

of two hundred thousand pesos, or so much thereof as may be necessary to carry out the purpose of this Act.

SEC. 3. This Act shall take effect on the first day of July, nineteen hundred and forty-seven.

Approved, September 25, 1946.

H. No. 448

[REPUBLIC ACT NO. 26]

AN ACT PROVIDING A SPECIAL PROCEDURE FOR THE RECONSTITUTION OF TORRENS CERTIFICATES OF TITLE LOST OR DESTROYED.

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. Certificates of title lost or destroyed shall be reconstituted in accordance with the provisions of this Act.

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

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

SEC. 3. Transfer certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:

- (a) The owner's duplicate of the certificate of title;
- (b) The co-owner's mortgagee's, or lessee's duplicate of the certificate of title;
- (c) A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof;
- (d) The deed of transfer or other document on file in the registry of deeds, containing the description of the property, or an authenticated copy thereof, showing that its original had been registered, and pursuant to which the lost or destroyed transfer 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.

SEC. 4. Liens and other encumbrances affecting a destroyed or lost certificate of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:

- (a) Annotations or memoranda appearing on the owner's co-owner's mortgagee's or lessee's duplicate;
- (b) Registered documents on file in the registry of deeds, or authenticated copies thereof showing that the originals thereof had been registered; and
- (c) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the liens or encumbrances affecting the property covered by the lost or destroyed certificate of title.

SEC. 5. Petitions for reconstitution from sources enumerated in sections 2(a), 2(b), 3(a), 3(b), and/or 4(a) of this Act may be filed with the register of deeds concerned by the registered owner, his assigns, or other person having an interest in the property. The petition shall be accompanied with the necessary sources for reconstitution and with an affidavit of the registered owner stating, among other things, that no deed or other instrument affecting the property had been presented for registration, or, if there be any, the nature thereof, the date of its presentations, as well as the names of the parties, and whether the registration of such deed or instrument is still pending accomplishment. If the reconstitution is to be made from any of the sources enumerated in section 2(b) or 3(b), the affidavit should further state that the owner's duplicate has been lost or destroyed and the circumstances under which it was lost or destroyed. Thereupon, the register of deeds shall, no valid reason to the contrary existing, reconstitute the certificate of title as provided in this Act.

SEC. 6. The register of deeds may *motu proprio* reconstitute a certificate of title from its corresponding owner's duplicate, and, for this purpose, may compel the registered owner, or any person holding such owner's duplicate, to surrender the same to the registry of deeds. After the reconstitution said owner's duplicate shall be returned to the person concerned.

SEC. 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.

SEC. 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 of interest on said reconstituted certificate of title, and the court, after notice and hearing, shall determine the merits of the petition and render such judgments 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.

SEC. 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.

SEC. 10. Nothing hereinbefore provided shall prevent any registered owner or person in interest from filing the petition mentioned in section five of this Act directly with the proper Court of First Instance, based on sources enumerated in sections 2(a), 2(b), 3(a), 3(b), and/or 4(a) of this Act: *Provided, however*, That the court shall cause a notice of the petition, before hearing and granting the same, to be published in the manner stated in section nine hereof: *And, provided, further*, That certificates of title reconstituted pursuant to this section shall not be subject to the encumbrance referred to in section seven of this Act.

SEC. 11. Petitions for reconstitution of registered interests, liens and other encumbrances, based on sources enumerated in sections 4(b) and/or 4(c) of this Act, shall be filed, by the interested party, with the proper Court of First Instance. The petition shall be accompanied with the necessary documents and shall state, among other things, the number of the certificate of title and the nature as well as a description of the interest, lien or encumbrance which is to be reconstituted, and the court, after publication, in the manner stated in section nine of this Act, and hearing, shall determine the merits of the petition and render such judgment as justice and equity may require.

SEC. 12. Petitions for reconstitution from sources enumerated in sections 2(c), 2(d), 2(e), 2(f), 3(c), 3(d), 3(e) and/or 3(f) of this Act, shall be filed with the proper Court of First Instance, by the registered owner, his assigns, or any person having an interest in the property. The petition shall state or contain, among other things, the following: (a) that the owner's duplicate of the certificate of title had been lost or destroyed; (b) that no co-owner's, mortgagee's or lessee's duplicate had been issued, or, if any had been issued, the same had been lost or destroyed; (c) the location, area and boundaries of the property; (d) the nature and description of the buildings or improvements, if any, which do not belong to the owner of the land, and the names and addresses of the owners of such buildings

or improvements; (e) the names and addresses of the occupants or persons in possession of the property, of the owners of the adjoining properties and of all persons who may have any interest in the property; (f) a detailed description of the encumbrances, if any, affecting the property; and (g) a statement that no deeds or other instruments affecting the property have been presented for registration, or, if there be any, the registration thereof has not been accomplished, as yet. All the documents, or authenticated copies thereof, to be introduced in evidence in support of the petition for reconstitution shall be attached thereto and filed with the same: *Provided*, That in case the reconstitution is to be made exclusively from sources enumerated in section 2(f) or 3(f) of this Act, the petition shall be further accompanied with a plan and technical description of the property duly approved by the Chief of the General Land Registration Office, or with a certified copy of the description taken from a prior certificate of title covering the same property.

SEC. 13. The court shall cause a notice of the petition, filed under the preceding section, to be published, at the expense of the petitioner, twice in successive issues of the *Official Gazette*, and to be posted on the main entrance of the municipality or city in which the land is situated, at the provincial building and of the municipal building of least thirty days prior to the date of hearing. The court shall likewise cause a copy of the notice to be sent, by registered mail or otherwise, at the expense of the petitioner, to every person named therein whose address is known, at least thirty days prior to the date of hearing. Said notice shall state, among other things, the number of the lost or destroyed certificate of title, if known, the name of the registered owner, the names of the occupants or persons in possession of the property, the owners of the adjoining properties and all other interested parties, the location, area and boundaries of the property, and the date on which

all persons having any interest therein must appear and file their claim or objections to the petition. The petitioner shall, at the hearing, submit proof of the publication, posting and service of the notice as directed by the court.

SEC. 14. If any person withholds, refuses or fails within a reasonable time after request, to produce a document or paper without which the reconstitution of a certificate of title, or any lien or annotation affecting the same, cannot be fully accomplished, the court may, on motion and after notice and hearing order such person to produce and/or surrender such document or paper at the time and place named in the order and may enforce the same by suitable process.

SEC. 15. If the court, after hearing, finds that the documents presented, as supported by parole evidence or otherwise, are sufficient and proper to warrant the reconstitution of the lost or destroyed certificate of title, and that the petitioner is the registered owner of the property or has an interest therein, that the said certificate of title was in force at the time it was lost or destroyed, and that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title, an order of reconstitution shall be issued. The clerk of court shall forward to the register of deeds a certified copy of said order and all the documents which, pursuant to said order, are to be used as the basis of the reconstitution. If the court finds that there is no sufficient evidence or basis to justify the reconstitution, the petition shall be dismissed, but such dismissal shall not preclude the right of the party or parties entitled thereto to file an application for confirmation of his or their title under the provisions of the Land Registration Act.

SEC. 16. After the reconstitution of a certificate of title under the provisions of this Act, the register of deeds shall issue the corresponding owner's duplicate and the additional copies of said certificates of title, if any had been previously issued, where such owner's duplicate and/or additional copies have been destroyed or lost. This fact shall be noted on the reconstituted certificate of title.

SEC. 17. The register of deeds shall certify on each certificate of title reconstituted the date of the reconstitution, the source or sources from which reconstitution has been accomplished, and whether administratively, or judicially.

SEC. 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.

SEC. 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.

SEC. 20. If the registered owner or any other person withholds, refuses or fails, within a reasonable time after request, to produce the owner's duplicate or any other duplicate of a certificate of title, for cancellation or annotation as provided in sections eighteen and nineteen of this Act, the register of deeds shall report the fact to the proper Court of First Instance and the court, after notice and hearing, may order the person concerned to produce the duplicate in his possession at the time and place named in the order, and may enforce the same by suitable process.

SEC. 21. In all cases where the reconstituted certificate of title does not contain the full technical description of the land, except where such technical description is contained in a prior certificate of title which is available, the registered owner shall, within two years from the date of the reconstitution, file a plan of such land with the Chief of the General Land Registration Office, who, after approving the same, shall furnish the register of deeds with a copy of the technical description of said land for annotation on the proper certificate of title and file. After the expiration of the period above prescribed, no transfer certificate of title shall be issued in pursuance of any voluntary instrument until such plan and technical description shall have been filed and noted as provided above.

SEC. 22. Every petition filed with the court under this Act shall be sworn to by the petitioner or the person acting

in his behalf and filed and entitled in the land registration or cadastral case in which the decree of registration was entered. If the petition relates to a certificate of title originally issued under the provisions of section one hundred twenty-two of Act Numbered Four hundred and ninety-six and the property has been included in a cadastral survey, the petition shall be filed in the corresponding cadastral case: *Provided, however,* That where the property has not been included in a cadastral survey, or where the land registration or cadastral case has been lost or destroyed and/or the number thereof cannot be identified, the petition shall be filed in a special case to be entitled "Special proceedings for reconstitution of lost certificate of title."

SEC. 23. No fees shall be charged for the filing of any petition under this Act, nor for any service rendered, in connection therewith or in compliance with any provision of this Act, by the Chief of the General Land Registration Office, clerks of Court of First Instance, sheriffs, and/or register of deeds. Any certified copy of document or paper that may be necessary in the reconstitution of a certificate of title under this Act shall, upon request of the court, register of deeds, or Chief of the General Land Registration Office, be furnished, free of charge, by any office or branch of the Government, including Government controlled corporations, institutions or instrumentalities.

SEC. 24. The Chief of the General Land Registration Office, with the approval of the Secretary of Justice, shall issue rules, regulations, circulars and instructions, and prescribe such books and blank forms, as may be necessary to carry into effect the provisions of this Act.

SEC. 25. Sections seventy-six, seventy-seven and eighty-nine of Act Numbered Thirty-one hundred and ten are hereby declared inoperative, insofar as they provided for the reconstitution of certificates of title.

SEC. 26. This Act shall take effect on its approval.

Approved, September 25, 1946.