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Makasiar, (Chairman), Aquino, Concepcion, Jr., Guerrero, Abad Santos and *Escolin, JJ.*, concur.

SECOND DIVISION

[G.R. No. 55771. November 15, 1982]

TAHANAN DEVELOPMENT CORPORATION, petitioner, *vs.* THE COURT OF APPEALS, HON. MANUEL E. VALENZUELA, THE DIRECTOR OF LANDS, NICOLAS A. PASCUAL, CRISANTO F. PASCUAL, ANSELMO F. PASCUAL, MAMERTO F. PASCUAL, PASCUALA A. MEJIA, DAMIANA A. MEJIA, CIRILO S. PASCUAL, and CATALINA S. PASCUAL, respondents.

SYNOPSIS

Private respondents, claiming as intestate heirs of Manuela Aquial, petitioned respondent trial court for reconstitution of their alleged lost certificate of title, original and owner's duplicate copies, covering lots 2 and 4, Plan II-4374 situated in Bo. Cupang, Muntinlupa, Rizal, on the basis of Decree No. 15170 issued in Land Registration Case No. 9368. Notice of hearing was published in the Official Gazette and posted in the bulletin board of the CFI of Rizal at Pasay City Hall. Copies of the notice were served upon the Solicitor General and the Land Registration Commissioner, while proofs of notice to adjacent owners Pedro Flores and Constancio Maglana as indicated in the petition were their respective affidavits. The Director of Lands opposed the petition on the ground that Decree No. 15170 was issued in favor of other persons — covering a lot located in Bambang, Pasig, Rizal and not in the name of Manuel Aquial. The respondent court, however, granted the petition for reconstitution. Petitioner asked the court to set aside the decision and to re-open proceedings alleging that the land supposedly covered by the certificate of title ordered reconstituted overlaps and includes substantial portion of petitioner's land; and that as adjacent owner, it was not notified of the hearing thus, it was denied due process The Alabang Development Corporation and Ramon Bagatsing likewise filed similar petitions on the same ground. In its order, the trial court found it

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unnecessary to resolve both petitions because oppositor Director of Lands had already filed his Notice of Appeals. Petitioner moved for a reconsideration of the Court's order but the same was not acted upon prompting it to file a petition for certiorari with the Court of Appeals. The appellate court ordered the trial court to resolve petitioner's pending motion for reconsideration, which it did by denying the motion. Later, on the merits, the appellate court sustained the right of petitioner to be heard in the reconstitution proceedings in accordance with the Resolution of the Supreme Court dated September 25, 1979 in Director of Lands *vs.* Court of Appeals, et al., L-45168, and ordered the trial court to re-open the case. Upon motion of private respondents, however, respondent appellate court reversed its earlier decision and dismissed the petition for certiorari. Hence, the instant appeal, raising the issue of whether or not the trial court properly acquired and was invested with jurisdiction to hear and decide the subject reconstitution case in the light of the strict and mandatory provisions of Republic Act No. 26.

The Supreme Court held that there was a failure to comply with the mandatory requirements of law as to the notice of hearing of the petition for reconstitution, and it was error for the trial court to refuse to admit petitioner's motion for intervention in the light of the ruling of the Supreme Court in the case of the Director of Lands *vs.* CA, et al.; and on the merits, that the Aquial certificate of title is non-existent, evidence shows the falsity of private respondents' claim that they were granted a decree by the Land Registration Court, and there is no factual and legal basis for the judgment granting the petition for reconstitution.

Judgment appealed from reversed and set aside.

SYLLABUS

1. CIVIL LAW; LAND REGISTRATION; TORRENS TITLE; RECONSTITUTION OF LOST TITLE; NOTICE OF HEARING; PETITIONER NOT NOTIFIED IN CASE AT BAR.— Upon a cursory reading of both the petition for reconstitution and notice of hearing, it is at once apparent that petitioner Tahanan has not been named, cited or indicated therein as the owner, occupant or possessor of property adjacent to Lot 2 title to which is sought to be reconstituted; neither is it mentioned therein that Tahanan is the occupant or possessor of a portion of said Lot 2. The result of this omission or failure is that Tahanan was never notified of the petition and the hearings or proceedings therein.

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2. ID.: ID.; ID.; ID.; ID.; POSTING REQUIREMENT IS MANDATORY UNDER REPUBLIC ACT NO. 26; EFFECT OF FAILURE TO COMPLY; CASE AT BAR.— In the instant case, the notice of hearing issued by the trial court directed that copies thereof be posted only in the bulletin board of the CFI of Pasay City and no more, whereas the law (R.A. No. 26) specifically requires that the notice of the petition shall be posted on the main entrance of the municipality or city on which the land is situated, at the provincial building and at the municipal building at least 30 days prior to the date of the hearing. The failure or omission to notify Tahanan as the owner, possessor or occupant of property adjacent to Lot 2 or as claimant or person having an interest, title or claim to a substantial portion (about 9 hectares more or less) of Lot 2, as well as the failure or omission to post copies of the notice of hearing on the main entrance of the municipality on which the land is situated, at the provincial building and at the municipal building thereat are fatal to the acquisition and exercise of jurisdiction by the trial court as ruled in Director of Lands *vs.* Court of Appeals, 102 SCRA 370, 438 and stressed in Alabang Development Corp., et al. *vs.* Hon. Manuel E. Valenzuela, et al., G.R. No. 54094, August 30, 1982.

3. REMEDIAL LAW; CIVIL PROCEDURE; INTERVENTION; ALLOWED DURING PENDENCY OF APPEAL IN THE INTEREST OF JUSTICE, AS EXCEPTION TO THE RULE; CASE AT BAR.— In the case of Director of Lands *vs.* Court of Appeals, et al., 93 SCRA 238, the Supreme Court allowed the intervention of adjacent owners even during the pendency of the appeal in the Supreme Court from the decision granting reconstitution in the paramount interest of justice and as an exception to Section 2, Rule 12 of the Rules of Court. Petitioner Tahanan having sought to intervene in the court below and alleging material and substantial interest in the property to which title is sought to be reconstituted in its Motion to Set Aside Decision and Re-Open Proceedings duly verified and attaching therewith xerox copies of its adjoining transfer certificates of title of its properties adjoining and even overlapped by that of the Pascuals to the extent of some 9 hectares in area, the trial court ought to have admitted said motion. There was reversible error in refusing to do so.

4. ID.; ID.; ID.; ID.; INTERVENTION IN LOWER COURT IS MORE EXPEDIENT THAN IF FILED BEFORE THE SUPREME COURT.— The holding of the respondent Court of Appeals that our

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resolution in Director of Lands *vs.* CA, 93 SCRA 238, allowing intervention is not applicable to the case at bar because there was no motion to intervene filed before the Supreme Court by Tahanan is without merit. Such holding fails to see that the intervention of Tahanan while the reconstitution was still in the trial court below was more expedient for the trial court is in a better and more suitable position to hear and decide the question of encroachment and overlapping raised by Tahanan in its Motion to Set Aside Decision and Re-Open Proceedings and where the witnesses may be examined and cross-examined by the parties and the court, whereas the Supreme Court is not a trier of facts.

5. ID.; ID.; ID.; ID.; INFERIOR COURTS SHOULD NOT IGNORE OR CIRCUMVENT THE RULINGS OF THE SUPREME COURT.— Since the highest tribunal has allowed intervention almost at the end of the proceedings, there should and there ought to be no quibbling, much less hesitation or circumvention on the part of subordinates and inferior courts to abide and conform to the rule enunciated by the Supreme Court. A well becoming sense of modesty and a respectful awareness of its inferior position in the judicial hierarchy is to be expected of trial courts and the appellate court to the end that a well-ordered and disciplined administration of justice may be preserved and maintained. We cannot allow, permit or tolerate inferior courts to ignore or circumvent the clear and express rulings of this Court.

6. ID.; ID.; PARTIES TO ACTION; INDISPENSABLE PARTY; JOINDER OF PETITIONER INDISPENSABLE IN THE CASE AT BAR.— The trial court committed grave abuse of discretion in not considering Tahanan as an indispensable party to the proceedings, it having been shown positively that it has such an interest in the controversy or subject matter that a final adjudication cannot be made, in its absence, without injuring or affecting such interest. In Director of Lands *vs.* CA, *supra,* and Alabang Development Corporation *vs.* Hon. Manuel E. Valenzuela, G.R. No. 54094, August 30, 1982, the Supreme Court ruled that "The joinder must be ordered in order to prevent multiplicity of suits so that the whole matter in dispute may be determined once and for all in one litigation. The evident aim and intent of the Rules regarding the joinder of indispensable and necessary parties is a complete determination of all possible issues, not only between the parties themselves but also as regards to other persons who may be affected by the judgment. A valid judgment cannot even be rendered where there is want of indispensable parties."

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7. CIVIL LAW; LAND REGISTRATION; TORRENS TITLE; INTEGRITY AND INVIOLABILITY MUST BE UPHELD BY COURTS; DUTY TO EXAMINE CAREFULLY ALL DOCUMENTS SUBMITTED FOR RECONSTITUTION OF TITLES.— Time and again, the integrity and inviolability of Torrens titles issued pursuant to the Land Registration Act (Act 496) and Presidential Decree No. 1529 have been shaken by the very courts whose unwavering duty should be to protect the rights and interests of title holders but instead have favored claimants under the guise of reconstitution filed after a long lapse of time after the Japanese Occupation alleging the existence of original and duplicate certificates of titles issued pursuant to a court decree but have subsequently been lost or destroyed including the records of the land registration case. The courts must be cautious and careful in granting reconstitution of lost or destroyed certificates of title, both original and duplicate owner's, based on documents and decrees made to appear authentic from mere xerox copies and certificates of officials supposedly signed with the seals of their office affixed thereon, considering the ease and finality with which documents are made to appear as official and authentic. It is the duty of the court to scrutinize and verify carefully all supporting documents, deeds and certifications. Each and every fact, circumstance and incident which corroborates or relates to the existence and loss of title should be examined.

8. REMEDIAL LAW; EVIDENCE; SUFFICIENCY AND WEIGHT THEREOF; NO PROOF OF THE EXISTENCE OF TORRENS TITLE SOUGHT TO BE RECONSTITUTED IN CASE AT BAR.— The claim of the Pascuals that their predecessor-in-interest, Manuel Aquial, had an original certificate of title to Lots 2 and 4 of Plan II-4374 is extremely difficult to believe and sustain, it appearing that the number of the certificate of title issued to and registered in her name is unknown. Nowhere in the voluminous records do the Pascuals cite, state or mention the number of said certificate of title, not even in the tax declaration of Lot 2 (Tax Declaration No. 15423, Exh. "S" and Tax Declaration No. 10187, Exh. "S-1") and Lot No. 4 (Tax Declaration No. 15424, Exh. "T" and Tax Declaration No. 10188, Exh. "T-1") is the number of the certificate of title indicated. And there is absolutely no document, private or official, presented by the Pascuals mentioning the number of the certificate of title. There is also no proof as to when the certificate of title was issued.

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9. ID.; ID.; ID.; NO PROOF AS TO HOW RESPONDENTS ACQUIRED TITLE TO THE LOTS IN QUESTION; CASE AT BAR.— In the instant petition at bar, we find no claim of Aquial nor her successors, the Pascuals, as to how they acquired title in fee simple to Lots 2 and 4, whether thru sales patent, *composicion con el estado,* or *informacion possesoria.* The only basis of their ownership is paragraph 3 of the petition for reconstitution which alleges "That the petitioners, by themselves and thru their predecessors-in-interest, Manuela Aquial, have been and still are in the actual, public, exclusive, adverse, continuous and peaceful occupation of the afore-described lands as owners in fee simple since time immemorial, devoting a small portion thereof to agriculture."

10. ID.; ID.; ID.; FAILURE TO PRESENT ANY COPY OF CERTIFICATE OF TITLE IN CASE AT BAR RENDERS CLAIM TO TITLE SUSPICIOUS.— Since the Tuason-Changco property was issued certificate of title No. 724 pursuant to Decree No. 15170 issued in Land Registration Case No. 9368, whereas Aquial claiming the same decree number and the same land registration case number, cannot present her owner's duplicate copy nor the original certificate which she claims were lost or destroyed, including the records of Land Registration Case No. 9368 (which is not true as the Notice of Hearing therein was shown and exhibited in copies of the Official Gazette), We find and so hold that it is the Aquial certificate of title that is suspicious, if not non-existent, and not that of the Tuason-Changco Certificate No. 724.

11. CIVIL LAW; LAND REGISTRATION; TORRENS SYSTEM; PURPOSE; PETITIONER'S TITLE MUST BE RESPECTED.— The Torrens titles of petitioner Tahanan and the numerous transfers therefrom to innocent purchasers for value must be respected and protected inorder to achieve the "real purpose of the Torrens System which is to quiet title to the land . . . 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." (Salao *vs.* Salao, 70 SCRA 65, 84; Legarda and Prieto *vs.* Saleeby, 31 Phil. 590, 593; Director of Lands *vs.* Court of Appeals, 102 SCRA 370, 451)

rring:

1. CIVIL LAW; LAND REGISTRATION; TORRENS TITLE; CASE AT BAR, A LANDGRABBING CASE; HOW IT IS PERPETRATED.—

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The case at bar is a landgrabbing case and it may be perpetrated by (1) actual and physical usurpation, (2) expanded survey, (3) fake Spanish titles and (4) reconstitution of fake Torrens titles, registration decrees or judgments in land registration cases.

2. ID.; ID.; ID., ID.; CASE AT BAR RELATED TO *BERNAL* CASE.— The *Bernal* case (Director of Lands *vs.* Sta. Maria Vda. de Bernal and CA, L-45168, January 27, 1981, where the Supreme Court dismissed the petition for reconstitution) to which the instant case is related involves the reconstitution of a fictitious Torrens title over parcels of land existing only on paper and which, when verified on the ground, covers land already titled in the name of other persons.

3. ID.; ID.; ID.; ID.; *BERNAL* CASE RULING APPLIED IN *BAGATSING* AND *ALABANG* CASE; DECISION IN THE LATTER CASE RENDERED MOOT AND ACADEMIC THE CASE AT BAR.— The Supreme Court in its decision of August 30, 1982, in G.R. No. 54094, entitled "Alabang Development Corporation, et al. *vs.* Judge Valenzuela, et al." using the findings and rulings in the *Bernal* case, reversed Judge Valenzuela's decision and dismissed the petition for reconstitution. Said decision rendered the instant case moot and academic.

APPEARANCES OF COUNSEL

Conrado B. Enriquez for petitioner.
Ramo S. Nievo for private respondents.

DECISION

GUERRERO, *J.*:

There are three cases recently decided by the Supreme Court that are directly related to and squarely identified with the petition at bar, namely, (1) Director of Lands, petitioner, *vs.* Court of Appeals, et al., respondents, Greenfield Development Corporation, intervenor, Alabang Development Corporation and Ramon D. Bagatsing, intervenors, No. L-45168, September 25, 1979, 93 SCRA 238, (2) The Director of Lands, petitioner, *vs.* The Court of Appeals and Demetria Sta. Maria Vda. de Bernal, respondents, Greenfield Development Corporation, intervenor, Alabang Development Corporation and Ramon D. Bagatsing, intervenors, L-45168, January 27, 1981, 102 SCRA 370, and (3)

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Alabang Development Corp. and Ramon D. Bagatsing, petitioner, *vs.* Hon. Manuel E. Valenzuela, et al., respondents, G.R. No. 54094, August 30, 1982.

In the first case, Our Resolution admitted the intervention of the intervenors filed before the Supreme Court at the stage of the proceedings where trial of the petition for judicial reconstitution had already been concluded, the judgment thereon granting the reconstitution had been promulgated and on appeal by the losing party, the same was affirmed by the Court of Appeals and the petition for certiorari to review said judgment was already submitted for decision in the Supreme Court. The second case is Our decision on the merits of the certiorari petition wherein We ruled, among others, that the judgment of the lower court granting the petition for judicial reconstitution of Transfer Certificate of Title No. 42449 of the Registry of Deeds of Rizal in the name of Demetria Sta. Maria Vda. de Bernal covering two parcels of land located in Barrio San Dionisio, Municipality of Parañaque, Rizal (now Barrio Cupang, Municipality of Muntinlupa, Rizal) denominated as Lots 1 and 3 of Plan II-4374 based on a survey approved July 25, 1911 with an area of 717,523 square meters and 717,539 square meters, respectively, was null and void for failure to comply with the mandatory requirements of Republic Act No. 26. We further held that TCT No. 42449 was fake and spurious.

In the third case, the Supreme Court directly ruled that the judgment of the Court of First Instance of Rizal, Pasay City, Branch XXIX, in Reconstitution Case No. 504-P Land Registration Case No. 9368, Hon. Manuel E. Valenzuela, presiding, ordering the reconstitution from Decree No. 15170 and the plan and technical descriptions, the alleged certificate of title, original and owner's duplicate copy over Lots 2 and 4 indicated in Plan II-4374 situated in Barrio San Dionisio, Parañaque, Rizal, now Barrio Cupang, Muntinlupa, Rizal, in the name of Manuela Aquial, was null and void.

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The instant petition for review similarly assails the validity of the same judgment ordering the reconstitution of the Certificate of Title, original and owner's duplicate copy, over the same lots, Lots 2 and 4, of the same plan, Plan II-4374, in the name of the said Manuela Aquial, promulgated in the same Reconstitution Case No. 504-P, Land Registration Case No. 9368, Court of First Instance of Pasay City, Branch XXIX, Judge Manuel E. Valenzuela, presiding. The said case at bar was brought by petitioner Tahanan Development Corporation while the third case was instituted by Alabang Development Corporation and Ramon D. Bagatsing as petitioners.

Whereas the third case categorically ruled and decided the questions of law raised therein, the proceedings being the special civil action of certiorari attacking the jurisdiction of the lower court, the petition at bar being a petition for review, a more extended discussion of the issues on the merits is necessary and more appropriate. Thus, We start by noting that herein petition for review seeks to set aside the Resolution of the Court of Appeals promulgated April 30, 1980 reversing an earlier decision of the same Court dated November 16, 1979 in CA-G.R. No. SP-08680-R entitled "Tahanan Development Corporation, petitioner, *versus* Hon. Manuel E. Valenzuela, et al., respondents," as well as the subsequent resolution dated December 8, 1980 denying petitioner's motion for reconsideration. Petitioner Tahanan Development Corporation, hereinafter referred to as TAHANAN, claiming grave abuse of discretion on the part of the respondent Judge, further seeks the setting aside of the decision rendered by the latter in Reconstitution Case No. 504-P, Land Registration Case No. 9368, dated October 5, 1978 in favor of herein private respondents Nicolas A. Pascual and his co-heirs, the dispositive portion of which reads:

"WHEREFORE, the petition is granted. The Register of Deeds of Metro Manila, Makati Branch IV, is hereby ordered to reconstitute from Decree No. 15170, Exhibit X, the plan and technical descriptions submitted to the Court—the certificate of title, original and owner's duplicate copy, in the name of Manuela Aquial, single, Filipino, with residence at 307, 15th

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Avenue, Cubao, Quezon City, giving the certificate appropriate number which will not conflict with other titles already issued upon payment of the prescribed fees. The Branch Clerk of Court is directed to forward a certified copy of this decision and all documents necessary for the reconstitution." (Rollo, p. 66).

The records of the case show that on October 5, 1977, private respondents hereinafter referred to as the Pascuals, claiming as intestate heirs of Manuela Aquial who died on January 26, 1967, filed a petition for judicial reconstitution of lost certificate of title under Republic Act No. 26 docketed as Reconstitution Case No. 504-P, Land Registration Case No. 9368 in the Court of First Instance of Rizal, Branch XXIX, Pasay City, presided by respondent Judge Manuel E. Valenzuela, alleging that:

". . . . . .

2. That Manuela Aquial, the petitioners' predecessor-in-interest, while yet single and up to the time she got married, was the registered owner of those contiguous lands, Lots 2 and 4 as shown in Plan II-4374, situated in Bo. San Dionisio, Parañaque, Rizal now Bo. Cupang, Muntinlupa, Rizal, and more particularly bounded as follows:

1). A parcel of land (Lot 2 of Plan II-4374, L.R.C. No. _____), situated in the Barrio of San Dionisio, Municipality of Parañaque, Province of Rizal (Now BO. CUPANG, Muntinlupa, Rizal) (. . . . containing an area of Three Hundred Seventy Five Thousand Six Hundred and Twenty-Two (375, 622) Square Meters. Bounded on the NE., NW., and W., along lines 1-2-3-4-5-6-7 by Pedro L. Flores who is in occupation of the same and of which notice maybe served at his office address at No. 959 C. Lerma Street, Sampaloc, Manila or at his residence at No. 707 A. Constancia Street, Sampaloc, Manila; and on the SE., along lines 7-8-9-10-1 (portion of Lot 1, Plan II-4374) by Maglana & Sons Management Corporation, a private corporation existing under and by virtue of the laws of the Philippines which is in occupation of the same and of which notice may be served to it C/O Constancio B. Maglana, its President and Chairman of the Board at No. 513 Lafayette Street, Greenhills Subdivision, Mandaluyong, Rizal;

2) A parcel of land (Lot 4 of Plan II-4374, L.R.C. Record No. _____), situated in the Barrio of San Dionisio, Municipality of Parañaque, Province of Rizal (Now Bo. Cupang, Muntinlupa, Rizal) (. . . . containing an area of Fifty-Six Thousand Two Hundred Ninety-

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Five (56,295) Square Meters. Bounded on the NW., and SW., along lines 1-2-3 (portion of Lot 1, Plan II-4374) and on the SE., NE., and NW., along lines 3-4-5-1 (Portion of Lot 3, Plan II-4374), all by Maglana & Sons Management Corporation, a private corporation existing under and by virtue of the laws of the Philippines which is in occupation of the same and of which notice may be served to it C/O Constancio B. Maglana, its President and Chairman of the Board, at No. 513 Lafayette Street, Greenhills Subdivision, Mandaluyong, Rizal.

The above lots are more particularly described in herein attached Decree No. 15170 issued on March 4, 1914 with the same boundaries and description contained in the corresponding original certificate of title (original and owner's duplicate copy) issued therefor in Land Registration Case No. 9368 on file with the Land Registration Commission; that said lands have not been included in any cadastral survey;

3. That the petitioners, by themselves and thru their predecessors-in-interest Manuela Aquial have been and still are in the actual, public, exclusive, adverse, continuous and peaceful occupation of the afore-described lands as owners in fee simple since time immemorial, devoting a small portion thereof to agriculture;

4. That the said original certificate of title, original and owner's duplicate copies, covering said lands have been lost or destroyed in the last World War II and diligent efforts to locate the same have been all in vain; that said title was subsisting and in force at the time it was lost or destroyed, free from liens and encumbrances of any kind and nature up to the present; that the records of the land registration case of the same lots have likewise been lost and destroyed except such records as hereinafter set forth;

5. That there is no record of any sales patent, sales certificate or any land grant over said lands to any person or entity; that no Co-owner's, Mortgagee's, Lessee's or any lien holder's copy of said Original Certificate of Title have ever been issued; that Manuela Aquial as well as her first and second husbands, Esteban Pascual and Cornelio Mejia and petitioners herein have not at any time delivered the Owner's Duplicate copy of subject certificate of title to any person or entity to secure the payment of or performance of any obligation whatsoever nor any transaction entered into by them by which certain deed or other instruments related to or affecting the subject lands presented for or pending registration in the office of the Register of Deeds for Makati, Metro Manila;

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6. That said Manuela Aquial died intestate in Cubao, Quezon City on January 26, 1967 leaving the aforementioned estate to the herein petitioners as her heirs, without debts;

7. That for purposes of said inheritance, the petitioners desire in this petition to reconstitute the lost original certificate of title, Original and Owner's duplicate copies, covering said Lots 2 and 4, Plan II-4374 herein above described, on the basis of: (1) Said Decree No. 15170 issued on March 4, 1914 (Annex "A") and the certification thereof by the Chief, Docket Division, Land Registration Commission (Annex "A-1"); (2) Survey Plan II-4374 from microfilm Reel 560 under Accession No. 385657 on file with the Bureau of Lands (Annex "B"); and certification thereof (Annex "B-1"), and the corresponding affidavit of the Chief, Reproduction Section, Bureau of Lands, attesting to such fact (Annex "B-2"); (3) Certified Technical Description of Lots 2 and 4 under said Plan II-4374, by the Chief, Surveys Division, Bureau of Lands (Annexes "C" and "C-1"); (4) Certification by the Acting Chief, Records Division, Bureau of Lands, that there is no record of any Sales Patent, Sales Certificates or any land grant affecting or embracing the subject lands to any person (Annex "D"); (5) Tax Declaration (Annexes "E", "E-1", "E-2" and "E-3"); (6) Tax Receipts (Annexes "F" and "F-1"); (7) Affidavit of adjoining owner Pedro L. Flores executed before Notary Public Atty. F.S. Guanco for Quezon City (Annex "G"); (8) White print copy of Relocation Plan dated July 7-12, 1974, with the certification of Geodetic Engineer Restituto L. Beltran who conducted said relocation survey of Lots Nos. 2 and 4, Plan II-4374 in the presence of the adjoining owners (Annex "H"). All of which are xerox copies and made integral parts of this petition but the originals thereof shall be presented at the hearing."

On October 5, 1977, the Notice of Hearing was issued by the Court and likewise, for its materiality in resolving the issue of jurisdiction, We quote the material portions thereof below:

"NOTICE OF HEARING

A verified petition dated September 2, 1977 has been filed by petitioners, thru counsel, alleging, among others, that:

(Paragraphs 1 to 7 are omitted, being the same allegations in the Petition for Reconstitution hereinbefore quoted.)

Now, therefore, notice is hereby given that this petition will be heard before this Court, sitting on the 2nd floor, New City Hall Building, F.B. Harrison, Pasay City, Metro Manila, on the 18th day of November, 1977, at 8:30 o'clock in the morning, at which date, time and place, all interested parties

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are hereby cited to appear and show cause, if any why said petition should not be granted.

Let copies of this Notice be published in the Official Gazette and in the Newspaper of general circulation in the Greater Manila Area, once a week for three (3) consecutive weeks at the expense of the petitioners, and likewise posted in the bulletin board of the Court of First Instance of Pasay City.

Let the Office of the Land Registration Commission and the Bureau of Lands be furnished this Notice and copies of the petition, together with its annexes.

WITNESS the HON. MANUEL E. VALENZUELA, presiding Judge of this Court, this 5th day of October, 1977.

(SGD.) BASILIO B. BOLANTE
Branch Clerk of Court"

The above notice was published in the Official Gazette in the issues of November 14, 21 and 28, 1977 (Exhibits "A", "B", "B-1", "C", "C-1", "D", "D-1" "E" and "E-1"). Copies of the same notice were also posted by Deputy Sheriff Arsenio de Guzman of Pasay City in the Bulletin Board of the Court of First Instance of Rizal, Pasay City Branch located at the Hall of Justice, City Hall Building, Pasay City on October 5, 1977 (Exhibit "F"). On the same date, copies of the notice were served to the Office of the Solicitor General and on November 9, 1977, to the Commissioner of Land Registration by Deputy Sheriff De Guzman (Exhibit "F"), together with copies of the petition and its annexes. The proofs submitted of notice to the adjacent owners indicated in the Petition and Notice of Hearing, namely, Pedro L. Flores with address at 959 C. Lerma Street, Sampaloc, Manila and Constancio B. Maglana as President and Chairman of the Board of Maglana & Sons Management Corporation with office and postal address at 513 Lafayette Street, Greenhills Subdivision, Mandaluyong, Rizal, are their respective affidavits dated July 17, 1974 and August 6, 1974 (Exhibits "H" and "I").

The Director of Lands thru counsel, Atty. Daniel C. Florida, Special Attorney of the Office of the Solicitor General, filed on April 14, 1978 an Opposition to the petition on the following grounds:

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"1. That the same petitioners in this Reconstitution Case No. 504-P, Nicolas A. Pascual, et al., claiming to be the heirs of the late Manuel Aquial, had previously filed a similar petition for reconstitution of the alleged lost original certificate of title supposed to have been issued in Land Registration Case No. 9368 under Decree No. 15170 in the name of Manuela Aquial over the same parcels of land, Lots 2 and 4, Plant II-4374 situated at Bo. San Dionisio, Parañaque, Rizal, which previous petition, docketed as Reconstitution Case No. 77 in the Court of First Instance of Rizal, Branch XXXVI, Makati, Rizal, appears to have been dismissed. Oppositor Director of Lands hereby reserves his right to present later a certified copy of the order of dismissal, as he has not yet received a reply of the Clerk of Court of the Court of First Instance, Branch XXXVI, to our letter to him dated March 14, 1978, duplicate copy hereto attached as Annex "A", requesting for a certified copy of the order or decision resolving said Reconstitution Case No. 77, which order or decision may be a dismissal with prejudice and may thus be a bar to the filing of the instant Reconstitution Case No. 504-P based on the principle of *res judicata*;

2. That contrary to the claim of petitioners that the aforementioned Lots 2 and 4, Plan II-4374 situated at Bo. San Dionisio, Parañaque, Rizal were issued Decree No. 15170 on March 4, 1914 in the name of Manuela Aquial in Land Registration Case No. 9368 and that the corresponding original certificate of title for said Decree were registered and issued under the said Decree, the truth is that said Decree No. 15170 in Land Registration Case No. 9368 was issued in favor of Eugenio Tuason, married to Maximina Geronimo, and Eugenio T. Changco, married to Romana Gatchalian, covering a parcel of land with an area of 422 square meters situated at Bambang, Pasig, Rizal, and not for Lots 2 and 4, Plan II-4374 with a total area of 431,917 square meters situated at Bo. San Dionisio, Parañaque, Rizal. These facts are evidenced by the letter dated February 28, 1978 of the Acting Register of Deeds of Rizal, the letter dated March 9, 1978 of the same Acting Register of Deeds of Rizal, and the Report dated November 11, 1974 of the then Register of Deeds of Rizal submitted to him as required by the court in the previous Reconstitution Case No. 77 filed with Branch XXXVI of this Honorable Court at Makati, Rizal, xerox copies of said letters and report are hereto attached as ANNEX "B", ANNEX "C" and ANNEX "D", respectively;

3. That from the documents ANNEXES "B", "C" and "D", it is very clear that no original certificate of title had or has been issued to Manuela Aquial covering Lots 2 and 4, Plan II-4374, situated at Bo. San Dionisio, Parañaque, Rizal; that consequently, no original certificate of title in the

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name of Manuela Aquial has been lost; and that therefore, this instant petition for reconstitution of an alleged lost original certificate of title has no basis in fact and in law, there being no title to be reconstituted under Republic Act No. 26;

4. That the applicants for land registration in Land Registration Case No. 9368, Decree No. 15170, of the then Court of Land Registration were Eugenio Tuason, married to Maximina Geronimo, and Eusebio T. Changco, married to Romana Gatchalian, and *not* Manuela Aquial; and that the land subject thereof was a parcel of land in Bambang, Pasig, Rizal, and *not* a parcel of land in San Dionisio, Parañaque, Rizal;

5. That the same Decree No. 15170 in Land Registration Case No. 9368 issued in favor of Eugenio Tuason, et al. for a parcel of land in Bambang, Pasig, Rizal could not have been also issued in the name of Manuela Aquial for a parcel of land in San Dionisio, Parañaque, Rizal;

6. That the genuineness or authenticity of ANNEX "A" of the petition in this case which is alleged to be a copy of Decree No. 15170 issued in the name of Manuela Aquial is very questionable on the following grounds and points:

(a) ANNEX "A" is a xerox copy not of the original of Decree No. 15170 or of an authenticated copy thereof but only of an unauthenticated *true copy* of said decree as indicated by the typewritten words 'A true copy:' at the bottom of the left hand corner of page (2) of said document;

(b) The said typewritten words 'A true copy': is not signed or even initialed by any competent officer of the court of the Land Registration Commission to give it authenticity;

(c) That ANNEX "A" is a xerox copy of the original of Decree No. 15170 of an authenticated copy thereof but only of a true copy is also seen from the first line on top of the document on page 1 which reads: 'Copy of Decree No. 15170.' An original of a Decree is issued without the words 'Copy of' prefixed before the Decree Number;

(d) ANNEX "A" being a mere xerox copy of an authenticated 'true copy,' it is very questionable why the true copy which was reproduced by the xerox copy marked ANNEX "A" bears the written signature of the Clerk of Court, Enrique Altavas by way of attestation of the decree. It is well known that a mere true copy of any document, public or private, does not bear the written signature of the party or officer signing or issuing the document. Only the original or duplicate of the

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document may bear the written signature of the party or officer signing or issuing the document;

(e) In ANNEX "A-1" of the petition in the instant case, alleged to be a certification of Decree No. 15170, what appears to have been certified by the Chief, Docket Division of the Land Registration Commission is that the document (Decree No. 15170) 'is a true and correct *reproduction* of a *true copy* of Decree No. 15170.' Where is the original or an authentic signed duplicate of Decree No. 15170?

(f) ANNEX "F", either the xerox copy of a true copy, or the true copy reproduced by the xerox copy, is an UNAUTHENTICATED copy of the alleged decree, and therefore, it cannot be the valid basis for reconstitution under Section 2 of Republic Act No. 26;

7. That contrary to the allegation in paragraph 3 of the petition, petitioners by themselves and thru their predecessor-in-interest Manuela Aquial have not been in the actual, exclusive and continuous occupation of the lands subject of their petitions since time immemorial, the truth of the matter being that their alleged occupation is only of recent vintage, having declared the lots for taxation only in 1973, beginning with the year 1970 (ANNEXES "E", "E-1", "E-2", and "E-3"), and paid the taxes for 1970 to 1973 in lump sum on September 6, 1973 (ANNEXES "F" and "F-1");

8. That Lots 2 and 4, Plan II-4374 have never been applied for and registered under the Land Registration Law, Act No. 496, the same being lands of the public domain belonging to the Republic of the Philippines and are portions of the adjoining public land as indicated in Plan II-4374, subject to disposition only under the pertinent and applicable provisions of the Public Land Act, Commonwealth Act No. 141, as amended;

9. That not all the jurisdictional facts of the instant case have been established and therefore, this Honorable Court has not acquired jurisdiction to hear and resolve the case under Republic Act No. 26, for the reason that petitioners thru counsel have failed to serve notice of the petition in this case to the owners of the adjoining properties. The affidavits of the alleged adjoining owners, Constancio B. Maglana and Pedro L. Flores submitted by petitioners as Exhibits "H" and "I" respectively, and which were executed in 1974 before the petition in the instant case was filed on November 15, 1977, cannot be validly admitted as substitute for service of notice of the petition to the adjoining owners as required under Section 13 of Republic Act No. 26; and

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10. That the instant petition for reconstitution should be dismissed outright for lack of factual and legal basis, the Decree No. 15170 involved by petitioners having been issued in favor of other persons named Eugenio Tuason, et al. for a different parcel of land located in another barrio and municipality."

On November 18, 1977, the date scheduled for the hearing as indicated in the Notices, the Court re-set the hearing of the case to February 27, 1978, it appearing that the Notice of Hearing had not been published in the Official Gazette as per information relayed to the Court by the petitioners. Again, the hearing set on February 27, 1978 was re-scheduled to April 14, 1978 in view of the manifestation of the representative of the Bureau of Lands that they have not received copy of the petition. Once more, the latter setting was cancelled and re-set to June 2, 1978 on the ground that the counsel for petitioner informed the Court that they have just received the Opposition dated April 11, 1978 filed by Solicitor Daniel Florida.

Meanwhile, the Pascuals filed their Reply to the Opposition alleging, among others, that they had filed a previous petition docketed as Reconstitution Case No. 77 in the Court of First Instance of Rizal, Branch XXXVI, Makati, Rizal which was voluntarily withdrawn by them on grounds stated by their counsel in his Motion to Withdraw without prejudice and granted by the Court in its Order dated May 30, 1975; that the report of the Register of Deeds of Pasig, Rizal mentioning that Decree No. 15170 appears in the name of Eugenio Tuason and Eusebio T. Changco in Original Certificate of Title No. 724 does not preclude the existence of Decree No. 15170 issued in the name of Manuela Aquial in Land Registration Case No. 9368 since, assuming the report of the Register of Pasig to be accurate, it could have been a clerical error or mistake of the clerk in the office of the Register of Deeds in typing on the Original Certificate of Title No. 724 the same Decree No. and the same Registration No. as that issued in favor of Manuela Aquial; and that there may be two decrees bearing the same number but involving different parcels of land is nothing unusual or surprising, in the same manner that there

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may be two or three certificates of titles bearing the same number but in the names of different owners covering properties in different places and issued at different periods of time.

The trial court granted the petition for reconstitution in its decision dated October 5, 1978. The court said:

"The documents presented by the petitioners to establish the existence of the prerequisites to reconstitution of the title in the name of their predecessor-in-interests were either admitted or not objected to by Atty. Rodolfo J. Flores in representation of the Director of Lands, except Exhibits O and P on Plan II—4374 on the alleged ground that they were reproduced from a microfilm reel and not from available approved records, as well as Exhibits X, X-1 and X-2 (Decree No. 15170), on the ground that they were mere xerox copies not of the original of the Decree or an authenticated copy thereof.

Counsel for oppositor overlooks the realities that forced the petitioners to seek reconstitution of the title of their predecessor-in-interests. The original of the Decree was sent to the register of deeds for the issuance of the certificate of title. It was in the latter office that it was lost. The copy left in the Land Registration Commission is authenticated by the signature of the Clerk of Court of the Land Registration Court, Enrique Altavas. To limit the bases of reconstitution to originals of the official documents is to defeat the purpose of the law. Reason and the law would not justify private properties to remain forever with their titles unreconstituted.

The grounds for the objection disregards the destruction of many government records during the last world war and defeats the purpose of the law on reconstitution. If those records were not destroyed, there would be no need for reconstitution. The loss and destruction underscore the need for reconstitution. Reconstitution or reconstruction relates to lost original records in the government offices. Any data available may suffice if the Court is convinced of the existence of the title being reconstituted. This is in accord with the decision of the Supreme Court in the case of Villa *vs.* Fabricante, L-5531, June 30, 1953. If the law allows reconstitution from testimony *a fortiori* it must allow reconstitution upon xerox copies of documents microfilmed in anticipation of possible loss thereof. The microfilm underscores the existence of the documents, for without them there would be nothing to microfilm. The Government has enjoined by Decree the microfilming of important documents.

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By and large, the presence of the signature of the Clerk of Court of the land registration court on the Decree attests to its genuineness and authenticity. He is too dead to falsify the Decree Exhibit X.

Except Exhibit 5 which is a xerox copy of a cancelled owner's duplicate copy of Certificate of Title No. 724 and which mentions Decree No. 15170, the oppositor's documentary evidence are letters of inquiry and replies thereto. By their very nature, they are too weak a basis to establish any fact. The writers thereof were not presented as witnesses to be cross-examined on their contents. The witness who was presented to identify the exhibits was not the receiver nor custodian of said communications. He admittedly does not know the contents thereof.

Exhibit 5, a supposed cancelled owner's duplicate of the title of Eugenio Tuason which mentions Decree No. 15170 refers to a *422-square meter lot in Bambang, Pasig, Rizal,* which is different from the Decree Exhibit X for the two lots in *Cupang, Muntinlupa, Rizal, having a total area of 431,917 square meters.* The existence of the owner's duplicate copy in the office of the register of deeds without the original is a suspicious circumstance never explained by anybody. The mystery goes deeper if we consider that no other document, private or public, was presented to support the existence of the original title or the decree upon which the title was based. Nobody even testified on the existence of this Exhibit 5 in the office of the register of deeds.

The Decree Exhibit X enjoys the probative value of an official document existing in the proper depositary unaccompanied by any circumstance of suspicion. The law reposes probative force upon the official documents as it presumes fidelity in the discharge of duties of public officers. The authenticity of the Decree issued in favor of petitioners' predecessor having been established, the Decree Exhibit X 'shall bind the land, and quiet title thereto' and 'shall be conclusive upon all persons, including the Insular Government and all branches thereof,' and 'incontrovertible' after one year from the issuance of the Decree (Sec. 30, Act 496).

Reconstitution of destroyed certificates of title is mandatory (Director *vs.* Gan Tan, L-2664, May 30, 1951). The bases for judicial reconstitution of certificates of title are numerous (Secs. 2 and 3, Rep. Act 26). Among them are:

'(d) An authenticated copy of the decree of registration . . .' (Sec. 2, Rep. Act 26)

'(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' (Secs. 2, 3, Rep. Act 26).

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In the light of the foregoing impressive and overwhelming evidence adduced by the petitioners in support of their petition for the reconstitution of the title in the name of Manuela Aquial, the court has no alternative to granting the petition. Republic Act 26 provides:

> 'SEC. 15. If the court, after hearing, finds that the documents presented, as supported by parole evidence, or otherwise, are sufficient and proper to warrant the reconstitution of the lost or destroyed certificate of title, and that the petitioner is the registered owner of the property or has an interest therein, that the said certificate of title was in force at the time it was lost or destroyed, and that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title, an order of reconstitution shall be issued.'

The requirements of Sections 5, 12, and 13 of Republic Act 26 have been complied with. The Court has no reason to doubt the credibility of the witnesses for the petitioners, particularly the government officials subpoenaed who had occasion and reason to know the facts they testified to, being parts of their functions and duties in their respective offices.

The Court discerns nothing from the opposition which Atty. Florida filed for the Director of Lands except his seal to protect possible interests of the Government. From the sparks created by his opposition, the Court saw the crystal truth."

Copy of the above decision was served the Land Registration Commission on October 16, 1978.

On November 15, 1978, herein petitioner Tahanan Development Corporation filed with the Court *a quo* a verified Petition To Set Aside Decision and Re-Open Proceedings, alleging that:

". . .

"2 Sometime in 1971, in the course of its operations, Oppositor acquired and became the registered owner of six (6) parcels of land situated in Barrio San Dionisio, Parañaque, Rizal (now Metro Manila) and aggregating some sixty (60) hectares in area; xerox copies of the certificates of title, all of the Registry of Deeds for the Province of Rizal, covering said parcels of land and issued in Oppositor's name are attached to and made an integral part of this Petition as follows:

Annex "A" - T.C.T. No. 324558
Annex "B" - T.C.T. No. 324559

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Annex "C" - T.C.T. No. 324560
Annex "D" - T.C.T. No. 324561
Annex "E" - T.C.T. No. 324562
Annex "F" - T.C.T. No. 351775

All of said certificates of title originated from the 'mother title' Original Certificate of Title No. 6567 of the Registry of Deeds of Rizal, issued pursuant to Decree No. 515888 issued in Land Registration Case No. 776, a copy of said O.C.T. No. 6567 is attached to and made an integral part of this Petition as Annex "A";

3. The aforementioned certificates of title, Annexes "A" to "F", were later wholly or partly superseded by individual certificates of title, about one thousand four hundred (1,400) in all, and also in Oppositor's name, covering the individual home lots, street lots and other spaces into which the lands above referred to were subdivided in the course of the development of what are now known as Phase I and Phase II of Oppositor's 'Tahanan Village'; and while ownership of, and registered title to, some of the home lots have since passed to individual buyers by virtue of final sales, a considerable number of said certificates of title still remain in the name of Oppositor;

4. Under date of October 5, 1978, this Honorable Court rendered a Decision in the above-entitled proceedings, granting the Petitioners' petition for reconstitution of a lost certificate of title, original and owner's duplicate, allegedly issued pursuant to Decree No. 15170 dated March 4, 1914 in Case No. 9368 of the Land Registration Court, and directing the register of deeds of Metro Manila, Makati Branch IV:

> '. . . to reconstitute from Decree No. 15170, Exhibit K, the plan and technical descriptions submitted to the court the certificate of title, original and owner's duplicate copy, in the name of Manuela Aquial, single, Filipino, with residence at 307, 15th Avenue, Cubao, Quezon City, giving the certificate appropriate number which will not conflict with other titles already issued upon payment of the prescribed fees. . . .'

5. The land supposedly covered by the certificate of title thus ordered reconstituted appears to consist of two (2) parcels located in Barrio San Dionisio, Parañaque, Rizal, with an aggregate area of forty three (43) hectares, more or less, the technical descriptions of which are set forth in the alleged copy of Decree No. 15170, Land Registration Case No. 9368 relied upon by Petitioners;

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6. Upon a comparison of said technical descriptions with those set forth in the certificates of title, Annexes "A" to "F" of the present Petition, it would appear that the land supposedly covered by the certificate of title ordered reconstituted overlap and include substantial portions of Oppositor's lands covered by the titles, Annexes "A" to "F"; the location and extent of the overlapping, as plotted on the basis of the respective technical descriptions referred to, is shown on the sketch plan, marked Annex "H", which is attached to and made an integral part of this Petition;

7. Oppositor, therefore, has a substantial, material and proprietary interest in the subject matter of these proceedings which is directly and adversely affected by the Decision already referred to;

8. Oppositor, as the owner of lands not only adjacent to, but in fact overlapped by, the land supposedly covered by the title sought to be reconstituted, was entitled to personal notice of the petition for reconstitution; such requirement of notice is jurisdictional, being mandated by Section 13 of Republic Act No. 26, and the consequence of failure to comply therewith is that the court never acquires jurisdiction to entertain and hear the petition or render valid judgment thereon.

> The salient feature of this method (of judicial reconstitution under Republic Act No. 26) is a petition and a hearing after two successive insertions in the *Official Gazette* of the notice of hearing. It partakes of the nature of an original registration proceedings, personal service of the notice of hearing to the adjoining owners and occupants being essential, as well as posting of the notice in main entrances of the Provincial and Municipal Buildings where the land lies at least thirty days prior to the date of hearing. (Ponce, The Philippine Torrens System, p. 272).

9. Oppositor, as such adjoining owner, was not given notice of the petition for reconstitution; these proceedings were instituted, set for hearing, were heard and went to judgment without Oppositor's knowledge; indeed, it was only on or about November 9, 1978, more than one month after the date of the Decision allowing and ordering reconstitution, and only because another adjoining owner similarly affected saw fit to so inform it, that Oppositor first learned of the existence of the present proceedings;

10. Oppositor was denied due process and deprived its day in court through fraud, accident or mistake, consisting in that Petitioners, knowing or being chargeable with knowledge that the 'Tahanan Village' is a privately-owned and operated residential subdivision and that Oppositor is the owner/developer thereof, failed — and to all indications by

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deliberate design — to name Oppositor as adjoining owner or occupant in their petition for reconstitution; and Petitioners did more than fail to name Oppositor as an adjoining owner and to serve it notice of these proceedings, it would appear that they actively concealed or sought to conceal such fact; in the survey plan, Exhibit "V", submitted by them to the Court which, by its terms, is based on a survey made as late as July 7-12, 1974, the area where Oppositor's 'Tahanan Village' would lie is described as public land; and these circumstances directly led to and produced the results already stated, namely, that Oppositor, never having been notified of the petition for reconstitution, was not able to oppose the same or to be heard thereon;

11. The gravity and inexcusable character of Petitioners' conduct above complained of is made manifest by the fact that for several years now, the existence of 'Tahanan Village' as a privately-owned and occupied residential subdivision has been made apparent to all and sundry by such prominent features as the perimeter fence or wall separating it from adjacent estates, the roads, streets and constantly increasing volume of home construction within the subdivision itself, the very visible electrical lighting and water supply installations, the presence of private security guards guarding the premises, to mention only a few; moreover, it has a number of signs of conspicuous size and location identifying and advertising it as a housing development owned and/or managed by Oppositor; all of said circumstances render it hardly conceivable that Petitioners, who hold themselves out as actual possessors of the property involved in these proceedings (p. 3 Decision), could even innocently misapprehend the adjoining development ('Tahanan Village') as ownerless and untenanted;

12. Oppositor has good and meritorious grounds to oppose the petition for reconstitution; one of such grounds -- and a principal one -- is that Land Registration Case No. 9368 and Decree No. 15170 issued therein, which Petitioners invoke and rely upon, in actual fact refer, not to the lands claimed by said Petitioners, but to another parcel of land only some 422 square meters in area and located in Barrio Bambang, Pasig, Rizal, that by virtue of said Decree, Original Certificate of Title No. 724 of the Registry of Deeds of Rizal was issued in the names of Eugenio Tuason and Eusebio T. Changco, and that said land eventually passed to its present owners, Pedro Tuason, et al., under the current Transfer Certificate of Title No. 77516 (Rizal) and Agripino Changco, et al., under Transfer Certificate of Title No. 77515 (Rizal) which was later superseded by Transfer Certificates of Title Nos. 150102 and 150103;

13. Oppositor is ready, if its present Petition is granted, to produce persuasive evidence of the facts above averred, evidence which perforce will

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also show the proofs, both oral and documentary, adduced by Petitioners in support of the petition for reconstitution to be untrustworthy and wanting in requisite integrity, hence inadequate and insufficient to warrant grant of the reconstitution sought;

14. The Decision allowing and ordering reconstitution is not yet final, the Land Registration Commission having been served with copy thereof on October 16, 1978; the thirty-day period for finality prescribed in Section 110, 2nd paragraph, of Presidential Decree No. 1529 has not yet expired;

. . .."

On the same day, November 15, 1978, Alabang Development Corporation and Ramon D. Bagatsing filed a Petition To Set Aside The Decision of October 5, 1978, claiming that the Court has no jurisdiction to grant the petition for reconstitution since they have not been personally notified of the pendency of the reconstitution case to which they are entitled under Republic Act No. 26 not only as adjoining owners but as actual possessors thereof; that granting *arguendo* that the title subject to be reconstituted is valid, which it is not, the same cannot prevail over the earlier titles of Alabang Development Corporation and Ramon D. Bagatsing under TCT No. 45397 and TCT No. 45398 which are transfers from the Original Certificate of Title No. 684 in the name of the Government of the Philippine Islands issued on September 20, 1913 pursuant to Decree No. 4552 issued August 27, 1910; and that the overlapping of the area of the title sought to be reconstituted on the area of the parcels of land evidenced by the titles of Alabang Development Corporation and Bagatsing would result in a case of the same land registered in the name of two different persons.

The Director of Lands, thru the Solicitor General, filed Notice of Appeal and a Motion for Extension to File Record on Appeal on November 16, 1978. Respondent Judge in his Order of November 23, 1978 granted the Solicitor General's motion, extending the period for appeal for another thirty days from date of its issuance but did not pass upon nor resolve the petitions to set aside and re-open proceedings filed by Tahanan, Alabang

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Development Corporation and Ramon D. Bagatsing, the Court ruling that:

"The oppositor Director of Lands, represented by the Office of the Solicitor General, was a party in the proceedings before this Court. Said oppositor had adopted to resort to appeal as the appropriate remedy. The Court finds it, therefore, unnecessary to resolve the Petition To Set Aside Decision and To Re-Open Proceedings filed by Tahanan Development Corporation and the Petition to Set Aside The Decision of October 5, 1978 filed by the Alabang Development Corporation and Ramon D. Bagatsing."

Copy of the above Order was served on Tahanan thru counsel on December 12, 1978. On December 14, 1978, petitioner filed a Motion for Reconsideration of said Order of November 23, 1978 alleging that the "shelving" of its Petition To Set Aside Decision was equivalent to a denial thereof; that the effect of such "shelving" if maintained up to the perfection of the appeal of the Director of lands would be to deny petitioner recourse both in the court of the respondent Judge and in the appellate court, because the respondent Judge would then lose jurisdiction over the proceedings and petitioner, not yet actually a party to the proceedings but only seeking to be admitted as such, could not intervene in the appeal to protect its interest; that the Petition To Set Aside, the purpose of which was precisely to effect the admission of petitioner as a party and to allow it an opportunity to present evidence opposing the reconstitution, was sufficient in form and substance to merit resolution and approval; and that considerations of justice, fairness, due process and correct procedure dictated that the Petition To Set-Aside be first resolved before allowing the appeal of the Director of Lands to proceed to perfection.

The Motion for Reconsideration was set for hearing and submitted on December 19, 1978. As of December 21, 1978, when the period for appeal extended in favor of oppositor Director of Lands was about to expire on December 23, 1978 and said Director of Lands had not yet filed a record on appeal, the possibility that once the record on appeal is filed, the approval thereof with the consequent perfection of appeal and transfer of jurisdiction to

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the appellate court can come at any moment. Since the Petition to Set Aside and the Motion for Reconsideration were still pending or awaiting resolution, the same would be rendered moot and academic and petitioner left without remedy in both the trial court and the appellate court. To forestall that eventuality and to preserve recourse in the matter, petitioner opted to file a Petition for Certiorari with the appellate court without further awaiting resolution of the Motion for Reconsideration, the petition docketed as CA-G.R. No. SP-08680.

The Director of Lands failed to perfect its appeal with the Court of Appeals. Alabang Development Corporation and Ramon D. Bagatsing did not interpose any appeal.

Petitioner in its Petition for Certiorari (CA-G.R. No. SP-08680) claiming arbitrariness and grave abuse of discretion on the part of respondent Judge for by-passing its Petition To Set Aside, and for not acting on its Motion for Reconsideration after hearing and submission despite awareness of the fact that the period of appeal extended by the Court was about to lapse and raising the issue of whether the Court acquired jurisdiction over the reconstitution case despite absence of personal notice to it as adjoining owner, prayed for preliminary injunction or a temporary restraining order for the preservation of the status quo in Reconstitution Case No. 504-P by prohibiting and restraining the respondent Judge, and his successors in office, from scheduling, conducting or otherwise entertaining, setting in motion, or continuing, all and any further proceedings and incidents in said case, particularly, but not limited to, proceedings relative or leading to the perfection of the final judgment on the Petition for Certiorari or until further orders from the Court of Appeals.

Respondent Court of Appeals gave due course to Tahanan's petition in the Resolution of December 29, 1978. Respondent Judge was likewise ordered to resolve petitioner's Motion for Reconsideration. A bond was filed by petitioner on January 9, 1979 and thereupon a restraining order was issued "enjoining the respondent Judge from taking any action in Reconstitution Case

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No. 504-P which will make him lose jurisdiction over said case such that he can no longer act on petitioner's Motion for Reconsideration, dated December 14, 1978. If any such action has already been taken, the same shall be set aside by respondent Judge."

Under legal compulsion, respondent Judge resolved Tahanan's Motion for Reconsideration on January 4, 1979. He denied it.

On November 16, 1979, the Court of Appeals decided in favor of the petitioner, ruling that respondent Judge did not exercise sound discretion in refusing to re-open the case below so that Tahanan could protect its property rights which could possibly be impaired by the reconstitution. The appellate court granted the Petition for Certiorari on the basis of the following considerations:

"1. The PROPERTY must now be of substantial value because, even at ₱100.00 per square meter, its more than 43 hectares could be worth some ₱43 million.

According to TAHANAN (Annex H of its Motion to Reopen), Lot No. 2 of the PROPERTY overlaps a substantial part of its own land. Although the exact area of the overlap has been given, it can be estimated at about 10 hectares, which can be worth ₱10 million. The value of the land which TAHANAN seeks to protect is such as should have induced the lower court to reopen the CASE BELOW to give an opportunity to TAHANAN to prove its contentions. Denial of reopening, even if technically possible as a matter of law, would not be equitable.

2. It is more or less of public knowledge that the Land Registration Commission has been charged with anomalies. The lower court should have reopened the CASE BELOW if only to assure itself that Exh. X is not an anomaly committed by the Commission, a possibility which TAHANAN might be able to show.

The lower court had already shoved aside the proposition advanced by the Director of Lands that Exh. X issued in Land Registration Case No. 9368 was issued in favor of Eugenio Tuason and Eusebio T. Changco covering a parcel of 422 sq.m. situated in the Municipality of Pasig. Respondent Judge conclude that the title allegedly issued (Exh. 5) was a result of that Decree was only a photostat and was weak evidence, as the supposed original could not be found in the office of the Register of Deeds.

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But TAHANAN could prove through the Official Gazette of December 13, 1913 (pp. 198, 200, Rollo) that in Land Registration Case No. 9368, the applicants were Eugenio Tuason and Eusebio T. Changco, and not MANUELA Aquial. While Exh. X could be a forgery, the Official Gazette cannot be spurious. Accidentally, if respondent Judge found that Exhibit 5 was weak as it was only a copy, under the same token he should neither have given credence to Exh. X, which was also merely a xerox copy.

3. It has been noted that the certification made by the deceased Enrique Altavas of Exh. X bears no date. That is an important factor to ascertain; not only for the determination of the genuineness of his signature, but also for the determination of the plausible reason why the certification was made. As a rule, signatures can be established as genuine by comparison with accepted true signatures executed around the same date.

4. It has also been further noted that there is no record that a Torrens title had been issued in the name of MANUELA as no mention of the number thereof is in the record. It certainly would be strange if no title had been issued since 1914. If a title had been issued, the number thereof should have been mentioned in one document or other executed after 1914. For example, in the tax declarations submitted by MANUELA before and after the war, the number of her title (or the fact that it had been lost) would have been mentioned.

5. Exh. X was supposed to have been issued to MANUELA on March 4, 1914 *when she was still single.* However, her son, Nicolas A. Pascual, testified in 1977 or 1978 that he was then 67 years old. He must have been born in 1910 which would belie that *MANUELA was still single in 1914.*

6. In a re-opening, TAHANAN may ask for a relocation survey to be actually made of the PROPERTY by placing new monuments. It should be advisable that such a relocation survey in the presence of the parties be made so that possible occupants and adjoining owners will have direct and personal knowledge of the reconstitution proceedings.

7. The appeal by the government will not adequately protect the rights of TAHANAN and other land owners who may be affected by the reconstitution. For one thing, the Government did not introduce its own handwriting expert, which TAHANAN might do, in order to assail the authenticity of Exh. X. Ordinarily, whether a signature in a xerox copy is genuine or forged is difficult to determine."

The Court of Appeals further sustained the right of Tahanan to be heard in the case below on the basis of and in accordance with the Resolution of the Supreme Court of September 25, 1979

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in *Director of Lands vs. Court of Appeals, et al.*, L-45168, the first case mentioned at the beginning hereof as one of the three cases recently decided by Us that are directly related to and squarely identified with the petition at bar wherein We admitted the intervention of the intervenors filed before Us even as of the time that the petition to review the decision of the Court of Appeals granting reconstitution of the lost and/or destroyed certificate of title was already submitted for decision in the Supreme Court. "We are duty-bound to abide with the rulings of the Supreme Court," said the appellate court, and it concludes with the dispositive part, to wit:

"WHEREFORE, the Orders of the lower court of November 23, 1978 and January 4, 1979, as well as the Decision of October 5, 1978, are hereby set aside and respondent Judge is hereby directed to reopen the CASE BELOW so that TAHANAN can present its evidence and cross-examine the witnesses of private respondents.

SO ORDERED."

Private respondents filed their Motion for Reconsideration dated December 4, 1979 of the CA Decision penned by Justice Corazon Juliano Agrava, arguing that the decision being set aside by the appellate court had long become final and executory; that the lower court had proper jurisdiction over the reconstitution case; that petitioner's remedy should not be a petition for certiorari but an ordinary action for determination of the alleged overlapping of land areas; and that the Court of Appeals erroneously applied the Supreme Court resolution in Director of Lands *vs.* Court of Appeals, G.R. No.L-45168, September 25, 1979.

Through a Special Division of Five, respondent Court of Appeals granted the Pascual's Motion for Reconsideration and reversed its previous decision of November 16, 1979, through its Resolution promulgated April 30, 1980. The petition for certiorari filed by Tahanan was thereby dismissed and the restraining order issued on January 9, 1979 was ordered dissolved.

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With obvious vehemence, Justice Agrava dissented from the findings of the majority, unequivocally observing that "the alleged difference between that case (Director of Lands vs. CA) and the present case (is) pure casuistry and a failure to abide by decisions of the Supreme Court."

In the instant appeal before Us, petitioner Tahanan assigns numerous errors committed by the appellate court but the principal and fundamental issues to be resolved is whether or not the trial court properly acquired and was invested with jurisdiction to hear and decide Reconstitution Case No. 504-P in the light of the strict and mandatory provisions of Republic Act No. 26. Upon resolving this pivotal issue, the corollary issue as to respondent Judge's grave abuse of discretion in denying Tahanan's Petition To Set Aside Decision and To Re-Open the Proceedings of Reconstitution Case No. 504-P as well as to whether the Court of Appeals erred in sustaining the decision of respondent Judge, will find the correct and appropriate answers.

Republic Act No. 26 entitled "An act providing a special procedure for the reconstitution of Torrens Certificates of Title lost or destroyed" 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. Sections 12 and 13 of the Act provide specifically the mandatory requirements and procedure to be followed. These sections state as follows:

"Sec. 12. Petitions for reconstitutions 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

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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 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 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."

"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 municipality or city in which the land is situated, at the provincial building and of the municipal building 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 of 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."

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As We have earlier quoted in full the petition for reconstitution in Reconstitution Case No. 504-P and substantially the Notice of Hearing issued by the court published in the Official Gazette together with the Certification of Posting by the Deputy Sheriff, it would not be a difficult task to check and verify whether the strict and mandatory requirements of Sections 12 and 13 of Republic Act No. 26 have been faithfully complied with by therein petitioners Pascuals, now the private respondents here.

Upon a cursory reading of both the petition for reconstitution and the notice of hearing, it is at once apparent that Tahanan has not been named, cited or indicated therein as the owner, occupant or possessor of property adjacent to Lot 2, title to which is sought to be reconstituted. Neither do the petition and the notice state or mention that Tahanan is the occupant or possessor of a portion of said Lot 2. The result of this omission or failure is that Tahanan was never notified of the petition for reconstitution and the hearings or proceedings therein.

According to petitioner Tahanan, this omission was deliberate on the part of the Pascuals who actively concealed or sought to conceal the fact that Tahanan is the owner, occupant and possessor of property adjacent to the alleged properties of the Pascuals as well as the fact that Tahanan is in possession or occupancy of portions of the land claimed by the Pascuals. Indeed, as pointed out by petitioner Tahanan, to which We agree, the Pascuals made it appear in the survey plan, Exhibit "Y" submitted by them to the Court based on a survey made as of July 7-12, 1974, that the area where "Tahanan Village" would lie is described as public land.

That the Pascuals deliberately omitted, concealed or sought to conceal the fact that Tahanan is the owner, occupant and possessor of property adjacent to the former's alleged property may be deduced by their failure to comply with the order of Judge Leo Medialdea issued in the original petition for reconstitution, Case No. 77, dated July 10, 1974 (the records of which We ordered forwarded to the Court) wherein "the petitioners are hereby

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required to amend their petition, within ten days from receipt hereof, by indicating therein the names and addresses of all boundary owners of the parcels of land in question as well as the names and addresses of all persons occupying the same."

In complying with the above order, the Pascuals simply filed an Amended Petition and although they allegedly undertook relocation survey on the subject land by which the supposed adjoining owners and claimants may be definitely ascertained as well as their actual occupation and respected addresses, they only included Pedro L. Flores as the occupant on the NE., NW., and W., along lines 1-2-3-4-5-6-7 with address at 959 C. Lerma St., Sampaloc, Manila; and on the SE., along lines 7-8-9-10-1 (portion of Lot 1, plan II-4374) by Maglana & Sons Management Corporation, c/o Constancio B. Maglana, President and Chairman of the Board, with address at No. 513, Lafayette St., Greenhills Subdivision, Mandaluyong, Rizal.

And as far as Lot 4 is concerned, the Amended Petition then mentioned the boundary owner on the NW., SW., along lines 1-2-3 (portions of Lot 1, Plan II-4374) and on the SE., NE. and NW., along lines 3-4-5-1, the same Maglana & Sons Management Corporation as boundary owners.

The amended Petition notwithstanding, the omission of Tahanan as adjoining owner and even as occupant of portions of the supposed Pascual property is palpable and conspicuous.

It is all too evident that the Pascuals in refiling their Petition for Reconstitution in October, 1977 docketed as Case No. 504-P, had no intention to notify nor give cause for notification and knowledge to all adjacent or boundary owners, particularly Tahanan.

The Pascuals are duty-bound to know who are their actual adjacent boundary owners on all sides and directions of their property. They are charged with the obligation to inquire who their neighbors are in actual possession and occupancy not only of portions of their own property but also of land adjacent thereto.

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This duty or obligation cannot be ignored or simply brushed aside where the location or the properties involved is a prime site for land development, expansion, suitable for residential, commercial and industrial purposes and where every square inch of real estate becomes a valuable and profitable investment. It is of public knowledge in the community of Parañaque that "Tahanan Village" is a privately-owned and occupied residential subdivision, plainly visible to the general public by reason of the perimeter fence or wall separating it from adjacent estates he roads and streets therein and leading thereto, the numerous home constructions and buildings going on, the visible electrical, lighting and water supply installations, the presence of private security guards thereat and the numerous signs and billboards advertising the estate as a housing development owned and/or managed by petitioner Tahanan. It is preposterous to claim that the area is public land.

We also find that the Notice of Hearing directed that copies thereof be posted only in the bulletin board of the Court of First Instance of Pasay City and no more, whereas the law specifically require that the notice of the petition shall be posted on the main entrance of the municipality or city on which the land is situated, at the provincial building and at the municipal building at least 30 days prior to the date of hearing. In the instant case as certified to by Deputy Sheriff Arsenio C. de Guzman, the Notice of Hearing was posted on the bulletin board of the Court of First Instance of Rizal, Pasay City Branch located at the Hall of Justice, City Hall Building, Pasay City. Evidently, the Notice of Hearing was not posted at the Main entrance of the provincial building in Pasig, Rizal; it was not posted at the main entrance of the municipal building of Muntinlupa where the land is now comprised in Barrio Cupang, or at least in the municipal building of Parañaque where Barrio San Dionisio was then embraced.

Adverting again to the original records of the Petition for Reconstitution No. 77, We find and note that Judge Leo Medialdea correctly directed in his order of September 27, 1974 the service of process, thus:

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"Service of process in this proceedings shall be made as follows: (a) by publication of a copy of this Order in two (2) successive issues of the Official Gazette, (b) by posting of copies of this Order at the entrance of the Provincial Capitol of Rizal and the Municipal Buildings of Muntinlupa and Parañaque, Rizal, (c) by furnishing every person named in the amended petition with copies of this Order by registered mail, (d) by furnishing Pedro L. Flores and the Maglana & Sons Management Corporation with copies of this Order personally, and (e) by furnishing the Director of Lands, the Commission of the Land Registration Commission and the Register of Deeds of Rizal with copies of this Order personally, the publication, posting and notices shall be made at least thirty (30) days prior to the date of the hearing, at the expense of the petitioners.

The Deputy Clerk of this Court is hereby ordered to implement the directives herein set forth."

Further proceedings in this original petition show that the above directives were faithfully and strictly followed. Nevertheless, this Reconstitution Case No. 77 was withdrawn by the Pascuals, apparently for the reason that there having been filed conflicting reports by the Director of Lands and the Land Registration Commission favorable to the Pascuals and another submitted by the Register of Deeds which was adverse to them and the reports could not be reconciled, the case "would only clog the calendar of the court" pending continued research by the government offices concerned and availability of certain documentary evidence of the Pascuals. The Court granted the Motion to Withdraw in its Order of May 30, 1975.

It is necessary that We quote hereunder the Report of the Register of Deeds for the Province of Rizal submitted in the original Reconstitution Case No. 77 as follows;

"R E P O R T

COMES NOW, the undersigned Register of Deeds for the Province of Rizal and unto this Honorable Court most respectfully manifests:

1. That on June 4, 1974, the Office of the Register of Deeds of Rizal has been furnished a copy of the petition in the above entitled reconstitution case;

2. That on October 8, 1974, the Register of Deeds was furnished with a copy of the Order of the Court dated September 27, 1974, by way of service of process in the proceedings;

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3. That the property subject of the petition for reconstitution, known as Lot 2 and Lot 4 of Plan II-4374 are situated in the Barrio of San Dionisio, Municipality of Parañaque, Province of Rizal (Now as Bo. Cupang, Muntinlupa, Rizal) containing an area of 375,622 sq. meters, and 56,295 sq. meters, respectively, was allegedly covered by Decree No. 15170 issued on March 4, 1911;

4. That a verification of the records of this office, show that Decree No. 15170 of the Court of Land Registration in Case No. 9368 was issued in favor of Eugenio Tuason, married to Maximina Geronimo and Eusebio T. Changco, married to Romana Gatchalian, under Original Certificate of Title No. 724, Book A-7-B, and covers a property situated at Bambang, Pasig, Rizal, with an area of 422 sq. meters."

The failure or omission to notify Tahanan as the owner, possessor or occupant of property adjacent to Lot 2 or as claimant or person having an interest, title or claim to a substantial portion (about 9 hectares more or less) of Lot 2, as well as the failure or omission to post copies of the Notice of Hearing on the main entrance of the municipality on which the land is situated, at the provincial building and at the municipal building thereat, are fatal to the acquisition and exercise of jurisdiction by the trial court. This was Our ruling in Director of Lands *vs.* Court of Appeals, 102 SCRA 370, 438. It was also stressed in Alabang Development Corp., et al. *vs.* Hon. Manuel E. Valenzuela, et al., G.R. No. 54094, August 30, 1982. And We reiterate it herein, to wit:

"In view of these multiple omissions which constitute non-compliance with the above-cited sections of the Act, We rule that said defects have not invested the Court with the authority or jurisdiction to proceed with the case because the manner or mode of obtaining jurisdiction as prescribed by the statute which is mandatory has not been strictly followed, thereby rendering all proceedings utterly null and void. We hold that the mere Notice that 'all interested parties are hereby cited to appear and show cause if any they have why said petition should not be granted' is not sufficient for the law must be interpreted strictly; it must be applied rigorously, with exactness and precision. We agree with the ruling of the trial court granting the motion to amend the original petition provided all the requisites for publication and posting of notices be complied with, it appearing that the amendment is quite substantial in nature. As We have pointed above, respondent Demetria Sta. Maria Vda. de Bernal failed to comply with all the requirements for

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publication and posting of notices, which failure is fatal to the jurisdiction of the Court."

The above rule is a reiteration of the doctrine laid down in Manila Railroad Company *vs.* Hon. Jose M. Moya, et al., L-17913, Jur.e 22, 1965, 14 SCRA 358, thus:

"Where a petition for reconstitution would have the certificates of title reconstituted from the plans and technical descriptions of the lots involved, which sources may fall properly under Section 3(e) or 3(f) of Republic Act No. 26, the possessor thereof or the one who is known to have an interest in the property should be sent a copy of the notice of the petition at the expense of the petitioner, pursuant to Section 13 of the said Act.

If no notice of the date of hearing of a reconstitution case is served on a possessor or one having interest in the property involved, he is deprived of his day in court and the order of reconstitution is null and void, even if otherwise the said order should have been final and executory.

Under Section 13 of Republic Act No. 26, notice by publication is not sufficient but such notice must be actually sent or delivered to parties affected by the petition for reconstitution."

Having resolved the fundamental issue that the trial court had not properly acquired nor was it duly invested with jurisdiction to hear, determine and decide the petition for reconstitution and accordingly all proceedings conducted thereon were rendered null and void including the judgment issued granting the reconstitution, the resolution of the corollary issues need no extended discussion but considering the obvious intent to circumvent the ruling of the Supreme Court laid down in the case of Director of Lands *vs.* Court of Appeals, et al., 93 SCRA 238, We find it imperative to make a reiteration of the pertinent doctrines applicable to the case at bar.

In the above-cited case, We allowed the intervention of adjacent owners even during the pendency of the appeal from the decision granting reconstitution, the appeal then in the Supreme Court, in the paramount interest of justice and as an exception to Section 2, Rule 12 of the Rules of Court. Petitioner Tahanan having sought to intervene in the court below and alleging material and

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substantial interest in the property to which title is sought to be reconstituted, in its Motion To Set Aside Decision and Re-Open Proceedings duly verified and attaching therewith xerox copies of its transfer certificates of title of its properties adjoining and even overlapped by that of the Pascuals to the extent of some 9 hectares in area, the trial court ought to have admitted said motion. There was reversible error in refusing to do so. Once more, We must emphasize the reasons in relaxing the strict application of the Rule above-cited as We did in Director of Lands *vs.* CA, et al., 93 SCRA 238, in this wise:

"But Rule 12 of the Rules of Court like all other Rules therein promulgated is simply a rule of procedure, the whole purpose and object of which is to make the powers of the Court fully and completely available for justice. The purpose of procedure is not to thwart justice. Its proper aim is to facilitate the application of justice to the rival claims of contending parties. It was created not to hinder and delay but to facilitate and promote the administration of justice. It does not constitute the thing itself which courts are always striving to secure to litigants. It is designed as the means best adopted to obtain that thing. In other words, it is a means to an end.

The denial of the motions for intervention arising from the strict application of the Rule due to alleged lack of notice, or the alleged failure of, movants to act seasonably will lead the Court to commit an act of injustice to the movants, to their successors-in-interest and to all purchasers for value and in good faith and thereby open the door to fraud, falsehood and misrepresentation, should intervenors' claims be proven to be true. For it cannot be gainsaid that if the petition for reconstitution is finally granted, the chaos and confusion arising from a situation where the certificates of title of the movants covering large areas of land overlap or encroach on properties the title to which is being sought to be reconstituted by private respondent, who herself indicates in her Opposition that, according to the Director of Lands, the overlapping embraces some 87 hectares only, is certain and inevitable. The aggregate area of the property claimed by respondent covering Lot 1 and Lot 2 is 1,435,062 sq. meters which is situated in a fast-growing, highly residential sector of Metro Manila where growth and development are in rapid progress to meet the demands of an urbanized, exploding population. Industries, factories, warehouses, plants, and other commercial infrastructures are rising and spreading within the area and the owners of these lands and the valuable improvements thereon will not simply fold their hands but certainly will seek judicial protection of their property

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rights or may even take the law into their own hands, resulting to multiplicity of suits."

The holding of respondent Court of Appeals that Our resolution in Director of Lands *vs.* CA, 93 SCRA 238, allowing intervention is not applicable to the case at bar because there was no motion to intervene filed before the Supreme Court by Tahanan is without merit. Such holding fails to see that the intervention of Tahanan while the reconstitution case was still in the trial court below was more expedient for the trial court is in a better and more suitable position to hear and decide the question of encroachment and overlapping raised by Tahanan in its Motion to Set Aside Decision and Re-Open Proceedings, and where the witnesses may be examined and cross-examined by the parties and the court, whereas the Supreme Court is not a trier of facts.

Since the highest Tribunal has allowed intervention almost at the end of the proceedings, there should and there ought to be no quibbling, much less hesitation or circumvention on the part of subordinate and inferior courts to abide and conform to the rule enunciated by the Supreme Court. A well-becoming sense of modesty and a respectful awareness of its inferior position in the judicial heirarchy is to be expected of trial courts and the appellate court to the end that a well-ordered and disciplined administration of justice may be preserved and maintained. We cannot allow, permit or tolerate inferior courts to ignore or circumvent the clear and express rulings of this Court.

There is grave abuse of discretion committed by the trial court when it denied Tahanan's Petition To Set Aside Decision and Re-Open Proceedings. While said petition is not captioned "Motion for Intervention" the allegations of the petition clearly and succinctly aver Tahanan's legal interest in the matter in litigation, which interest is substantial and material, involving as it does the boundaries, possession and ownership of about 9 hectares of land covered by certificates of title registered under the Torrens System in Tahanan's name and issued from the mother title "Original Certificate of Title No. 6567 of the Registry

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of Deeds of Rizal issued pursuant to Decree No. 515888, Land Registration Case No. 776 dated September 18, 1930."

Aside from arbitrarily refusing to admit Tahanan's intervention sought in the trial court below, We find also grave abuse of discretion committed by respondent Judge in not considering Tahanan as an indispensable party to the proceedings, it having been shown positively that it has such an interest in the controversy or subject matter that a final adjudication cannot be made, in its absence, without injuring or affecting such interest. Again, We refer to Our ruling in Director of Lands *vs.* CA, 93 SCRA 238, and more recently in Alabang Development Corp. *vs.* Hon. Manuel E. Valenzuela, G.R. No. 54094, Aug. 30, 1982, that: "The joinder must be ordered in order to prevent multiplicity of suits, so that the whole matter in dispute may be determined once and for all in one litigation. The evident aim and intent of the Rules regarding the joinder of indispensable and necessary parties is a complete determination of all possible issues, not only between the parties themselves but also as regards to other persons who may be affected by the judgment. A valid judgment cannot even be rendered where there is want of indispensable parties."

Time and again, the integrity and inviolability of Torrens titles issued pursuant to the Land Registration Act (Act 496) and Presidential Decree No. 1529 have been shaken by the very courts whose unwavering duty should be to protect the rights and interests of title holders but instead have favored claimants under the guise of reconstitution filed after a long lapse of time after the Japanese occupation, alleging the existence of original and duplicate certificates of title issued pursuant to a court decree but have subsequently been lost or destroyed including the records of the land registration case on account of the war and lay claim and title to valuable parcels of land previously titled and registered under the Torrens registration system and are even able to dispose these properties to unsuspecting homelot buyers and speculating land developers. The courts must be cautious and careful in granting reconstitution of lost or destroyed certificates of title,

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both original and duplicate owner's, based on documents and decrees made to appear authentic from mere xerox copies and certifications of officials supposedly signed with the seals of their office affixed thereon, considering the ease and facility with which documents are made to appear as official and authentic. It is the duty of the court to scrutinize and verify carefully all supporting documents, deeds and certifications. Each and every fact, circumstance or incident which corroborates or relates to the existence and loss of the title should be examined.

The claim of the Pascuals that their predecessor-in-interest, Manuela Aquial, had an original certificate of title to Lots 2 and 4 of Plan II-4374 is extremely difficult to believe and sustain. There are too many omissions and blanks, too many failures and unanswered questions that belie such a claim. Thus, it is at once noted that the number of the certificate of title issued to and registered in the name of respondents' mother and predecessor-in-interest, Manuela Aquial, is unknown. Nowhere in the voluminous records do the Pascuals cite, state, or mention the number of said certificate of title. Not even in the tax declaration of Lot 2 (Tax Declaration No. 15423, Exh. "S" and Tax Declaration No. 10187, Exh. "S-1") and Lot No. 4 (Tax Declaration No. 15424, Exh. "T" and Tax Declaration No. 10188, Exh. "T-1") is the number of the certificate of title indicated. And there is absolutely no document, private or official, presented by the Pascuals mentioning the number of the certificate of title.

There is also no proof as to when the certificate of title was issued. Assuming that the certificate of title was issued pursuant to Decree No. 15170 dated March 4, 1914, the date of issue of the certificate of title must be subsequent thereto. Assuming further that her duplicate copy was lost in 1944 during the Japanese occupation, why did she wait until 1974 [when the first petition for reconstitution was filed which was after thirty (30) years] to seek reconstitution of her owner's copy.

The survey plan allegedly conducted January 9-29, 1911 and approved July 25, 1911 as shown in Exhibit "O" is titled "Plan

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of Property of Olimpia B. Sta. Maria, et al., Case No. _____, Court of Land Registration. Unperfected Title No. _____, Bureau of Lands." In the case of Director of Lands *vs.* CA and Demetria Sta. Maria Vda. de Bernal, et al., 102 SCRA 370 which involved the reconstitution of the certificate of title to Lots 1 and 3 Plan II-4374, Bernal, petitioner therein, claimed ownership to Lots 1 and 3 by virtue of a sales patent issued to her by the Government, which patent, however, We ruled as fictitious. In the instant petition at bar, We find no claim of Aquial nor her successors, the Pascuals, as to how they acquired title in fee simple to Lots 2 and 4, whether thru sales patent, *composicion con el estado,* or *informacion possesoria.* The only allegation of the basis of their ownership is paragraph 3 of the petition for reconstitution which alleges "That the petitioners, by themselves and thru their predecessors-in-interest Manuela Aquial have been and still are in the actual, public, exclusive, adverse, continuous and peaceful occupation of the afore-described lands as owners in fee simple since time immemorial, devoting a small portion thereof to agriculture."

Decree No. 15170 which supposedly decreed Lots 2 and 4 to Manuela Aquial is claimed by the Pascuals to have been issued in Land Registration Case No. 9368. On its face, the attestation clause of the decree reads:

"Witness: the Honorable Dionisio Chanco, Associate Judge of said Court of Land Registration, the 10th day of January, A.D. nineteen hundred and fourteen.

Entered at Manila, P.I., the 4th day of March, A.D. 1914, at 8:38 A.M.

Attest:

(SGD.) ENRIQUE ALTAVAS
Clerk of the Court.

Seal of the Court

(SGD.) ENRIQUE ALTAVAS
Clerk of the Court

A true copy."

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In the official report submitted to the court by the Register of Deeds of Pasig, Rizal in the original petition for reconstitution, No. 77, CFI of Rizal, Branch XXXVI, Makati, Rizal, marked Exhibit "2", Decree No. 15170 was issued in Land Registration Case No. 9368 in the name of Eugenio Tuason, married to Maximina Geronimo, and Eusebio T. Changco, married to Romana Gatchalian, in whose names the Original Certificate of Title No. 724, Book A-7-B of the Registry of Deeds of Rizal covering a property situated at Barrio Bambang, Pasig, Rizal with an area of 422 sq meters was likewise issued.

The Tuason-Changco decree is dated January 10, 1914 and entered on March 4, 1914 at 8:38 A.M. and the Certificate of Title No. 724 was issued January 10, 1914. The attestation clause of the certificate of title reads:

"Witness: the Honorable Dionisio Chanco, Associate Judge of said Court of Land Registration, the 10th day of January, A.D. nineteen hundred and fourteen.

Entered at Manila, P.I., the 4th day of March, A.D. 1914 at 8:38 A.M.

Attest: ENRIQUE ALTAVAS
Clerk of the Court.

Received for transcription at the Office of the Register of Deeds for the Province of Rizal, Philippine Islands, this 7th day of March, nineteen hundred and fourteen, at 9:15 o'clock in the A.M.

(SGD.) (unintelligible)
Register of Deeds"

Comparing the Aquial decree and the Tuason-Changco title, both appears to have been entered at Manila on the same day, that is March 4, 1914, and at the same hour, 8:38 A.M. That the Tuason property and that of Aquial would bear the same decree number (15170), the same land registration case number (9368), the same land registration court (Pasig, Rizal), the same presiding judge (The Honorable Dionisio Chanco) is indeed incredible, if not incomprehensible.

But contrary to the claim of the Pascuals that the records of Land Registration Case No. 9368 have been lost, destroyed or

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missing, there was presented copies of the Official Gazette of December 10 and 17, 1913, Volume II, Nos. 50 and 51, duly certified by the Librarian of the Ministry of Justice wherein the Notice of Hearing in Land Registration Case No. 9368 was published, the applicants for the registration and confirmation of their title to a parcel of land situated in Barrio Bambang, Municipality of Pasig, Province of Rizal being Eugenio Tuason and Eusebio T. Tuason (sic). The Notice of Hearing set the date on December 22, 1913 and "Witness the Honorable Dionisio Chanco, Associate Judge of the Court this 14th day of November, in the year 1913."

Since the Tuason-Changco property was issued Certificate of Title No. 724 pursuant to Decree No. 15170 issued in Land Registration Case No. 9368 whereas Aquial, claiming the same decree number and the same land registration case number, cannot present her owner's duplicate copy nor the original certificate which she claims were lost or destroyed, including the records of Land Registration Case No. 9368 (which is not true as the Notice of Hearing therein was shown and exhibited in copies of the Official Gazette), We find and so hold that it is the Aquial certificate of title that is suspicious, if not non-existent, and not that of the Tuason-Changco Certificate No. 724.

At the back of Certificate of Title No. 724, We find annotated therein a number of documents registered by the heirs of Tuason and also the heirs of co-owner Changco. The deeds or transactions executed on different dates and registered thereon appear normal and there is no reason to doubt their authenticity. On the other hand, no deed, document or transaction had been shown by the Pascuals relating to or affecting their land from which We can infer or deduce the existence of the original certificate of title if one was in truth and in fact issued to Aquial.

The Pascuals claim that they have paid taxes on the land but they can only present Exhibits "U", "U-1", "V" and "V-1" to prove their payment in lump sum of the taxes thereon for four (4) years only, from 1970 to 1973. They have not presented proof

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of tax payment from 1914 to 1969, more than five (5) decades. All these omissions and failures cannot but show the spuriousness and falsity of their claim that they were granted a decree by the Land Registration Court, that a certificate of title was issued in their name and that said certificate of title was existing and subsisting at the time they filed the petition for reconstitution.

We reject the trial court's finding that the absence in the Office of the Register of Deeds of Rizal of the Original Certificate of Title No. 724, although the owner's duplicate is on file therein, is suspicious, for it is satisfactorily explained in the letter of the Acting Register of Deeds Guillermo San Pedro, Exhibit "4", that:

"Original Certificate of Title No. 724 was cancelled on June 24, 1960 and transferred to the heirs by virtue of the settlement of the estate of the deceased registered owners. The original copy of OCT No. 724 is no longer available but the cancelled owner's duplicate copy of OCT No. 724 is still existing in our files.

. . .."

Likewise, We do not agree with the holding of the trial court that "in the light of the foregoing impressive and overwhelming evidence adduced by the petitioners in support of their petition for reconstitution of the title in the name of Manuela Aquial, the Court has no alternative to granting the petition," the Court having "no reason to doubt the credibility of the witnesses for the petitioner, particularly the government officials subpoenaed who had occasion and reason to know the facts they testified to, being parts of their functions and duties in their respective offices."

It is to be noted that the supposedly impressive and overwhelming evidence adduced by the petitioners centered on showing the alleged authenticity and genuineness of the survey plan denominated Plan II-4374. The list of petitioner's exhibits is indeed long but the basic, specific and relevant piece of evidence is Exhibit "O" with the certification of Roman Mataverde, Chief, Survey Division, Bureau of Lands dated October 27, 1972 that "Exhibit "O" is a photographic copy of the original plan as

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reproduced from the microfilm negative which is on file in the Bureau of Lands, Manila."

This is the crucial question on which hinges the veracity of respondents' claim of title and ownership to 431,917 sq. meters of prime land (Lots 2 and 4) in Parañaque, Rizal—is there such an original survey plan known as Plan II-4374?

The oppositor Director of Lands strongly and stoutly maintains that there is no such plan and in support thereof Exhibit "7" is submitted to the Court, the same being the official communication of Amante R. Dumag, Officer-In-Charge, Metro Manila Region, Bureau of Lands, stating "that Plan II-4374 could not be the basis for any verification because the original plan thereof is not subsisting in the files and records of this Bureau." Enclosed with said communication is the xerox copy of the letter dated 30 January 1978 of Staff Supervisor Privadi JG. Dalire. Said Exhibit "7" further states: "However, assuming that Plan II-4374 exists and using its technical description, the same overlaps Muntinlupa Estate and Plan 61581, Lot I, Decree No. N-515888, O.C.T.-6567 identical to Lot 4762, Cad-299, Parañaque Cadastre."

Exhibit "8" of the Director of Lands is the xerox copy of the letter referred to above, which for its materiality and relevance to the vital question hereinbefore stated and stressed, is reproduced in full below:

"Republic of the Philippines
Department of Natural Resources
BUREAU OF LANDS
Manila

SUBJECT: Plan II-4374
Demetria Sta. Maria Vda. de Bernal
Parañaque, Rizal

30 January 1978

Mr. Amante Dumag
Officer-in-charge
Region IV, Metro Manila

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Anent your Memorandum of 17 January 1978 requesting for an authenticated plan of II-4374 Lot 1 and Lot 3 situated in Parañaque, Metro Manila, please be informed of the following:

1. Inventory record book of the maps and plans salvaged after the last world war and subsequently microfilmed during the Booz, Allen and Hamilton Consultancy, clearly shows that Plan II-4374 was not among those salvaged. Indeed, there is no copy of this plan in the file of Technical Reference Section which records were recently turned over to the Records Division. A perusal of the folder of the case in the Records Division also shows that on July 17, 1972 Mr. Gabriel Sansano, the then Chief of the records division certified that his division (Survey Records Section in particular) has no copy of II-4374 (page 183 of the folio).

2. A further perusal of the records (pages 1 and 2) shows that on May 15, 1970 Mr. Angel Sogueco, retired surveyor, issued technical descriptions of Lots 1 and 3 of II-4374 allegedly approved on July 25, 1911. This record was submitted to the Court. Stated therein is the alleged source of data Accession No. 195551. This record turns out to be Plan II-4005 approved on February 7, 1911 and the land is the property of Municipality of Liloan, Island of Pandan, Province of Leyte.

3. Apparently because of this finding, on November 5, 1971, Mr. Anselmo Almazan, then Chief of Reconstruction Section upon request of the interested party, issued technical descriptions for Lots 1 and 3 of II-4374. (This document was submitted to the Court as part of the petition for reconstitution of title (pp. 1 and 2 of folio). As to how the data were reconstituted by the then Chief of Reconstruction Section in the absence of the original copy of the plan is not known. This is not our standard operating procedure since we always issue technical descriptions based on available approved survey records.

4. It appears in the records of the case that later Mr. Modesto Eloriaga, then Chief, Reproduction Section, certified a copy of the microfilm enlargement of a frame with Accession No. 385637 which frame bears the survey number II-4374. As to how a record that was not salvaged after the war got microfilmed is a mystery. Furthermore, as to how this frame is pinpointed without the locator card indeed confound us. We are not now privy to the testimonies made in Court regarding this microfilm.

5. We are surprised to learn that Reel No. 560 now bears II-4374. For this reason, we caused the preparation of an enlargement of said microfilm for further examination and evaluation.

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6. A closer examination of said microfilm enlargement showed the following significant discrepancies and deviations from similar survey plans on record:

a) The date of approval appears to be July 25, 1911 and the signature appearing as the approving official (Director of Lands) of the alleged plan II-4374 is not the same official approving plans during the period. Samples of surveys and inventoried original survey plans on file in this Bureau clearly show that on July 25, 1911 or thereabouts the Acting Director of Lands and therefore proper approving official for survey plans was John R. Wilson. The following original plans (partial list) available in our records and approved within the month of July 1911 or thereabouts all bear the signature of Acting Director of Lands John R. Wilson.

Survey No.	Accession No.	Date of Approval
1. I-1817a	369826	July 25, 1911
2. II-4142	385736	- do -
3. II-4141	385735	- do -
4. II-4110g	385833	- do -
5. II-4110j	385832	- do -
6. II-4110e	385834	- do -
7. II-4110d	385830	- do -
8. II-4110c	385829	- do -
9. II-4110b	385828	- do -
10. II-4897	186222	- do -
11. II-41696		July 11, 1911
12. II-4172		July 5, 1911
13. I-1415	379513	July 25, 1911
14. II-1410	446936	Aug. 22, 1911

b) Authentic plans like that of II-4858 (original copy on file) approved on December 19, 1911 show the BL Form No. 52 and the format then in use during the period. Likewise, this plan (marked O) shows the signature of the Director of Lands at that time, Chas H. Sleeper. What is being represented as the signature of Chas H. Sleeper as Director of Lands on the microfilm of II-4374 appears to be very far from the genuine signature of Chas H. Sleeper appearing on original plans on file. Chas H. Sleeper was the incumbent Director of Lands from November 1, 1905 up to October 15, 1913. However, during his term of office, the then Assistant Director of Lands in the person of John

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R. Wilson had occasion to assume duties as Acting Director of Lands as evidenced by the above-listed survey plans mostly approved on July 25, 1911 by Acting Director of Lands John R. Wilson. Considering the fact that on various dates within the month of July 1911, specifically those of July 25, 1911, the original survey plans available in the file show John R. Wilson as the approving official in his capacity as Acting Director of Lands, and the observation that the signature appearing on microfilm II-4374 is very far from the genuine signature of the incumbent Director of Lands Chas H. Sleeper, the appearance now of the microfilm of II-4374 purportedly approved on July 25, 1911 showing Chas H. Sleeper as the approving official is highly questionable. For this reason and the facts stated elsewhere in this memorandum, we cannot certify authenticity of the microfilm copy of II-4374.

c) The form used for the questionable plan II-4374 differs from the standard survey plans approved during the time (year 1911) in the following respects:

(1) Authentic plans during the time are prepared on B.L. Form No. 52 which is on upper left hand corner; the questionable plan (II-4374) was prepared on B.L. Form No. 52-A which appears on upper left hand corner and on upper center which is unusual.

(2) Authentic plans indicate the name of the surveyor immediately below the line that shows the date of survey, followed by the designation (surveyor) and thereunder Bureau of Lands; the questionable plan, on the other hand, does not conform with the said format.

(3) Authentic plans do not contain the paragraph "The original field notes, . . ." as in the case of the questioned plan II-4374 but immediately "Bureau of Lands" below the surveyor's name is "Approved: ____(date)____ followed by the title and signature of the approving official.

7. Considering the discrepancies and deviations of the microfilm enlargement of the frame that purports to be that of survey plan II-4374 bearing Accession No. 385637, our conclusion is that said plan is not authentic and does not and has never represented any parcel of land properly surveyed and approved by this Bureau.

8. Nevertheless, our investigation is still continuing purposely to find out how the frame of such microfilm got inserted into microfilm Reel No. 560 of this Bureau.

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9. Records of the Case show that this was handled by the late Atty. Pedro Flores in collaboration with Assistant Solicitor General Ricardo L. Pronove, Jr. and Trial Attorney Antonio G. Castro. This pertains to the petition of Demetria Sta. Maria Vda. de Bernal for the reconstitution of T.C.T. No. (12/T-79) 42449 (Sales Patent) covering area of 143.5062 hectares. The case is opposed in the sala of CFI, seventh Judicial District, Branch XIII of Rizal by the Director of Lands and Aurora R. Favila, et al. In cases like this, we take action in close collaboration with the Legal Division.

10. Enclosed for your ready reference are

a) Enlargement copy of alleged II-4374 whose original copy was not inventoried as salvaged after the war;

b) Microfilm copies of Authentic Plans;

c) Xerox copies of relevant papers in the Folio:
   1) Certification of Mr. Gabriel Sansano, dated 17 July 1972
   2) Petition for Reconstitution of Title (Filed with the Court)
   3) Opposition of the Director of Lands
   4) Motion to dismiss the petition for reconstitution of title filed by the other oppositors.

For the Director of Lands:

(SGD.) PRIVADI JG. DALIRE
Staff Supervisor for
Technical Plans & Standards''

From the evidence submitted by the Director of Lands, it is officially and clearly shown that Plan II-4374 was not among those salvaged after the last World War and subsequently microfilmed during the Booz, Allen and Hamilton Consultancy; that Plan II-4374 bearing Accession No. 385637 is not authentic and does not and has never represented any parcel of land properly surveyed and approved by the Director of Lands; that on July 17, 1972, Mr. Gabriel Sansano, the then Chief of the Survey Records Division, certified that his division has no copy of Plan II-4374 and that on May 15, 1970, Mr. Angel Sogueco, retired surveyor, issued technical descriptions of Lots 1 and 3 of Plan II-4374, the alleged source of data being Accession No. 195551 which, however, turned out to be Plan II-4005 approved on February

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7, 1911 and the land pertaining thereto is the property of the Municipality of Liloan, Island of Pandan, Province of Leyte.

Subsequent certifications issued by Anselmo Almazan, Chief, Survey Reconstruction Section, Bureau of Lands dated November 24, 1971 marked Exhibits "M" and "N" indicating the technical descriptions of Lots 1 and 3 of Plan II-4374 with Accession No. 385637 cannot be relied upon because said plan was not among those salvaged after the last World War. Our ruling in the *Bernal* case, 102 SCRA 370, 447 that "the technical descriptions cannot have two accession numbers as sources thereof" stands.

Incidentally, We must point out that the above official report (marked Exhibit "8") was submitted to the Supreme Court in the *Bernal* case as Annex "A" to the Final Report of Amante R. Dumag, Officer In-Charge, NCR, Bureau of Lands, pp. 425-428, in compliance with Our resolution of September 25, 1979, which was accepted and approved by Us and admitted as evidence of this Court. In the case at bar, it is part of the evidence of the oppositor Director of Lands, admitted by the trial court and hence, reviewable on appeal in the petition at bar, he being a respondent herein.

The Torrens titles of petitioner Tahanan and the numerous transfers therefrom to innocent purchasers for value must be respected and protected inorder to achieve the "real purpose of the Torrens System which is to quiet title to the land . . . 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." (Salao *vs.* Salao, 70 SCRA 65, 84; Legarda and Prieto *vs.* Saleeby, 31 Phil. 590, 593; Director of Lands *vs.* Court of Appeals, 102 SCRA 370, 451).

In summation, We find no factual and legal basis for the judgment granting the petition for reconstitution in Reconstitution Case No. 504-P, Land Registration Case No. 9368, Court of First Instance of Rizal, Branch XXIX, Pasay City. Fundamentally, the trial court lacked jurisdiction to hear and decide said petition

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for reconstitution and for this jurisdictional infirmity, its decision including all proceedings therefrom are null and void, including the assailed Resolutions of April 30, 1980 and December 8, 1980 of the respondent Court of Appeals.

WHEREFORE, IN VIEW OF ALL THE FOREGOING, the decision of the Court of First Instance of Rizal, Branch XXIX, Pasay City in Reconstitution Case No. 504-P, Land Registration Case No. 9368 is hereby REVERSED and SET ASIDE. The Resolutions of April 30, 1980 and December 8, 1980 of the respondent Court of Appeals are likewise declared null and void. Costs against private respondents.

Petition granted.

SO ORDERED.

Concepcion Jr., De Castro and *Escolin, JJ.,* concur.

Makasiar (Chairman), J., I also join the concurrence of Justice Aquino and the recommendation of Justice Abad Santos.

Aquino, J., see concurring opinion.

Abad Santos, J., I concur with the recommendation that this case be referred to the NBI for investigation and possible prosecution.

AQUINO, *J., concurring*:

I concur in the result. This is a landgrabbing case. Landgrabbing may be perpetrated by (1) actual and physical usurpation, (2) expanded survey, (3) fake Spanish titles and (4) reconstitution of fake Torrens titles, registration decrees or judgments in land registration cases.

The *Bernal* case, to which this *Tahanan* case is related, involves the reconstitution of a fictitious Torrens title over parcels of land existing only on paper and which, when verified on the ground, covers land already titled in the names of other persons.

The Bernal case. — Demetria Sta. Maria Vda. de Bernal of 102 Sixto Antonio Street, Barrio Rosario, Pasig, Rizal claimed that her mother, Olimpia B. Sta. Maria, bought in 1942 from

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the Government a tract of land with an area of *186 hectares* located at Barrio San Dionisio, Parañaque, Rizal. Mrs. Sta. Maria allegedly obtained a sales patent dated September 15, 1942 and Original Certificate of Title No. 42392 dated September 29, 1942.

The said land was allegedly surveyed in 1911 for Mrs. Sta. Maria as shown in *Plan II-4374*. It consisted of four lots, Lots Nos. 1, 2, 3 and 4. Lots 1 and 3, with an area of *143 hectares,* were supposedly sold by Mrs. Sta. Maria to her daughter, Mrs. Bernal, for ₱10,000 in November, 1943. The register of deeds of Greater Manila issued to Mrs. Bernal Transfer Certificate of Title No. 42449 for Lots 1 and 3.

In 1970, or more than twenty-six years after the issuance of that title, Mrs. Bernal filed in the Court of First Instance of Rizal a petition for the reconstitution of the original thereof. She averred that her owner's duplicate of that title, which she first identified as TCT No. 12 and later as TCT No. 42449, was not lost.

Judge Pedro A. Revilla denied the petition for reconstitution. Mrs. Bernal appealed to the Court of Appeals which in a decision dated October 1, 1976 allowed the reconstitution (*Per* Crisolito Pascual, *J.,* with Bautista and Santiago, *JJ.,* concurring).

The case was brought to this Court on petition for review and by means of a special civil action for certiorari since the Solicitor General's motion for an extension of time to file a motion for reconsideration was filed one day late in the Court of Appeals and it was denied.

During the pendency of the case in this Court, or on December 7 and 28, 1978, Greenfield Development Corporation, Alabang Development Corporation and Ramon D. Bagatsing filed motions for intervention on the ground that the 143 hectares claimed by Mrs. Bernal included substantial portions of the lands already registered in their names.

As an exceptional case and in the interest of expeditious justice, the interventions were allowed in this Court's resolution of September 25, 1979. Also in the interest of justice, although

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unprecedented, this Court ordered the chief of the survey division of the Bureau of Lands to relocate the boundaries of the lots claimed by Mrs. Bernal and the intervenors and to report on the overlapping and the improvements in the said areas (93 SCRA 238, 249 and 102 SCRA 421).

In his report of February 25, 1980, the officer-in-charge of the national capital region of the Bureau of Lands categorically stated that Lots 1 and 3, Plan II-4374, claimed by Mrs. Bernal, *do "not actually exist on the ground"* or, as found by the chief of the technical services section of the same bureau, *the said lots "could not be located in the locality by all technical means" and that the original copy of Plan II-4374 does not exist.*

Consequently, this court dismissed Mrs. Bernal's petition for reconstitution (Director of Lands *vs.* Sta. Maria Vda. de Bernal and CA, L-45168, January 27, 1981, 102 SCRA 370).

This case of the heirs of Manuela Aquial.— As already stated, Mrs. Sta. Maria's alleged 186-hectare land in Barrio San Dionisio supposedly consisted of Lots 1, 2, 3 and 4 of which Lots 1 and 3, with a total area of 143 hectares, were claimed by her daughter, Mrs. Bernal. That claim was found to be fictitious in the reconstitution case already discussed above.

Now, the other two lots, Lots 2 and 4, of Mrs. Sta. Maria's land were supposedly acquired by Manuela Aquial of 307 15th Avenue, Cubao, Quezon City. She died on January 26, 1967.

On October 5, 1977, her legal heirs named Nicolas, Crisanto, Anselmo, Mamerto, Cirilo and Catalina, all surnamed Pascual, and Pascuala A. Mejia and Damiana A. Mejia filed in the Pasay City branch of the Court of First Instance of Rizal (the Bernal case was filed in the Pasig branch) a petition for the reconstitution of *Decree No. 15170* dated March 4, 1914 issued in Land Registration Case No. 9368 and the original and owner's duplicate of the original certificate of title issued pursuant to the said decree allegedly in the name of Manuela Aquial, covering the said Lots 2 and 4, with a total area of *43 hectares* located at Barrio Cupang, Muntinlupa, formerly Barrio San Dionisio, Parañaque and

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described in *Plan II-4374,* the same *non-existing* plan involved in the 143-hectare land, Lots 1 and 3 claimed by Mrs. Bernal.

It should be noted that 43 hectares plus 143 hectares equal 186 hectares, the total area of the land allegedly surveyed for Mrs. Sta. Maria *in 1911* in the fictitious *Plan II-4374.* It should be further noted that in the description of Lots 1 and 3, as set forth in the *Bernal* case, Manuela Aquial is cited as one of the boundary owners.

In the description of Lots 2 and 4 set forth in the petition for reconstitution filed by the heirs of Manuela Aquial, Lots 1 and 3 and the names of Mrs. Sta. Maria and Mrs. Bernal are not mentioned at all.

The Director of Lands opposed the said petition for reconstitution filed by the heirs of Manuela Aquial. He alleged that a prior reconstitution proceeding filed by the Pascuals was dismissed by the Makati branch of the lower court; *that Decree No. 15170, LRC Case No. 9368, was issued to Eugenio Tuason and Eusebio T. Changco for a 422-square meter land in Barrio Bambang, Pasig, Rizal* and that the photostatic copy attached to the petition is a copy of a fake decree.

After hearing, Judge Manuel E. Valenzuela in his decision of October 5, 1978 granted the petition. On November 15, 1978, the Tahanan Development Corporation filed a petition to set aside the decision and for the reopening of the proceeding on the ground that Lots 2 and 4, claimed by the heirs of Manuela Aquial, include substantial portions of the subdivision lots of the Tahanan Village covered by transfer certificates of title derived from OCT No. 6576, Decree No. 515888, LRC Case No. 776.

Also on that same date, November 15, 1978, Alabang Development Corporation and Ramon D. Bagatsing filed a motion to set aside the decision on the ground that the land claimed by the Aquial heirs overlaps the lots of Bagatsing and Alabang Development Corporation covered by Torrens titles derived from OCT No. 684, Decree No. 4552 issued on August 27, 1910.

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The Solicitor General filed a notice of appeal but did not perfect his appeal to the Court of Appeals. As the trial court failed to resolve the petition to set aside filed by the Tahanan Development Corporation, it filed a petition for certiorari in the Court of Appeals which later ordered Judge Valenzuela to resolve Tahanan's petition. He denied it in his order of January 4, 1979.

The Court of Appeals in its decision of November 16, 1979 ordered Judge Valenzuela to reopen the case and allow Tahanan to present its evidence (*Per* Agrava, J.). The Pascuals filed a motion for reconsideration. In a resolution dated April 30, 1980, the Court of Appeals set aside its decision and dismissed Tahanan's petition for certiorari. The Tahanan Development Corporation appealed to this Court.

On the other hand, Bagatsing and Alabang Development Corporation filed in this Court a petition for certiorari and prohibition wherein they assailed Judge Valenzuela's decision.

This Court in its decision of August 30, 1982 in G.R. No. 54094, Alabang Development Corporation, et al. *vs.* Judge Valenzuela, et al., using the findings and rulings in the *Bernal* case, reversed Judge Valenzuela's decision and dismissed the petition for reconstitution.

That decision in the *Bagatsing and Alabang* case rendered this *Tahanan* case moot and academic. This case has to be decided in the same manner as the *Alabang and Bagatsing* case because this Court had already set aside Judge Valenzuela's decision and dismissed the petition for reconstitution. All that is necessary is to set aside the above-mentioned resolution of the Court of Appeals dated April 30, 1980.

As in the *Bernal case,* the decree and title sought to be reconstituted and the land claimed by the heirs of Manuela Aquial are imaginary or pure fabrications. See J. M. Tuason & Co., Inc. *vs.* Mariano, L-33140, October 23, 1978, 85 SCRA 644, where the sisters Manuela and Maria Aquial unsuccessfully assailed OCT No. 735 covering the Santa Mesa and Diliman Estates of the Tuason *mayorazgo.*