE, INSUFFICIENT AND FATAL.** — Private respondent admits that the amended Order has not been published but seeks to justify this failure by stating that the amended order is simply a verbatim reproduction of the first Order, published in the Official Gazette on 29 May 1995 and 09 June 1995, and that, therefore, the omission is just a minor lapse. The Court sees it differently. The flaw is fatal. The legally mandated publication must be complied with in the manner the law has ordained. The date of the actual hearing is obviously a matter of substance that must accurately be stated in the notice. It is not here denied that the volume of the Official Gazette, where the Order of Initial Hearing (for the 24 July 1995 setting) can be found, has officially been released by the National Printing Office only on 14 June 1995 or merely five days from the date of the actual hearing on 19 June 1995. The clear directive of the law is for the notice to be made "at least thirty days prior to the date of hearing." The Court of Appeals indeed must have failed to take note that the

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Exhibits "B", "C", "D", and "D-1" of the alleged jurisdictional requirements presented before the trial court all pertain to the original order setting the initial hearing on 24 July 1995 and not to the amended order advancing the hearing to 19 June 1995. Concededly, the amended order has not been published at all.

3. **ID.; ID.; ID.; ID.; NOTICE TO ACTUAL OCCUPANTS, ADJOINING OWNERS AND ALL OTHER PERSONS WITH INTEREST IN PROPERTY, JURISDICTIONAL.** — One other compelling reason that militates against respondents is the evident failure of due compliance with the requirement of notice to actual occupants, the names of the owners of the adjoining properties (although one of the adjoining owners, Mr. Francisco Cuenca, would appear to have been duly notified of the hearing of 19 June 1995) and all other persons who may have an interest in the property. (Sections 12 and 13 of Republic Act No. 26).

4. **ID.; ID.; ID.; ID.; ID.; REGISTERED OWNERS WITH INCOMPATIBLE TITLES, INTERESTED PERSONS.** — The existence of several other titles mentioned in the records apparently have not been properly disclosed in the petition for reconstitution nor in the corresponding notice caused to be given by the court, which notice the law requires to be sent to all interested parties at least thirty days prior to the date of hearing. The registered owners named in these incompatible titles, as so aptly pointed out by the Solicitor General, are *interested persons* within the meaning of the law entitled to notice of the date of initial hearing on 19 June 1995, the absence of which notice constitutes a jurisdictional defect.

5. **ID.; ID.; ID.; ID.; REQUIREMENT OF ACTUAL NOTICE TO OCCUPANTS AND OWNERS OF ADJOINING PROPERTIES, MANDATORY AND VESTS JURISDICTION ON THE COURT; NOT COMPLIED WITH IN CASE AT BAR.** — This Court has repeatedly stated that the requirement of actual notice to the occupants and the owners of the adjoining property under Sections 12 and 13 of Republic Act No. 26 is itself mandatory to vest jurisdiction upon the court in a petition for reconstitution of title and essential in order to allow said court to take the case on its merits. The non-observance of the requirement invalidates the whole reconstitution proceedings in the trial court. The Court, given the foregoing circumstances,

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is constrained to accordingly hold that the decision, dated 20 June 1995, in LRC Case No. 1077-95 decreeing the reconstitution of TCT No. 11203 and No. 11204 is null and void. In contemplation of law, the decision is non-existent. For want of jurisdiction, the trial court must be held to have been without authority to take cognizance of the litigation and all its aspects.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
R. D. Dela Cruz & Associates for private respondents.

D E C I S I O N

VITUG, *J.*:

The instant petition for review assails the decision of the Court of Appeals in CA-G.R. SP No. 39816 which has affirmed the judgment and orders of the Regional Trial Court ("RTC") of Cavite (Branch 20) in LRC Case No. 1077-95, entitled: In Re: "Petition for Reconstitution of Lost/Burned Original Copy of Transfer Certificates of Title No. 11203 and No. 11204."

The Court of Appeals, in its decision, gave a brief factual and case settings of the controversy.

"On March 28, 1995, Jose M. Estrada, the private respondent in this case and petitioner in LRC Case No. 1077-95 filed with the Regional Trial Court Branch 20, Imus, Cavite the reconstitution of lost/burned original copies of certificate of titles nos. T-11203 and T-11204 and for the issuance of new owner's duplicate copies of the same certificates. These were allegedly lost or destroyed when the capitol building was burned.

"On April 29, 1995, RTC Branch 20 of Imus Cavite set the hearing of the petition on June 19, 1995 at 9:00 A.M. requiring all interested parties to appear and show cause, if any, why the petition be not granted. The order required its publication in the Official Gazette for two successive issues with the further directive that copies be furnished the adjoining owners, Office of the Solicitor General, Land Registration Authority, and the Register of Deeds. It was likewise required that the petitioner post copies of the order at the

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Bulletin Board of the Court, at the main entrance of the Provincial Capitol Building, Trece Martirez City and at the Municipal Building of Dasmariñas, Cavite, as well as where the property is located.

"There being no opposition to the petition, petitioner was allowed to adduce his evidence in the presence of the public prosecutor who had been deputized by the Solicitor General to represent him for the Republic of the Philippines.

"Florinda Estrada, a 41-year old daughter of the petitioner who was duly authorized to represent her sickly father, introduced oral and testimonial evidence. The lost/burned certificate of titles were presented in court as well as the tax declarations in the name of petitioner. The official receipts of tax payments were likewise introduced. A copy of the Deed of Sale dated July 30, 1957 in favor of petitioner was submitted by him to the court. After Florinda Estrada's testimonial evidence on the possession of her father of the land and its not being mortgaged or encumbered, Francisco Cuenca, owner of all the adjoining lots offered no objection to the petition. The public prosecutor Zenaida de Castro cross-examined the petitioner's witnesses."[1]

On 20 June 1995, the trial court granted the petition for reconstitution; thus:—

"WHEREFORE, premises considered, judgment is hereby rendered directing the Register of Deeds of Cavite to cause the reconstitution of the lost/burned original of Transfer Certificates of Title Nos. 11203 and 11204 in the name of Jose Estrada upon payment of proper fees.

"Furnish a copy of this Decision to the Register of Deeds, the Solicitor General, the Land Registration Authority and to petitioner."[2]

On 24 July 1995, private respondent filed a motion to cite the Registrar of Deeds of Cavite for contempt alleging, among other things —

"3. That in spite of the finality of the judgment, and over the pleas of petitioner's [private respondent's] representative, the Register

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[1] *Rollo*, pp. 99-100.

[2] *Rollo*, p. 209.

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of Deeds of Cavite has refused and continues to refuse to effect the reconstitution, thereby depriving the petitioner [private respondent] of the use of his Transfer Certificate of Title.

"4. That the Register of Deeds of Cavite insists on referring the matter first to the Land Registration Authority, which is uncalled for, without factual and legal basis, an exercise in futility, considering that the LRA was very much aware of the proceedings and did not oppose the petition, and is aware of the judgment and did not appeal either.

"5. That the refusal of the Register of Deeds of Cavite to effect the reconstitution is punishable contempt under Sec. 3(b) of Rule 71, of the Rules of Court.

"6. That under Section 7 of the same Rule, the Register of Deeds of Cavite may be imprisoned until he effect the reconstitution."[3]

Atty. Alejandro Villanueva, the then incumbent Registrar of Deeds of Cavite, proffered his explanation asseverating —

"That the Register of Deeds did not give due course to the registration of the above decision for reconstitution in view of the doubt entertained by the Register of Deeds as to the authenticity and genuineness of the alleged owner's duplicate copy of TCT Nos. T-11203 and T-11204 which serve as basis for reconstitution of the original copy thereof when presented and suggested that the same be subjected to government agencies like the NBI to determine their genuineness.

"That the tax declarations presented to the court to support the petition for reconstitution and marked Exhibits K and K-1 were not genuine as per Certification dated July 27, 1995 issued by the Assistant Provincial Assessor which is hereto attached as Annex 'A';

"That the alleged certification issued by the Register of Deeds that TCT Nos. T-11203 and T-11204 were among those burned and marked as Exhibit J is also not genuine.

"That Lot 5766 as allegedly covered by TCT Nos. T-11203 and T-11204, is already covered by a certificate of title issued on November 6, 1967 namely TCT No. T-26877 in the name of PILAR DEVELOPMENT CO. INC., xerox copy hereto attached as Annex 'B';

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[3] *Rollo*, pp. 278-279.

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"That as held by the Supreme Court in *RP vs. CT. of APP. et al.*, I-46626 Dec. 27, 1979, (Peña, Registration of Land Titles and Deeds 1982 Ed. P-409) — THUS, where a certificate of title covering a parcel of land was reconstituted judicially, and it was found later that there existed earlier a certificate of title covering the same property in the name of another person, it was held that the existence of such prior title *ipso facto* nullified the reconstitution proceedings and signified that the evidence in said proceedings as to the alleged ownership under the reconstituted title cannot be given any credence. That kind of reconstitution was a brazen and monstrous fraud FOISTED on the courts of justice.

"That this explanation is being submitted for the appraisal of the Honorable Court with a prayer that the Register of Deeds be not cited for contempt of Court."[4]

In an Order, dated 03 August 1995, Atty. Villanueva was ordered incarcerated until such time as he would have complied with the judgment of the RTC. A warrant for his arrest was issued, and a bond of ₱100,000.00 for his provisional liberty was fixed which he posted.

Shortly after the complete records of LRC No. 1077-95, in connection with the contempt charge against him, were elevated to the appellate court for review, Atty. Villanueva was slain by unidentified assailants in his residence in Las Piñas, Metro Manila.

On 27 December 1995, the Acting Registrar of Deeds of Cavite caused the reconstitution of the originals of TCT No. 11203 and No. 11204 pursuant to the 22nd December 1995 order of the RTC.

On 20 February 1996, the Republic of the Philippines, through the Office of the Solicitor General, filed a petition with the Court of Appeals for the annulment of the judgment of the trial court. The petition for annulment was anchored on the following grounds; to wit:

(a) That the two (2) reconstituted titles are patent nullity as they were reconstituted pursuant to a void decision and secured thru fraud and misrepresentation;

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[4] *Rollo*, pp. 61-62.

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(b) that the amended order dated 29 April 1995 was not published;

(c) that the Solicitor General was not notified about the hearing on the case; and

(d) that the Land Registration Authority was not furnished a copy of the decision.

The appellate court, in its now assailed decision of 27 January 1997, dismissed the petition for annulment and affirmed the judgment and orders of the trial court. Unsatisfied with this outcome, the Republic of the Philippines filed the instant petition for review, contending that —

"I

"RESPONDENT COURT OF APPEALS ERRED IN NOT RULING THAT THE REGIONAL TRIAL COURT FAILED TO ACQUIRE JURISDICTION OVER THE RECONSTITUTION CASE.

"II

"RESPONDENT COURT OF APPEALS ERRED IN AFFIRMING THE VOID DECISION."[5]

Petitioner Republic of the Philippines would here insist that the RTC erroneously proceeded to take cognizance of the petition notwithstanding the existence of several jurisdictional defects, among which included the following shortcomings, namely, that —

1. The amended order advancing the initial hearing of the case from 24 July 1995 to 19 June 1995 was not published.

2. No notice to actual occupants and other interested persons were sent.

3. The owner's duplicate of TCT No. 11203 and No. 11204 presented by private respondent to the RTC were fake and of doubtful origin because —

a. The said owner's duplicates are not in the official form.

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[5] *Rollo*, p. 21.

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b. Lot No. 5766 is declared for taxation purposes in the name of Luis Pujalte from 1940 to 1994.

c. The signature of the Registrar of Deeds Escolastico Cuevas on both titles are fake.

d. The technical descriptions on subject titles when plotted did not coincide/conform with the technical description of Lot 5766.

e. The alleged registered owner and his attorney-in-fact are not the occupants of the parcels of land.

f. The tax declarations in the name of Jose Estrada are fake and spurious.

4. The existence of other titles over the same property barred the reconstitution proceedings before the Regional Trial Court.

5. The void judgment of the RTC in the reconstitution case was not served on the petitioner.

This Court, in its resolution of 16 April 1997, required respondents to comment on the petition and forthwith issued a temporary restraining order, enjoining private respondent Jose Estrada from conveying, encumbering or otherwise dealing with the property, as well as public respondent Registrar of Deeds of Cavite Province from registering any transaction involving Transfer Certificates of Title No. 11203 and No. 11204, subject matter of the reconstitution proceedings in LRC Case No. 1077-95. In accordance with the resolution, private respondent Jose Estrada submitted his comment. Following the reply filed by petitioner, the Court gave due course to the petition.[6]

The Court sees merit in the petition.

Reconstitution of a certificate of title, in the context of Republic Act No. 26, denotes the restoration in the original form and condition[7] of a lost or destroyed instrument attesting the title of a person to a piece of land. The purpose of the reconstitution is to have, *after observing the procedures prescribed by law,*

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[6] Resolution dated 23 February 1998, First Division.

[7] See *Rivera vs. Court of Appeals*, 244 SCRA 218.

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the title reproduced in exactly the same way it has been when the loss or destruction occurred. Among the conditions explicitly required by the law is *publication of the petition twice in successive issues of the Official Gazette*, and its posting at 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*.[8] This directive is mandatory; indeed, its compliance has been held to be jurisdictional. In *Republic vs. Court of Appeals*,[9] the Court has said:

"Anent the publication requirement, R.A. No. 26 obligates the petitioner to *prove* to the trial court two things, namely that: (1) its Order giving due course to the petition for reconstitution and setting it for hearing was published twice, in two consecutive issues of the *Official Gazette*; and (2) such publication was made at least thirty days prior to the date of hearing."[10]

So also did the Court hold in *Allama vs. Republic,*[11] where the Court, again, has stated:

"The non-compliance with these requirements provided for under Section 13 of Republic Act No. 26 as regards the notice of hearing is fatal and the trial court did not acquire jurisdiction over the petition."[12]

Private respondent admits that the amended Order has not been published but seeks to justify this failure by stating that the amended order is simply a verbatim reproduction of the first Order, published in the Official Gazette on 29 May 1995 and 09 June 1995, and that, therefore, the omission is just a minor lapse. The Court sees it differently. The flaw is fatal. The legally mandated publication must be complied with in the manner the law has ordained. The date of the actual hearing is obviously

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[8] Section 13, Republic Act No. 26.

[9] 247 SCRA 551.

[10] At pp. 556-557.

[11] 206 SCRA 600.

[12] At p. 604.

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a matter of substance that must accurately be stated in the notice. It is not here denied that the volume of the Official Gazette, where the Order of Initial Hearing (for the 24 July 1995 setting) can be found, has officially been released by the National Printing Office only on 14 June 1995 or merely five days from the date of the actual hearing on 19 June 1995. The clear directive of the law is for the notice to be made "at least thirty days prior to the date of hearing." The Court of Appeals indeed must have failed to take note that the Exhibits "B", "C", "D", and "D-1" of the alleged jurisdictional requirements presented before the trial court all pertain to the original order setting the initial hearing on 24 July 1995 and not to the amended order advancing the hearing to 19 June 1995. Concededly, the amended order has not been published at all.

One other compelling reason that militates against respondents is the evident failure of due compliance with the requirement of notice to actual occupants, the names of the owners of the adjoining properties (although one of the adjoining owners, Mr. Francisco Cuenca, would appear to have been duly notified of the hearing of 19 June 1995) and all other persons who may have an interest in the property. Sections 12 and 13 of Republic Act No. 26, provide:

"SEC. 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 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

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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 to 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 accompanied with a plan and technical description of the property duly approved by the Chief of the General Land Registration Office, [now Commission of Land Registration] or with a certified copy of the description taken from a prior certificate of title covering the same property.

"SEC. 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 existence of several other titles, including –

"1. TCTs No. T-96019 (Lot 5766-B) and T-96011 (Lot 5766-A) both in name of Susan D. Degollacion.

"2. TCT No. T-148177 (Lot No. 5766-B) in the names of spouses Jose del Rosario and Juliet dela Cruz.

"3. TCT No. T-26877 (Lot No. 7524, a portion of Lot 5766) in the name of Pilar Development Company, Inc."[13] —

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[13] *Rollo*, p. 287.

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mentioned in the records apparently have not been properly disclosed in the petition for reconstitution nor in the corresponding notice caused to be given by the court, which notice the law requires to be sent to all interested parties at least thirty days prior to the date of hearing. The registered owners named in these incompatible titles, as so aptly pointed out by the Solicitor General, are *interested persons* within the meaning of the law entitled to notice of the date of initial hearing on 19 June 1995, the absence of which notice constitutes a jurisdictional defect. This Court has repeatedly stated that the requirement of actual notice to the occupants and the owners of the adjoining property under Sections 12 and 13 of Republic Act No. 26 is itself mandatory to vest jurisdiction upon the court in a petition for reconstitution of title and essential in order to allow said court to take the case on its merits. The non-observance of the requirement invalidates the whole reconstitution proceedings in the trial court.[14]

The Court, given the foregoing circumstances, is constrained to accordingly hold that the decision, dated 20 June 1995, in LRC Case No. 1077-95 decreeing the reconstitution of TCT No. 11203 and No. 11204 is null and void. In contemplation of law, the decision is non-existent; in *MWSS vs. Sison,*[15] the Court has said:

"x x x. '(A) void judgment is not entitled to the respect accorded to a valid judgment, but may be entirely disregarded or declared inoperative by any tribunal in which effect is sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding effect or efficacy for any purpose or at any place. It cannot affect, impair or create rights. It is not entitled

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[14] See *Republic vs. Marasigan*, 198 SCRA 219; *Director of Lands vs. Court of Appeals*, 102 SCRA 370; *Tahanan Development Corporation vs. Court of Appeals*, 118 SCRA 273; *Alabang Development Corporation vs. Honorable Valenzuela, et al.*, 116 SCRA 261; *Register of Deeds of Malabon vs. RTC of Malabon, Branch 170*, 181 SCRA 788; *Republic vs. Court of Appeals*, 218 SCRA 773; *Dordas vs. Court of Appeals*, 270 SCRA 328; see also *Po vs. Republic*, 40 SCRA 37.

[15] 124 SCRA 394.

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to enforcement and is, ordinarily, no protection to those who seek to enforce. All proceedings founded on the void judgment are themselves regarded as invalid. In other words, a void judgment is regarded as a nullity, and the situation is the same as it would be if there were no judgment. It, accordingly, leaves the parties litigants in the same position they were in before the trial.'"[16]

For want of jurisdiction, the trial court must be held to have been without authority to take cognizance of the litigation and all its aspects.[17]

Finally, it may not be amiss for the Court to reiterate its admonition in *Ortigas and Company Ltd. Partnership vs. Velasco*[18] that courts must exercise the *greatest caution* in entertaining petitions for reconstitution of destroyed or lost certificates of title in order to help avoid litigations and controversies, as well as discordant supervening events, that may be spawned by a hasty grant of reconstitution.

WHEREFORE, the petition for review is granted and the decision of the Court of Appeals, dated 27 January 1997, is set aside. The temporary restraining order issued by this Court on 16 April 1997 is made permanent and the decision and orders of the Regional Trial Court of Cavite in the reconstitution case (LRC Case No. 1077-95) are declared null and void for want of jurisdiction. No costs.

SO ORDERED.

Panganiban, Purisima, and *Gonzaga-Reyes, JJ.,* concur.

Romero (Chairman), J., on official business leave.

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[16] At p. 404.

[17] *Development Bank of the Philippines Employees Union vs. Perez,* 45 SCRA 179.

[18] 277 SCRA 342.