



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

**JOSEFINA C. BILLOTE**, represented  
by her Attorneys-in-Fact, **WILLIAM  
C. BILLOTE** and **SEGUNDO  
BILLOTE**,

Petitioner,

-versus-

**IMELDA SOLIS, SPOUSES  
MANUEL and ADELAIDA  
DALOPE, SPOUSES VICTOR and  
REMEDIOS BADAR, REGISTER  
OF DEEDS (LINGAYEN,  
PANGASINAN), and HON.  
MELITON EMUSLAN, Presiding  
Judge, Branch 47, Regional Trial  
Court, Urdaneta City,**

Respondents.

G.R. No. 181057

Present:

BRION,\*  
PERALTA,\*\* J., *Acting Chairperson*,  
VILLARAMA, JR.,  
REYES, and  
JARDELEZA, JJ.

Promulgated:

June 17, 2015,

*[Signature]* X

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DECISION

**PERALTA, J.:**

Before the Court is a partial petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to partly reverse and set aside the Decision<sup>1</sup> and Resolution,<sup>2</sup> dated May 24, 2007 and December 5, 2007,

\* Designated Acting Member in lieu of Associate Justice Presbitero J. Velasco, Jr., per Special Order No. 2060-B dated June 17, 2015.

\*\* Per Special Order No. 2059 dated June 17, 2015.

<sup>1</sup> Penned by Associate Justice Arcangelita M. Romilla-Lontok, with Associate Justices Mariano C. Del Castillo (now Associate Justice of the Supreme Court), and Romeo F. Barza concurring; *rollo*, pp. 27-32.

<sup>2</sup> *Id.* at 34.

*[Handwritten mark]*

respectively, of the Court Appeals (CA) in CA-G.R. SP No. 85583 which declared the Decision<sup>3</sup> dated February 24, 2003 of the Regional Trial Court (RTC) in PET. Case No. U-1959 null and void.

The antecedent facts are as follows:

The property subject of the instant petition is a parcel of land consisting of an area of 6,894 square meters, situated in the Municipality of Urdaneta, Province of Pangasinan, covered by Transfer Certificate of Title (TCT) No. 15296 issued under the names of the spouses Hilario Solis and Dorotea Corla,<sup>4</sup> who had begotten three (3) children, namely, Ludovico Solis, and respondents Imelda Solis and Adelaida Solis-Dalope.<sup>5</sup> After Hilario's death on November 15, 1955, Dorotea contracted a subsequent marriage with Segundo Billote, with whom she had two (2) children, namely, petitioner Josefina C. Billote and William C. Billote.

On the claim that the owner's duplicate copy of the subject property's title was missing, respondent Imelda filed before the RTC of Urdaneta City on December 16, 2002 a Petition for the Issuance of New Owner's Duplicate Certificate of TCT No. 15296.<sup>6</sup> Among several other documentary evidence, respondent Imelda submitted a copy of a Deed of Extrajudicial Settlement of Estate of Deceased Person with Quitclaim dated July 13, 2002 whereby Dorotea allegedly conveyed her share in the subject property to respondents Imelda and Adelaida,<sup>7</sup> as well as an Affidavit of Loss duly notifying the Register of Deeds of the title's loss.<sup>8</sup>

On February 24, 2003, the trial court granted the petition, finding that the jurisdictional requirements of Section 109<sup>9</sup> of Presidential Decree (PD) No. 1529 have been duly complied with.<sup>10</sup> Upon receipt of the new owner's duplicate copy, respondents Imelda and Adelaida registered the Deed of

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<sup>3</sup> Penned by Judge Meliton G. Emuslan; *id.* at 58-61.

<sup>4</sup> *Rollo*, p. 28.

<sup>5</sup> *Id.* at 85.

<sup>6</sup> *Id.* at 66-67.

<sup>7</sup> *Id.* at 59.

<sup>8</sup> *Id.* at 60.

<sup>9</sup> Section 109. Notice and replacement of lost duplicate certificate. In case of loss or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or destroyed, or cannot be produced by a person applying for the entry of a new certificate to him or for the registration of any instrument, a sworn statement of the fact of such loss or destruction may be filed by the registered owner or other person in interest and registered.

Upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all purposes of this decree.

<sup>10</sup> *Supra* note 3.

Extrajudicial Settlement, pursuant to which TCT No. 15296 was cancelled and a new one, TCT No. 269811,<sup>11</sup> was issued.<sup>12</sup>

On November 25, 2003, respondents Imelda and Adelaida executed a Deed of Absolute Sale,<sup>13</sup> conveying the entire subject property, including the ½ conjugal share of Dorotea, in favor of respondent spouses Victor and Remedios Badar (*Spouses Badar*). Pursuant thereto, another title, TCT No. 274696,<sup>14</sup> was issued in the name of the spouses.

On July 30, 2004, petitioner, through her Attorneys-in-Fact, William Billote and Segundo Billote, filed before the CA a Petition for Annulment of Judgment<sup>15</sup> seeking to annul the Decision of the RTC granting respondent Imelda's Petition for the Issuance of New Owner's Duplicate Certificate of TCT No. 15296. Petitioner alleged that on July 28, 2001, Dorotea executed a Deed of Absolute Sale<sup>16</sup> conveying her ½ conjugal share in the subject property in favor of petitioner. She stated that before she left for the United States in the same year, she and her mother Dorotea entrusted to William the owner's duplicate copy of TCT No. 15296.<sup>17</sup> Petitioner also alleged that in July 2002, respondents Imelda and Adelaida asked a certain Atty. Ramon Veloria to assist them in transferring the entire subject property in their names. Dorotea told them, however, that she had already sold her conjugal share to petitioner. Despite this, respondents Imelda and Adelaida nevertheless requested the owner's duplicate copy from William, who refused on account of lack of any instruction from their mother and the need for the registration of the Deed of Sale executed in favor of petitioner. In April 2004, upon hearing that his sister, respondent Imelda, was able to buy a piece of property notwithstanding her poor financial capacity, William went to Atty. Veloria's office wherein he discovered that the property in question was the subject of a Deed of Extrajudicial Settlement of Estate. William then went to the Register of Deeds and learned that TCT No. 15296 had already been cancelled despite the fact that the owner's duplicate copy was in his possession. Thus, petitioner sought the nullification of the RTC's decision ordering the issuance of the new owner's copy of title for lack of jurisdiction in view of the fact that the owner's duplicate of title was not lost, but had all the while been in the possession of her brother, William.

On May 24, 2007, the CA partially granted the petition for annulment of judgment in the following wise:

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<sup>11</sup> *Rollo*, p. 70.

<sup>12</sup> *Id.* at 29.

<sup>13</sup> *Id.* at 71.

<sup>14</sup> *Id.* at 72.

<sup>15</sup> *Id.* at 43-51.

<sup>16</sup> *Id.* at 64.

<sup>17</sup> *Id.* at 29.

When spouses Badar bought subject property, it was already covered by TCT No. 269811 in the names of Imelda and Adelaida. Although the second owner's duplicate of TCT No. 15296 was void the same having been issued by a court which did not have jurisdiction to order the issuance of a new owner's copy in lieu of an owner's duplicate which was not lost but was in the possession of another person, (*Straight Times, Inc. vs. CA*, 294 SCRA 714; *Easterworld Motor Industries Corp. vs. Skunac Corp.*, 478 SCRA 420) and although TCT No. 269811 in the names of Imelda Solis and Adelaida Dalope was fraudulently secured, such facts cannot prejudice the right of spouses Victor and Remedios Badar absent any showing that they had any knowledge or participation in such irregularity. Aforenamed spouses cannot be obliged to look beyond the vendor's certificate of title which appeared to be valid on its face and devoid of any annotation of any adverse claim. Spouses Badar appear to be purchasers in good faith and for value as they bought the disputed property, without notice that some other person has right or interest over the same and paid a full price for the same at the time of the purchase or before they had notice of any claim or interest of some other person therein (*Eduarte vs. Court of Appeals*, 253 SCRA 391). No valid transfer certificate of title can issue from a void certificate of title, unless an innocent purchaser for value has intervened (*Pineda vs. CA and Teresita Gonzales*, 409 SCRA 438). Established is the rule that the rights of an innocent purchaser for value must be respected and protected notwithstanding the fraud employed by the sellers in securing their title (*Eduarte vs. CA, supra*).

While this Court, therefore, can declare the judgment dated February 24, 2003, rendered by Branch 47, RTC, Urdaneta City, Pangasinan in PET. Case No. U-1959, as well as the second owner's duplicate of TCT No. 15296 issued pursuant thereto null and void for having been issued without jurisdiction, the same cannot be done relative to TCT No. 274696 issued to the spouses Victor and Remedios Badar, absent any showing that they purchased the property covered thereby with knowledge or privity as to any irregularity or fraud employed by the vendors in securing their title.

WHEREFORE, in view of the foregoing, the petition is **GRANTED** in part. The decision dated February 24, 2003 issued by Branch 47, RTC, Urdaneta City, Pangasinan in PET. Case No. U-1959 as well as the second owner's duplicate of TCT No. 15296 issued pursuant thereto are declared **NULL** and **VOID**.

This Court cannot declare nullity of TCT No. 274696 in the names of spouses Victor and Remedios Badar.

SO ORDERED.<sup>18</sup>

When the appellate court denied petitioner's Partial Motion for Reconsideration, petitioner filed the instant Partial Petition for Review on *Certiorari* on January 31, 2008, invoking the following issues:

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<sup>18</sup> *Id.* at 4-5.

## I.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN NOT DECLARING TCT NO. 269811 IN THE NAMES OF RESPONDENTS SOLIS AND DALOPE AND TCT NO. 274696 IN THE NAMES OF RESPONDENTS-SPOUSES BADAR AS NULL AND VOID.

## II.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN NOT CONDUCTING PROCEEDINGS OR IN NOT REFERRING THE ISSUE ON RESPONDENTS-SPOUSES BADAR BEING PURCHASERS IN GOOD FAITH FOR VALUE TO THE REGIONAL TRIAL COURT PURSUANT TO SEC. 6 OF RULE 47 OF THE RULES OF COURT.

Petitioner asserts that the re-appearance and existence of the owner's duplicate copy renders the court issuing the decision ordering the issuance of a second owner's copy devoid of any jurisdiction. In support of her contention, petitioner cites Sections 18<sup>19</sup> and 19<sup>20</sup> of Republic Act (RA) No. 26<sup>21</sup> as well as several rulings<sup>22</sup> wherein it has been held that if a certificate of title has not been lost but is in fact in the possession of another person, the reconstituted title is void and the court rendering the decision has not acquired jurisdiction to order the issuance of a new duplicate title. Thus, while the appellate court correctly declared the decision of the trial court as

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<sup>19</sup> Section 18. In case a certificate of title, considered lost or destroyed, be found or recovered, the same shall prevail over the reconstituted certificate of title, and, if both titles appear in the name of the same registered owner, all memoranda of new liens or encumbrances, if any, made on the latter, after its reconstitution, except the memorandum of the reservation referred to in section seven of this Act, shall be transferred to the recovered certificate of title. Thereupon, the register of deeds shall cancel the reconstituted certificate of title and spread upon the owner's duplicate, as well as on the co-owner's, mortgagee's or lessee's duplicate, if any has been issued, such annotations of subsisting liens or encumbrances as may appear on the recovered certificate of title, cancelling at the same time the memorandum of the reservation referred to in section seven hereof: Provided, however, That if the reconstituted certificate of title has been cancelled by virtue of any deed or instrument, whether voluntary or involuntary, or by an order of the court, and a new certificate of title has been issued, the recovered certificate of title shall be likewise cancelled, but all subsisting liens or encumbrances, if any, appearing thereon shall be transferred to the new certificate of title and to its owner's duplicate, as well as to any co-owner's, mortgagee's or lessee's duplicate that may have been issued, the memorandum of the reservation referred to in section seven of this Act, if any, being thereby ipso facto cancelled.

<sup>20</sup> Section 19. If the certificate of title considered lost or destroyed, and subsequently found or recovered, is not in the name of the same person in whose favor the reconstituted certificate of title has been issued, the register of deeds should bring the matter to the attention of the proper Court of First Instance, which, after due notice and hearing, shall order the cancellation of the reconstituted certificate of title and render, with respect to the memoranda of new liens or encumbrances, if any, made in the reconstituted certificate of title, after its reconstitution, such judgment as justice and equity may require: Provided, however, That, if the reconstituted certificate of title has been cancelled by virtue of any deed or instrument, whether voluntary or involuntary, or by an order of the court, and a new certificate of title has been issued, the procedure prescribed above, with respect to memoranda of new liens or encumbrances made on the reconstituted certificate of title, after its reconstitution, shall be followed with respect to the new certificate of title, and to such new liens or encumbrances, if any, as may have been made on the latter after the issuance thereof.

<sup>21</sup> Entitled "An Act Providing a Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed," September 25, 1946.

<sup>22</sup> *Strait Times, Inc. v. Court of Appeals*, 356 Phil. 217 (1998); *Demetriou v. Court of Appeals*, G.R. No. 115595, November 14, 1994, 238 SCRA 158, 162; *Serra Serra v. Court of Appeals*, 272-A Phil. 467 (1991).

well as the second owner's copy issued therefrom null and void, petitioner maintains that TCT No. 269811 in the names of respondents Imelda and Adelaida, as well as TCT No. 274696 in the names of respondent spouses Badar, should have likewise been declared a nullity for having been derived from a void title.

Moreover, granting that the CA did not have the authority to declare the Spouses Badar's title null and void, petitioner contends that the appellate court should have remanded the issue on whether said spouses were innocent purchasers for value to the RTC, wherein the issue of ownership over the subject property is being ventilated in Civil Case No. U-8088. According to petitioner, the Spouses Badar are not innocent purchasers for value considering that they were able to acquire the subject property from respondents Imelda and Adelaida only after they could not reach the price originally offered to them by petitioner. Clearly, therefore, the Spouses Badar had knowledge of petitioner's right to the property. In view of this alleged bad faith on the part of the spouses, petitioner contends that the appellate court should have ordered further proceedings to determine the veracity of the parties' claims to the subject property.

In their Comment, respondents Imelda and Adelaida allege that contrary to petitioner's contention, it is actually Section 109<sup>23</sup> of PD No. 1529 and not Sections 18 and 19 of RA No. 26 that is applicable in this case. According to respondents, the cited sections of RA No. 26 apply specifically to reconstitution of titles, where the original copies thereof are lost or destroyed. Here, what was lost was not the original copy of TCT No. 15296, as can be derived from the fact that the same is still in the possession of the Register of Deeds, but the owner's duplicate certificate of title. Thus, what applies herein are not the more stringent requirements provided in RA No. 26 for reconstitution of lost or destroyed original title but those of PD No. 1529, which merely require the applicant to submit a sworn statement as to the fact of loss of the owner's duplicate copy to the Register of Deeds and the trial court, which will, in turn, direct the issuance of the new duplicate title after notice and hearing. Considering that petitioner did not appear to have any interest in the subject property, the Deed of Absolute Sale evidencing her purchase of the same not being registered or annotated on the title, she did not have any right to notice of the proceedings. Accordingly,

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<sup>23</sup> Section 109. Notice and replacement of lost duplicate certificate. In case of loss or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or destroyed, or cannot be produced by a person applying for the entry of a new certificate to him or for the registration of any instrument, a sworn statement of the fact of such loss or destruction may be filed by the registered owner or other person in interest and registered.

Upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all purposes of this decree.

respondents assert that since proper procedure required by applicable law was observed by the trial court, it had all the authority to hear and decide their petition, as well as jurisdiction to order the issuance of the second owner's duplicate copy of title.

Moreover, respondents Imelda and Adelaida refute petitioner's factual allegations, particularly on the fact that the owner's duplicate of TCT No. 15296 had been in William's possession all the while. Also, respondents maintain that the filing of the instant petition is violative of the rule on forum shopping for petitioner had previously filed a Complaint for Declaration of Nullity of Titles, Documents, Recovery of Ownership and Possession, Damages with Prayer for Temporary Restraining Order and Writ of Injunction docketed as Civil Case No. U-8088 involving the same parties, issues, and causes of action.

For their part, respondent Spouses Badar essentially claim that they are innocent purchasers for value who relied on the correctness of the certificate of title presented to them by respondents Imelda and Adelaida. Thus, the appellate court did not err when it refused to declare the nullity of the title issued to them for there is no showing that they purchased the property covered thereby with knowledge or privity as to any fraud employed by respondents Imelda and Adelaida in securing their title.

The petition is partly meritorious.

At the outset, it must be noted that the applicable law in this case is not Sections 18 and 19 of RA No. 26 but Section 109 of PD No. 1529. A reading of the provisions clearly reveals that Sections 18 and 19 of RA No. 26 applies only in cases of reconstitution of lost or destroyed *original* certificates of title on file with the Register of Deeds, while Section 109 of PD No. 1529 governs petitions for the issuance of new owner's *duplicate* certificates of title which are lost or destroyed.<sup>24</sup>

This does not mean, however, that this Court can take cognizance of respondents' assertion that since the trial court applied the correct procedure imposed by law herein, the trial court necessarily had jurisdiction to order the issuance of the second owner's duplicate copy of title.

In *Manila v. Gallardo-Manzo*,<sup>25</sup> this Court explained:

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<sup>24</sup> *New Durawood Co., Inc. v. Court of Appeals*, G.R. No. 111732, February 20, 1996, 253 SCRA 740, 746.

<sup>25</sup> 672 Phil. 460 (2011).

Lack of jurisdiction as a ground for annulment of judgment refers to either lack of jurisdiction over the person of the defending party or over the subject matter of the claim. In a petition for annulment of judgment based on lack of jurisdiction, petitioner must show not merely an abuse of jurisdictional discretion but an absolute lack of jurisdiction. Lack of jurisdiction means absence of or no jurisdiction, that is, the court should not have taken cognizance of the petition because the law does not vest it with jurisdiction over the subject matter. Jurisdiction over the nature of the action or subject matter is conferred by law.<sup>26</sup>

Time and again, it has been consistently ruled that when the owner's duplicate certificate of title has not been lost, but is in fact in the possession of another person, the reconstituted certificate is void, because the court that rendered the decision had no jurisdiction.<sup>27</sup> Reconstitution can validly be made only in case of loss of the original certificate.<sup>28</sup> Thus, the fact of loss of the duplicate certificate is jurisdictional.<sup>29</sup>

In this case, the appellate court categorically found that the owner's duplicate of TCT No. 15296 was not, in fact, lost but was in the possession of William Billote all along.<sup>30</sup> While respondents Imelda and Adelaida, in their Comment, claimed they did not know the whereabouts of the duplicate, and asserted that William even admitted that he did not know where the same is, they never refuted such finding of the CA. This Court, therefore, does not find any reason to deviate from the same. Accordingly, since the owner's duplicate certificate of title has not been lost, but was in the possession of William, the trial court did not acquire jurisdiction over the petition for the issuance of a new owner's duplicate certificate of title. Hence, the CA was correct in declaring the decision of the RTC as well as the second owner's duplicate of title issued pursuant thereto a nullity. It is, therefore, the fact of the loss or existence of the owner's duplicate certificate, and not whether the process prescribed by applicable law was successfully complied with, that determines the presence or lack of jurisdiction of the trial court.

Anent the findings of the CA, however, that since the subject property had already passed into the hands of spouses Badar, innocent purchasers for value, having bought the disputed property without notice that some other person has right or interest over the same, the title issued to them remains

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<sup>26</sup> *Manila v. Gallardo-Manzo*, *supra*, at 473.

<sup>27</sup> *Strait Times, Inc. v. Court of Appeals*, *supra* note 22, at 219; *Rexlon Realty Group, Inc. v. Court of Appeals*, 429 Phil. 31, 44 (2002); *Eastworld Motor Industries Corporation v. Skunac Corporation*, 514 Phil. 605, 606 (2005); *Rodriguez v. Lim*, 538 Phil. 609, 610 (2006); *Villanueva v. Vilorio*, 572 Phil. 183, 189 (2008); *Camitan v. Fidelity Investment Corporation*, 574 Phil. 672, 673 (2008).

<sup>28</sup> *Eastworld Motor Industries Corporation v. Skunac Corporation*, *supra* note 26, 612; citing *Republic v. Feliciano*, 232 Phil. 391, 392 (1987).

<sup>29</sup> *Camitan v. Court of Appeals*, 540 Phil. 377, 378 (2006).

<sup>30</sup> *Rollo*, p. 30.



valid and cannot be nullified, the same cannot be conclusively affirmed. The appellate court ruled as follows:

**The property covered by said title, however, passed into the hands of innocent purchasers for value in the persons of spouses Victor and Remedios Badar, to whom TCT No. 274696 had already been issued.**

**When spouses Badar bought subject property, it was already covered by TCT No. 269811 in the names of Imelda and Adelaida.** Although the second owner's duplicate of TCT No. 15296 was void the same having been issued by a court which did not have jurisdiction to order the issuance of a new owner's copy in lieu of an owner's duplicate which was not lost but was in the possession of another person, (*Straight Times, Inc. vs. CA*, 294 SCRA 714; *Easterworld Motor Industries Corp. vs. Skunac Corp.*, 478 SCRA 420) and although TCT No. 269811 in the names of Imelda Solis and Adelaida Dalope was fraudulently secured, **such facts cannot prejudice the rights of spouses Victor and Remedios Badar absent any showing that they had any knowledge or participation in such irregularity.** Aforenamed spouses cannot be obliged to look beyond the vendor's certificate of title which appeared to be valid on its face and devoid of any annotation of any adverse claim. **Spouses Badar appear to be purchasers in good faith and for value as they bought the disputed property, without notice that some other person has right or interest over the same and paid a full price for the same at the time of the purchase or before they had notice of any claim or interest of some other person therein** (*Eduarte vs. Court of Appeals*, 253 SCRA 391). No valid transfer certificate of title can issue from a void certificate of title, unless an innocent purchaser for value has intervened (*Pineda vs. CA and Teresita Gonzales*, 409 SCRA 438). Established is the rule that the rights of an innocent purchaser for value must be respected and protected notwithstanding the fraud employed by the sellers in securing their title (*Eduarte vs. CA, supra*).<sup>31</sup>

After a cursory examination of the aforequoted findings, this Court observes that the conclusion that the spouses Badar were, indeed, innocent purchasers for value, lacks sufficient basis. As can be gleaned from the foregoing, the CA merely declared that the spouses appear to be purchasers in good faith without specifying material evidence supporting such declarations. The fact that the subject property was already covered by the title issued under the names of respondents Imelda and Adelaida, by itself, does not automatically lead to the conclusion that the spouses Badar had no knowledge of some other party's interest over the property. While the CA cited appropriate doctrines of law, it failed to substantiate them with factual proofs confirming the same. This Court is, therefore, not prepared to categorically rule that spouses Badar were, indeed, innocent purchasers for value and are consequently entitled to the disputed property.

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<sup>31</sup> *Id.* at 30-31.

It must be recalled at this point that in a petition for the issuance of a new owner's duplicate copy of a certificate of title in lieu of one allegedly lost, the RTC, acting only as a land registration court, has no jurisdiction to pass upon the question of actual ownership of the land covered by the lost owner's duplicate copy of the certificate of title.<sup>32</sup> Possession of a lost owner's duplicate copy of a certificate of title is not necessarily equivalent to ownership of the land covered by it. The certificate of title, by itself, does not vest ownership; it is merely an evidence of title over a particular property.<sup>33</sup>

The CA herein was, therefore, limited only to the determination of whether the trial court had jurisdiction over the petition for issuance of a new owner's duplicate copy of a certificate of title in lieu of the one allegedly lost. The only fact that had to be established was whether or not the original owner's duplicate copy of a certificate of title is still in existence.<sup>34</sup> Thus, the dispute regarding the issue of ownership over the subject property as well as whether the Spouses Badar are, in fact, purchasers in good faith and for value will have to be threshed out in a more appropriate proceeding, specifically in Civil Case No. U-8088, where the trial court will conduct a full-blown hearing with the parties presenting their respective evidence to prove ownership over the subject realty,<sup>35</sup> and not in an action for the issuance of the lost owner's duplicate certificate of title, nor in a proceeding to annul the certificate issued in consequence thereof.<sup>36</sup>

Accordingly, respondents' imputation of forum-shopping on the part of petitioner for having previously filed a Complaint for Declaration of Nullity of Titles, Documents, Recovery of Ownership and Possession docketed as Civil Case No. U-8088 cannot be given ample consideration. In *Demetriou v. Court of Appeals*,<sup>37</sup> cited by petitioner, We held:

**Nor was the filing of such a petition forum shopping in violation of Circular No. 28-91. Private respondents allege that in an action for recovery of possession of the lands which they had brought against the JB Line in the Regional Trial Court of Albay (Civil Case No. T-1590), petitioners intervened and alleged substantially the same facts as those alleged by them in their petition for annulment of judgment. We have gone over petitioners' answer in intervention in that case. We find that the allegation of forum shopping is without basis. While they indeed alleged that private respondent had obtained a**

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<sup>32</sup> *Camitan v. Fidelity Investment Corporation*, *supra* note 27, at 674, citing *Macabalo-Bravo v. Macabalo*, G.R. No. 144099, September 26, 2005, 471 SCRA 60, 72.

<sup>33</sup> *Rexlon Realty Group, Inc. v. Court of Appeals*, *supra* note 27, at 34, citing *Strait Times, Inc. v. Court of Appeals*, 356 Phil. 217, 220 (1998).

<sup>34</sup> *Macabalo-Bravo v. Macabalo*, *supra* note 30, at 60-61.

<sup>35</sup> *Camitan v. Fidelity Investment Corporation*, *supra* note 27, at 674, citing *Heirs of Susana De Guzman Tuazon v. Court of Appeals*, G.R. No. 125758, January 20, 2004, 420 SCRA 219, 227-228

<sup>36</sup> *Strait Times v. Court of Appeals*, *supra* note 22, at 230.

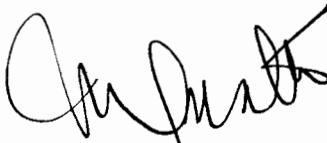
<sup>37</sup> *Supra* note 22.

second owner's duplicate of TCT T-65878 knowing that 2/3 of the land covered by the certificate had been sold to them and that the "2nd owner's copy should be cancelled and recalled considering the fact that the original is in fact still existing and not lost, "the allegation was made more for the purpose of demanding a partition, recognizing that private respondent is the owner of 1/3 of the land. Petitioner's intervention is thus different from their action in the Court of Appeals which is solely for the purpose of seeking the annulment of the judgment in CAD Case No. T-1024 granting private respondent's petition for the issuance of a new owner's duplicate certificate of title.<sup>38</sup>

Similarly, the instant case is merely for the purpose of seeking the annulment of the trial court's February 24, 2003 Decision granting the Petition for the Issuance of New Owner's Duplicate Certificate of TCT No. 15296 while the Complaint for Declaration of Nullity of Titles, Documents, Recovery of Ownership and Possession in Civil Case No. U-8088 is more for the recovery of ownership and possession of the subject property. Thus, there is no identity of causes of action which would result in a violation of the rule against forum-shopping. In Civil Case No. U-8088, it is incumbent on the trial court to resolve the issue of ownership over the property in question, taking into consideration the conflicting claims alleged by the parties supported by their corresponding pieces of evidence. In the instant case for annulment of judgment, however, petitioner only needed to show the fact that the owner's duplicate copy was not, in truth, missing in order to determine the lack of jurisdiction of the trial court resulting in the annulment of judgment thereof. Hence, the allegation of forum-shopping cannot be sustained for the cause of action in the former case differs from that of the latter.

**WHEREFORE**, premises considered, the instant petition is **PARTLY GRANTED**. The issue on the determination of ownership over the disputed property is **REMANDED** to the Regional Trial Court of Urdaneta City, Branch 45, wherein Civil Case No. U-8088 is pending. The Decision and Resolution, dated May 24, 2007 and December 5, 2007, respectively, of the Court Appeals in CA-G.R. SP No. 85583, are **PARTLY AFFIRMED**, insofar as they declared the Decision dated February 24, 2003 of the Regional Trial Court in PET Case No. U-1959, as well as the second owner's duplicate certificate of TCT No. 15296 issued therefrom, null and void.

**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Associate Justice

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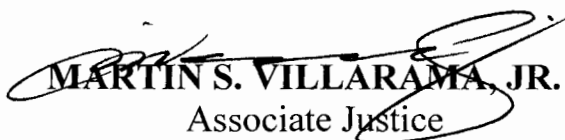
<sup>38</sup>

Id. at 161-162.

**WE CONCUR:**



**ARTURO D. BRION**  
Associate Justice



**MARTIN S. VILLARAMA, JR.**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice



**FRANCIS H. JARDELEZA**  
Associate Justice

**ATTESTATION**

I attest 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's Division.



**DIOSDADO M. PERALTA**  
Associate Justice  
Acting Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice