



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated August 9, 2023, which reads as follows:*

**“G.R. No. 264279 (THE HEIRS OF DOMINGA CUBITA, IRINEA CUBITA, and CLEMENCIA CUBITA, represented by their Attorney-in-Fact, Estelita S. Gito, Petitioners, v. REPUBLIC OF THE PHILIPPINES, Respondent).** – The Court **GRANTS** petitioners’ motion for extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review on *certiorari*.

After a review of the Petition for Review on *Certiorari*,<sup>1</sup> including the assailed Decision,<sup>2</sup> dated June 8, 2021, and the Resolution,<sup>3</sup> dated September 27, 2022, of the Court of Appeals (CA) in CA G.R. CV No. 108549, which set aside the July 29, 2016 Decision<sup>4</sup> of the Regional Trial Court, Branch 27, Bayombong, Nueva Vizcaya (RTC) in LRC Case No. 6938 that granted the Amended Petition for Reconstitution<sup>5</sup> of Original Certificate of Title (OCT) No. 3089, the Court resolves to **DENY** the same for failure of Victoria C. Saavedra, Anacita S. Crisostomo, Rojudee P. Saavedra, and Estelita S. Gito (collectively, the **petitioners**) to sufficiently show that the CA committed a reversible error.

In the Petition, the petitioners argue that the CA erred in granting the appeal of the Republic of the Philippines (**Republic**) on the ground that the petitioners failed to timely post the notice at the main entrance of the provincial building because the same was not assigned as an error in the appellant’s brief before the Court of Appeals,<sup>6</sup> and they insist that there was substantial compliance by them with the jurisdictional requirements that warrant the grant of their Amended Petition for Reconstitution.<sup>7</sup>

---

<sup>1</sup> *Rollo*, pp. 13-29.

<sup>2</sup> *Id.* at 34-45. Penned by Associate Justice Pablito A. Perez and concurred in by Associate Justices Ramon M. Bato, Jr. and Raymond Reynold R. Lauigan.

<sup>3</sup> *Id.* at 47-50.

<sup>4</sup> *Id.* at 138-143.

<sup>5</sup> *Id.* at 51-55.

<sup>6</sup> *Id.* at 21-23, Petition for Review on *Certiorari*.

<sup>7</sup> *Id.* at 24-25.

The Court is not convinced.

While it is true that as a general rule, only those issues assigned as errors shall be considered by the appellate court in deciding the case, there are certain exceptions. This Court stated in *Catholic Bishop of Balanga v. CA*:<sup>8</sup>

Guided by the foregoing precepts, we have ruled in a number of cases that the appellate court is accorded a broad discretionary power to waive the lack of proper assignment of errors and to consider errors not assigned. It is clothed with ample authority to review rulings even if they are not assigned as errors in the appeal. Inasmuch as the Court of Appeals may consider grounds other than those touched upon in the decision of the trial court and uphold the same on the basis of such other grounds, the Court of Appeals may, with no less authority, reverse the decision of the trial court on the basis of grounds other than those raised as errors on appeal. We have applied this rule, as a matter of exception, in the following instances:

(1) Grounds not assigned as errors but **affecting jurisdiction over the subject matter**; x x x.<sup>9</sup> (Emphasis supplied)

In this case, the Court agrees with the CA that non-compliance with the jurisdictional requirements mandated by the law affects the jurisdiction of the RTC over the Amended Petition. Hence, the CA rightly considered the issue in its Decision, even if the Republic did not assign it as an error in its Brief.<sup>10</sup> The appellate court has authority to consider issues other than those raised as errors on appeal, especially those concerning jurisdiction over the subject matter.

The petitioners also posit that even with the non-posting of the notice at the main entrance of the provincial building, they still substantially complied with the jurisdictional requirements mandated by law.<sup>11</sup>

Again, the Court finds no merit in the petitioners' argument.

This Court has ruled that “[s]ubstantial compliance with jurisdictional requirement is not enough because the acquisition of jurisdiction over a reconstitution case is hinged on a strict compliance with the requirements of the law.”<sup>12</sup> Compliance with jurisdictional requirements is strictly mandatory in a special proceedings case as it is the operative fact which vests a court with the power and authority to validly take cognizance and decide a case.<sup>13</sup>

---

<sup>8</sup> 332 Phil. 206 (1996).

<sup>9</sup> Id. at 216-217.

<sup>10</sup> *Rollo*, pp. 113-137, Brief for the Oppositor-Appellant.

<sup>11</sup> Id. at 24-25, Petition for Review on *Certiorari*.

<sup>12</sup> *Denila v. Republic of the Philippines*, G.R. No. 206077, July 15, 2020, 943 SCRA 599, 670.

<sup>13</sup> Id. at 619.

Republic Act No. 26<sup>14</sup> prescribes special requirements and the mode of procedure before the court can acquire jurisdiction over any petition for the reconstitution of title, which is a special proceeding.

Section 13 of Republic Act No. 26 states that –

Section 13. The court shall cause a notice of the petition, filed under the preceding section, to be published, at the expense of the petitioner, twice in successive issues of the Official Gazette, and to be posted **on the main entrance of the provincial building and of the municipal building** of the municipality or city in which the land is situated, at least thirty days prior to the date of hearing. (Emphasis supplied)

The CA thus correctly found that the petitioners failed to cause the posting of the notice at the main entrance of the provincial building and the notice at the Municipal Hall was not posted, at least, thirty days prior to the date of hearing.<sup>15</sup>

Where the authority to proceed is conferred by a statute and the manner of obtaining jurisdiction is mandatory, the same must be strictly complied with, or the proceedings will be utterly void.<sup>16</sup> One must be mindful that the acquisition of jurisdiction is not a direct result of the inherent power of courts to settle actual controversies involving injured or conflicting rights *per se* — it traces its source from substantive laws which set or fix jurisdictional requirements for petitioners to not only allege but also prove in order to vest and validate the handling tribunal's authority as well as the proceedings already conducted. This makes jurisdiction in special proceedings primarily dependent on petitioner's strict compliance with statutory requirements which fix the authority of the court to take cognizance of the case and pass a judgment thereon. Consequently, failure to comply with any of the jurisdictional requirements for a petition for reconstitution renders the whole proceedings null and void.<sup>17</sup>

The case of *Republic v. Estipular*<sup>18</sup> is on all fours with the present case where this Court held that “[w]ithout such publication and posting at the main entrances of **both the municipal and the provincial edifices**, the trial court Decision granting the reconstitution is void.”<sup>19</sup> Clearly, the jurisdictional requirements are mandatory and should be strictly, not just substantially, complied with.

The CA in granting the appeal and dismissing the Amended Petition merely upheld the statutory requirements mandated by Republic Act No. 26, and followed this Court's rulings. Because the CA acted correctly in

<sup>14</sup> Entitled “AN ACT PROVIDING A SPECIAL PROCEDURE FOR THE RECONSTITUTION OF TORRENS CERTIFICATES OF TITLE LOST OR DESTROYED,” approved on September 25, 1946.

<sup>15</sup> *Rollo*, pp. 41-44, CA Decision.

<sup>16</sup> *The Government of the Philippines v. Aballe v. Wee*, 520 Phil. 181 (2006).

<sup>17</sup> *Denila v. Republic of the Philippines*, G.R. No. 206077, July 15, 2020, 943 SCRA 599, 668.

<sup>18</sup> 391 Phil. 211 (2000).

<sup>19</sup> *Id.* at 214.

dismissing petitioners' Amended Petition for Reconstitution, the Court finds that its assailed Decision and Resolution are not tainted with any reversible error.

Nonetheless, even assuming that the jurisdictional requirements were complied with, the Petition will still fail for the failure of the petitioners to prove the existence and due issuance of OCT No. 3089.

The petitioners anchor their proof that OCT No. 3089 was actually issued in favor of Dominga Cubita, Irinea Cubita, and Clemencia Cubita primarily on the basis of the authenticated microfilm copy of Judicial Decree No. 406408 assigning Lot No. 814 as OCT No. 3089, and the Tax Declaration No. 2010-050019-0375 in the names of Dominga, Clemencia, and Irinea.

For judicial reconstitution of an existing and valid Original Certificates of Title, as in this case, Section 2 of Republic Act No. 26 enumerates the acceptable bases or sources, as follows:

**Section 2.** Original certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:

- (a) The owner's duplicate of the certificate of title;
- (b) The co-owner's, mortgagee's, or lessee's duplicate of the certificate of title;
- (c) A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof;
- (d) An authenticated copy of the decree of registration or patent, as the case may be, pursuant to which the original certificate of title was issued;
- (e) A document, on file in the registry of deeds, by which the property, the description of which is given in said document, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that its original had been registered; and
- (f) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.

The Court, in *Republic v. Spouses Bercede*,<sup>20</sup> laid down guidelines, which, among others, provide that unavailability or loss of the source documents listed higher in the enumeration than the one being offered as the source for the petition for reconstitution must be proved by clear and convincing evidence. Thus, the court must satisfy itself that indeed, the

---

<sup>20</sup> G.R. No. 214223, January 10, 2023.

source document being offered is the one highest in the list which is available and no other source document in the enumeration which precedes the one being offered is available.<sup>21</sup>

In this case, the RTC granted the petition for reconstitution based on the documents offered by the petitioners, despite not ascertaining the unavailability or loss of the other sources of the documents higher in the list under Republic Act No. 26.

Evidently, as correctly pointed out by the Office of the Solicitor General, the petitioners failed to prove the loss or destruction of OCT No. 3089 and its corresponding owner's duplicate. The petitioners only offered as evidence the Certification from the Registry of Deeds that OCT No. 3089 was missing from its files as their basis to show that the same has been lost or destroyed.

As provided by the guidelines, the Register of Deeds must submit written findings on the status of the title sought to be reconstituted. Thus, certifications issued by the Land Registration Authority or by the Register of Deeds for this purpose shall be signed and shall explicitly and categorically state whether or not the original copy on its file of the certificate of title sought to be reconstituted actually existed and that it was in force at the time it was lost and destroyed, and if it actually existed on file, a brief explanation why and/or how the same was lost or destroyed. This certification shall likewise state the name of the registered owner, if known from the other records in its files.<sup>22</sup>

Accordingly, the said Certification is insufficient to prove the loss or destruction of OCT No. 3089 for failure to state that OCT No. 3089 actually existed, that it was in force at the time it was lost and destroyed, and if it did exist, why and how the same was lost or destroyed.

If the unavailability or loss of the source documents listed higher in the list than the one being offered as the source for the petition for reconstitution is not duly proven, the petition for reconstitution should be dismissed.<sup>23</sup> If the petitioner for reconstitution fails to show that he or she had, in fact, sought to secure such prior documents and failed to find them, the presentation of the succeeding documents as substitutionary evidence is proscribed.<sup>24</sup>

Given the foregoing, the Court is convinced that for failure of the petitioners to discharge their burden of proving that OCT No. 3089 actually existed, the petition for reconstitution should nonetheless be dismissed.

---

<sup>21</sup> Id.

<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> *Republic v. Holazo*, 480 Phil. 828 (2004).

**WHEREFORE**, the Petition for Review on Certiorari filed by the petitioners Victoria C. Saavedra, Anacita S. Crisostomo, Rojudee P. Saavedra, and Estelita S. Gito is **DENIED**. The Decision, dated June 8, 2021, and the Resolution, dated September 27, 2022, of the Court of Appeals in CA G.R. CV No. 108549 are **AFFIRMED**.

**SO ORDERED.”**

By authority of the Court:

*MisDCCO.H*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court* *Jul 23/23*

Special & Appealed Cases Service  
PUBLIC ATTORNEY'S OFFICE  
DOJ Agencies Building  
NIA Road corner East Avenue  
Diliman, 1104 Quezon City

COURT OF APPEALS  
CA-G.R. CV No. 108549  
1000 Manila

OFFICE OF THE SOLICITOR GENERAL  
134 Amorsolo Street  
Legaspi Village, 1229 Makati City

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 27, Bayombong  
3700 Nueva Vizcaya  
(LRC Case No. 6938)

PHILIPPINE JUDICIAL ACADEMY  
Research Publications and Linkages Office  
Supreme Court, Manila  
[research\_philja@yahoo.com]

PUBLIC INFORMATION OFFICE  
Supreme Court, Manila  
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES  
Supreme Court, Manila

Judgment Division  
JUDICIAL RECORDS OFFICE  
Supreme Court, Manila

**G.R. No. 264279**

*Am*

(244)  
URES  
NOV 23 2023