



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

REPUBLIC
PHILIPPINES,

OF

THE

G.R. No. 239273

Petitioner,

Present:

PERLAS-BERNABE, J.,
Chairperson,
REYES, A., JR.,
HERNANDO,
INTING, and
DELOS SANTOS, JJ.

- versus -

JUAN FULE and DELIA O.
FULE,

Promulgated:

Respondents.

02 MAR 2020

X-----X

DECISION

DELOS SANTOS, J.:

Before the Court is a Petition for Review on Certiorari¹ under Rule 45 of the Rules of Court assailing the Decision² dated 22 September 2017 and Resolution dated 8 May 2018³ of the Court of Appeals (CA) in CA-G.R. CV No. 105351 which affirmed the Order⁴ of the Regional Trial Court (RTC) of Lucena City, Branch 57, in Misc. Case No. 2012-105, granting the petition for reconstitution of Original Certificate of Title (OCT) No. T-1929(464) filed by respondents spouses Juan Fule and Delia Fule (respondents).

¹ Rollo, pp. 11-23.

² Id. at 26-36.

³ Id. at 37-38.

⁴ Id. at 204-208.

FACTS

On 28 June 2012, respondents filed before the RTC a Petition for Reconstitution of OCT No. T-1929(464) covering a parcel of land described as follows:

A parcel of land (Lot 1204 of the Cadastral Survey of Lucena), with improvements thereon, situated in the Municipality of Lucena. Bounded on the NE. by Mamaboy Creek; on the SE., by Lot No. 672; on the SW., and NW. by Lot No. 671 x x x Containing an area of Two Thousand Six Hundred and Twenty Eight (2,628) Square Meters, more or less.⁵

In their petition, respondents alleged that OCT No. T-1929(464) was issued in the name of Isabel Zarsadias based on Decree No. 130359 issued by the then Court of First Instance, Province of Tayabas, dated 5 December 1922; that OCT No. T-1929(464) was on file with the Register of Deeds of Lucena City and was among those presumed burned during the fire that razed the City Hall building of Lucena City on 30 August 1983; that Isabel was married to Perfecto Pabillorin; that despite Isabel's death on 12 May 1924, Lot 1204 has been declared for taxation purposes in the name of Isabel Zarsadias; that upon her death, the heirs of Isabel Zarsadias possessed and occupied the subject property; that the original owner's copy of OCT No. T-1929(464) was kept in the possession and custody of Antonio Zarsadias Pabillorin, the eldest child of Isabel Zarsadias and Perfecto Pabillorin; that on 3 July 1983, Antonio died; that on 25 July 2011, Antonio's daughter Dorotea Pabillorin, executed an Affidavit of Loss stating that the original owner's copy of OCT No. T-1929(464), alongside some other documents which were supposedly in the possession and custody of her father Antonio, and kept inside a cabinet in their residence at Gomez St., Lucena City, can no longer be found, that her efforts to locate the same have proved futile, that she considers the same irretrievably lost, and that the subject property has never been sold, mortgaged, encumbered or in any manner transacted; that on 25 July 2011, the grandchildren and successors-in-interest of Isabel Zarsadias executed an Extrajudicial Settlement of Estate with Deed of Absolute Sale in favor of the respondents; that the respondents are now in possession of the subject property; that OCT No. T-1929(464) on file with the Registry of Deeds of Lucena City has never been reconstituted nor the subject of any previous reconstitution proceedings and the Owner's copy of said OCT No. T-1929(464) which had been irretrievably lost has never been issued any second owner's copy or any co-owner's, mortgagee's or lessee's duplicate, as certified by the Office of the Register of Deeds of Lucena City; that there is no existing encumbrance over the subject property, it has never been sold, mortgaged or otherwise encumbered in favor of any person or entity, except in favor of the respondents; that no deeds or other instruments affecting the subject property have been presented for registration; that the subject property has never been subdivided, parceled out or partitioned, and

⁵ Id. at 27.

the original area and size as appearing in Decree No. 130359 remain the same; that the present owners and occupants of the adjoining lots of the subject property are – Juan and Delia Fule (Allarey St., Brgy. 8, Lucena City), Carlos Ong Fule and Charles Ong Fule (Allarey St. Brgy. 8, Lucena City), and Engr. Roberto L. Devero (Brgy. Ilayang Talim, Lucena City); and that to respondents' knowledge, there are no other persons who have interest in the subject property.⁶

In support of their petition, respondents submitted as documentary evidence during the proceedings in the RTC, among others, the Certified Microfilm Copy of the Decree No. 130359 issued by the Land Registration Office, Quezon City; the Certification from the Registry of Deeds of Lucena City dated 10 June 2011 stating that OCT No. T-1929(464) covering Lot No. 1204 registered in the name of Isabel Zarsadias is among those titles presumed burned during the fire that razed the City Hall building of the City of Lucena on 30 August 1983; Tax Declaration of Cadastral Lot 1204 in the name of Isabel Zarsadias and the Receipt evidencing the issuance thereof; and the Certification dated 20 June 2012 stating that OCT No. T-1929(464) covering Lot No. 1204 registered in the name of Isabel Zarsadias is among those titles presumed burned during the fire that razed the City Hall building of the City of Lucena on 30 August 1983 which then housed the Registry of Deeds and that aforesaid titled has neither been reconstituted judicially or administratively nor second owner's duplicate certificate has been issued.⁷

In the same RTC proceedings, the Land Registration Authority (LRA) submitted a Report dated 8 January 2013, which reads:

REPORT

(1) The present petition seeks the reconstitution of Original Certificate of Title No. T-1929(464) allegedly lost or destroyed and supposedly covering Lot No. 1204 of the Cadastral Survey of Lucena, situated in the Municipality of Lucena, Province of Tayabas (now Quezon), on the basis of Decree No. 130359.

(2) From Book 23(H) of the "Record Book of Cadastral Lots" on file at the Cadastral Decree Section, this Authority, it appears that Decree No. 130359 was issued for Lot No. 1204, Lucena (Tayabas) Quezon Cadastre, on December 5, 1922, in Cadastral Case No. 4, GLRO Cad. Record No. 215. As per copy of decree on file at the Vault Section, Docket Division, this Authority, it appears it was issued in favor of Isabel Zarsadias.

(3) The technical description of Lot No. 1204 of the Cadastral Survey of Lucena, appearing on the reproduction of Decree No. 130359 has been examined and verified correct after due computation. Said technical description when plotted on the Municipal Index Sheet No.

⁶ Id. at 27-28.

⁷ See id. at 29-30, 93-94, 95, 99, 106, 188-191.

6001, does not appear to overlap previously plotted/decreed properties in the area.⁸

After considering the evidence presented by respondents and the Report of the LRA, the RTC issued an Order dated 11 February 2015 finding merit in the petition for reconstitution, the decretal portion of which reads:

WHEREFORE, premises considered, the petition is GRANTED, and the Registry of Deeds of Lucena City is hereby ordered to reconstitute the original copy of Original Certificate of Title No. T-1929(464) registered in the name of Isabel Zarsadias, the wife of Perfecto Pabillorin, covering Lot No. 1204 of the Cadastral Survey of Lucena, entered pursuant to Decree No. 130359 in Cadastral Case No. 4, GLRO Cadastral Record No. 215, under the same terms and conditions set forth therein, to be considered as the original copy of the title for all legal intents and purposes, in lieu of the missing title, which is hereby declared null and void, upon finality of this Order and payment of the required legal fees.

As to the prayer for issuance of a second owner's copy, with the reconstituted Original Certificate of Title No. T-1929 (464), Section 16 of Republic Act No. 26 will apply which directs the [R]egister of [D]eeds to issue the corresponding owner's duplicate.

SO ORDERED.⁹

On 17 March 2015, petitioner Republic of the Philippines (petitioner), through the Office of the Solicitor General (OSG), filed a Notice of Appeal and elevated the case before the CA. In their Appeal Brief, the OSG assigned the lone error that the RTC erred in granting the Petition for Reconstitution despite respondents' failure to establish the existence of OCT No. T-1929(464) and the fact that it was lost or destroyed.¹⁰

On 22 September 2017, the CA rendered the assailed Decision denying the appeal and affirmed the 11 February Order of the RTC, the dispositive portion of which reads:

WHEREFORE, the instant appeal is hereby DENIED for lack of merit. The Order dated February 11, 2015 issued by the Regional Trial Court (RTC) of Lucena City, Branch 57, in Misc. Case No. 2012-105 is AFFIRMED.

SO ORDERED.¹¹

⁸ Id. at 31. See September 22, 2017 CA Decision, p. 6, quoting in verbatim the contents of the LRA Report dated January 8, 2013.

⁹ Id. at 15-16.

¹⁰ Id. at 31.

¹¹ Id. at 36.

The CA ruled that the respondents were able to prove that Lot 1204 was covered by OCT No. T-1929(464) registered in the name of Isabel Zarsadias and that the same was lost or destroyed. The CA ratiocinated as follows:

A careful perusal of the Petition for Reconstitution filed by petitioners-appellees and the records of this case reveal that the requirements of Sections 12 and 13 of R.A. No. 26 have been complied with. Furthermore, contrary to the position of the OSG, a reading of the Certification issued by the Register of Deeds of Lucena City shows that per its records, there is ground to presume that the original copy of OCT No. T-1929(464) covering Lot 1204 registered in the name of Isabel Zarsadias is one among those burned in the fire that razed the City Hall of Lucena City on 30 August 1983.

As it stands, We find no reversible error on the part of the RTC in finding that petitioners-appellees were able to prove that the subject property was registered in the name of Isabel Zarsadias and was covered by OCT No. T-1929(464). This is consistent with the fact that petitioners-appellees were able to produce a certified microfilm copy of Decree No. 130359 dated December 5, 1922, issued by the Court of First Instance, Province of Tayabas, which ordered the registration in the name of Isabel Zarsadias of Lot No. 1204.¹²

The petitioner moved for reconsideration of the above Decision but the same was denied in the assailed CA Resolution dated 8 May 2018.¹³

Hence, the instant petition.

The OSG interposed the present appeal anchored on the grounds that:

- I. THE CA COMMITTED REVERSIBLE ERROR IN AFFIRMING THE RTC'S 11 FEBRUARY 2015 ORDER, GRANTING THE PETITION FOR THE RECONSTITUTION BASED MERELY ON AN AUTHENTICATED COPY OF DECREE NO. 130359 ISSUED UNDER THE NAME OF ISABEL ZARSADIAS.
- II. THE CA COMMITTED REVERSIBLE ERROR IN AFFIRMING THE RTC'S 11 FEBRUARY 2015 ORDER, GRANTING THE PETITION FOR RECONSTITUTION DESPITE RESPONDENTS' FAILURE TO PROVE THE EXISTENCE OF OCT. NO. T-1929(464).¹⁴

¹² Id. at 34-35.

¹³ Id. at 37-38.

¹⁴ Id. at 16.

The OSG contends that the CA erred in affirming the order of the RTC granting the petition for reconstitution considering that respondents were not able to prove the issuance and prior existence of OCT No. T-1929(464) under the name of Isabel Zarsadias which is a condition precedent in a petition for reconstitution of lost or destroyed original certificate of title.¹⁵ The OSG explains that while respondents presented a certified microfilm copy of Decree No. 130359, the same, however, does not show that OCT No. T-1929(464) was issued pursuant to said decree.¹⁶ The OSG also asserts that the certification of the Register of Deeds of Lucena City does not establish that the original copy of OCT No. T-1929(464) was issued and kept or was part of its records. The certification merely stated that OCT No. T-1929(464) “is one among those titles presumed burned during the fire that razed the City Hall building of the City of Lucena”.¹⁷ Far from proving the existence of OCT No. T-1929(464), the OSG opines that the said certification would only establish that the Register of Deeds of Lucena City has no record of OCT No. T-1929(464) registered in the name of Isabel Zarsadias.¹⁸ The OSG further avers that the tax declaration for the assessment year 1995 presented by the respondents is not a reliable source to prove the existence of OCT No. T-1929(464).¹⁹

On their part, respondents pray for the outright dismissal of the instant petition on procedural grounds. They expound that petitioner raised questions of fact, which are beyond the purview of a Rule 45 Petition.²⁰ Further, respondents aver that petitioner also failed to attach in its petition the material portions of the record of the case, in violation of Section 4, Rule 45 of the Rules of Court. This include the material evidence cited in the petition such as the certified microfilm of Decree No. 130359 and the Certification dated 10 June 2011 issued by the Register of Deeds of Lucena City.²¹

Without waiving the above-said procedural objections, respondents further argue that the CA did not commit reversible error in its assailed Decision and Resolution. Respondents posit that they were able to present sufficient evidence that OCT No. T-1929(464) was duly issued. They rely on the Certification issued by the Register of Deeds of Lucena City stating that OCT No. T-1929(464) registered in the name of Isabel Zarsadias is presumed to be among those titles burned during the fire that razed the City Hall of Lucena City on 30 August 1983. According to respondents, the Certification was based on the records on file of the Register of Deeds of Lucena and by its plain and literal wording, the said Certification confirms that OCT No. T-1929(464) was issued but the original copy thereof was subsequently lost and destroyed by a fire. Moreover, the Certification issued

¹⁵ Id. at 18.

¹⁶ Id.

¹⁷ Id. at 19.

¹⁸ Id.

¹⁹ Id. at 20.

²⁰ Id. at 74-75.

²¹ Id. at 75-76.

by the Register of Deeds was corroborated by the certified microfilm copy of Decree No. 130359, by the LRA Report dated 8 January 2013, and by the testimony of Dorotea Pabillorin, the granddaughter of Isabel Zarsadias, which pieces of evidence, when taken together, would sufficiently prove that OCT No. TCT-1929(464) was issued and that it was lost or destroyed.

RULING

The petition is meritorious.

At the outset, the Court rejects the argument of respondents concerning the purported procedural defects of the present petition.

Contrary to the position of respondents, the petition raises a question of law, and not a question of fact.

When the petitioner asks for a review of the decisions made by a lower court based on the evidence presented, without delving into their probative value but simply on their sufficiency to support the legal conclusions made, then a question of law is raised.²²

In this petition, petitioner simply takes issue against the conclusions made by the CA regarding the prior existence OCT No. T-1929(464) based on the evidence on record, particularly, the certified microfilm of Decree No. 130359 and the certification issued by the Register of Deeds of Lucena City. Petitioner is not calling for an examination of the probative value or truthfulness of the aforesaid evidence. It, however, questions whether the said evidence is sufficient to support the RTC and CA's conclusion that OCT No. T-1929(464) actually existed and got lost or destroyed which is a condition precedent to the granting of a petition for reconstitution. Accordingly, petitioner raises the issue on whether or not the RTC and the CA, considering the documentary evidence presented by respondents in the reconstitution proceedings, are justified under the law and jurisprudence in their findings that the subject OCT actually existed and was subsequently lost or destroyed. Undoubtedly, this is a pure question of law, which calls for a resolution of what is the correct and applicable law to a given set of facts.

Moving on, petitioner's failure to attach to the instant petition the copies of the certified microfilm of Decree No. 130359 and the certification issued by the Register of Deeds of Lucena City is not a fatal mistake, which merits the immediate dismissal of a Rule 45 Petition. The requirement that a petition for review on certiorari should be accompanied by "such material portions of the record as would support the petition" is left to the discretion

²² See *Republic v. Vega*, 654 Phil. 511, 518 (2011).

of the party filing the petition. Except for the duplicate original or certified true copy of the judgment sought to be appealed from, there are no other records from the court *a quo* that must perforce be attached before the Court can take cognizance of a Rule 45 petition.²³ In the end, it is the Court, in finally resolving the merits of the suit that will ultimately decide whether the material portions of the records attached are sufficient to support the Petition.²⁴

In this case, the Court finds that the documents (the CA decision and resolution) submitted by petitioner sufficiently supported the allegations in its petition. As noted earlier, petitioner assails the correctness of the CA conclusion in its decision *vis-à-vis* the evidence presented by respondents. The assailed decision and resolution already contain the undisputed factual findings and the legal basis of the CA in affirming the RTC's order granting the petition for reconstitution. Certainly, by reading and examining the assailed decision and resolution, the Court could judiciously determine the merits of the petition.

Going now to the substantial merits of the petition, the Court finds that the CA erred in affirming the RTC's order granting the petition for reconstitution considering that the evidence on record failed to sufficiently support the legal conclusion that OCT No. T-1929(464) existed or was actually issued and that it was subsequently lost or destroyed. This will be explained below.

The reconstitution of a certificate of title denotes restoration in the original form and condition of a lost or destroyed instrument attesting the title of a person to a piece of land. The purpose of the reconstitution of title is to have, after observing the procedures prescribed by law, the title reproduced in exactly the same way it has been when the loss or destruction occurred.²⁵ As such, a petition for reconstitution of lost or destroyed OCT requires, as a condition precedent, that an OCT has indeed been issued.²⁶ For this purpose, Republic Act (RA) No. 26²⁷ governs the process by which a judicial reconstitution of Torrens Certificates of Title may be done. Specifically, Section 2 of the said law enumerates in the following order the competent and exclusive sources from which reconstitution of an OCT may be based, *viz.*:

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

²³ Id.

²⁴ Id.

²⁵ *Republic v. Dagondon*, 785 Phil. 210 (2016), citing *Republic v. Tuastumban*, 604 Phil. 491, 504-505 (2009).

²⁶ *Republic v. Heirs of Sps. Donato Sanchez and Juana Meneses*, 749 Phil. 999, 1004 (2014).

²⁷ Entitled "AN ACT PROVIDING A SPECIAL PROCEDURE FOR THE RECONSTITUTION OF TORRENS CERTIFICATES OF TITLE LOST OR DESTROYED," approved on September 25, 1946.

- (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.

Here, respondents' petition for reconstitution is based on Section 2(d), an authenticated copy of the decree of registration pursuant to which the original certificate of title was issued. Hence, respondents presented an LRA certified microfilm copy of Decree No. 130359 dated 5 December 1922 issued by the Court of First Instance of the Province of Tayabas, ordering that Lot 1204 of the Cadastral Survey of Lucena be registered in the name of Isabel Zarsadias. However, as mentioned by the CA, Decree No. 130359 merely ordered for the registration of Lot 1204 in the name of Isabel Zarsadias. That means **there is still an act of registration to follow or to be complied with to bring the subject lot under the provisions of the Torrens System and, consequently, the issuance of a certificate of title.** Also, **the decree does not cite or mention that it was issued to support the issuance of an existing original certificate of title, in particular, the OCT No. T-1929(464) in the name of Isabel Zarsadias.** The foregoing considered, there is a need, therefore, for the respondents to submit supporting evidence to prove that Lot 1204 was subsequently registered and covered by Original Certificate of Title in the name of Isabel Zarsadias in compliance with and pursuant to Decree No. 130359. The respondents failed to do this.

The LRA Report dated 8 January 2013 would not serve to help respondents' Petition for Reconstitution. A cursory reading of the LRA's report, which was quoted verbatim in the CA Decision,²⁸ would reveal that the LRA made an admission only as to the existence of Decree No. 130359 issued in favor of Isabel Zarsadias. It is worthy to note that the Report did not indicate that an original certificate of title was subsequently issued pursuant to said decree as well as the number of the original certificate of title and the date said title was issued. In *Republic v. Heirs of Ramos*,²⁹ the Court, citing *Tahanan Development Corporation v. Court of Appeals*,³⁰ held that the absence of any document, private or official, mentioning the number of the certificate of title and date when the certificate of title was issued,

²⁸ *Rollo*, p. 31.

²⁹ 627 Phil. 123, 138-139 (2010).

³⁰ 203 Phil. 652 (1982).

does not warrant the granting of such petition.

The CA also erred in relying on the Certification issued by the Register of Deeds of Lucena City dated 10 June 2011 to affirm the RTC's order granting the respondents' Petition for Reconstitution.

In its 22 September 2017 Decision, the CA held:

A careful perusal of the Petition for Reconstitution filed by petitioners-appellees and the records of this case reveal that the requirements of Sections 12 and 13 of R.A. No. 26 have been complied with. Furthermore, contrary to the position of the OSG, a reading of the Certification issued by the Register of Deeds of Lucena City shows that per its records on file, there is ground to presume that the original copy of OCT No. T-1929(464) covering Lot 1204 registered in the name of Isabel Zarsadias is one among those burned in the fire that razed the City Hall of Lucena City on 30 August 1983.³¹ (Underscoring supplied)

Very clearly, the CA, after examining the Certification, could only arrive at the finding that the Register of Deeds presumed that the original copy of OCT No. T-1929(464) covering Lot 1204 registered in the name of Isabel Zarsadias is one among those titles burned in a fire that razed the City Hall building of the City of Lucena on 30 August 1983. Certainly, the certification of said Register of Deeds that the subject certificate of title "is one among those titles presumed burned during the fire that razed the City Hall building of the City of Lucena" does not necessarily mean that OCT No. T-1929(464) once formed part of its records. The Register of Deeds only presumed that OCT No. T-1929(464) is among the titles burned during the fire without stating and confirming in certain terms that the said certificate of title existed and formed part of its records, in the first place. Consequently, in the absence of clear and definite finding that OCT No. T-1929(464) once formed part of the records of the Register of Deeds of Lucena City, the CA erred in affirming the RTC's order granting the petition for reconstitution of lost or destroyed certificate of title since the fact that the certificate of title sought to be reconstituted actually existed could not be established.

Respondents cited the case of *Republic v. Dela Raga*³² (*Dela Raga*) and pointed out that the Court upheld the trial court's grant of a petition for reconstitution although the certification of the Register of Deeds similarly stated that the title was presumed lost and destroyed in its records. A reading of the said case, however, reveals that the Court did not merely rely on the certification of the Register of Deeds in affirming the trial court's order granting the petition for reconstitution. In that case, the Court considered all the evidence presented before arriving at the conclusion that the lost or destroyed certificate of title actually existed. Worthy of attention

³¹ *Rollo*, p. 34.

³² See 613 Phil. 257 (2009).

is the fact that in addition to the copy of the decree which was the basis of issuance of the lost OCT, respondent in *Dela Raga* not only presented the Register of Deeds certification that the OCT was presumed lost or destroyed **but also a pre-war inventory of original certificates of the Registry of Deeds of Pangasinan which proved that the subject OCT in that case existed and formed part of the records of the concerned office but was destroyed during the World War II.** Thus:

From the evidence presented during the *ex-parte* presentation of evidence before the Branch Clerk of Court, the following facts were proven:

The petitioner is the grandchild of Ignacio Serran, one of the registered owners of the land subject of this petition. The petitioner's mother was Aniceta Serran, one of the daughters of Ignacio Serran as evidenced by Exh. "N". The name of the other child of Ignacio Serran was Cornelia Serran. Both children have already died including Ignacio Serran.

When Ignacio Serran died, he left a property located at Dungon, Sison, Pangasinan. The same property was covered by a title. **However, the office copy of the title was destroyed during the World War II as evidenced by a pre-war inventory of the Registry of Deeds of Pangasinan marked as EXH. "O". From such inventory of original certificates of the Registry of Deeds of Pangasinan (Exh. "0-1"), there was an entry O.C.T. No. 49266 to 49267 - mutilated. In Exh. "O", Original Certificate No. 49266, Vol. 162, Page 239 was in the name of Serran, Ignacio, et. al.** A Certification, Exh. "P" was issued by the Registry of Deeds of Pangasinan certifying to the effect that the Original Certificate of Title No. 49266 could not be found or located among the files in the registry, thus it was presumed lost or destroyed. x x x (Emphasis and underscoring supplied)

In the instant case, the respondents, unlike in *Dela Raga*, did not present clear and convincing evidence to prove that OCT No. T-1929(464) actually existed and formed parts of the records of the Register of Deeds.

Anent the tax declaration presented by respondents, the same is not a reliable source of reconstitution of a certificate of title. As the Court held in *Republic of the Philippines v. Santua*,³³ ***a tax declaration can only be prima facie evidence of claim of ownership, which, however, is not the issue in a reconstitution proceeding. A reconstitution of title does not pass upon the ownership of land covered by the lost or destroyed title but merely determines whether a re-issuance of such title is proper.***

In sum, the Court finds that the CA erred in affirming the order of the RTC granting the petition for reconstitution of the lost or destroyed original certificate of title. The evidence presented by respondents is not sufficient to support the RTC and CA's conclusion that OCT No. T-1929(464) actually


³³ 586 Phil. 291 (2008).

existed and got lost or destroyed which is a condition precedent to the granting of a petition for reconstitution.

All is not lost for the respondents, however. If they remain insistent to have the title of the subject property issued under their names, they can institute the appropriate proceedings in accordance with law and jurisprudence, including the filing of a **Petition for the Cancellation and Re-issuance of a Decree of Registration** as elucidated in the case of *Republic v. Heirs of Sanchez*.³⁴ In the said case, the Court, following the opinion of then LRA Administrator Benedicto B. Ulep, held that for as long as the decree issued in an ordinary or cadastral registration case has not yet been entered, meaning, it has not yet been transcribed in the Registration Book of the concerned Registrar of Deeds, such decree has not yet attained finality and therefore may still be subject to cancellation in the same land registration case. Upon cancellation of such decree, the decree owner (adjudicatee or his heirs) may then pray for the issuance of a new decree number and, consequently, pray for the issuance of an Original Certificate of Title based on the newly issued decree of registration.

WHEREFORE, the petition is **GRANTED**. The Decision dated 22 September 2017 and Resolution dated 8 May 2018 of the Court of Appeals in CA-G.R. CV No. 105351, are hereby **REVERSED** and **SET ASIDE**. Accordingly, the Petition for Reconstitution filed by spouses Juan Fule and Delia Fule before the Regional Trial Court of Lucena City, Branch 57, docketed as Misc. Case No. 2012-105, is **DISMISSED** for lack of merit.


SO ORDERED.



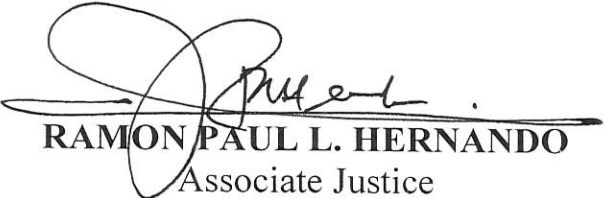
EDGARDO L. DELOS SANTOS
Associate Justice

³⁴ 749 Phil. 999 (2014); see also *Republic v. Dagondon*, supra note 25.

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


ANDRES B. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


ESTELA M. PERLAS-BERNABE
Acting Chief Justice