



Republic of the Philippines  
Supreme Court

Manila

THIRD DIVISION

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE

RECEIVED  
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BY:

G.R. No. 260831

Present:

CAGUIOA, J., Chairperson,  
INTING,  
GAERLAN,  
DIMAAMPAO, and  
SINGH, JJ.

REPUBLIC OF THE  
PHILIPPINES,

Petitioner,

- versus -

PATRICIO B. BELLA,  
Respondent.

Promulgated:

FEB 26 2025

MisDcBatt

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DECISION

SINGH, J.:

This is a Petition for Review on *Certiorari*<sup>1</sup> filed by the Republic of the Philippines (**Republic**), through the Office of the Solicitor General, seeking the reversal of the Decision,<sup>2</sup> dated January 31, 2022, and the Order,<sup>3</sup> dated April 28, 2022, of Branch 21, Regional Trial Court, Imus City, Cavite (**RTC**), in LRC Case No. 3636-19. The RTC granted the Petition for Cancellation of Adverse Claim Annotated on Transfer Certificate of Title (**TCT**) No. 057-2011014198, pursuant to Section 7 of Republic Act No. 26.<sup>4</sup>

*The Facts*

The respondent, Patricio B. Bella (**Bella**), is the registered owner of a parcel of land located at Imus City, Cavite containing an area of 1,453 square meters. The parcel of land is covered by TCT No. 057-2011014198, which contains two annotations of encumbrances, as follows:

<sup>1</sup> Rollo, pp. 12-29.

<sup>2</sup> *Id.* at 32-34. Penned by Presiding Judge Rocille S. Aquino-Tambasacan.

<sup>3</sup> *Id.* at 35-36.

<sup>4</sup> *Id.* at 38-41.

PURSUANT TO SECTION 7, [REPUBLIC] ACT [NO.] 26, THIS CERT. OF TITLE THE ORIGINAL OF WHICH HAS BEEN ADMINISTRATIVELY RECONSTITUTED IS WITHOUT PREJUDICE TO ANY PARTY WHOSE RIGHT OVER THE PROPERTY WAS DULY NOTED IN SAID ORIGINAL COPY DURING THE TIME IT WAS LOST OR DESTROYED BUT NOTATION OF WHICH HAS BEEN MADE IN THE RECONSTITUTED TITLE.  
CAVITE CITY. OCT. 18, 1960

(SGD) E. CUEVAS  
REGISTER OF DEEDS

ENTRY NO. 8364 - AFFIDAVIT OF ADVERSE CLAIM – EXECUTED BY GERONIMO B. BELLA AND EDUARDO B. BELLA – COVERING THE PARCEL OF LAND DESCRIBED IN THIS CERT. OF TITLE, BY VIRTUE OF AFFIDAVIT OF ADVERSE CLAIM, EXECUTED BEFORE NOTARY PUBLIC FOR T.M.C. ATTY. NICOLAS, (DOC. NO. 243; PAGE NO. 63; BOOK NO. LXIV; SERIES [OF 1996].  
COPY ON FILE IN THIS REGISTRY.  
DATE OF INSTRUMENT - MAY 31, 1996.  
DATE OF INSCRIPTION - MAY 31, 1996 AT 9:35A.M.

(SGD) DIOSDADO A. CONCEPCION

DEP. REGISTER OF DEEDS

NOTE: THE ENCUMBRANCES ANNOTATED ABOVE HAVE BEEN COPIED FROM TCT NO. T-240146, BOOK 1304, PAGE 146[.]

Casiano C. Arcillas  
Deputy [Register] of Deeds.<sup>5</sup>

On June 21, 2019, Bella sought the cancellation of these annotations or encumbrances through a Petition for Cancellation of Adverse Claim.<sup>6</sup> In his Petition, Bella averred that pursuant to Section 7 of Republic Act No. 26,<sup>7</sup> the statutory period of two years had long lapsed since the reconstitution registered on October 18, 1960 and notwithstanding this, no claim has ever been presented by any party.<sup>8</sup> As to the adverse claim, Bella averred that it is no longer valid and effective because more than 30 days had already lapsed since its annotation on May 31, 1996. Further, Geronimo B. Bella

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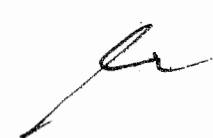
<sup>5</sup> *Id.* at 65.

<sup>6</sup> *Id.* at 38–41.

<sup>7</sup> Republic Act No. 26 (1946), sec. 7, An Act Providing a Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed.

Section 7. Reconstituted certificates of title shall have the same validity and legal effect as the originals thereof: Provided, however, That certificates of title reconstituted extrajudicially, in the manner stated in sections five and six hereof, shall be without prejudice to any party whose right or interest in the property was duly noted in the original, at the time it was lost or destroyed, but entry or notation of which has not been made on the reconstituted certificate of title. This reservation shall be noted as an encumbrance on the reconstituted certificate of title.

<sup>8</sup> *Rollo*, p. 39.



(**Geronimo**) and Eduardo B. Bella (**Eduardo**), who sold the property to him in 2011, are already deceased as evidenced by their Death Certificates.<sup>9</sup>

*The Ruling of the RTC*

The RTC granted the Petition. It ruled and disposed:

Considering that the entries sought to be cancelled has [sic] been annotated in TCT No. 057-2011014198 for more than the reglementary periods and that no person or entity had laid claims over the property subject of the said TCT since its annotation, the action of this Court is to grant the relief prayed for by petitioner herein.

**WHEREFORE**, premises considered, the petition is hereby **GRANTED**. The Register of Deeds of the Province of Cavite is ordered, upon payment of the prescribed fees, to cancel the annotation of encumbrance and adverse claim at the back of Transfer Certificate of Title No. 057-2011014198 of the Registry of Deeds for the Province of Cavite upon presentation of proof of payment of the necessary updated taxes.

SO ORDERED.<sup>10</sup> (Emphasis in the original)

On March 23, 2022, the Republic filed a Motion for Reconsideration.<sup>11</sup> The Republic argued that the notice requirement pursuant to Section 9 of Republic Act No. 26,<sup>12</sup> particularly the requirement of publication twice in successive issues of the Official Gazette, was not complied with. The Republic averred that the records furnished to it show that the notice of the Petition was only posted, but not published as required by law.<sup>13</sup> The Republic further argued that the records do not indicate any evidence to support the conclusion that the adverse claim is unmeritorious and should therefore be cancelled. The reasons in the Decision were that the reglementary period of 30 days has lapsed, and that the adverse claimants were the persons who sold the property to Bella in 2011, and that they have already died. However, even

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 34.

<sup>11</sup> *Id.* at 42–50.

<sup>12</sup> Section 9. A registered owner desiring to have his reconstituted certificate of title freed from the encumbrance mentioned in section seven of this Act, may file a petition to that end with the proper Court of First Instance, giving his reason or reasons therefor. A similar petition may, likewise, be filed by a mortgagee, lessees or other lien holder whose interest is annotated in the reconstituted certificate of title. Thereupon, the court shall cause a notice of the petition 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 lies, at least thirty days prior to the date of hearing, and after hearing, shall determine the petition and render such judgment as justice and equity may require. The notice shall specify, among other things, the number of the certificate of title, the name of the registered owner, the names of the interested parties appearing in the reconstituted certificate of title, the location of the property, and the date on which all persons having an interest in the property must appear and file such claim as they may have. The petitioner shall, at the hearing, submit proof of the publication and posting of the notice: Provided, however, That after the expiration of two years from the date of the reconstitution of a certificate of title, if no petition has been filed within that period under the preceding section, the court shall, on motion ex parte by the registered owner or other person having registered interest in the reconstituted certificate of title, order the register of deeds to cancel, proper annotation, the encumbrance mentioned in section seven hereof.

<sup>13</sup> *Rollo*, p. 45.



though the adverse claimants have already died, as proven through their death certificates, the same death certificates indicate that they have surviving relatives. Thus, the surviving relatives should have been given notice.<sup>14</sup>

In Bella's Opposition to Motion for Reconsideration,<sup>15</sup> dated April 22, 2022, Bella averred that the heirs of the deceased adverse claimants were given the opportunity to be heard because there was notice to them when the RTC Order,<sup>16</sup> dated June 8, 2020, was posted. Thus, Bella argues that he should not be faulted for the failure of the heirs of the deceased adverse claimants to participate in the hearing.<sup>17</sup>

On April 28, 2022, the RTC denied the Motion for Reconsideration for lack of merit. It ruled:

Looking at Section 9 of [Republic Act] No. 26, the publication requirement appears to be applicable only for petitions filed within the two-year time frame. Thus, the last sentence of the same provision allows cancellation of the encumbrance via a mere Motion ex-parte if it is already beyond the two-year period. This is starkly different from that filed within the two-year period which requires that it be a petition and publication requirements are fulfilled. Thus, though the instant case was captioned as "Petition", [sic] the determination of the nature of an action or proceeding is controlled by the averments and character of the relief sought in the complaint or petition. The designation given by parties to their own pleadings does not necessarily bind the courts to treat it according to the said designation. Rather than rely on "a falsa descriptio[n] or defective caption", [sic] Courts are "guided by the substantive averments of the [pleadings.]"

SO ORDERED.<sup>18</sup>

Hence, this Petition.

### *The Issue*

Did the RTC err in ordering the cancellation of the adverse claim?

### *The Ruling of the Court*

The Petition is partly meritorious.

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<sup>14</sup> *Id.* at 48.

<sup>15</sup> *Id.* at 79–84.

<sup>16</sup> *Id.* at 51–52.

<sup>17</sup> *Id.* at 81.

<sup>18</sup> *Id.* at 35–36.



The Petition filed by Bella before the RTC concerns the removal of two annotations on TCT No. 057-2011014198.<sup>19</sup> The first annotation was placed as mandated by Section 7 of Republic Act No. 26 upon the administrative reconstitution of a lost or destroyed original Torrens title, while the second annotation pertains to an affidavit of adverse claim covered by Section 70 of Presidential Decree No. 1529.

*The First Annotation may already be cancelled following the express language of Republic Act No. 26.*

As regards the first annotation, Section 7 of Republic Act No. 26 provides:

Section 7. Reconstituted certificates of title shall have the same validity and legal effect as the originals thereof: *Provided, however, That certificates of title reconstituted extrajudicially, in the manner stated in sections five and six hereof, shall be without prejudice to any party whose right or interest in the property was duly noted in the original, at the time it was lost or destroyed, but entry or notation of which has not been made on the reconstituted certificate of title. This reservation shall be noted as an encumbrance on the reconstituted certificate of title.* (Emphasis supplied)

The above-quoted provision mandates that any reconstituted certificate of title should bear an annotation as an encumbrance, serving as a protective measure for individuals whose rights or interests were duly noted on the original title but not reflected on the reconstituted certificate. This reservation acts as a safeguard, putting interested parties on notice that they may have a claim that needs to be re-annotated on the reconstituted title.

With this reservation in place, Section 8 outlines the process by which omitted interests can be reflected on the reconstituted title:

Section 8. Any person whose right or interest was duly noted in the original of a certificate of title, at the time it was lost or destroyed, but does not appear so noted on the reconstituted certificate of title, which is subject to the reservation provided in the preceding section, may, *while such reservation subsists, file a petition with the proper Court of First Instance for the annotation of such right or interest on said reconstituted certificate of title*, and the court, after notice and hearing, shall determine the merits of the petition and render such judgment as justice and equity may require. The petition shall state the number of the reconstituted certificate of title and the nature, as well as a description, of the right or interest claimed. (Emphasis supplied)

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<sup>19</sup> *Id.* at 57–58.



In line with this, Section 9 outlines the procedure for a party seeking to have his reconstituted certificate of title freed from the encumbrance specified in Section 7:

Section 9. A registered owner desiring to have his reconstituted certificate of title freed from the encumbrance mentioned in section seven of this Act, may file a petition to that end with the proper Court of First Instance, giving his reason or reasons therefor. A similar petition may, likewise, be filed by a mortgagee, lessees or other lien holder whose interest is annotated in the reconstituted certificate of title. Thereupon, the court shall cause a notice of the petition 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 lies, at least thirty days prior to the date of hearing, and after hearing, shall determine the petition and render such judgment as justice and equity may require. The notice shall specify, among other things, the number of the certificate of title, the name of the registered owner, the names of the interested parties appearing in the reconstituted certificate of title, the location of the property, and the date on which all persons having an interest in the property must appear and file such claim as they may have. The petitioner shall, at the hearing, submit proof of the publication and posting of the notice: *Provided, however, That after the expiration of two years from the date of the reconstitution of a certificate of title, if no petition has been filed within that period under the preceding section, the court shall, on motion ex parte by the registered owner or other person having registered interest in the reconstituted certificate of title, order the register of deeds to cancel, proper annotation, the incumbrance mentioned in section seven hereof.*<sup>20</sup> (Emphasis supplied)

Clearly, the law allows individuals with rights or interests noted on the original certificate but missing from the reconstituted title to file a petition with the Court of First Instance. This petition must be filed within the two-year period from the date of reconstitution established by Section 9. If no such petition is filed, Section 9 authorizes the registered owner to request the cancellation of the annotation, providing certainty and finality in the title.

As correctly argued by Bella, the two-year period had long lapsed since the subject TCT was reconstituted on October 18, 1960 and since then, no petition has been filed by any party claiming that they had an interest annotated in the lost or destroyed TCT which was not carried over to the reconstituted TCT.

Since no petition was filed within the two-year period, Section 9 permits the registered owner, in this case, Bella, to request the cancellation of the Section 7 annotation by filing an *ex parte* motion. This is in alignment with the legislative intent to clear titles of provisional encumbrances after affected parties have had ample time to assert their claims.

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<sup>20</sup> Republic Act No. 26 (1946), sec. 9.



*The Second Annotation must be retained*

With regard to the cancellation of the adverse claim on the TCT, Section 70 of Presidential Decree No. 1529 provides:

Section 70. *Adverse claim.* Whoever claims any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in this Decree for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, a reference to the number of the certificate of title of the registered owner, the name of the registered owner, and a description of the land in which the right or interest is claimed.

*The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and a place at which all notices may be served upon him.* This statement shall be entitled to registration as an adverse claim on the certificate of title. The adverse claim shall be effective for a period of thirty days from the date of registration. *After the lapse of said period, the annotation of adverse claim may be canceled upon filing of a verified petition therefor by the party in interest:* Provided, however, that after cancellation, no second adverse claim based on the same ground shall be registered by the same claimant.

Before the lapse of thirty days aforesaid, any party in interest may file a petition in the Court of First Instance where the land is situated for the cancellation of the adverse claim, and the court shall grant a speedy hearing upon the question of the validity of such adverse claim, and shall render judgment as may be just and equitable. If the adverse claim is adjudged to be invalid, the registration thereof shall be ordered canceled. If, in any case, the court, after notice and hearing, shall find that the adverse claim thus registered was frivolous, it may fine the claimant in an amount not less than one thousand pesos nor more than five thousand pesos, in its discretion. Before the lapse of thirty days, the claimant may withdraw his adverse claim by filing with the Register of Deeds a sworn petition to that effect.<sup>21</sup> (Emphasis supplied)

In *Equatorial Realty Development, Inc. v. Spouses Desiderio*,<sup>22</sup> the Court clarified that the provision regarding the 30-day effectivity of adverse claims does not automatically render the claim ineffective after that period:

Construing the provision as a whole would reconcile the apparent inconsistency between the portions of the law such that the provision on cancellation of adverse claim by verified petition would serve to qualify the provision on the effectivity period. The law, taken together, simply means that the cancellation of the adverse claim is still necessary to render it ineffective, otherwise, the inscription will remain annotated and shall continue as a lien upon the property. For if the adverse claim has already

<sup>21</sup> Presidential Decree No. 1529 (1978), sec. 70, Amending and Codifying the Laws Relative to Registration of Property and for Other Purposes.

<sup>22</sup> 470 Phil. 47 (2004) [Per J. Tinga, Second Division].



ceased to be effective upon the lapse of the said period, its cancellation is no longer necessary and the process of cancellation would be a useless ceremony.

It should be noted that the law employs the phrase "may be cancelled," which obviously indicates, as inherent in its decision making power, that the court may or may not order the cancellation of an adverse claim notwithstanding such provision limiting the effectivity of an adverse claim for thirty days from the date of registration. The court cannot be bound by such period as it would be inconsistent with the very authority vested in it. *A fortiori*, the limitation on the period of effectivity is immaterial in determining the validity or invalidity of an adverse claim which is the principal issue to be decided in the court hearing. It will therefore depend upon the evidence at a proper hearing for the court to determine whether it will order the cancellation of the adverse claim or not.

To interpret the effectivity period of the adverse claim as absolute and without qualification limited to thirty days defeats the purpose for which the statute provides for the remedy of an inscription of an adverse claim, as the annotation of an adverse claim is a measure designed to protect the interest of a person over a piece of real property where the registration of such interest or right is not otherwise provided for by the Land Registration Act or Act 496 (now [Presidential Decree No.] 1529 or the Property Registration Decree), and serves as a warning to third parties dealing with said property that someone is claiming an interest on the same or a better right than the registered owner thereof.

The reason why the law provides for a hearing where the validity of the adverse claim is to be threshed out is to afford the adverse claimant an opportunity to be heard, providing a venue where the propriety of his claimed interest can be established or revoked, all for the purpose of determining at last the existence of any encumbrance on the title arising from such adverse claim[.]<sup>23</sup>

Clearly, the mere lapse of the 30-day period under Section 70 of Presidential Decree No. 1529 is not the sole factor in determining the validity of an adverse claim. The law intends for a hearing to be held to assess the validity of the adverse claim, allowing the claimant to present evidence to determine whether the claimed interest can be revoked.

A hearing is necessary to determine whether the claim should be revoked. This requirement ensures that the adverse claimant is given due process. In this case, no hearing was conducted. The RTC granted the cancellation of the second annotation on the mere ground that the reglementary period of 30 days had long lapsed.<sup>24</sup>

Further, Bella did not implead the known heirs, whose names were indicated in the Death Certificates of Geronimo and Eduardo, as respondents

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<sup>23</sup> *Id.* at 60-61.

<sup>24</sup> *Rollo*, p. 33.





in the Petition for Cancellation of Adverse Claim. This is in clear disregard of due process.

In *Chua, et al v. B.E. San Diego, Inc.*,<sup>25</sup> the Court ruled that an amendment or alteration effected without notice to an adverse claimant would not be in compliance with law or due process:

The above provision requires that all interested parties must be duly notified of the petitioner's application for amendment or alteration of the certificate of title. Relief under the said legal provision can only be granted if there is unanimity among the parties, or that there is no adverse claim or serious objection on the part of any party in interest.

Without doubt, San Diego, a party-in-interest with an adverse claim, was not duly notified of the said petition. The records reveal that despite their knowledge about its adverse claim over the subject properties, Jimmy and Albert never notified San Diego about their application or petition for amendment or alteration of title. This Court agrees with the CA that the lack of notice to San Diego placed in serious question the validity of the CFI judgment or its enforceability against it. An amendment/alteration effected without notice to the affected owners would not be in compliance with law or the requirements of due process<sup>26</sup>

In light of the foregoing, Bella's failure to implead the known heirs and to notify all interested parties constitutes a clear violation of due process, making the Petition for Cancellation of Adverse Claim fatally deficient.

**FOR THESE REASONS**, the Petition for Review on *Certiorari* is **PARTIALLY GRANTED**. The Decision, dated January 31, 2022, of Branch 21, Regional Trial Court of Imus City, Cavite, in LRC Case No. 3636-19 is **MODIFIED**. The Register of Deeds of the Province of Cavite is **ORDERED**, upon payment of the prescribed fees, to **CANCEL** the annotation of encumbrance at the back of Transfer Certificate of Title No. 057-2011014198 of the Registry of Deeds for the Province of Cavite upon presentation of proof of payment of the necessary updated taxes. The Petition for Cancellation of Adverse Claim is **DISMISSED** with respect to the Second Annotation, Entry No. 8364.

**SO ORDERED.**

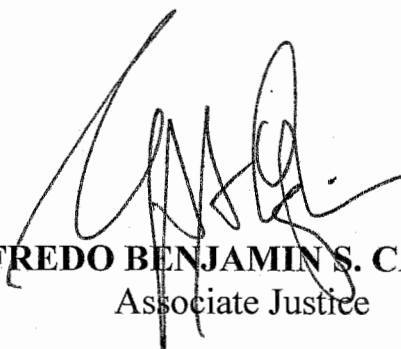
  
**MARIA FILOMENA D. SINGH**  
Associate Justice

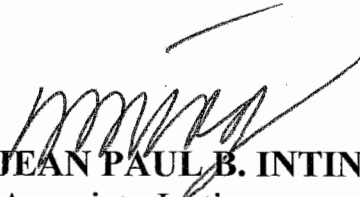
<sup>25</sup> 708 Phil. 386 (2013) [Per J. Mendoza, Third Division].


<sup>26</sup> *Id.* at 418-419.

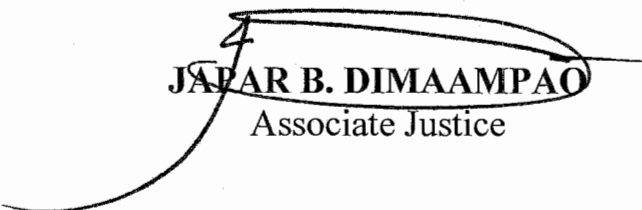
**WE CONCUR:**

*See  
Concurring  
Opinion*

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

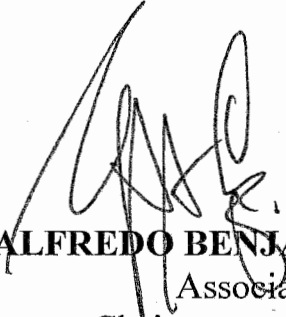
  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**SAMUEL H. GAERLAN**  
Associate Justice

  
**JAPAR B. DIMAAMPAO**  
Associate Justice

**ATTESTATION**

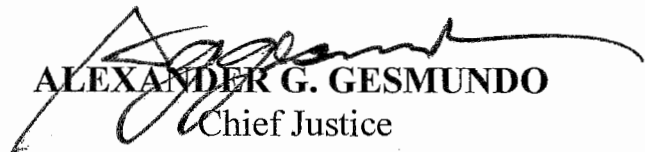
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice  
Chairperson, Third Division



**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, 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's Division.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice



