

REPUBLIC OF THE PHILIPPINES
COURT OF APPEALS
MANILA

**REPUBLIC OF THE
PHILIPPINES,**

Petitioner,

versus -

CA-G.R. SP No. **70014**

**REGIONAL TRIAL COURT OF
PASAY CITY, BRANCH 111,
NOW PRESIDED BY THE HON
ERNESTO A. REYES,
ANACLETO MADRIGAL
ACOPIADO, ANACLETO
MADRIGALACOP, JULIAN M.
TALLANO, REGISTER OF
DEEDS OF THE PROVINCE
OF RIZAL AND REGISTER OF
DEEDS OF THE PROVINCE
OF BULACAN IN GUIGUINTO,
BULACAN,**

Respondents.

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**PETITION FOR ANNULMENT
OF JUDGMENT**

**(With Urgent Prayer for Issuance of a
Temporary Restraining Order and/or
Writ of Preliminary Injunction)**

PETITIONER REPUBLIC OF THE PHILIPPINES, by
counsel, respectfully states:

PREFATORY STATEMENT

The instant case relates to the reconstitution of
three (3) fake titles, namely: OCT No. T-01-4, TCT No. T-408

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and TCT No. T-498. The alleged OCT No. T-01-4 purportedly covers “the whole archipelago and represents four (4) regions: Luzon, Visayas, Palawan-Zamboanga embracing (Tagean) Kalayaan and Sabah, and that Mindanao region.” Further, alleged TCT Nos. T-408 and T-498 (which are purportedly derivative titles of alleged OCT No. T-01-4) purportedly cover some **FIVE HUNDRED THOUSAND (500,000) HECTARES** of land. The sheer area covered constitutes more than conclusive evidence regarding the spurious character of said titles.

The instant petition is being filed effectively in *defense* of the integrity of the Philippines as a State since what are being assailed herein are rulings of the respondent Court which recognize the ridiculous claim of private respondents to the entire Philippine archipelago, or to properties originally consisting of 169,912,500 hectares, or more than 16 Billion Square Meters, of plains, mountains, forests and seas.

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Private respondent Julian Tallano claims to be a Prince who descended from a King (Luisong Tagean) whose sons included Rajah Soliman and Lapu-Lapu

The absurd nature of private respondents' claim is patent on the face of the decisions/orders sought to be set aside herein. The Decision with Compromise Agreement, for instance, traces the claim *to* an alleged grant by the British Government to the alleged royal ancestor (King Luisong Tagean) of one of the private respondents who supposedly assisted the British in conquering the Philippine Islands some time in the 1700s. The same decision makes reference to *an* alleged redemption of the mortgage of the Philippines to the United States of America in 1764 at a time when the United States had not yet declared its independence (in 1776) from the British Empire.

Despite the patent absurdities of the assailed rulings which raise serious and unending doubts as to

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their origin, the respondent Court mandated their execution to the prejudice of the millions of affected occupants of the area, most probably including the *members of this Honorable Court and the Supreme Court, as well.*

Apparently unmindful of the dire consequences of its rulings, the respondent Court initially caused the reconstitution of TCT No. 408 which alone covers **ONE BILLION TWO HUNDRED FIFTY TWO MILLION SEVEN HUNDRED SIXTY THREE THOUSAND SEVEN HUNDRED (1,252,763,700) SQUARE METERS** of **Metro Manila**. This order of reconstitution was issued despite the glaring impossibility of complying with the jurisdictional requisites for reconstitution, particularly those pertaining to the service of individual notices to the millions of actual occupants in the subject area.

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The assailed rulings herein are currently being used by private respondents, through their agents and counsel, to harass legitimate property owners in the covered area. Even the Hospicio de San Jose, the charitable institution for homeless orphans, was not spared from intervenors' designs.

The existence of the assailed rulings in the judicial records, therefore, is not merely a disturbing presence but rather a malignant tumor that must be excised before it causes a breakdown in the trust reposed by the public, not just in the Torrens System, but, more importantly, in the judicial system as well.

NATURE AND TIMELINESS
OF THE PETITION

This is a petition Under Section 9(2) of the Judicial Reorganization Act of 1980 and Rule 47 of the 1997 Rules of Civil Procedure for the annulment of the following alleged decisions/orders/titles/other

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documents which were ordered reconstituted and, subsequently, are being implemented by respondents in Civil Case No. 3957-P entitled “Wilson P. Orfinada, et al., Plaintiffs, vs. Macario J. Rodriguez, Delfin and Aquilana Rodriguez, The Heirs of Hermogenes and Miguel A. Rodriguez, Felimon Aguilar and the Heirs of Fortunato Santiago and Maria Pantanilla P. Santiago and Heirs. Perpetua Vda. de Aquino *and* Heirs Pedro Gregorio/Agapito Bonson and Heirs, Teodoro Lim/ Feliz Baez and Heirs Administrator of Fort William McKinley, Fort Bonifacio, The Hon. Solicitor General, the Director of Bureau of Forestry, The Director of Bureau of Lands, The Commission of Land Registration Commission and To All Whom It May Concern, Defendants; Anacleto Madrigal Acopiado, Julian M. Tallano, Intervenors”, to wit:

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Annexes

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| 1. Decision With Compromise Agreement dated February 4, 1972 consisting of 139 pages allegedly rendered by Judge Enrique Agana; | Annex A |
| 2. Clarificatory Order dated March 21, 1974 consisting of 30 pages, allegedly rendered by Judge Enrique Agana; and | Annex B |
| 3. Decision dated November 4, 1975 consisting of 44 pages, allegedly rendered by Judge Enrique Agana | Annex C |
| 4. Clarificatory Decision dated January 19, 1976 consisting of 60 pages, allegedly rendered by Judge Enrique Agana | Annex D |

and to declare as null and void the following writs and other documents purportedly issued pursuant to the assailed alleged Decisions/Order:

* Certified true copies of alleged certified true copies of these alleged decisions/orders, writs and other papers filed by private respondents in Civil Case No. 3957-P which were the alleged basis of the respondent Court in ordering their reconstitution is attached to the original of this petition as Annexes A to K.

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| a. | Alleged Entry of Judgment dated June 14, 1972 consisting of 7/6 pages; | Annex E/E-1 |
| b. | Alleged Writ of Execution, Demolition and Possession dated september 10, 1974 consisting of 14 pages; | Annex F |
| c. | Alleged Certificate of Sheriff's Return dated November 17 1974 | Annex G |
| d. | Alleged Letters of Administration dated July 7, 1976 | Annex H |
| e. | Alleged Certified True Photocopy of Judicial Form No. 140, G.L.R.O. Form No. 68, Book No. 34 of TCT No. T-408 consisting of 7 pages | Annex I |
| f. | Alleged Certified True Photocopy of TCT No. T-498 consisting of 7 pages; and | Annex J |
| g. | Alleged Order of Third Alias Writ of Execution, Possession and Demolition dated May 28, 1989 consisting of 55 pages. | Annex K |

The petition also seeks the nullification of the Orders dated July 7, 1997, July 11, 2001 and October 8, 2001 issued by respondent Court which respectively

** Records show that there were two (2) versions of the alleged Entry of Judgment dated June 14, 1972. These two (2) versions are attached as Annexes E and E-1.

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ordered the reconstitution of said alleged decisions/orders, writs, titles and other documents, and denied petitioner's motion for reconsideration thereof. Certified true copies of said Orders dated July 7, 1997, July 11, 2001 and October 8, 2001 are attached to the original of this Petition as **Annexes L, M and N**, respectively.

Said assailed Decisions/Order (**Annexes A to D, L to N** hereof) are void and should be annulled **for having been issued by the respondent Court without jurisdiction** and on the ground of extrinsic fraud. Accordingly, the alleged writs and other documents issued pursuant thereto (**Annexes E to K** hereof) are likewise void.

No motion for new trial, appeal, petition for relief from judgment or other appropriate remedies could have been availed of by petitioner because the assailed alleged Decisions! Order are spurious. Petitioner only came to

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to seek the annulment of the alleged decisions, orders, titles or writs earlier issued, assuming that they were indeed issued, to once and for all bar any subsequent attempt to reconstitute them the future. An appeal, petition for certiorari or petition for relief from judgment from the 1997 and 2001 orders would have merely annulled said orders, but not the alleged titles directed to be reconstituted, and the alleged decisions, order and writs allegedly issued by the trial court before the burning of the records of Branch 111, Regional Trial Court of Pasay City on January 18, 1992.

For the foregoing reasons, petitioner, to secure complete relief, can only avail of the petition for annulment of judgment under Section 9(2) of the Judicial Reorganization Act of 1980 and Rule 47 of the 1997 Rules of Civil Procedure. Thus, petitioner did not avail of the other remedies, if any, without fault on its part.

Thus, the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are either

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not available or no longer available **through no fault of the petitioner.** The period from October 22, 2001 , when the October 8, 2001. Order (which denied Petitioner's motion for reconsideration) was received, to the filing of the instant petition is well within the period of four (4) years, and petitioner is not barred by laches or estoppel as envisioned in Rule 47 of the 1997 Rules of Civil Procedure.

Attached, as **Annex O** is the Affidavit of Assistant Solicitor General Nestor J. Ballacillo in support of the instant Petition.

THE PARTIES

Petitioner Republic of the Philippines is a sovereign political entity with capacity to sue. It may be served with judicial processes through the Office of the Solicitor General (OSG) at 134 Amorsolo Street, Legaspi Village, Makati City.

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The Regional Trial Court of Pasay City, Branch 111, now being presided by Judge Ernesto A. Reyes, formerly Court of First Instance, Branch 28, is the trial court which purportedly rendered the assailed Decisions/Order sought to be annulled. The respondent. Court may be served with summons and processes of this Honorable Court at its sala in F. B. Harrison, Pasay City, where it is served with a copy of this petition.

Private respondents, ANACLETQ MADRIGAL ACOPIADO, ANACLETO MADRIGAL ACOP and JULIAN M. TALLANO, intervenors in the case *a quo*, would benefit from the implementation of the assailed Decisions/Order sought to be annulled herein and the alleged writs and other documents issued pursuant thereto. It must be emphasized at this point that whether intervenors Anacleto Madrigal Acopiado and Anacleto Madrigal Acop are one and the same person is unclear or could not be determined with certainty from the case records. In some

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pleadings, the co-intervenor of Julian M. Tallano is indicated as Anacleto Madrigal Acopiado, while in other pleadings, he is named or described as Anacleto Madrigal Acop. Thus, to obviate any unnecessary question that may later on arise, both Anacleto Madrigal Acopiado and Anacleto Madrigal Acop are impleaded as separate private respondents.

Julian M. Tallano, allegedly the owner/administrator of the Estate of Don Gregorio Madrigal Acop and Don Esteban Benitez Tallano, may be served with summons and other court process at his address at No. 31 BMA Avenue, Tatalon, Quezon City. Julian Tallano's address is based on what appears in the Special Power of Attorney (**Annex JJJ-1** hereof) which he executed in favor of Romeo C. Campos, his attorney-in-fact, with address at No. 3-A John Street, Multinational Village, Parañaque City. Julian M. Tallano may also be served with summons and other court processes through his counsel, Atty. Teresito Abella, with address at No.

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4435, Calatagan Street, Palanan, Makati City, Metro Manila.

Anacleto Madrigal Acop may be served with summons and other judicial processes through his administrator, Julian Tallano (cf. page 1, Petition For Reconstitution dated April 18, 2001 - **Annex KKK**), at his address mentioned in the preceding paragraph. (The records of the case *a quo* do not reflect Acop's own address.) In the alternative, Anacleto Madrigal Acop may be served with summons and other processes through his counsel, Atty. Teresito Abella, with address at No. 4435, Calatagan Street, Palanan, Makati City, Metro Manila.

Anacleto Madrigal Acopiado, whose own address likewise is not found in the records of Civil Case 3957-P, may be served with summons and other court processes through his counsel, Atty. Melecio V. Ernata, with office address at the Ground Floor, Door B, Lagasca Apartments, 8259 Constancia Street, Makati City, Metro

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Manila. Based on his Petition for Reconstitution dated June 27, 1997 (Annex P hereof), he constituted Roberto M. del Rio as his agent with address at 23 Ipil St., Project 3, Quezon City, Metro Manila, where he may also be served with summons and other court processes.

Private respondents are served copies of this petition at their indicated addresses (if available) as well as through their respective counsel and, with respect, to Julian Tallano, his agent.

The Registers of Deeds of the Province of Rizal and the Province of Bulacan (in Guiguinto, Bulacan) are impleaded as nominal parties for being the parties charged with the duties of registering decrees and issuing reconstituted titles of land registration pursuant to Republic Act No. 26 in their respective jurisdictions. They may be served with summons and other judicial processes at their respective offices in Pasig City, Metro Manila and Guiguinto, Bulacan.

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RELEVANT FACTS AND
ANTECEDENT PROCEEDINGS

On July 1, 1997, Robert M. del Rio, representing himself as the attorney-in-fact of Anacleto Madrigal Acopiado and Julian Tallano (intervenors in the case *a quo*), filed a Petition For Reconstitution (**Annex P** hereof) of an alleged Decision dated November 4, 1975 (**Annex C** hereof) purportedly promulgated by Branch XXVIII of the Court of First Instance of Rizal situated in Pasay City, then presided by Judge Enrique Agana, in Civil Case No. 3957-P. Said decision was supposedly lost / destroyed on account of the fire which gutted the Pasay City Hall on January 18, 1992.

While the petition purported to be accompanied, *inter alia*, by a true copy of the subject decision *certified by the Office of the Solicitor General* and affidavits of two (2) court employees, an examination of the case record, however, shows that only an uncertified xerox COPY of said alleged decision was attached thereto. **Annex P-1**

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hereof is the Joint Affidavit of Solicitors Thomas M. Laragan and Luciano Emmanuel L. Joson, Jr.

Civil Case No. 3957-P was supposedly for “Reconveyance of Real Property with Reconstitution of TCT No. 408 in accordance with Republic Act No. 26 in the name of Gregorio Madrigal Acopiado.” The parties thereto, as listed in the Decision dated November 4, 1975, were:

Wilson P. Orfinada, et al., Plaintiffs, vs. Macario J. Rodriguez, Delfin and Aquilana Rodriguez, The Heirs of Hermogenes and Miguel A. Rodriguez, Felimon Aguilar and the Heirs of Fortunato Santiago and Maria Pantanilla P. Santiago and Heirs, Perpetua Vda. de Aquino and Heirs, Pedro Gregorio/Agapito Bonson and Heirs, Teodoro Lim/ Feliz Baez and Heirs Administrator of Fort William McKinley, Fort Bonifacio, The Hon. Solicitor General. The Director of Bureau of Forestry, The Director of Bureau of Lands, The Commission of Land Registration Commission and To All Whom It May Concern, Defendants; Anacleto Madrigal Acopia.do, Julian M. Tallano, Intervenors.

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The alleged TCT No. 408 (certified true copy of which as reconstituted by the Deputy Register of Deeds of Rizal Province on December 14, 2001 is attached as **Annex Q** hereof) supposedly covers four (4) large parcels of land described as follows:

1. A parcel of land, Parcel 1-Lot-i (Plan 11-69) situated in the Municipality of Paranaque, Las Piñas, Muntinlupa, Pineda, de Pasay, bounded on the South by property of Don Gregorio Madrigal Acop and' Manila de Bay, on the West bounded by J3ahia de Manila on the North bounded by Rio de Pasig, on the East bounded by Bahia de Manila, as described in the Survey Plan point from the South 19 deg. East (12,1920) meters, from Monument of Binondo Church, Municipality of Manila, containing **an area of 140,000,000 square meters**, all described in the survey Plan surveyed on October 8, up to December 11, 1909, approved on March 6, 1910. All points referred to are indicated on the plan; bearing true; declination 1 deg. 'E., date of survey, Oct. 8, 1909, December 11, 1909.

2) A parcel of land Parcel II, Lot 2, (Plan 11-69), situated in the Municipality of San Juan bounded on the South by property of Don Gregorio Madrigal Acop, on the West is bounded by Bahia de Manila, on the North is bounded by Tagean-Tondo River, on the Northeast is bounded by the Bahia de Laguna, and on the East is bounded by property of Don Gregorio Madrigal Acop, all described on the

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survey Plan, from the South 28 deg. From the East 59 deg., approximately 5,500 meters from Monument of Binondo Church, Mun. of Manila, containing **an area of 122,000,000 square meters**, more or less., all described on the survey Plan approved on Sept. 9, 1911. All points referred to are indicated on the plan; bearings true; declination 1 deg. 39'E., date of sur., Oct. 9, 1909, March 10, 1910.

3) A parcel of land, Parcel III-Lot 3 (Plan 11-69) situated in the Municipio de Taguig and Pateros, bounded on the West is property of Uon Gregorio Madrigal Acop, Parcel II, on the Northeast is bounded by Rio de Pasig and Bahia de Manila on the East is bounded by Bahia de Laguna. All described on the survey Plan, point marked on the south is 19 deg. approximately 6,500 meters from Monument of Binondo Church, Mun. of Manila, containing **an area of 44,100,000 square meters**, more or less. All points referred to are indicated on the plan; bearings true; declination 1 deg., 39'E., date of sur., Jan. 9, 1909 up to Oct. 23, 1909, approved on March 1, 1911.

4) A parcel of land, Parcel IV-Lot 4 (Plan 11-69), situated in the Municipio de Carmona, Gregorio Madrigal Acop (GMA), Silang, Tanza, Indang, Imus, Noveleta, Bacoor, General Trias, Rosario, Trece Martires, General Aguirre, Dasmariñas, Tarnate, Naic, Kawit, San Jose Santa Maria, Tagaytay, Alfonso and Amadeo of the Province of Kawit (Cavite), San Pedro, Biñan, Sta. Rosa, Cabuyao and Balibago of the Province of Laguna, and Talisay and Taai of Batangas of. Bulumbon, bounded on the South is Bolantoc point, on the West is Rio de Kawit

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(Cavite), on the North bounded by the property of Don Gregorio Madrigal Acop, and on the East is bounded by Tagaytay-Tagea River. All described on the Survey Plan from the South is 11 deg. and 19 on the West (29,322) linear meters, more or less, from Monument of Binando Church of the Municipality of Manila, containing **an area of 946,663,700 square meters, more or less**. All described on the Survey plan approved on Sept. 9, 1909, 1 deg. 39' E., date of survey, Jan. 6, 1909 up to Feb. 9, 1909.

The dispositive portion of the alleged decision (**Annex C** hereof), which favored private respondents Anacleto Madrigal Acopiado and Julian M. Tallano, states that:

WHEREFORE, AND IN VIEW OF THE FOREGOING, judgment is hereby rendered in favor of the intervenors rectifying the order of March 21, 1974, in lieu of this "CLARIFICATORY DECISION" against all defendants, plaintiffs and claimants-occupants of the portion of the subject land as follows:

1) ORDERING ALL OCCUPANTS/ Claimants including that of plaintiffs and defendants to pay jointly/severally the sum of P50,000.00 representing reasonable monthly rentals for the use of the land computed based on the length or duration of stay or occupation up to the time the said structure has not been removed. This covers all occupants of

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agricultural land portion of the subject property and for residential buildings and for those commercial buildings and structures an amount of P 100,000.00 a month also based on the length of occupancies up to the time the structures have not been removed or demolished, otherwise, the actual cost of the land that the intervenors may demand from the occupants shall be compensated in cash in favor of the herein intervenors.

2) ORDERING the Honorable Register of Deeds of, the Province of Rizal in Pasig, to RECONSTITUTE the lost owner's arid duplicate copies of the said TCT No. 408 administratively, including the pertinent papers, in accordance with Republic Act 26, for and in the name of Don Gregorio Madrigal Acopiado, carrying over thereon the annotation at the back of the Title, a Deed of Absolute Sale duly executed by the said original owner, Don Gregorio Madrigal Acopiado in favor of Don Anacleto Madrigal Acopiado by his father Don Gregorio Madrigal Acopiado on April 7, 1937, covering an area of 29,151.768 hectares in consideration of the sum of P100,00.00 entered in the Notarial Registry of Juan Estrada de Figueroa, under Doc. No. 224, Page No. XXXIX, Book No. VII, Series of 1937. Date of inscription April 7, 1937 at 2:00 o'clock p.m. in the Municipality of Pasig. Another annotation to be carried over is a Deed of Absolute Sale executed by Don Hermogcnes A. and Don Miguel Antonio Rodriguez in favor of the Insular Government of the Philippines, (now) Republic of the Philippines, covering the area of 3,271.232 hectares embracing the area of Intramuros, Plaza Lawton, Ermita, Paco, San Andres, Port Area, Santa Ana, entire

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Pasay City, Makati, except of Barangay Pagasa, Guadalupe and Malibay of Pasay City and another 100 hectares in favor of U.S. Government covering the area of Fort Bonifacio in consideration of the sum of P450,000.00 and P15,000.00 fully paid by the People of the United States of America in behalf of the Republic of the Philippines. This areas (sic) intended to relocate the Government Offices of the Philippine Government, and to' accommodate the growing recreational activities of the Filipino Children and these malnourished children and that 1 00 hectares intended for the main objective of the People of the United States of America, who made the cash payment of the said land. The said Deed of Absolute Sale Recorded on Dec. 9, 1937 and entered in the Notarial Registry of Notary Public Juan Estrada Figueroa under Doc. No, 77, Page No. XC, Book No. XII, series of 1937. Date of inscription, Dec. 9, 1937, at around 9:45 a.m. in the Municipality of Manila.

Another annotation that should be carried over is the Deed of Absolute Sale duly executed by Don Anacleto Madrigal Acopiado on December 2, 1953, through mediation of late His Excellency President Ramon Magsaysay, in consideration of P1,250,000.00 paid by the Office of the President of the Philippines in the form of donation to and in favor of Don Benigno Toda, General Manager-owner of Philippine Airline and that of Manila International Air Port, entered in the Notarial Registry of Atty. Jose Fernandez, a Notary Public for and in the City of Manila, under Doc. XXI, Page No. XXXIX, Book No. XIV, Series of 1953, Date of Inscription Dec. 2, 1953. The said Deed of Absolute Sale covering

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the area of 75 hectares embracing actually the terminal and Flight Line and that of the area of Departure, now, Domestic Airport. Another annotation that should be carried over at the back of the said TCT No. 408, based on the Order of the Court, considering that said annotation had been reflected at the back of the said. TCT in certified true copy presented by the Representative of the Land Registration Commission pertaining to the credibility of the document was a Deed of Absolute Sale executed by Don Annacleto Madrigal Acopiado in favor of Julian M. Tallano, vendee, covering the area of 15,192.9338 hectares in ‘consideration’ of the sum of P8M, Philippine currency ‘with a down payment of P. million pesos on December 17, 1971, balance shall be paid for a period of 5 years but the court observed said 8 Million pesos had been fully received by Don Annacleto Madrigal Acopiado. Date of the instrument, December 17, 1971, entered in the Notarial Registry of Atty. Felipe Abrajano, under Doe. No. 57, Page 87, Book No. 7, Series of 1971, in the City of Date of Inscription, December 20, 1971, in the Municipality of Pasig, Province of Rizal.

The Honorable Court “DECLARED” all occupants and with all those in adverse possession of the areas of the subject land are all “ILLEGAL SQUATTERS AND THEREFORE PUNISHABLE UNDER P.D. 772 with FULL FORCE OF THE LAW”. This Court also “AFFIRMING” all claimants and those in adverse possession of the subject land, both government, individual or private corporation to “RECONVEY” TO AND IN FAVOR OF THE INTERVENORS, DON ANNACLETO MADRIGAL ACOPIADO AND JULIAN M. TALLANO. All

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land areas held and controlled under fraudulent TCT No. 8037 from OCT 128 which was also fictitious and covered by fake Decree 160, GLRO 386 of 1905, its Survey Plans 11-69-SWO 33024 and SWO 9823 controlled by the heirs of Fortunato Santiago and Maria Crisenta Pantanilla Santiago through their administrator, Dr. Floro E. Garcia, and land areas under holdings and controlled by the alleged heirs of Don Hermogenes Antonio Rodriguez and Don Miguel Antonio Rodriguez, considering the ownership issue has been long settled in favor of the intervenors, the defeated heirs and the claimants Delfin and Aquilina F. Rodriguez and late Macario Rodriguez and the heirs, also land holdings controlled by the Fort Bonifacio Administrator, General Romeo Espino under TCT 2288 containing an area of 2,212,3270 hectares should be reconveyed to and in favor of the intervenors, Don Annacleto Madrigal Acopiado and Julian M. Tallano.

This Court also “ORDERING” the following persons and private and government owned or controlled corporation/organization or entities, to wit: The possession. of Juana Santiago, Irene Matias, Lucio Medina, and Tomas Matias and the heirs, Rufino Medina and the heirs, Alfredo Baens, Trinidad Yap, Pedro Gregorio and Agapito Velasquez and the heirs, are also ordered to reconvey their possession over the areas of the subject land to and in favor of the intervenors. This Court also ordering all or the following, persons, both government and private entities, to reconvey their possessions over the same land to and in favor of the intervenors, and the persons which are ordered to reconvey their rights and claims, are as follows: Almeda, Inc., and its

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administrator, Ponciano Almeda and the heirs, Ramon Javier, Leon Javier, Cristina Valdez Urchua, Mariano Marcelo, Jose V. Orosa, Francisco Aquino, Elin Cruz and their heirs. The names of persons, private and government corporation or single proprietorship who are in actual and in adverse possession of the subject are ordered to reconvey their possession to and in favor of the intervenors, are as follows: Hilarion Bautista, Perpetua vda de A. Aquino and the heirs who hold lot under TCT 281826, PSD 9079, Teodoro Lim and Feliz Baez, owners! administrators of Perpetua.1 Village who controlled lot, under TCT 56339, Ernilio Gregorio, Teresita Munji, Arguinda Flores, Catalino Cendena, Angel Rarnos, Antonio Andasa, Jose Bernabe, Antonio Pascual, Ely Yap, Angel Andasa, Isabel Pujit, RAR Stock Farms and its owner, TS Cruz Subd. Proposed Project and the owners, the Administrator of Food and Drug Administration (*BFAD*), the Administrator of U.P. Compound, Rosendo Marcelino Santos, Maura Mayuga, Eusefa vcla de Reyes, Elena Bartolome, the defeated plaintiffs and defendants and their heirs, Eustaquio Coronada, Alfonzo Punzalan, the administrator of Taguig Food Termina' proposed project, Aifredo Guanzon, Domingo Gonzales and heirs.

Another claimants who are ordered to "RECONVEY THEIR, POSSESSION" portion of the subject land containing an area of 29,151.768 hectares covered by TCT 408, originally in the name of Don Gregorio Madrigal Acopiado, in favor of the intervenors, are Angel Andasa and Isabel Pujit and their heirs, the on-going DBP Subd. Housing Project, the owner of the proposed 4th State

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Subd., the Administrator of U.P. Compound and, the Bureau of Food and Drug Administration (BFAD), the defendant Felimon Aguilar and heirs, the stockholders-owners of the Philippine Share Corporation, Perpetua Vda. de Aquino and heirs who holds and controlled lot under TCT No. 305921 and TCT 281826 covered by PSD 12898.6, all of which are portion of the subject land. The maintainer and owner of Manalac Realty Dev. Corporation, who holds and controlled lots under the Taguig-Industrial Complex in Bagumbayan, Taguig, Pascual-Santos Families and heirs who controlled lots covered . by Bicutan Market in Bicutan, the owners-directors of the proposed Manila Memorial Park Project, the owners-directors of General Motor Corporation who controlled lots covered by said company located in Las Pinas, Province of Rizal, and all occupants, squatters and claimants who deliberately controlled lots embraced by TCT 408, covering the areas of Muntinglupa, Las Pinas, portion of Pasay City and Makati such as Guadalupe Viejo, Palar, Pembo West and East Rembo, Cumenbe, Rivera Village, Golden Farms, Bo. Olimpia, Bo. Pasong Tirad, B. Sta. Cruz, Bo. La Paz, Bo. Bicutan, and the entire Taguig, Paranaque, portion of Pateros, entire Municipality of Carmona, General Mariano Alvarez, Dasmarias, Imus, Tanza, Bacoor and Zapote of the Province of Cavite, Pedro Tunasa of Laguna, and including all occupants, and squatters, claimants and squatting farmers / tillers and those in adverse possession of the land in dispute, particularly the government agencies either national or local, are required to RECONVEY THEIR POSSESSION TO AND IN FAVOR OF THE

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INTERVENORS, otherwise, they will be subjected to severe penalties with appropriate imprisonment in accordance with Revised Penal Code and of PD 772 besides of exemplary damages and moral damages of P5 Million pesos payable to each of the intervenors.

LIKEWISE, the court “DECLARED” that intervenor, Julian M. Tallano, is the lawful owner of the portion of the subject land evidenced by Transfer Certificate of Title No. 408, bearing Lot No. 1 to 2, 11-69 and Lot No. 1-11-69 of Parcel I and Parcel IV containing an area of 15,192.9338 hectares embracing the areas of and portion of Paranaque, the whole of Muntinglupa, Las Pinas, Zapote, Bacoor, Carmona General Mariano Alvarez, Damarinas, Imus and Tanza of the Province of Cavite, and Pedro Tunasan of the Province of Laguna. Likewise, this Court “DECLARED” 1) on Annacleto Madrigal Acopiado the lawful owner of the portion of the subject land Parcel II and Parcel III bearing Lot. No. 1 to 3 of 11-69 and Lot 1 to 4 of 11-69 containing an area of 14,433.1418 hectares embracing the area of Pateros, Taguig, portion of Makati, portion of Pasay City, and portion of Paranaque.

Moreover, the Hon. Court furtherly ordering the Law Enforcement Authorities, the Philippine Constabulary (PC), the members of the Integrated National Police, the Metrocom or Operatives of the Metropolitan Command, the Operatives of the National Bureau of Investigation (NBI) and all concern law enforcement agencies are required to place into an immediate arrest of all occupants! claimants, homeowners, assi-

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squatters or any body, person or juridical person through their representatives, administrators who intend to obstruct or obstructing the administration of justice continuously deny, defy, or delay this order, or any institution own privately by any person or by the govt. or private entity represented by its General Manager, Director, President, Chairman of the Board, or their Administrator or custody of a corresponding imprisonment. This Court also ordering the arresting Law Enforcement Authorities or any one to serve this Court Order, to clear, demolish and remove form of structure and building, either government or private owned or controlled corporation, or any form of infrastructure that may found thereon obstruction to the purpose of intervenors, and impose severe penalties against the matters accordingly as defined by PD 772 and of that Revised Penal Code.

AND FINALLY, this Honorable Court also ordering Municipal Assessors of the City of Pasay, Municipality of Las Piñas, Pateros, Taguig, Muntinglupa, Paranaque, and of Makati, including the Provincial Assessor of Rizal, Laguna and Cavite to declare and register for taxation purposes covering the area of 15,192.9338 hectares for the interest of raising government revenues and should be registered in the name of Julian M. Tallano, while, the area containing of 14,433.1418 hectares also, portion of the subject land evidenced by Transfer Certificate of Title No. 408 should be declared together with its corresponding Tax Declaration for and in the name of intervenor, Don Annacleto Madrigal Acopiado for purposes of taxation due to the national and local government who has jurisdiction of the subject land areas. (pp. 36-44, Alleged Decision dated November 4, 1975; **Annex C** hereof).

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On July 4, 1997 a hearing was conducted by respondent Court on the petition for reconstitution of the subject alleged Decision dated November 4, 1975 (**Annex C** hereof). During this hearing, Solicitor Dominador G. Cariaso, who was then handling the case, purportedly manifested “that the copy of the decision attached to the record was received by the OSG” (Order dated July 7, 1997 **Annex L** hereof). (Said Manifestation is a falsity).

On July 7, 1997, the respondent Court issued an Order declaring the copy of the alleged Decision dated November 4, 1975 (**Annex C** hereof) appended to the petition as a reconstituted copy of the decision allegedly rendered in Civil Case No. 3957-P and according it the same force, effect and consequence as the purported lost/destroyed original.

In two *undated* motions both received by the OSG on November 4, 1997 (**Annexes R and S** hereof), filed by Atty. Lorenzo C. Ortiz, Jr., private respondents, through

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Roberto P. Acopiado, sought orders allowing the titling in the name of intervenor Anacleto Madrigal. Acopiado of two portions of the area covered by the alleged TCT No. 408 located in Almanza, Las Piñas City (Lots 12 and 15, Parcel I, PSD-3411, 11-69) and Ibayo, Parañaque (Lots 1, 2 and 3, Parcel 1, PSU-2031), respectively.

In a Motion for Substitution dated November 25, 1997 (**Annex T** hereof), the heirs of private respondent, Anacleto Madrigal Acopiado, assisted by Atty. Melecio V. Emata, *inter alia*, reported to the respondent Court the death of said respondent on November 27, 19.94 and manifested the appointment of Robert P. Acopiado as the heirs' representative.

In a Comment dated December 2, 1997 (**Annex U** hereof), the OSG opposed private respondents' motion for partial titling, citing the findings of the Land Registration Authority as contained in its 1st Endorsement dated August 15, 1997 (**Annex V** hereof) which, in part, reads:

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With all due respect, we believe the said Decision cannot be implemented by the Register of Deeds for the Province of Rizal, because of the following grounds:

1. There is no law authorizing the reconstitution of lost owner's copy of title administratively. Under the Land Registration Act (Act 141) as amended by the Property Registration Decree (P.D. 1529), if a duplicate certificate is lost or destroyed, a suggestion of the fact of such loss or destruction may be filed by the registered owner or other person in interest before the Regional Trial Court of the province or city where the land is situated. In other words, the procedure is judicial in character.

2. Assuming *arguendo* that the lost owner's copy of TCT No. 408 maybe reconstituted administratively, we believe the same should not be given due course because of the dubious origin of said title, among others, us shown hereunder:

a) Plan 11-69, as mentioned on the face of the title has not yet been applied for original registration as appearing in our Survey Book.

h) Decree No. 297 covers a parcel of land in Cavite, Cavite and not in Parañaque as per our records.

c) The alleged derivative title of TCT No. 408, which is OCT No. 01-4 is a well known Spanish title.

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d) Plan Psu-2031 mentioned at the back of the title is the same private survey number involves in the survey in the so called “Hacienda de Maricaban”, which supposedly covered large tracts of land, including portions of Taguig, Parañaque and Pasay City, registered in the name of the Republic of the Philippines.

3. Without passing on its authenticity, it is opined that the revived decision dated November 4, 1975 cannot be enforced by execution. Under Section 6, Rule 39 of the 1997 Rules of Civil Procedure, the revived judgment is enforceable by motion within five years and by another action within ten years from its finality.

The LRA made additional findings on the spurious nature of the alleged TCT No. 408 which were contained in its 1st Endorsement to the OSG dated December 5, 1997 (Annex W hereof), to wit:

We believe the instant petition should not be given clue course because of the following grounds:

1. TCT No. 408 purportedly issued in the name of Gregorio Madrigal Acopiado is of dubious origin as shown hereunder:

a) Plan 11-69, as mentioned on the face of the title has not yet been applied for

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original registration as appearing in our Survey Book.

b) Decree No. 297 covers a parcel of land in Cavite, Cavite and not in Parañaque as per our records.

c) The alleged derivative title of TCT No. 408, which is OCT No. 01-4 is a well known Spanish title.

d) Plan Psu-2031 mentioned at the back of the title is the same private survey number involves in the survey in the so called “Hacienda de Maricaban” which supposedly covered large tracts of land, including portions of Taguig, Parañaque and Pasay City, registered in the name of the Republic of the Philippines.

2. The instant motion is bereft of legal basis. Section 51 of the Property Registration Decree (PD 1529) reads as follows:

Sec. 51. Conveyance and other dealings by registered owner. — An owner of registered land may convey, mortgage, lease, charge or otherwise deal with the same in accordance with existing laws. He may use such forms of deeds, mortgages, leases or other voluntary instruments as are sufficient in law. But no deed, mortgage, lease, or other voluntary instrument, except a will purporting to convey or affect registered land shall take effect as a conveyance or bind the land, but shall operate only as a contract between the parties and as

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evidence of authority to the Register of Deeds to make registration.

The act of registration shall be the operative act to convey or affect the land insofar as third persons are concerned, and in all cases under this Decree, the registration shall be made in the, office of the Register of Deeds for the province or city where the land lies.

Under the above quoted provision, an owner of registered land, if he wishes to convey or deal with the same will just execute such form of deeds or other voluntary instruments sufficient in law to effect the transfer of the property. Judicial intervention is no longer necessary.

3. We believe the Honorable Court has. no jurisdiction to hear and decide the instant petition considering that the alleged decision dated November 4, 1975, rendered in Civil Case No. 3957-P, has long (become) final and executory.

In a Motion for Execution dated November 26, 1997 (Annex X hereof), Atty. Melecio V. Emata, for the heirs of private respondent Anacleto Madrigal Acopiado, sought execution of the' alleged' November 4, 1975 Decision (Annex C) praying, viz:

WHEREFORE, it is respectfully prayed:

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1. That this Honorable Court issues a writ of execution commanding the Deputy Sheriff of this Honorable Court to implement the Decision of November 4, 1975 **as reconstituted** in the following places, namely:

- (a) Manila,
- (b) Makati,
- (c) Pasay,
- (d) Parañaque,
- (e) LaPiñas,
- (f) Taguig,
- (g) Pateros,
- (h) Pedro Tunasan, Laguna,
- (i) Carrnona,
- (j) Gen. Mariano Alvares,
- (k) Dasmariñas,
- (l) Tanza
- (m) Imus,
- (n) Zapote, and
- (o) Bacoor, all of Cavite

where portions of the property covered by TCT No. 408 are located:

2. That the writ of execution includes an order:

(a) Commanding the Law Enforcement Authorities such as the station commanders or the Philippine National Police, of the corresponding places where execution shall take place, the National Bureau of Investigation and the Military to arrest any and all persons, be he private individual, a government

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employee, supervisor, junior or middle manager, general manager, director or president of any , firm, company, partnership, corporation, etc., who shall, obstruct the enforcement of the ‘writ and the administration of justice;

(b) Authorizing the Sheriff to break and destroy any locked gate, door or enclosure which hampers him from putting into effect the coercive power or process of this Honorable Court in order that the above Decision may not be rendered nugatory; as well as post the necessary guard or guards to secure any house, building, enclosure or structure after the implementation of the writ.

In a Supplemental Motion for Execution dated November 28, 1997 (**Annex Y** hereof), Atty. Melecio V. Emata, for the heirs of private respondent Anacleto Madrigal Acopiado, sought the inclusion of the Bases Conversion Development Authority (BCDA), being an occupant of the area covered by alleged TCT No. 408, to, the execution of the alleged Decision dated November 4, 1975 (**Annex C** hereof). The Motion reads in part:

3. That the last-named defendant in this case is a general and sweeping reference “TO ALL WHOM IT MAY CONCERNS”, which applies to any and all persons, juridical or

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natural, who may have occupied the property in question either illegally or by tolerance of the registered owner although could not be identified at the time of the commencement of the action until the rendition of judgment on November 4, 1975, as well as those who may have occupied the self-same property thereafter;

4. That among the biggest of subsequent occupants of a portion of the entire landholding of the registered owner is the Bases Conversion Development Authority (BCDA), which at the same time has disposed of by sale of several areas at fantastic prices to the prejudice of the registered owner or his heirs, who have filed a separate motion for substitution with this Honorable Court;

5. That although the possession of BCDA may be said to have a color of law, claiming as it does that its occupancy is authorized by Republic Act No. 7227, it remains nevertheless illegal because the same was passed by Congress without due process of law, the property in question being of private ownership;

6. That the plaintiff and private defendants, having been declared in default, are not entitled to notice of this motion;

On January 2, 1998, the OSG received private respondent Acopiado's Reply to Comment filed by Atty.

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Melecio V. Emata dated December 23, 1997 (**Annex Z** hereof) which raised the following arguments:

1. That the non-existence of a law requiring reconstitution of title duplicate certificate is a defense that has become moot and academic;
2. That the dubious character of the title in question was never raised at the trial or in a motion for reconsideration; and
3. That the procedural time limitation on the execution by writ of a decision does not apply to land registration cases;

This pleading was followed by a Supplemental Reply to Comment dated, December 29, 1997 (**Annex AA** hereof) which, in turn, raised the following arguments:

1. That no less than LRC Commissioner Bilog confirmed the authenticity of title of the intervenor Anacleto Madrigal Acopiado's predecessor-in-interest;
2. That after judgment has become final and executory, no question assailing it may be raised to render it ineffective; and

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3. That this case, partaking of the nature of a land registration., is unaffected by the ordinary rules of procedure.

On January 14, 1998, the OSG received a Manifestation and Motion dated January 12, 1998 (Annex **BB**) filed by Atty. Mauricio C. Ulep for private respondent Acopiado, praying that the court *a quo* resolve their Motion for the Issuance of an Alias Writ of Execution dated January 7, 1998.

On February 2, 1998, the respondent Court issued an Order (**Annex CC** hereof) resolving the pending motions of private respondents. The Order reads in part:

The Court has carefully considered the allegations contained in all the pleadings filed for consideration of the Court and finds:

- a) The motions for issuance of an order to register portion of land covered by TCT No. 408 to be without merit, and no basis, the same is hereby denied;
- b) The motion for execution as well as its supplemental reply to

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comment filed by Atty. Emata is hereby denied.

The Court hereby noted that the decision rendered in this case on November, 4, 1975 Appended which has long become final had been reconstituted in the order of this Court of July 7, 1997 after the Office of the Solicitor General interposed no objection thereto.

- a) The motion for issuance of an alias Writ of Execution dated January 7, 1998 filed by Atty. Mauricio C. Ulep is hereby denied for lack of merit.
- b) The statement of the Solicitor General and the Land Registration Authority is further noted.

Until and after the Register of Deeds of Pasig, Rizal (now Pasig City) reconstitute administratively' the owners' duplicate Certificate of Title No. 408, pursuant to par. 2 of the dispositive portion of the judgment, the Decision of November 4, 1975 sought to be implemented cannot be enforced in the meantime by writ of execution.

On September 22, 1998, the OSG received private respondent Acop's Motion for the Issuance of an Alias Writ of Execution dated September 17, 1998 (**Annex DD** hereof) filed by Atty. Martiniano A. Valdisimo. This

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motion is grounded solely on the finality of the alleged November 4, 1975 Decision (**Annex C** hereof).

On September 28, 1998, the OSG filed an Opposition (**Annex EE** hereof) to private respondent Acop's Motion for Issuance of an Alias Writ of Execution invoicing the same grounds discussed in its Comment dated December 2, 1997.

On October 15, 1998, the OSG received private respondent Acop's Reply to Opposition (**Annex FF** hereof) filed by Atty. Valdisimo which made reference to an alleged CLARIFICATORY ORDER dated January 19, 1976, which supposedly reversed, modified and corrected the November 4, 1975 Decision (**Annex C** hereof):

1. The reconstitution prayed for in the instant Motion is not an administrative reconstitution, but a Court Order through a Judicial Reconstitution as provided for in the CLARIFICATORY ORDER dated January 19, 1976, the true and faithful reproduction of which consisting of 59 pages is hereto attached as Annex "A" and made an integral

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part hereof and for ready reference, we are quoting hereunder the pertinent dispositive portion to wit:

Wherefore judgment is hereby rendered ordering the Honorable Register of Deeds of Malolos, Bulacan to reconstitute TCT No. 498 and that its second original copy shall be issued the same in the of Don Esteban Benitez Tallano based on its owner's duplicate copy.

That the Honorable Register of Deeds of Pasig by virtue of this judgment has been ordering to reconstitute the said TCT No. T-408 and that second owner's copy be is sued in favor or the Land Owner, Don Gregonio Madrigal Acop, etc...

2. The Comment alleged in the Opposition of the Office of the Solicitor General pertains to the Decision dated November 4, 1975 which was reversed, modified and corrected by the aforesaid Clarificatory Order dated January 19, 1976 and for ready reference, we are quoting hereunder the pertinent portion of said Order, to wit:

WHEREAS, premises considered, Decision November 4, 1975 has been reversed, modified and corrected, etc (page 52);

That TCT No. T-408 shall be reconveyed in favor of the land owner's- intervenors Mr. Julian M. Tallano and Don Annacleto Madrigal Acop not to

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Annacleto Montanez Acopiado which this Court erred.” (at page 56);

On October 15, 1998, the OSG received private respondent Tallano’s (through Atty. Paulino M. Ejercito) Motion to Admit Clarificatory Order dated January 19, 1976 and Sheriff’s Certificate of Writ of Execution dated May 4, 1979 (Annex **GG** hereof) alleging that these were inadvertently excluded from the petition filed by Robert del Rio. This motion was opposed by the OSG in a Comment dated November 17, 1998 (Annex **HH** hereof) on the following grounds

1. Before the subject documents may be admitted, it is incumbent upon the movant to prove their prior existence by competent evidence particularly so since no other copy of these documents exist. The OSG, for instance, has no record of these documents.

2. Considering that the reconstituted titles cover a large portion of densely populated Metro Manila (TCT No. 408 alone purports to encompass 125,326.37 hectares!) it is unlikely (perhaps even impossible) that petitioner had complied with the jurisdictional requirement that all actual occupants of the property be notified of the date of initial hearing. This failure renders the judgment void.

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If no notice of the date of hearing of a reconstitution case is served on a possessor or one having interest in the property involved, he is deprived of his day in court and the order of reconstitution is null and void, . even if otherwise the said order should have been final and executory.

(Ortigas & Company Limited
Partnership vs. Velasco,
234 SCRA 455)

3. Judicial notice is invoked to the notorious fact that subject property is already covered by existing titles. Prevailing jurisprudence mandates that before an alleged title *could* be reconstituted, any existing title over the same property must be cancelled. This:

Lands already covered by duly issued existing Torrens titles cannot be the subject of petitions for reconstitution of allegedly lost or destroyed titles filed by third parties without first securing by final judgment the cancellation of such existing title.

(Ortigas & Company Limited
Partnership vs. Velasco, supra)

4. Finally, assuming their intrinsic validity, the admission of the subject documents would appear to be a mere academic exercise considering that these can no longer be executed for since more than 10 years have elapsed from the promulgation of the clarificatory judgment. This is pursuant to

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Section 6, Rule 39 of the Rules of Court which mandates that:

Sec. 6. Execution by motion or by independent action. — A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations a judgment may be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

Whether or not the subject clarificatory judgment and writ of execution are valid and/or can be executed is material to intervenor motion though on its face it merely seeks their admission into the records. It would be safe to assume that the admission, of these documents is not solely for admission's sake. intervenor can certainly be expected to eventually seek execution of the subject court processes.

On November 11, 1998, the OSG received private respondent Acopiado's (through Atty. Manangan) Manifestation and Motion for Execution dated November 3, 1998 (Annex II hereof) which, in part, reads:

1. Intervenor ANACLETO . MADRIGAL ACOPIADO in the above-entitled case and his wife TRINIDAD P. ACOPIADO executed a

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DEED OF ABSOLUT SALE DATED May 5, 1993 transferring and selling their whole real property in favor of RPA Land Development Corporation as evidenced by its machine copy hereto attached as Annex “A” and made an integral part hereof. On January 24, 1995 RPA Land Development Corporation through its President sold one half of the entire lands in favor of the undersigned counsel as evidenced by machine copy of the DEED OF ABSOLUTE SALE (after obtaining authority from the Board of Directors) hereto attached as Annex “B” and made an integral part hereof.

2. On November 4, 1975, the Decision in the above-entitled case was rendered in favor of the intervenors which was ordered reconstituted on July 7, 1997 by this Honorable Court.

3. No motion for reconsideration, amendment or appeal was taken ‘by any party of the case, hence, the final order dated July 7, 1997 became final and executory as evidenced by machine copy of the Certification of the Clerk of Court V dated August 11, 1997 hereto attached as Annex “C” and made an integral part hereof.

On November 25, 1998, the OSG received private respondent Acopiado’s (through Atty. Manangan) Manifestation and Entry of Appearance dated November 20, 1998 (Annex **JJ** hereof) containing, *inter alia*, his

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opposition to private respondent Tallano's Motion to Admit Clarificatory Order Dated January 19, 1976 and Sheriff's Certificate of Writ of Execution.

On December 3, 1998, the OSO, received private respondent Tallano's (through Atty. Ejercito) Reply dated November 27, 1998 (**Annex KK** hereof) to the OSG's. Comment dated November 17, 1998 (**Annex HH** hereof).

The Reply partly reads:

The OSG further alleges that the subject property is already covered by existing titles and therefore no petition for reconstitution could be filed without first canceling the existing titles.

The OSG also claims that the documents sought to be admitted can no longer be executed as more than ten (10) years have elapsed from the promulgation of the clarificatory decision.

Even a cursory examination of the motion would reveal that the motion being litigated is not praying for the issuance of a writ of execution to execute the judgment. What the motion, merely seeks is the admission of the documents—nothing more. Thus, at this stage, the arguments

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advanced by the OSG have no relevance or propriety. (emphasis supplied)

On December 10, 1998, the OSG received private respondent Acopiado's (through Atty. Manangan) Objection and Rejoinder for Intervenor Acopiado dated December 4, 1998 **Annex LL** hereof) which reads in part;

2. This case was originally decided on November 4, 1975 in favor of both Intervenors TALLANO and ACOPIADO which became final and executory and the ACOPIADOS have not been aware of the existence and the rendition of the supposed "clarificatory decision" on January 19, 1976. They were not heard and given a day in court to object to its proceedings if any and were surprised only to see a copy attached to the Reply dated November 27, 1998 marked as ANNEX "A" thereof. Both intervenors however, jointly agreed and decided to RECONSTITUTE jointly before the *Honorable* Court, the decision dated November 4, 1975 and failed or refused/did not bother to RECONSTITUTE the supposed "clarificatory decision" which emerged only on October 14, 1998 accompanying the motion to admit it.

The reconstitution was granted *by* the Honorable Court in its final judgment dated July 7, 1997 which was declared final and executory by the Clerk of Court as of August 11, 1997 as evidence by machine copy of Certification hereto attached as Annex "A" of Objections And Rejoinder For Intervenor

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Acopiado. Hence, Intervenors heirs of Anacleto Acopiado vigorously object to its admission on the following grounds and reasons:

1) Both decisions dated Novethber 4, 1975 (not January 19, 1976) became final and executory including a final judgment dated July 7, 1997 which reconstituted the former decision. Hence, there is no more issue pending in a pending action before the Honorable Court (*Sherr vs. East*, 71 A2d, 762, *Terry* 260 cited in 27 C.J.S. 91), and the request for admission likewise fails to comply with Rule 26, 1997 Rules of Civil Procedure;

2) The purpose of the request for admission is to establish a party's cause of action or defense. Unless it serves that purpose, it is, as correctly observed by the Court of Appeals, useless, pointless arid a mere redundancy" (*Po vs. Court of Appeals*, 164 SCRA 668, 670) and

3) Looks on the two documents show: the signatures of the Certifying Clerk of Court on the pages of decision dated November 4, 1975 are very much different and dissimilar from the signatures appearing in the pages of the clarificatory decision dated January 19, 1976, hence, intervenors heirs of Anacleto Acopiado vigorously object to the requested admission. Besides the supposed official receipts accompanying the two documents are full of alterations and erasures casting

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doubts on the integrity and truthfulness of the documents referred to therein and, the Sheriff's Return was not signed and reported by the proper Deputy Sheriff of the Honorable Court.

On February 2, 1999, the OSG received a Motion To Order the assessors of the areas here. The Lands Covered By TCT Nos. T-408 and T-498 are situated to accept payments of the Basic Real Estates Taxes dated January 26, 1999 (**Annex MM** hereof) filed by Atty. Edistio F. Soriano (who represented himself as counsel for *both* the Tallanos and Acopiados). The said motion

WHEREFORE, premises considered, it is respectfully prayed to this Honorable Court to order, as follows:

a) The National Treasurer of the Philippines, Bangko Sentral ng Pilipinas and the Land Bank of the Philippines must release the Land Bank Bonds in the amount of P2 Billion in cash, with Interim Certificate Nos. 180, 180-1, 180--2, 180-3, and 180-4 payable to the intervenors to offset their back real estate, taxes, plus seven (7%) centum per annum from August 14, 1978, less

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Twenty Five (25%) to cover the payment of attorney's fees;

b) Authorizing portion/s of the lands covered by TCT Nos. T-408 and T-498 to be sold, transferred or encumbered the same to generate funds to cover the balance, after applying the said bonds, or the payment of said bonds is not feasible to pay said back real estate taxes;

c) The Register of Deeds of Malolos, Bulacan and the Register of Deeds of Pasig, Rizal (Pasig City) to register the sales and transfers of lands, within their jurisdictions, based from an approved survey plan/s by the Bureau of Lands or any of its authorized branches;

d) The Bureau of Lands and Management of the Department of Environment and Natural Resources to conduct and approve all survey plan/s, whenever so requested by the Administrator or duly authorized representative of the intervenors.

On March 1, 1999, the OSG received an Omnibus Motion dated January 26, 1999 (**Annex NN** hereof) filed by Atty. Soriano for the private respondents, which prayed:

WHEREFORE, premises considered, it is respectfully prayed to this Honorable Court, to order as follows:

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- a) The Register of Deeds of Malolos Bulacan to reconstitute TCT No. T-498, its second original copy shall be in the name of Don Esteban Benitez Tallano based from its original duplicate copy;
- b) The Register of Deeds of Pasig to reconstitute TCT No. T-408, its second original copy be issued in the name of Gregorio Madrigal Acop (Acopiado), based on its original duplicate copy;
- c) National Treasurer of the Philippines, Bangko Sentral ng Pilipinas and Land Bank of the Philippines to offset the P2 Billion, plus interest of 7% per annum from August 14, 1978, payable to intervenors by the government for the disturbance, compensation and compensatory damages of their lands, covered by Interim Certificate Nos. 180, 180-1, 180-2, 180-3 and 180-4, only to the extent of those lands recovered and identified.

In a Comment dated March 11, 1999 (**Annex OO** hereof) which was filed on March 12, 1999, the OSG opposed private respondents' Motion dated January 26, 1999 (**Annex MM** hereof) on the ground that acceptance by the City Assessor's Office of the subject real estate tax payments would at the very least be premature

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considering the pendency of the case where intervenor's alleged title remains unestablished.

On March 8, 1999, the OSG received a Motion for Intervention and Answer-in-Intervention of even date (**Annex PP** hereof) filed by Henry Rodriguez (through Atty. Pedro Azarcon) wherein said movant claimed to be so situated as to be adversely affected by the petition for reconstitution and reconveyance filed by the plaintiffs and the other intervenors. Significantly, on page 4 of his Answer-in-Intervention (attached to the Motion for intervention [**Annex PP**]), Rodriguez alleges:

2. That the claim of plaintiffs, Wilson P. Orfinada et al., are without merit, in so far as it concerns about a decision of this Honorable Court, dated November 4, 1975, allegedly signed by Hon. Judge Enrique. A. Agana, the truth being that there is no such decision signed by said presiding judge, and therefore, there is no legal basis to reconstitute said decision the existence of which in the court records is dubious, shady and questionable;

3. That there is no sufficient legal basis to reconstitute said decision where there was no actual notice given to the

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parties including the heirs of Macario J. Rodriguez, Delfin and Aquiliana Rodriguez; and besides, the period of reconstituting said decision if any, had already lapsed, because more than five (5) years have already passed from January 18, 1992, up to June 27, 1997, till the petition was filed, when reconstitution should be filed only within three (3) months from the time of loss. (emphasis supplied)

On March 16, 1999, the OSG received a Manifestation On the Side of Julian M. Tallano And Anacleto Madrigal Acop, Represented By Atty. Vicente D. Gabriel, Assisted By Atty. David Rigor Advincula dated March 10, 1999 (signed by Atty. Advincula) (**Annex QQ** hereof) which, inter alia, *disowns* the pleadings filed by Atty. Edisto F. Soriano on the ground that the real parties in interest in the case *a quo* are Julian M. Tallano, Don Estehan Benitez Tallano and Don Gregorio Madrigal Acop (*not* Acopiado).

On March 30, 1999, the OSG received a copy of the respondents' Motion for the Issuance of Alias Writ of Execution dated March 29, 1999 (**Annex RR**. hereof) filed by Atty. Prudericio Jatayna for Anacleto Madrigal Acop

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and Julian M. Tallano which sought the execution of both the alleged Decision dated November 4, 1975 and the alleged Clarificatory Order dated January 19, 1976. On page 2 of this motion, it was alleged that “a Writ of Execution was issued sometime in the past but due to some circumstances the same was not fully executed and implemented.”

On April 5, 1999, the OSG received an Opposition to Motion for Intervention dated March 22, 1999 (**Annex SS** hereof) filed by Atty. Soriano for private respondents opposing the motion for intervention filed by Henry Rodriguez.

On April 5, 1999, the QSG received the Reply To Comment dated March 22, **1999** (**Annex TT** hereof) filed by Atty. Soriano on behalf of intervenors who referred to Anacleto Madrigal Acopiado as an intervenor to the OSG’s Comment dated March 11, 1999 (**Annex OO** hereof).

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On April 12, 1999, the OSG filed its Rejoinder (**Annex UU** hereof) to Atty. Soriano's Reply dated March 22, 1999, which reminded the intervenors *a quo* that the July 7, 1997 order of respondent Court is for the reconstitution of the alleged Decision dated November 4, 1975 and not the alleged Clarificatory Order dated January 19, 1976.

On April 20, 1999, the OSG received private respondent Tallano's (through Attys, Ejercito, Elmer San Gabriel and Manuel Natividad, Jr.) Addendum to Atty. Vicente Gabriel and Motion with Objection to Omnibus Motion dated April 7, 1999 (**Annex VV** hereof) wherein said intervenor *a quo* disowned Atty. Soriano as counsel.

On April 20, 1999, the OSG received Atty. Soriano's Manifestation dated April 19, 1999 (**Annex WW** hereof) praying that respondent Court resolve first the Motion to Admit Clarificatory Order dated January 19, 1976 and

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Sheriff's Certificate of Writ of Execution dated May 4, 1979 filed by Atty. Ejercito.

On April 20, 1999, the OSG received private respondent Tallano's (through Atty. Ejercito, San Gabriel, and Natividad) Exception (Annex XX hereof) to the Comment of the Office of the Solicitor General.

On April 27, 1999, the OSO received Atty. Soriano's Comment to Addendum to Atty. Vicente Gabriel and Motion with Objection to Omnibus Motion dated April 22, 1999 (**Annex YY** hereof).

On May 18, 1999, the OSG received the Opposition (**Annex ZZ** hereof) to the Motion for the issuance of Alias Writ of Execution filed by the Bases Conversion Development Authority (BCDA) through the Office of the Government Corporate Counsel (OGCC).

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In a Manifestation dated May 8, 1999 (**Annex AAA** hereof), private respondent Tallano disowned the Motion for Issuance of Alias Writ of Execution dated March 29, 1999 filed by Atty. Jatayna.

On June 30, 1999, the OSG received private respondent Tallano's (through Atty. Ejercito and Pacifico Yadao) Consolidated Reply (**Annex BBB** hereof) to, *inter alia*, the Opposition filed by the BCDA and the Rejoinder filed by the OSG.

On July 16, 1999, the OSG received the Order dated July 7, 1999 (**Annex BBB-1** hereof) which denied the following motions:

1. Motion To Admit Clarificatory Decision/Order dated January 19, 1976 and Sheriff's Certificate of Writ of Execution dated May 4, 1979 filed by intervenor-Movant Julian M. Tallano, through counsel, Atty. Paulino M. Ejercito;

2. Motion To Order The Assessors of the Areas where the lands allegedly covered by TCT Nos. T-408 and T-498 are Situated To

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Accept Payments of the Back Real Estate Taxes filed by intervenors Anacleto Acopiado, et al., through counsel, Atty. Edistio P. Soriano;

3. Motion For Intervention and Answer in Intervention filed by Henry F. Rodriguez, in his capacity as Administrator - of the estate of Macario J. Rodriguez, through counsel, Atty. Manuel Oliveros Abenir;

4. Omnibus Motion filed by intervenor Phil. - Asia Realty and Development Corp., in its capacity as authorized representative of the heirs and beneficiaries of Don Esteban Benitez Tallano, Don Gregorio Madrigal Acop and Don Madrigal Acop through counsel, Atty. Edistio F. Soriano seeking the issuance by this court of a corresponding orders to:

- a) Direct the Register of Deeds of Pasig City to reconstitute TCT No. T-408 under the name of Gregorio Madrigal Acop and the Register of Deeds of Malolos, Bulacan to reconstitute TCT No. T-498 under the name of Esteban Benitez Tallano;
- b) Directing the National Treasurer of the Philippines, Bangko Sentral ng Pilipinas (BSP) and the Land Bank of the Philippines to effect the P2 Billion disturbance, compensation and compensatory damages payable to the intervenors by the government covered by the interim Certificate Nos. 180, 180-1; 180-2; 180-3; and 180-4, all series of 1968 with these back real estate taxes of the vast tract of lands

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only to those lands actually and physically recovered and identified;

5. Motion for the Issuance of Alias Writ of Execution filed by Intervenor Julian M. Tallano as represented by his substitute Attorneys-in-Fact, Salvador A. Dacer and Rolando A. Delolde, through counsel, Atty. Prudencio F. Jatayna.

In this Order, the respondent Court ruled:

The Clarificatory Order of January 19, 1976, assuming it validly exists and attained finality is a judgment independently by itself notwithstanding, the fact that it was rendered precisely to modify and revise the decision of November 4, 1975. As such, and under the Rules (Sec. 6 of Rule 39, Rules of Civil Procedure As Amended 1997) it can no longer be enforced by a mere motion for more than five (5) years had already elapsed from the time it supposedly attained finality. Definitely, this court had ceased to have jurisdiction to execute by mere motion the dormant judgment assuming it validly exists. (Vda. De Decena vs. Delos Angeles, 39 SCRA 94).

It cannot also be revived by a new action because under Section 6 of Rule 39, the judgment sought to be revived must not be barred by prescription. Considering that more than ten (10) years had already elapsed counted from the date (January 19, 1976) said judgment becomes final, the right to enforce the judgment had already

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prescribed (Art. 1144 (8), Civil Code) and any action which may be instituted to revive or enforce the said judgment is dismissible. (PNP vs. Pacific Commission House, 27 SCRA 766). (Order dated July 7, 1997; Annex BBB-1 hereof: emphasis supplied)

On August 13, 1999, the OSG received a copy of the Motion to Withdraw Appearance dated August 5, 1999 (**Annex CCC** hereof) filed by Atty. Soriano.

On October 22, 1999, the OSG received the Motion for Issuance of an Apt Order dated October 21, 1999 (**Annex DDD** hereof) filed by Attys. Ejercito and Yadao on behalf of Intervenor's thru Intervenor-Judicial Administrator Julian M. Tallano, which made reference to Anacleto Madrigal Acop as an intervenor which appears to merely summarize their pending motions and seek resolution thereof by the respondent Court.

On December 6, 1999, the OSG received BCDA's Comment/Opposition (**Annex EEE** hereof) to said private

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respondents' Motion for Issuance of an Apt Order dated December 3, 1999.

On January 17, 2000, the OSG received private respondent Tallano 's pleading entitled "AD CAUTELAM" (**Annex FFF** hereof) which replies to the BCDA's Comment/Opposition. This pleading was followed by another en titled "Supplementary Reply" (**Annex GGG** hereof) dated February 12, 2000 filed by Julian Tallano himself.

On May 3, 2000, the OSG received private respondent Tallano's (through Atty. Rogelio P. Terrado) Urgent Motion for the issuance of a Fourth Alias Writ of Execution, Possession and Demolition dated April 12, 2000 (**Annex HHH** hereof). Intervenor Henry Rodriguez filed an Opposition dated May 4, 2000 (**Annex III** hereof) to this motion.

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On August 22, 2000, the OSG received a letter dated August 21, 2000 (**Annex JJJ** hereof) from Mr. Romeo Cervantes Campos, who represented himself as the Attorney- in-Fact of Julian Tallano requesting for a certified photocopy of the Order of Third Alias Writ of Execution, Possession and Demolition with Dismissal to Motion for Relief of the National Government which was allegedly promulgated by RTC Judge Sofronio Sayo, the predecessor of the presiding judge in Branch 111 on May 28, 1989. This request was denied by the OSG in a letter dated September 8, 2000 (**Annex KKK** hereof). A second request dated September 15, 2000 (**Annex LLL** hereof) other documents was similarly denied by the OSG in a letter dated November 7, 2000 (**Annex MMM** hereof).

On January 26, 2001, the OSG received the Motion for Execution dated January 18, 2001 (**Annex NNN** hereof), which referred to Anacleto Madrigal Acopiado as an intervenor, filed by Emata, Tamondong and Associates seeking the issuance of multiple writs of execution

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covering the different areas subject of the alleged
November 4, 1975 Decision.

Subsequently, Liberato Bauto filed an Appearance with
Motion for Appointment of Special Sheriff dated Febru-
ary 6, 2001 (**Annex 000** hereof).

In an Order dated February 9, 2001 (**Annex PPP**
hereof), respondent Court directed the OSG to file its com-
ment on the Motion for Execution.

On February 12, 2001, the OSG received a Manifes-
tation, Motion for Leave to Intervene and File Opposition
dated February 8, 2001 (**Annex QQQ** hereof) filed by
Teresita C. Lo, the owner of Galaxy Hardware located in
Cabanatuan City, who had received a letter dated January
9, 2001 from alleged counsel of the Tallano-Acop Estate
claiming ownership of the lot occupied by her hard ware.

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On April 18, 2001, the OSG received the Petition for Reconstitution with Motion for the Issuance of an Alias Writ of Execution Possession and Demolition of even date (**Annex RRR** hereof) filed by Atty. Teresito Abella on behalf of Don Anacleto Madrigal Acop and Julian M. Tallano seeking, *inter alia*, the reconstitution and execution of: (a) the, alleged Decision with Compromise Agreement dated February 4, 1972 (**Annex A** hereof); (b) the alleged Clarificatory Decision dated January 19, 1976 (**Annex D** hereof); and (c) the alleged Third Alias Writ of Execution, Possession and Demolition dated May 23, 1989 (**Annex K** hereof). Based on the alleged Decision with Compromise Agreement dated February 4, 1972 (**Annex A** hereof), the parties were:

Wilson P. Orfinada, Plaintiffs vs. Macario Rodriguez and Heirs, The Heirs of Don Miguel and Hermogenes Antonio Rodriguez, Dona Aurora Fabela Y Cardona, Patricial Tiongson and Heirs, Ponciano Padilla and Heirs, Felimon Aguilar and the Heirs, Fortunato Santiago and Maria Pantaleona P. Santiago and Heirs, Marcos Estanislao and Mauricio de los Santos/Blas and Sebastian Fajardo/Antonio/Dulalia Ragua, Don Mariano

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San Pedro Y Esteban and Maria Socorro Conrado Heirs, The Heirs of Florencia Rodriguez, Esteban Benitez Tallano, et al., Engracio San Pedro and Heirs, The Administrator of Bicutan/Market/Maysilo Estate, et al, Pedro Gregorio/Agapito Bonson and Heirs/Balbino Francisco, Pedro Rojas Estate and Heirs, Eugenio Marcelo/Juan Josef Santiago Garcia and Heirs, Ortigas and Company Partnership, The Administrator of Pasay and Triple Estates/and the Maricaban Estate/Perpetua and Perfecto Aquino, et al., Antonio Fael, The Administrator of San Pedro, Estate/Jose Salvador/Magno Fernandez/Dona Lourdes Ochoa Y Casal, Simona Estate and the Heirs, Exequiel dela Cruz and Heirs, Gervacio Lombo, Francisco Soriano, Quintin Mejia/ Catalina. Estanislao and the Heirs/ Juana Cruz and Heirs, Gabino Javier and. Heirs, The Modesto, Eulalio, Tomas, Apolonio, Pedro, Franciso and Antonio Cruz, Rafael Sarao, Jose Oliver and the Heirs, Dominador de Ocampo Buhain, et al., Manuel Quiogue, Estanislao, Eduardo and Bernabe Cardoso and The Heirs, Antonio Aquial, Dr. Nicanor Jacinto, et al., Fernando Jacinto Steel Mills, Inc., Felix and Claudio Osorio and Heirs, Regino dela Cruz/Gil Santiago, Bonifacio Regalado and Heirs, Marciano Tuazon and Tuazon Company, Julian and Juan Francisco, Sarao Motors/Francisco Motors Corp., Philippine Share Company, Pilar Development Corporation, Teodoro Lim, Felix Baez and Heirs, Valentino Gajudo/Candido Cleofas, Fort William McKinley and the Manila Railroad Company, University of the Philippines, thru Honorable Solicitor General, The Commissioner of Land Registration Commission,

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The Honorable Director of Bureau of Lands, The Republic of the Philippines and To All Whom It May Concern, Defendants; Benito A. Tallano, Intervenor.

On May 24, 2001, the OSG received Atty. Abella's Motion dated May 22, 2001 (**Annex SSS** hereof) for the taking of deposition of the retired Judge Sayo, who allegedly issued the purported Order of Third Alias Writ of Execution, Possession and Demolition dated May 23, 1980 (**Annex K** hereof).

On June 1, 2002, the OSG received a copy of the Order dated May 29, 2001 (**Annex TTT** hereof) allowing the taking of the deposition of Judge Sayo.

On June 20, 2001, the OSG received from the Land Registration Authority, copies of various investigation reports (**Annex UUU** hereof) showing the spurious nature of the alleged TCT Nos. 408 and 498 as well as the mother title, i.e., the alleged OCT No. T-01-4.

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On July 16, 2001, the OSG received the Order dated July 11, 2001 (**Annex M** hereof) which allowed the reconstitution of the following documents:

WHEREFORE, premises considered, the following documents duly appended to the petition are hereby reconstituted as integral part of the records of this case and shall carry the same force, validity and effect as that of the destroyed original copy. In particular, these documents are:

1. Decision With Compromise Agreement dated February 4, 1972; consisting of 139 pages (Exh. "F" and its submarkings);
2. Clarificatory Order dated March 21, 1971 consisting of 30 pages (Exh. "H" and its sub markings)
3. Clarificatory Decision dated January 19, 1976 consisting of 60 pages (Exh. "I" sic 58 pages);
4. Third Alias Writ ,of Execution, Possession and Demolition dated May 23, 1989 consisting of 55 pages (Exh. "A")’;
5. Writ of Execution, Demolition and Possession dated September 10, 1974 consisting of 14 pages (Exh. "J" and its submarkings);
6. Certification of Sheriffs Return dated November 17, 1974 consisting of 7 pages (Exh. "K" and its submarkings);

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7. Certified True Photocopy of TCT No. T-408 marked as Exh. "L", consisting of 7 pages;

8. Certified True Photocopy of TCT No. T-498 and marked as Exh. "M" consisting of 7 pages;

9. Letters of Administration dated, June 14, 1972 marked as Exh. "E";

10. Entry of Judgment dated June 14, 1972 marked as Exh. "G" and its sub-markings consisting of 7 pages.

Said Order further commanded, *viz*:

Accordingly, the concerned government agencies particularly the Land Registration Administration and the Registry of Deeds mentioned in the Third Alias Writ of Execution are hereby directed to comply with the decretal Pronouncements of the executory judgments and orders of the Court previously issued and which were specifically set forth and embodied in the Third Alias Writ of Execution, Possession and Demolition dated May 23, 1989.

On July 30, 2001, the OSG filed a Motion for Reconsideration (Annex VVV hereof) of the July 11, 2001 ruling reiterating its position that the execution of the subject orders is improper.

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On August 2, 2001, the OSG received Atty. Abella's undated Opposition (**Annex WWW** hereof) in behalf of Anacleto Madrigal Acop and Julian M. Tallano to the motion for reconsideration.

During the August 10, 2001 hearing on the OSG's Motion for Reconsideration, the parties were given ten (10) days within which to file simultaneous memoranda on the matter. The OSG filed its Memorandum dated August 15, 2001. (**Annex XXX** hereof) on August 20, 2001. It received a copy of private respondents Memorandum only on September 3, 2001 (**Annex YYY** hereof). (Intervenors had asked for a 10-day extension of the period for filing their Memorandum.)

On October 2, 2001, the OSG received Atty. Emata's (on behalf of Anacleto Madrigal Acopiado) Motion for Reconsideration (**Annex ZZZ** hereof) of the Order dated July 11, 2001.

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On October 22, 2001, the OSG received the Order dated October 8, 2001 (**Annex AAAA** hereof) denying its motion for reconsideration.

On November 27, 2001, the OSG received the Order dated November 16, 2001 (**Annex BBBB** hereof) resetting the hearing on Atty. Emata's Motion for Reconsideration to January 21, 2002.

On December 14, 2001, the Register of Deeds of Rizal issued a reconstituted transfer certificate of title (alleged TCT No. 408) on the basis of the July 16, 2001 Order of respondent Court.

On January 17, 2002, the OSG received Atty. Benigno M. Puno's Omnibus Motion dated **January 15, 2002** (**Annex CCCC** hereof) on behalf of "Anacleto madrigal Acop, et. al., represented by its Judicial Administrator, Julian M. Tallano".

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On February 14, 2002, the OSG received pm. respondent Tallano's (through Atty. Vicente M. Tagoc, Jr.) Motion to implement Decision dated February 12, 2002 (**Annex DDDD** hereof).

On March 14, 2002, the Presidential Commission on Good Government received Intervenors' Motion for Writ of Possession respecting a property in Pasig (**Annex EEEE** hereof).

Hence, this petition.

GROUND IN SUPPORT OF THE PETITION

I

THE ASSAILED ALLEGED DECISIONS/ORDER IN CIVIL CASE NO. 3957-P ARE VOID BECAUSE THE RESPONDENT COURT HAD NO JURISDICTION TO ORDER THE RECONSTITUTION OF THE ALLEGED OCT NO. T-01-4 AND THE ALLEGED DERIVATIVE TITLES, I.E., TCT NOS. 408 AND 498, IN SAID CASE, WHICH IS AN ORDINARY CIVIL ACTION FOR QUIETING OF TITLE OR RECOVERY OF

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OWNERSHIP AND POSSESSION AND NOT A LAND REGISTRATION PROCEEDING WHERE A RECONSTITUTION OF TITLE CAN BE VALIDLY ORDERED.

II

THE ASSAILED ALLEGED DECISIONS/ ORDER IN CIVIL CASE NO. 3957-P ARE VOID BECAUSE, EVEN ASSUMING THAT THE RESPONDENT COURT HAD JURISDICTION TO ORDER THE RECONSTITUTION OF A TORRENS TITLE IN CIVIL CASE NO. 3957-P, THE ASSAILED ALLEGED DECISIONS/ ORDER WOULD NONETHELESS BE VOID BECAUSE THE RESPONDENT COURT DID NOT ACQUIRE JURISDICTION OVER THE PETITION DUE TO NON-COMPLIANCE WITH THE JURISDICTIONAL REQUIREMENTS OF PUBLICATION IN THE OFFICIAL GAZETTE AND NOTICE TO ALL THE OCCUPANTS OR PERSONS IN POSSESSION OF THE PROPERTY, THE OWNERS OF THE ADJOINING PROPERTIES AND ALL OTHER INTERESTED PARTIES.

III

THE ASSAILED ALLEGED DECISIONS/ ORDER IN CIVIL CASE NO. 3957-P ARE VOID BECAUSE THE RESPONDENT COURT HAS NO JURISDICTION TO ORDER THE RECONSTITUTION OF THE ALLEGED OCT NO. T-01-4 AND THE ALLEGED TCT NOS. 408 AND 498 WHICH RECONSTITUTION CONSTITUTES A COLLATERAL ATTACK ON VIRTUALLY ALL OF THE TORRENS TITLES EXISTING ALL OVER THE COUNTRY.

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IV

THE ASSAILED ALLEGED DECISIONS/ ORDERS IN CIVIL CASE NO. 3957-P ARE VOID BECAUSE THEY WERE OBTAINED THROUGH EXTRINSIC FRAUD.

V

THE ASSAILED ORDERS OF RESPONDENT COURT ORDERING THE RECONSTITUTION AND IMPLEMENTATION OF THE ASSAILED DECISIONS/ ORDER ARE VOID FOR HAVING BEEN ISSUED WITHOUT JURISDICTION CONSIDERING THAT THE MANDATORY AND JURISDICTIONAL PROCEDURE FOR THE RECONSTITUTION OF COURT RECORDS WAS NOT FOLLOWED.

VI

RESPONDENT COURT'S ORDERS DATED JULY 7, 1997, JULY 11, 2001 AND OCTOBER 8, 2001 ARE LIKEWISE INVALID DUE TO LACK OF JURISDICTION DUE TO THE FAILURE TO COMPLY WITH THE JURISDICTIONAL REQUISITES FOR THERE CONSTITUTION OF TITLES UNDER R.A. NO. 26.

VII

EVEN ASSUMING ARGUE NDO THAT THERE WAS A VALID RECONSTITUTION OF THE ALLEGED DECISIONS/ORDER AND OTHER RECORDS, THE SAME CAN NO LONGER BE ENFORCED ON ACCOUNT OF PRESCRIPTION; HENCE, THE ASSAILED ORDERS OF THE RESPONDENT COURT

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WHICH ORDERED THE IMPLEMENTATION OF SAID ALLEGED DECISIONS/ORDER WERE ISSUED WITHOUT JURISDICTION.

VIII

THE ALLEGED DECISIONS/ORDER, WRITS AND OTHER DOCUMENTS, INCLUDING THE ALLEGED TCT NOS. 408 AND 498, WHICH WERE ILLEGALLY RECONSTITUTED BY RESPONDENT COURT ARE INTRINSICALLY VOID AND SPURIOUS ON THEIR FACE; THUS, THE SAME SHOULD BE ANNULLED OR CANCELLED.

DISCUSSION

- I. THE ASSAILED ALLEGED DECISIONS/ORDER IN CIVIL CASE NO. 3957-P ARE VOID BECAUSE THE RESPONDENT COURT HAD NO JURISDICTION TO ORDER THE RECONS-TITUTION OF THE ALLEGED OCT NO. T-01-4 AND THE ALLEGED DERIVATIVE TITLES I.E., TCT NOS. 408 AND 498, IN SAID CASE WHICH IS AN ORDINARY CIVIL ACTION FOR QUIETING OF TITLE OF RECOVERY OF OWNERSHIP AND POSSESSION AND NOT A LAND REGISTRATION PROCEEDING WHERE A RECONSTITUTION OF

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**TITLE CAN BE VALIDLY
ORDERED.**

A cursory reading of the assailed alleged Decisions/ Order in Civil Case No. 3957-P readily reveals that the case *a quo* is one for quieting of title or recovery of ownership and possession (*accion reivindicatoria*,¹ over virtually the entire Philippine archipelago. As such, the same partakes of an ordinary civil action, which is an action *in personam*. Like any ordinary civil action, an *accion reivindicatoria* is in the nature of an action *in personam* since it is directed against particular persons and the judgment is binding only upon the parties impleaded or their successors-in-interest. An *accion rein vindicatoria* is properly cognizable by a court sitting as a court of general jurisdiction.

On the other hand, it is well settled that land registration proceedings are proceedings *in rem* [*Adez Realty, Inc. v. Court of Appeals, 212 SCRA 633 (1992)*],

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where notice to the whole world is given in order to bind the same. Although the petition filed in Civil Case No. 3957-P included a prayer for the reconstitution of the alleged OCT No. T- 01-4 and the alleged derivative titles, *i.e.*, TCT Nos. 408 and 498 said prayer did not convert said ordinary civil action into a land registration proceeding. In other words, the reconstitution was merely an incident to the alleged principal action of quieting of title or recovery of ownership and possession; but being an *in rem* action, it cannot be merged with the action *in personam*.

Indeed, land registration proceedings are distinct from ordinary civil actions. The distinction between the two (2) actions/proceedings has been described as follows:

Nature of land registration or cadastral jurisdiction as distinguished from that in ordinary civil actions. — It has been stated that land registration or cadastral proceedings are as separate and distinct from ordinary civil actions as are the latter from criminal actions

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(*Cavan vs. Wislizenus*, 48 Phil. 632). This distinction proceeds from the special character of land registration or cadastral cases, as may be seen from the provisions of the Land Registration Act, as amended, as well as of the Cadastral Act. The proceedings under both Acts are *in rem* against the land and the buildings and improvements thereon, and the decrees entered therein operate directly on the land and the buildings and improvements thereon, and vest and establish title thereto (Act No. 496, sec. 2, as amended; Act No. 2259, sec. 11; *Director of Lands vs. Roman Catholic Archbishop of Manila*, 41 Phil. 120). In these proceedings, the whole world is made a party and therefore is bound by the decision therein. In an ordinary civil case, on the other hand, the action is purely personal between the specific parties involved and the judgment resulting there from would bind only such parties and no other (*Castillo vs. Ramos*, 78 Phil. 809). Furthermore, in the former proceedings, the court's power is confined: (1) to the determination as to whether the applicants or claimants are entitled to the lots and, after finding that they are, to the confirmation of their title to, and registration of, the lots in their name (*Abellera vs. De Guzman*, 47 O.G. 4611); and (2) to the determination of questions "as may come before it under (the Land Registration) Act" (Sec. 2, Act 496).

This clear separation and distinction between land registration proceedings and ordinary civil actions has necessitated the rule that what properly pertains to the general jurisdiction of the courts in ordinary civil actions should not be brought to them as

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courts of land registration or cadastral courts with the limited and special jurisdiction characteristic of such courts (*Castillo va Ramos, supra; Government vs. Abad*, 103 Phil. 725; *Director of Lands vs. De Belzunce*, 47 O.G. 1820). Annotations, E.B. Bautista on “Jurisdiction Over Land Registration And Cadastral Cases As Distinguished From The General Jurisdiction Of Courts In Ordinary Civil Actions”, 21 SCRA 1352 (1967)]

In *Cavan v. Wislizenus*, 48 Phil. 632, 636 (1926), the Supreme Court held that petitions and motions filed under the [then] Land Registration Act may not be ordered as an incident to an ordinary civil case, being beyond the jurisdiction of the courts in ordinary civil cases:

It will be observed that the motion of June 29 was not filed in the “original case in which the decree of registration was entered.” but in an ordinary civil action and in view of the provisions quoted, it is evident that the court exceeded its jurisdiction in granting the motion under these circumstances. Land registration proceedings are as separate and distinct from ordinary civil actions as are the latter from criminal actions, that our courts have jurisdiction in civil actions to convict persons of criminal offenses.

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The rule that all petitions and motions filed under the provisions of the Land Registration Act must be presented in the original registration case was adopted with an intelligent purpose in view; to allow such petitions and motions to be filed and disposed of elsewhere would eventually lead to confusion and render it difficult to trace the origin of the entries in the registry. (Emphasis supplied)

Accordingly, the respondent Court, sitting as a court of general jurisdiction, trying an ordinary civil action which is a proceeding in personam, had no jurisdiction to simultaneously take cognizance of private respondents' prayer for the reconstitution of the alleged OCT No. T-01-4 and the alleged TCT Nos. 408 and 498 in the same proceedings.

Logically, the respondent Court, sitting as a court of general jurisdiction, had no jurisdiction to order the reconstitution of a lost or destroyed Torrens title because the same can only be made in a land registration proceeding wherein the respondent Court would be

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sitting as a land registration court with special or limited jurisdiction. Moreover, the reconstitution of a title ordered in a land registration proceeding is binding upon the whole world, being a proceeding *in rem* where jurisdiction is vested in the Regional Trial Court upon compliance, *inter alia*, with the jurisdictional requirements of publication of the notice of hearing in the Official Gazette. Accordingly, the assailed alleged Decisions/Order which ordered the reconstitution of the alleged OCT No. T-01-4 and the alleged TCT Nos. 408 and 498 are void because the respondent Court did not have jurisdiction to validly order the same in Civil Case No. 3957-P.

II. THE ASSAILED ALLEGED DECISIONS/ORDER IN CIVIL CASE NO. 3957-P ARE VOID BECAUSE, EVEN ASSUMING THAT THE RESPONDENT COURT HAD JURISDICTION TO ORDER THE RECONSTITUTION OF A TORRENS TITLE IN CIVIL CASE NO. 3957-P, THE ASSAILED

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**ALLEGED DECISIONS/
ORDER WOULD
NONE-THELESS BE VOID
BECAUSE THE
RESPONDENT COURT
DID NOT ACQUIRE
JURISDICTION OVER
THE PETITION DUE TO
NON-COMPLIANCE
WITH THE
JURISDICTIONAL
REQUIREMENTS OF
PUBLICATION IN THE
OFFICIAL GAZETTE AND
NOTICE TO ALL THE
OCCUPANTS OR
PERSONS IN POSSESSION
OF THE PROPERTY, THE
OWNERS OF THE
ADJOINING PROPERTIES
AND ALL OTHER
INTERESTED PARTIES.**

As previously discussed, the respondent Court does not have jurisdiction to render the assailed alleged Decisions/Order which ordered the reconstitution of the alleged OCT No. T- 01-4 and the alleged TCT Nos. 408 and 498.

But even assuming *arguendo* that the respondent Court had jurisdiction to render the assailed alleged

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Decisions/Order, the same would nonetheless be void because there is absolutely no showing from the assailed alleged Decisions/Order that there was compliance with the jurisdictional requirements of publication of the notice of hearing in the Official Gazette and the service of notice to all occupants of the subject property, the adjoining owners and other interested parties.

Sections 12 and 13 of Republic Act (R.A.) No. 26, provide:

Sec. 12. Petitions for reconstitution from sources enumerated in sections 2(c), 2(d), 2(e), 2 (f) 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; (c) the names and addresses of the occupants or persons in possession of the property, of the owners of the adjoining

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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, at 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

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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 publication, posting and service of the notice as directed by the court. (Emphasis supplied)

There is no showing that petitioners *a quo* complied with said jurisdictional requisites. None of the reconstituted rulings contain any reference to any compliance with all the jurisdictional requisites for a valid reconstitution of title, even the Orders dated July 7, 1997, July 11, 2001 and October 8, 2001 (**Annexes L to N** hereof, respectively) do not mention their compliance with the mandatory legal requirements.]

At the onset, it is respectfully submitted that there is no showing that the notice of initial hearing was published in the Official Gazette as required by R.A. No. 26. Such omission constitutes a fatal jurisdictional

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defect. If an order of reconstitution is issued without any previous publication as required by law, such, order of reconstitution is null and void [*UMetropolitan Waterworks and Sewerage System v. Sison*, 124 SCRA 394 (1983)].

In *Republic 'of the Philippines v. Court of Appeals*, 309 SCRA 110 (1999), it was held:

The Court sees merit in the petition.

Reconstitution of a certificate of title, in the context of Republic Act No. 26, denotes the restoration in the original form and condition of a lost be destroyed instrument attesting the title of a person to a piece of land. The purpose of the reconstitution 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. Among the conditions explicitly required by the law is publication of the petition twice in successive issues of the Official Gazette, and its posting at the main entrance of the provincial building and of the municipal building of the municipality or city in which the land is situated, at least thirty days prior to the date of hearing. This directive is mandatory; indeed, its compliance has been held to be jurisdictional. In *Republic vs. Court of Appeals*, the Court has said:

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“Anent the publication requirement, R.A. No. 26 obligates the petitioner to prove to the trial court two things, namely that: (1) its Order giving due course to the petition for reconstitution and setting it for hearing was published twice, in two consecutive issues of the Official Gazette; and (2) such publication was made at least thirty days prior to the date of hearing.”

So also did the Court hold in *Allama vs. Republic*, where the Court, again, has stated:

“The non-compliance with these requirements provided for under Section 13 of Republic Act No: 26 as regards the notice of hearing is fatal and the trial court did not acquire jurisdiction over the petition.”

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The Court, given the foregoing circumstances, is constrained to accordingly hold that the decision, dated 20 June 1995, in LRC Case No. 1077-95 decreeing the reconstitution of TCT No. 11203 and No. 11204 is null and void. In contemplation of law, the decision is non-existent; in *MWSS vs. Sison*, the Court has said:

“x x x. (A) void judgment is not entitled to the respect accorded to a valid judgment, but may be entirely disregarded or declared inoperative by any tribunal in which effect is

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sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding effect or efficacy for any purpose or at any place. It cannot affect, impair or create rights. It is not entitled to enforcement and is, ordinarily, no protection to those who seek to enforce, All proceedings founded on the void judgment are themselves regarded as invalid. In other words, a void judgment Is regarded as a nullity, and the situation is the same as It would be if there were no judgment. It, accordingly, leaves the parties litigants in the same position they were in before the trial.”

For want of jurisdiction, the trial court must be held to have been without authority to take cognizance of the litigation and all its aspects.

Finally, it may not be amiss for the Court to reiterate its admonition in *Ortigas and Company Ltd. Partnership vs. Velasco* that courts must exercise the greatest caution in entertaining petitions for reconstitution of destroyed or lost certificates of title in order to help avoid litigations and controversies, as well as discordant supervening events, that may be spawned by a hasty grant of reconstitution. (at pages 118-119, 122; emphasis supplied)

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Moreover, there is no indication that all the individual occupants of the properties affected by the reconstitution proceedings were separately notified of the initial hearing:

It is clear from Section 13 of Republic Act No. 26, notice by publication is not sufficient but such notice must be actually sent or delivered to parties affected by the petition for reconstitution. [Manila Railroad Co. vs. Hon. Jose M. Moya, 14 SCRA 358, 363 (1965)].

One who seeks the reconstitution of his title to the property is duty-bound to know who the occupants are, possessors thereof, or persons having an interest in the property involved, specially where the property is so vast and situated in a suitable residential and commercial location, where buildings and improvements have been or are being constructed openly and publicly. Petitioner cannot feign ignorance, much less unawareness, nor blindness as to their existence [*Director of Lands v. Court of Appeals*, 102 SCRA 370(1981)].

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Even the Office of the Solicitor General was not, notified of the alleged reconstitution of title case (**Annex FFFF** hereof).

While the duty to send notices of the petition for reconstitution to adjoining owners and actual occupants is imposed upon the Court, not the party filing said petition, still the failure of the court to comply with the law does not excuse such non-compliance. For the law does not make any exception or exemption from complying with that mandatory requirement. Nor do lapses on the part of the courts or their personnel constitute a reason or a justification for non-observance of the law [*Republic v. Marasigan, 198 SGR 229 (1991)*].

The reason why no notice to the individual occupants was made is very obvious. It was simply *impossible* for the petitioners in the reconstitution proceedings to have made individual service of

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notices to the millions of occupants of the subject areas. (In all likelihood, many members of the Honorable Court are registered owners of certain parcels of land in our country. If they are, then, they would have been entitled to notice in connection with the subject case below.)

The failure of the petitioners in Civil Case No. 3957-P to serve notice on all the occupants of the subject property renders the proceedings null and void ab initio:

If no notice of the date of hearing of a reconstitution case is served on a possessor or one having interest in the property involved, he is deprived of his day in court and the order of reconstitution is null and void, even if otherwise the said order should have been final and executory. *Company vs. Hon. Jose M. Moya, et al., supra, at p. 363]*

Neither was there any showing that notice was sent to all adjoining owners and all persons who may have any interest in the subject alleged property. Such lack of

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notice also renders the alleged proceedings and issuances therein as void:

Judge Velasco's attention was drawn to the defects in the notice required by law. In point of fact, neither the petition for reconstitution nor the Trial Court's Order requiring Publication in the Official Gazette indicated the names and addresses of any occupant or person in possession of the property covered by the reconstitution case, or any owner of the adjoining properties. It was clear, too, that no notice had been given to Ortigas which, as owner of road lots within the area in question, should be deemed an "interested party" in legal contemplation (although this latter defect was cured by Ortigas subsequent intervention and participation in the reconstitution case).

Yet the Judge did not require Molina to give notice of the petition to the adjoining owners and interested parties; this, despite expressly acknowledging in his Order dated July 3, 1992, that his court had not as of that time indeed acquired jurisdiction over the reconstitution case "considering the manifestation of ** (Solicitor) Ma. Eloisa Castro that the requirement of notice to the other adjacent owners has not as yet been submitted to the Court altho apparently the land in question is being bounded by roads." Instead, at Molina's instance, he authorized her to send notices of the petition to the President of the Corinthian Homeowners Association, the Director of the Bureau of Lands and the City Engineer of Quezon City. Now, obviously these

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hree, whatever interest they may have in the case, or in the property involved, are not the adjoining owners contemplated by law, on whom notice of the reconstitution proceedings must be served. Nor did they, by their receipt of notice of the petition, incur the legal obligation to transmit such notice to the actual owners of the adjoining lots assuming they had knowledge of the latter's identities. There was thus, as a matter of fact, no notice of the petition ever given to the owner(s) of the adjoining properties and all other interested parties. There was, therefore, through a faulty reading of the statute, or due to a desire to end the proceedings quickly, or because of some covert purpose, a failure to comply with the law and a resultant failure on the part of the court to acquire jurisdiction over the nature or subject matter of the case. [*Ortigas vs. Velasco*, 234 SCRA 484-485 (1994): emphasis supplied]

III. THE ASSAILED ALLEGED
DECISION/ORDER IN
CIVEIL CASE NO. 3957-P
ARE VOID BECAUSE THE
RESPONDENT COURT HAS
NO JURISDICTION TO
ORDER THE
RECONSTITUTION OF THE
ALLEGED OCT NO. T-01-04
AND THE ALLEGED TCT
NOS. 408 AND 498 WHICH
R E C O N S T I T U T I O N
CONSTITUTES A
COLLATERAL ATTACK ON
VIRTUALLY ALL OF THE

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**TORRENS TITLES
EXISTING ALL OVER THE COUNTRY.**

The alleged TCT Nos. 408 and 498 cover an unimaginably large tract of land totaling approximately 500,000 hectares (or more than 5 billion square meters), including the following parcels:

PARCEL I	AREA
Las Piñas	4,150 hectares
Muntinglupa	4,870 hectares
Parañaque	3,830 hectares
Pasay City	1,390 hectares
San Juan	1,040 hectares
PARCEL II	
Manila	3,830 hectares
Makati	2,700 hectares
Pasig	2,040 hectares
Mandaluyong	2,600 hectares
San Juan	1, 040 hectares

x-----x

Total **26,250 hectares**

PARCEL III

Pateros 1,040 hectares

Taguig 3,370 hectares

**Total land area in
Greater Manila Area 30,660 hectares**

PARCEL IV

San Pedro, Laguna 8,250 hectares

Binan 8,550 hectares

Carmona 5,215 hectares

GMA 7,105 hectares

Silang 7,918 hectares

Imus 6,211 hectares

Naic 5,815 hectares

Noveleta 5,310 hectares

General Trias 5,800 hectares

Ternate 7,125 hectares

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Rosario	5,425 hectares
Trece Martirez .	3,910 hectares
Aguinaldo ‘	5,475 hectares
Dasmarinas .	7,560 hectares
Bacoor	4,997.17 hectares
Total for I, II III & IV	125,326.6370 hectares

PARCEL I

Urniray	16,750 hectares more or less
Real	17,200 hectares more or less
Infanta	15,110 hectares more or less
Gen. Nakar	18,187 hectares more or less
Total	67,247 hectares

PARCEL II

Taytay	10,787 hectares
Morong	17,200 hectares more or less
Pililia	9,436 hectares more or less
Jala-Jala	9,712 hectares more or less
Baras	7,957 hectares more or less

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Teresa	9,276.5 hectares more or less
Total	61,579 hectares

PARCEL III

Cardona	12,975 hectares more or less
Tanay	14,700 hectares more or less
Angono	14,176 hectares more or less
Cainta	13,327 hectares more or less
Antipolo	16,400 hectares more or less
Total	71,578 hectares

PARCEL IV

Sta. Maria	7,400 hectares more or less
San Jose Del Monte	8,200 hectares
Norzagaray	21,956 hectares
Total	37,556 hectares

PARCEL V

San Mateo	13,000 hectares
Montalban	7,210 hectares

x-----x

Marikina	18,156 hectares
Total	38,366 hectares

PARCEL VI

Quezon City	16,620 hectares
Caloocan	5,580 hectares
Valenzuela	4,100 hectares
Total	26,900 hectares

PARCEL VII

Meycauayan	6,976 hectares
Malabon	2,340 hectares
Navotas	2,600 hectares
Total	11,916 hectares

(pp. 48-51, Alleged Clarificatory Order dated March 21,
1974 **Annex B** hereof)

Further, OCT No. T-0 1-04 allegedly covers “the whole archipelago and represents the four (4) regions: Luzon, Visayas, Palawan-Zamboanga embracing (Tagean) Kalayaan and Sabah, and that Mindanao region (p. 51,

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alleged Decision dated February 4, 1972 — **Annex A** hereof).

It is a notorious fact that the areas embraced by said alleged OCT No. T-01-04, TCT Nos. 408 and 498 **are already covered by Torrens titles** that have been subsisting in the respective Registries of Deeds even long before or during the alleged reconstitution preceding. This fact can properly be taken judicial notice of under Rule 129 of the Rules of Court.

The issuance of a reconstituted title over property that is covered by an existing title is proscribed since it constitutes a **collateral attack** on said existing title. The circumstance that the action was directly brought to recover a parcel of land does not alter the truth that the proceeding involves a collateral attack upon a Torrens title because the land in controversy lies within the boundaries determined by that title [*Domingo v. Santos Ongsiako Lim Y Sia*, 55 *Phil.* 363 (1930)]. A certificate of

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title cannot be subject to collateral attack and can be altered, modified or cancelled only in a direct proceeding in accordance with law [*Carreon v. Court of Appeals, 291 SCRA (1998)*].

It must be emphasized that the alleged TCT nos. 408 and 498 cover land of unimaginably large proportion with a total area of around 5 billion square meters. This land mass includes vast tracts of land in urban areas such as, *inter alia*, Las Piñas (41,500,000 sq. m.), Muntinlupa (48,700,000 sq. m.); Parañaque (38,300,000 sq. m.), Pasay City (13,900,000 sq. m.), Manila (38,300,000 sq. m.), Makati City (27,000,000 sq. m.), Pasig City (20,400,000 sq. m.) Mandaluyong (26,000,000 sq. m.), and San Juan (10,400,000 sq. m.).

The immensity of the land mass involved, coupled with zealous effort of private respondent Tallano to disposes registered owners of these properties, undisputably reveals the absolute illegality of the subject

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orders. To cite a few instances, private respondent Tallano has written letters demanding the ejectment and dispossession of the registered owners and occupants of (a) Hospicio de San Jose (**Annex IIII** hereof), (b) Green Valley Subdivision, Molino III, - Bacoor, Cavite (**Annex JJJJ** hereof), and (c) Gala M Hardware in Cabanatuan City, Nueva Ecija owned by Teresita C. Lo (**Annex QQQ** hereof).

The existence of other indefeasible and incontrovertible certificates of titles over the same properties claimed by private respondents effectively prevents the trial court from acquiring jurisdiction over the reconstitution case. This is in accordance with the express ruling of the Supreme Court in **Ortigas and Company v. Velasco**, *supra*:

... lands already covered by duly issued existing Torrens Titles (which become incontrovertible upon the expiration of one year from their issuance under Section 3 of the Land Registration Act) cannot be

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the subject of petitions for reconstitution of allegedly lost or destroyed titles filed by third parties without first securing by final judgment the cancellation of such existing titles (at page 492-493)

Significantly, the Supreme Court reiterated its warning to the courts respecting petitions for reconstitution of allegedly lost titles:

Judge Velasco’s awareness of the existence of decades-old Torrens titles covering the land subject of the reconstitution case commenced by Dolores Molina, should have deterred him from proceeding therewith, or, impelled him to proceed with the utmost caution, in line with this Court’s pronouncements in *Alabang Development Corporation, et al., vs. Valenzuela*, and other precedents, in said rulings, this Court has cautioned “courts (to) exercise the *greatest caution* in entertaining petitions for reconstitution of allegedly lost certificates of title, particularly where the petitions are filed after an inexplicable delay after the alleged loss. We can take judicial notice of innumerable litigations and controversies that have been spawned by the reckless and hasty grant of such reconstitution of alleged lost or destroyed titles as well as of the numerous purchasers who have been victimized by forged or fake titles or their areas simply ‘expanded’

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through ‘table surveys’ with the cooperation of unscrupulous officials.” (id, at page 492)

IV. THE ASSAILED ALLEGED DECISIONS/ORDER IN CIVIL CASE NO. 3957-P ARE VOID BECAUSE THEY WERE OBTAINED TUROUGH EXTRINSIC FRAUD.

An action for reconveyance, by its very nature, should necessarily irnplead those what are in possession of the subject properly. It is precisely against these possessors that the property is sought to be recovered. In Civil Case No. 3957-P, however, the millions of occupants and registered owners of lots covered by the alleged **TCT No. 408** and **TCT No. 498** were **not impleaded as defendants**. This omission, which effectively deprived said possessors and registered owners of their day in court, constitutes *extrinsic fraud* that warrants annulment of the proceedings and any resultant ruling therefrom.

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In *Sterling Investment Corp. v. Ruiz*, 30 SCRA 318 (1969), the Supreme Court defined *extrinsic fraud* as any fraudulent act of the successful party in a litigation, which is committed outside the trial of the case against the defeated party, or his agents, attorneys or witnesses, whereby said defeated party is prevented from presenting fully and fairly his side of the case. The extrinsic fraud committed in Civil Case No. 3957-P appears to be a worse variation since the affected possessors and registered owners were not even impleaded *as parties* to the case and, as such, were totally unaware of the proceeding that was intended to deprive them of their properties.

In the instant case, the issuance of the alleged reconstituted titles in a proceeding wherein affected parties holding valid and subsisting Torrens titles over their properties are deprived of their rights over said properties without due process of law, undermines, the

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integrity of the Torrens System to the detriment and prejudice of the public interest which petitioner has a duty to protect. That is, we submit, the highest form of subversion, nay treachery, upon the integrity of the Philippines as a State.

But to cap it all, before everything is forgotten, the dubious origin of the stale alleged reconstituted rulings is effectively confirmed by the Affidavit (**Annex FFFF** hereof) dated April 2, 2002 of Ms. Rizalina Tiongson Chief of the Docket Division of the Office of the Solicitor General, wherein she stated under oath, *inter alia*, that the Petition for Reconstitution (of the alleged November 4, 1975 Decision) was the first pleading or court document ever received by the OSG in Civil Case No. 3957-P; that the reconstituted rulings were not received by the Office at the time of their alleged issuance; and that said alleged November 4, 1975 Decision was not part of OSG records contrary to former Solicitor Carioso's Manifestation.

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It is respectfully submitted that Ms. Tiongson's affidavit prevails over the false Cariaso Manifestation on the receipt of the stale alleged November 4, 1975 Decision. It must be noted that the Docket Division is the official register of all incoming and outgoing documents of the OSG. Thus, the only inescapable conclusion is that former Solicitor Dominador Cariaso conspired and connived with private respondents to commit fraud when he falsely confirmed the purported existence of said alleged November 4, 1975 Decision despite its non-existence:

Fraud is extrinsic where the unsuccessful party has been prevented from exhibiting fully his side of the case, by fraud or deception practiced on him by his opponent, as by keeping him away from court, a false promise of a compromise; or where the defendant never had any knowledge of the suit, being kept in ignorance by the acts of the plaintiff; or where an attorney fraudulently or without authority connives at his defeat; these and similar cases which show that there has never been a real contest in the trial or hearing of the case are reasons for which a new suit may be sustained to set aside and annul the former judgment and open the case for a new and fair hearing.

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*[H-eirs of Antonio Pael vs. Court of Appeals,
325 SCRA 341, 359 (2000): emphasis
supplied]*

On or about 25 March 2002, the undersigned Solicitor General ordered, through Assistant Solicitor General Nestor J. Ballacillo, the Chief of the Docket Division to investigate and inventory the records in Civil Case No. 3957-P. And as earlier stressed, the result show that other than the Petition for Reconstitution, the OSG received no other paper, pleading or document in connection therewith prior to the receipt of. the just-mentioned petition. This, leads to no other conclusion than Solicitor Cariaso, even in violation of his oath of office as Solicitor of the Republic, connived and conspired with private respondents to deprive the petitioner and other interested parties of due process and to keep them ignorant and unaware of the case. [counted from March 2002, the filing of the instant case is clearly within the prescribed four-year period.]

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**V. THE ASSAILED ORDERS OF
RESPONDENT COURT
ORDERING THE
RECONSTITUTION AND
IMPLEMENTATION OF THE
ASSAILED DECISIONS/
ORDER ARE VOID FOR
HAVING BEEN ISSUED
WITHOUT JURISDICTION
CONSIDERING THAT THE
MANDATORY AND
JURISDICTIONAL
PROCEDURE FOR THE
RECONSTITUTION OF
COURT RECORDS WAS NOT
FOLLOWED.**

The assailed Orders of the respondent Court dated July 7, 1997, July 11, 2001 and October 8, 2001 (Annexes **L, M and N, respectively**) **ordered the** reconstitution of the alleged Decision/Order (Annexes A, B and D hereof) and the alleged writs, titles and other documents issued pursuant thereto (**Annexes E to K** hereof). However, the mandatory procedure for reconstitution of the alleged Decisions/Order was not followed since the respondent Court merely relied on a deposition and not on evidence given in open court:

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As culled from the testimony of Mr. Tallano and more importantly on petitioner's exhibit "C" and "D" i.e., the transcribed stenographic notes and commissioner's report on the deposition proceeding, it was preponderantly shown that former Judge Sayo consistently affirmed that he issued the Third Alias Writ of Execution, Possession and Demolition on May 24, 1989. He likewise affirmed and identified the signature appearing above this printed name on the certified photocopy of the said Order shown to him and admitted that truly, the signature was his (TSN June 6, 2001 p. 6, Deposition). He also confirmed that he executed the duly notarized certification (Exh. "B" and its sub-markings) attesting to the veracity and genuineness of his signature is appearing on the Order of Third Alias Writ of Execution, Possession and Demolition (TSN June 6, 20001, p. 7, Deposition). (Order dated 11 July 2001)

On the other hand, the governing law Act No. 3110 (*An Act To Provide An Adequate Procedure For The Reconstitution Of The Records Of Pending Judicial, Proceedings And Books, Documents, And , Files Of The Office Of The Register Of Deeds, Destroyed By Fire Or Other Public Calamities, And For Other Purposes*) requires the following:

X-----X

Section 1. As soon as practicable after the occurrence of any fire or other public calamity resulting in the loss of all or part of the records of judicial proceedings on file in the office of the clerk of a Court of First Instance, said officer shall send a notice by registered mail to the Secretary of Justice, the Attorney General, the Director of Lands, ‘the Chief of the General Land’ Registration Office, the clerk of the Supreme Court, the judge of the province, the register of deeds of the province, the provincial fiscal, and all lawyers Who may be interested, stating the date on which such fire or public calamity occurred and whether the loss or destruction was total or partial, and giving a brief list of the proceedings not affected in case the loss or destruction was partial.

Section 2. Upon receipt of the notice mentioned in the preceding section, the court shall issue or cause to be issued a general notice which shall be addressed and sent by registered mail to the lawyers and officers mentioned in the preceding section, and to such other persons as might be interested, advising them of the destruction of the records, with a brief list of the proceedings not affected in case the destruction was partial, and of the time fixed by this Act for the reconstitution of the destroyed records.

This notice shall also be published in the Official Gazette and in one of the newspapers most widely read in the province, once a week, for four consecutive weeks.

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Section 7. If a civil case has already been decided, the decision shall be reconstituted by means of an authentic copy. in case an authentic copy cannot be found, the Court shall make a new decision, as if the case had never been decided. (Emphasis supplied)

It is not disputed that, among other flaws, no authentic copy of the records to be reconstituted was offered contrary to the mandatory legal requirements. Further, the records do not show that the required notices had been issued, and neither does it appear that said required notice had been published in the Official Gazette. Worse, there is no showing that the alleged records sought to be reconstituted had been duly certified by the officer having legal custody of the authentic copies thereof.

Moreover, the inescapable truth is that the private respondents failed to file the petition for the reconstitution of the court records within the prescribed period in Act No. 3110:

X-----X

Sec. 29. In case the parties interested in a destroyed record fail to petition for the reconstitution thereof within the six months next following the date on which they were given notice in accordance with section two hereof, they shall be understood to have waived the reconstitution and may file their respective actions anew without being entitled to claim the benefits of section thirty-one hereof.

Sec. 30. When it shall not be possible to reconstitute a destroyed judicial record by means of the procedure established in this Act or for any reason not herein provided for, the interested parties may file their actions anew, upon payment of the proper fees, and such actions shall be registered as new actions and shall be treated as such.

As ruled by the Supreme Court, non-compliance with the express provisions of Act No. 3110 vitiates the reconstitution proceedings and renders the Order declaring the record reconstituted ineffective:

We are, however, satisfied that the proceedings held for the reconstitution of the record of Civil Case No. 64287 were irregular for lack of notice of the petition for reconstitution upon the adverse party or his, attorney. It does not appear that the clerk of the Court of First Instance of Manila had sent to Miguel Socco Reyes a notice of the loss or

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destruction of the record of Civil Case No. 64287, as provided for in section 1, Act No. 3110; neither does it appear that upon receipt of such notice, the court had issued or caused to be issued a general notice addressed and sent by registered mail to all lawyers and interested parties, advising them of such loss or destruction and of the time fixed by Act No. 3110 for the reconstitution of lost or destroyed records, and that such notice had been published in the Official Gazette and in one of the newspapers most widely read in the City of Manila, once a week, for four consecutive weeks, as provided for in section 2, Act No. 3110; nor does it appear that within thirty days after receipt of the notice, Martin Alvarez Socco or his attorney had appeared and filed an application for the reconstitution of the record of civil case No. 64287, and that the clerk of court, upon receipt of such application, had sent notice to the adverse party or his attorney of the day, hour and place when the court was to proceed with the reconstitution, as provided for in section 3, Act No. 3110. What appears in the petition for reconstitution is a service of a copy of the petition not by the clerk of the court of first instance but by Miguel Socco Reyes and not upon the attorney for the alleged defendants but upon one "A. Pelayo." Who is this individual? Did he represent any party to the case the record of which was to be reconstituted? Is he a real or fictitious person? All these questions remain unanswered. This lack of notice upon the adverse party or his attorney and non-compliance with the express provisions of Act No. 3110 vitiate the reconstitution proceedings and render the order declaring the record

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reconstituted ineffective. The last mentioned order being illegal, the judgment purportedly rendered . in the case cannot become final and executory. [Reyes vs. Pecson, 86 Phil. 181, 187-188 (1950); emphasis supplied]

The case in question cannot be surpasse in its irregularity by the judicial officers involved and in the baltant breach of Act No. 3110.

**VI. RESPONDENT COURT'S
ORDERS DATED JULY 7,
1997, JULY 11, 2001 ARE
LIKEWISE INVALID DUE
TO LACK OF
JURISDICTION DUE TO
THE FAILURE TO COMPLY
WITH THE
JURISDICTIONAL
REQUISITES FOR THE
RECONSTITUTION OF
TITLES UNDER R.A. NO. 26.**

The Petition for Reconstitution dated June 27, 1997 (Annex P herof) filed by Robert M,. del Rio as Attorney-in-Fact of Intervenors Anacleto Madrigal Acopiado and Julian Tallano reads:

X-----X

Petitioner Robert M. del Rio, acting for and in behalf of Intervenors Anacleto Madrigal Acopiado and Julian Tallano and to this Honorable Court most respectfully petition for the reconstitution of the decision of the above-entitled case which was totally lost/destroyed due to the fire which gutted this court on January 18, 1992.

Attached hereto are the certified true copies of the decision and certified true copy of the decision of the Office of the Solicitor General and also the affidavits of two employees of the court from the year 1975, 1973 respectively to the present, attesting to the fact that they were employees of the court when the decision was promulgated by the then Judge Enrique A. Agana, then the presiding judge of the Court of First Instance of Rizal 7th Judicial Dist., Branch XXVIII, Pasay City and now Regional Trial Court, Branch CXI, Pasay City.

Wherefore, it is respectfully prayed that after due hearing the attached documents be admitted in lieu of the originals which were lost/destroyed and the records of this case be considered reconstituted.

The alleged Decision of then Judge Enrique A. Agana, which was sought to be reconstituted, ordered, *inter alia*, that:

X-----X

2) ORDERING the Honorable Register of Deeds of the Province of Rizal in Pasig, to RECONSTITUTE the lost owner's and duplicate copies of the said TCT No. 408 administratively, including the pertinent papers in accordance with Republic Act 26, for and in the name of Don Gregorio Madrigal Acopiado, carrying over thereon the annotation at the back of the Title, a Deed of Absolute Sale duly executed by the said original owner, Don Gregorio Madrigal Acopiado in favor of, Don Annacleto Madrigal Acopiado by his father Don Gregorio Madrigal Acopiado on April 7, 1937, covering an area of 29, 151.768 hectares in consideration of the sum of P100,000.00 entered, in the Notarial Registry of Juan Estrada de Figueroa, under Doc. No. 2324, Page No. XXXIX, Book No. VII, Series of 1937.

In their undated Petition for Reconstitution (**Annex RRR** hereof), a copy of which was received by the Office of THE Solicitor General on April 18, 2001, private respondents Anacleto Madrigal Acop and Julian M. Tallano, through another attorney-in-fact, Romeo Cervantes Campos sought to reconstitute the alleged Clarificatory Order dated January 19, 1976, alleged Decision with Compromise Agreement dated February 4, 1972, alleged Decision dated March 21, 1974 and alleged

x-----x

Third. Alias Writ of Execution, Possession and Demolition of May 23, 1989 “and such other genuine and authentic documents as may be proven during the hearing pursuant to and in accordance with Sections 3 and 7 of Act No. 3110” in said petition for reconstitution **Annex RRR.** hereof), private respondents likewise prayed for the following reliefs:

2. Directing the Land Registration Authority and/or the Honorable Register of Deeds of Pasig City to reconstitute TCT No. T-408 and to issue the reconstituted owner’s duplicate copy thereof to and in favor of the late Don Gregorio Madrigal Acop or to his immediate successor in interest, Don/Prince Julian M. Tallano, in accordance with the duly reconstituted documents.

3. Directing the Land Registration Authority and/ or the Honorable Register of Deeds for the Province of Bulacan to reconstitute TCT No. T-498 and to issue the reconstituted owner’s duplicate copy thereof to and in the name of Don Esteban Benitez Tallano or to his immediate successor in interest Don/Prince Julian M. Tallano.

4. Defiance of the Order of this Honorable Court by the parties concerned shall be deemed contempt of Court and proper penal Lies imposed therefore.

x-----x

5. Directing the issuance of the Writ of Execution, Possession and Demolition without delay in accordance with the Decision of February 4, 1972 together with the Decision of March 21, 1974 and the Clarificatory Decision of January 19, 1976 and such other duly reconstituted documents.

As can be gleaned from the foregoing, it cannot be denied that in both petitions for reconstitution filed in 1997 and 2001, the ultimate aim of private respondents is not merely the reconstitution of judicial records allegedly burned when fire gutted the City Hall of Pasay City on January 18, 1992 but the constitution of alleged TCT Nos. 408 and 498. In fact, in the subsequent petition for reconstitution (**Annex RRR** hereof), private respondents expressly sought the reconstitution of TCT Nos. 408 and 498.

As earlier discussed, Section 12 of R.A. No. 26 requires a petition for the reconstitution of title to state, among others things, the following:

X-----X

1. That the owner of the owner's duplicate of the certificate of title has been lost and destroyed;

2. That no co-owner's, mortgagee's or duplicate had been issued, or if any had been issued, the same had been lost and destroyed;

3. The location, area and boundaries of the property;

4. 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

5. The names and addresses of the occupants or the person in possession of the property, of the owners of the adjoining properties and all of the persons who may have interest in the property; ‘

x-----x

6. A detailed description of the encumbrances, if any affecting the property and

7. A statement that there was compliance with the requirement that no deeds or other instruments affecting the property have been presented for registration.

There is nothing in both petitions for reconstitution (**Annexes P** and **RRR** hereof) that states the foregoing matters that should be alleged in a petition for reconstitution of a lost title. Thus, even a cursory reading of the petitions for reconstitution (**Annexes P** and **RRR** hereof) filed in 1997 and 2001, will readily show that both petitions are fatally flawed for failure to state the jurisdictional facts as required by R.A. No. 26.

Section 13 of R.A. No. 26 also requires that the court should cause a notice of the petition filed under

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R.A. No. 26 to be published at the expense of petitioner to be published twice in successive issues of the Official Gazette and the notice should be posted on the main entrance of the municipal or city building where the land is situated. Section 13 further requires that the court shall cause a notice to be sent, by registered mail or otherwise, at the expense of the petitioner to every person named in n the *notice*, whose address is known. The 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. At the hearing, petitioner shall submit proof of publication, posting and service of notice as required by the court.

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As shown by the foregoing, the petitions (**Annexes P and RRR** hereof) for reconstitution filed in 1997 and 2001 do not include the names of the persons named in Sections 12 and 13 of R.A. No. 26.

Further the court records show that no notices of the petitions for reconstitution were published in the Official Gazette and posted in the Pasay City Hall. Much less were the notices to the individuals enumerated in Sections 12 and 13 sent. There is nothing in the record to show that private respondents complied with the requirements of publication, posting and service of the notice as required by RA. No. 26.

It is therefore, indubitably clear that the Orders dated July 7, 1997, July 11, 2001 and October 8, 2001 (**Annexes L, M, and N** hereof) which granted said petitions (**Annexes P and RRR** hereof) are likewise invalid due to lack of jurisdiction for the failure to comply

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with the jurisdictional requisites for the reconstitution of
TCT Nos. 408 and 498 as provided under R.A. No. 26.

**VII. EVEN ASSUMING ARGUENDO
THAT THERE WAS A VALID
RECONSTITUTION OF THE
ALLEGED DECISIONS!
ORDER, THE SAME CAN NO
LONGER BE ENFORCED ON
ACCOUNT OF
PRESCRIPTION; HENCE THE
ASSAILED ORDERS OF THE
RESPONDENT COURT WHICH
ORDERED THE
IMPLEMENTATION OF SAID
ALLEGED DECISIONS /
ORDER WERE ISSUED
WITHOUT JURISDICTION.**

It bears emphasis that in its assailed Order dated
October 8, 2001, respondent Court improperly and
irregularly ruled that prescription has not barred the
enforcement of the alleged Decision with Compromise
Agreement dated February 4, 1972 and the alleged Decision
dated November 4, 1975 (Annexes A and C hereof):

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In this instant case, it would be palpably unfair to downplay the Decision with Compromise Agreement of February 4, 1972 of which the Solicitor General was then party to that agreement. Besides, that judgment granting exemption of the five (5) year prescription period for execution has long become final and executory. Whether the judgment so rendered and Compromise Agreement entered or agreed upon by and between the parties was correct or erroneous is of no moment by now because it became the law of the case. (at page 3)

In the first place, the records of the Office of the Solicitor General do not show the existence, among others, not only of said Decision dated February 4, 1972 but also of said alleged Compromise Agreement. Thus, the same cannot be used as a basis by respondent Judge.

Further, the ruling of the respondent Court is based on a wrong premise, for it unabashedly assumes that the alleged “exemption of the five (5) year prescriptive period for execution” allegedly embodied in the alleged Decision dated February 4, 1972 is valid, legal and enforceable.

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On the contrary, the alleged waiver of the prescriptive period for execution, even assuming *arguendo* that it exists, is, at the very least, blatantly *ultra vires* and illegal and unenforceable for being contrary to law and public policy and prejudicial to the rights of third, persons and the Republic. Thus, Article 6 of ^{the} Civil Code expressly provides:

Art. 6. Rights may be waived; unless the waiver is contrary to law, public order, public policy, morals, or good customs or prejudicial to a third person with a right recognized by law.

Undeniably, third persons whose titles covering the properties involving the alleged OCT No. T-01-4 and the alleged TCT Nos. 408 and 498 are gravely prejudiced and effectively deprived of their properties without due process of law, as they were not even impleaded as defendants in the case *a quo*.

Be that as it may, such alleged waiver is illegal and void because it constitutes *a* waiver against public

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interest of a right granted by law, in this case, Article 1144 of the Civil Code [*cf. Pampanga Bus Company, Inc. v. Enriquez, 66 Phil. 645 (1938)*].

Parenthetically, it bears to reiterate that respondent Court should not have relied on the false and fraudulent manifestation of then Solicitor Dominador G. Cariaso on the reconstitution of the November 4, 1975 Decision (**Annex C** hereof). As previously stated, Cariaso was not the proper party to attest as to whether the records presented by private respondents were the same ones received and in possession of the OSG. It should have been the Chief of the OSG Docket Division who should have properly made that attestation. More importantly, as previously mentioned, said manifestation is false and fraudulent. The records of the OSG do not disclose the existence of the alleged Decision dated November 4, 1975 (**Annex C**) Thus it was not binding on the government [*Philex Mining Corp. v. Commissioner of Internal Revenue,*

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294 SGRA 687 (1 998); Guillert vs. Constantino, 282
SGRA 583 (1997)].

Moreover, the assailed Order dated July 11, 2001
(**Annex M** hereof) of the respondent Court effectively
mandates the execution of several stale rulings, and thus,
patently violates the provisions of Section 6, Rule 39 of
the Rules of Court:

Sec. 6. Execution by motion or by independent action. - A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

Since the alleged Decisions/Order were purportedly issued as early as 1972 and the alleged waiver indicated therein is void, these can no longer be executed or

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implemented as the 10-year period mandated by the above-quoted procedural rule had lapsed.

The OSG had already made the contention in its Comment dated November 17, 1998 in Civil Case No. 3957-P (**Annex HH** hereof), wherein it argued:

4. Finally, assuming their intrinsic validity, the admission of the subject documents would appear to be a mere academic exercise considering that these can no longer be executed since more than 10 years have elapsed from the promulgation of the clarificatory judgment. This is pursuant to Section 6, Rule 39 of the Rules of Court which mandates that:

Sec. 6. Execution by motion or by independent action. A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations. (sic)

Whether or not the subject clarificatory judgment and writ of execution are valid and/or can be executed is material to

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intervenor's motion though on its face it merely seeks their admission into the records. It would be safe to assume that the admission of these documents is not solely for admission's sake. Intervenor can certainly be expected to eventually seek execution of the subject court processes.

Further, while the Decision with Compromise Agreement makes mention of an alleged waiver by certain officials of the provision of Section 6, Rule 39, this does not bar the government from now invoking said procedural rule to block the belated execution of the alleged Decisions/Order. The State is not bound or estoppel by the mistakes or inadvertence of its officials and employees [*Cudia v. Court of Appeals*, 284 SCRA 173 (1998)]. Such doctrine fully applies in the instant case particularly since any participation by the Government in the alleged agreement must have been in the exercise its sovereign function. It must be noted that said agreement pertains to the alleged OCT T 01-4 which covers the entire Philippine territory and not just a small parcel of land which may be validly disposed of by

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the Government. its territory is an essential element of the very existence of the Republic of the Philippines as a State.

Curiously, private respondents had declared that it is only the reconstitution of the stale alleged rulings that they seek:

Even a cursory examination of the motion would reveal that the motion being litigated is not praying for the issuance of a writ of execution to execute the judgment. What the motion merely seeks is the admission of time documents nothing more. Thus, at this stage, the arguments advanced by the OSG have no relevance or propriety. (emphasis supplied) (p. 3, Reply dated November 27, 1998 filed by intervenor Julian M. Tallano; **Annex KK** hereof)

This is a gross, bare-faced misrepresentation that even nincompoops and idiots can detect.

This prior declaration, therefore, should estop private respondents from now seeking,. ‘ the implementation of the stale alleged rulings. ‘

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**VIII. THE ALLEGED DECISIONS/
ORDER, WRITS AND OTHER
DOCUMENTS, INCLUDING
THE ALLEGED TCT NOS. 408
AND 498, WHICH WERE
ILLEGALLY AND
IRREGULARLY ORDERED
RECONSTITUTED BY
RE\$RONDENT COURT ARE
INTRINSICALLY VOID AND
SPURIOUS ON THEIR FACE;
THUS, THE SAME SHOULD
BE ANNULLED OR
CANCELLED.**

The assailed alleged Decisions/Order and the alleged writs and other documents issued pursuant thereto, including the alleged TCT Nos. 408 and 498, are clearly of dubious origin. Even on their face, the alleged Decisions, writs, titles and other documents are replete with statements and representations that are patently ridiculous, absurd and preposterous of such magnitude as to sufficiently afford the taking of judicial notice of their falsity and spurious character, pursuant to Rule 129 of the Rules of Court:

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Section 1. Judicial notice; when mandatory.

A court shall 'take' judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and' their seals, the political constitution and history of the Philippines, the official acts of the legislative, executive and judicial departments of the Philippines, the laws of nature, the measure of time, and the geographical divisions.

Section 2. Judicial notice; when discretionary. — A court may take judicial notice of matters which are of public knowledge, or are capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions. (Emphasis supplied)

The alleged Decision with Compromise Agreement (**Annex A** hereof), for instance, declares that private respondent Tallano's alleged ascendant, a certain King Luisong Tagean, allegedly lived to be 270 years old; that Rajaths Soliman and Lapu-lapu were allegedly brothers, sons of private respondent Tallano's ascendant King Luisong Tagean; and that prior to 1761, the Spanish

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government had allegedly mortgaged the Philippine archipelago to the U.S. government:

For long long years of glorification and habitation to the archipelago, the Noble Clan had reverted the land of Mindanao to his cousins; the three (3) Sultans of Mindanao represented in the persons of Sultan Kiam Sinsuat, Sultan Hadji Kirarn Misuari, and Sulu. Sultan Muhammad Badar Un-Din. Relatively, chosen the seat of the kingdom and was finally settled in the Larnayan District in Sta. Ana, Manila, long before Malacanang had been constructed by the conquistadores, where Lamayan name was also derived from the noble Lacan's wife, *Lamayan* Bowan, having several descendants and were honored as Rajas to their respective territories and sets Tagean Royal. Guard to protect 50,000 inhabitants living in the Islands of Sabah, which is part of Philippines territory. These noble Rajas covered the entire Luzon, Visayan and some in the Islands of Mindanao also to help for the pacification of the social disturbances which exist up to the present created by the muslim inhabitants, who were discontented of their plight in their lives which are displaced due to the reason that their lands were confiscated by the friars. The second eldest son of King Luisong Tagean was named Rajali Soliman, the one who controlled the entire area of Manila and its suburbs including the Provinces of Rizal, Cavite, Batangas, Laguna, and the Karilaya Province (now Quezon), Rajah Lakandula, another grandson of the king, took over Ton do during the untimely, demise of Rajah

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Soliman. The third eldest grandson, Rajah Gat Mabuan Tagean, who was married to the daughter of Bornean Sultan Abdul Kahar, the sixth Sultan of Brunei. Rajah Solaimart Tagean and his wife, Princess Tarhata Acuna Kahar Acuna, have their begotten son and x x x Acuna Macleod Tagean. In the same manner, Prince Lacan Tagean Tallano has begotten son, as Prince Julian Macleod Tallano and their descendants Rajah Magat Salamat, who took over the area of Cagayañ Valley. Rajah Baginda, the another grandson, had covered the area of Bohol, while another descendant, Rajah Kabingsuran, took the area of Southern Mindanao, and Rajah Lapulapu, the eldest son of King Luisong Tagean, took over the area of Mactan Island. Another grandson of the King was Rajah Kolambo, the ruler of Lirnasawa, and Rajah Humabon, the 8th grandson, was the ruler of Cebu Island and Rajah Sikatuna, another grandson of the King assigned as the ruler of Bohol, while rajah Gat Mauban Tagean, the youngest grandson of the King took over eastern part of Quezon including Mauban, Sampaloc and Lucban to protect the interest of his grandson Vicente Lukban.

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To augment the efforts in rebellion successfully, Prince Julian Macleon Tagean. (Talla:no), son of Prince Lacan Tagean Tallano, who was married to a beautiful daughter of a sixth Sultan of Brunei, Princess Aminah Kiram, her father Sultan Abdul Kahar and whose family name was baptized from Tagean.

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into a Spanish sound name, Tallano, redeemed the island from the U.S. government in the amount of US\$20 million mortgaged by Spanish government and sought succor from British empire in the year 1761 that resulted into a Military siege over the Islands by the British dominion in honor of the Noble clan, the Tagean-Tallano family had resulted for a period of seven (7) years British occupation in the archipelago. The date of the successful invasion of the British Royal Army in helping the Filipino revolts and Tagean clan aspiration had augmented the mourned to death of the Noble King Luisong Tagean in December 17, 1764 who left of nothing but noble teachings, his bounty of bullion of gold, 720,000 metric tons, as legacies to his Royal children and now Philippines, love to God, his Creator above all, love also to his clan, to his fellowmen and to his land he lives in with compassion in the preservation of justice for all and with equal access for divine graces and opportunities toward common survival from adversities in life were the golden teachings in the kingdom was paramountly importance. The efforts of Manila Liberation attributed to the Noble clans by the Royal Military of Great Britain bear the fruit to liberalize the island from Spanish government in the archipelago. The Noble King Luisong Tagean, almost nine (9) months after the issuance of the Declaration of the said Treaty, died in peace with happiness in heart could be reflected therein on December 17, 1764, exactly at 270 years of age upon learning the positive fruits of his efforts which was• the issuance of Land Title over the archipelago in his honor issued by the

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British, government embracing 7,134 Islands embracing around 503,877 square nautical miles under OCT No. T-01-04 for and in the name of his grandson, Prince Lacan Tagean on December 17, 1764 and later to 16 years old Prince Julian Macleod Tallano in 1864. (pp. 41-46, Decision with Compromise Agreement (Annex A hereof))

It is obviously impossible for private respondent Tallano's ascendant to have lived for 270 years. Such life span is unheard of in contemporary times even when the advances of medical science have prolonged life.

The allegation on private respondent Tallano's alleged royal lineage is likewise unfounded. None of the noted experts of Philippine history has made any finding that Rajafis Solirnan and Lapu-lapu were brothers or that they were offsprings of a person named Luisong Tagean. Further, this amusing historical revelation is not verified by the National Historical Institute. In a book published by the Institute, it was stated quite to the contrary:

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Lapulapu's parents were Kugano and Inday Put:i. His older sister was Ming Ming. The name Mactan was originated from that of his grandmother, Matang Mantaunas, who was also a powerful queen of barangay in her time. it was said that Lapulapu married a beautiful princess, Bulakna, a daughter of Datu Sabtano, and out of their wedlock was born a son, Sawili, who grew up to be a valiant warrior like him. [Filipinos in History, Vol. I, National Historical Institute, 1989, p. 264]

It bears stressing that the National Historical Institute never made even the slightest mention of this alleged, yet amusing, historical link between Lapu-lapu and Soliman. This alleged filial relationship should, if indeed true, be historically significant so as not to have possibly escaped the Institute's curiosity. Respondent Court did not even attempt to substantiate and failed to provide authority for this alleged revelation: as it is, it remains a fantastic tale.

Respondent Court's alleged Decision, starting from page 31, rather than adopting a jurisprudential approach to the case, began to appear like a piece on Philippines.

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(alternative) history. What makes it both hilarious and dubious is that the court made very novel historical findings that even those with ample knowledge of Philippine history would find the same very entertaining. Again, these very interesting, alleged historical, findings by respond the Court are not supported by historical sources or by findings of noted Philippine historians.

On page 33, the alleged Decision described how the Tagean clan pursued their endless support of the Philippine revolution “by arms struggle, morally and financially pushing throughout the archipelago against Spanish autocracy.” And yet, on page 5 1 of the same alleged Decision, the court noted that when OCT T-01-4 was questioned before the Spanish Royal Audiencia, it was decided in favor of Prince Julian Macleod Tallano, a member of the Tagean clan, if indeed the clan was fiercely fighting for independence from Spain, having produced heroes like Lapu-lapu and Soliman, it becomes doubtful and ironic that the Spanish Royal Audiencia

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would award time OCT covering virtually the. whole archipelago colonized by Spain to a Tagean.

Also, the finding that the Philippine archipelago was allegedly mortgaged by the Spanish government to the U.S. government sometime before 1762 is also a glaring historical distortion that most clearly reveals the dubious origin of the assailed alleged Decisions. It must be noted that the United States of America declared its independence from time British Empire only in 1776. At the time of the alleged mortgage, there was no U.S. government yet in existence!

In foisting the Patently spurious alleged Decisions/ orders/ writs and seeking their implementation, private respondents display their blatant disrespect of the judiciary and their mockery of the judicial process.

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Moreover, the spurious character of the alleged Decision with Compromise Judgment dated February 4, 1972 (**Annex A** hereof) is readily discernible even to the untrained eye in that the alleged Decision which was purportedly made in 1972 was already printed using an automatic word processor, a device considered to be just a part of science fiction during that period. In fact, on page 115 of the spurious Decision, some words were neatly and perfectly underlined, an attribute of documents generated through a word processor.

Also, the alleged Decision dated November 4, 1975 (**Annex C** hereof) states that, based on the records, the instant case originated from a petition of reconveyance which was filed on January 4, 1972 and which was later succeeded by a second amended petition filed on February 4, 1972 in the name of Gregorio Madrigal Acopiado:

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Going over the record of the case, it appears the case originated from a “PETITION OF RECONVEYANCE” which was filed on January 4, 1972, and later the **Plaintiff filed a “SECOND AMENDED PETITION” on February 4, 1972**, which was recorded as “PETITION FOR ANNULMENT AND QUIETING OF TITLES, RECONVEYANCE WITH RECONSTITUTION OF LOST OWNER’S AND DUPLICATE COPIES OF TCT 408 ADMINISTRATIVELY IN ACCORDANCE WITH REPUBLIC ACT 26” for and in the name of **Don Gregorio Madrigal Acopiado** in this Honorable Court, Seventh Judicial District, Branch 28, CFI, PASAY CITY, lodged under Civil Case No. 3957-P, against the respondents-plaintiffs and to all whom it may concern. (pp. 9-10: emphasis supplied)

The fact that the alleged Decision with Compromise Agreement dated February 4, 1972 inexplicably coincides with the exact date of the filing of the alleged amended petition simply betrays reason and logic, thereby lending credence to the fact that these alleged Decisions are indeed spurious. What is more, the alleged Decision with Compromise Agreement dated February 4, 1972 involved a certain Gregorio Madrigal Acop, while the alleged

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Decision dated March 4, 1975 involved a certain Gregorio Madrigal Acopiado.

Spanning an incredible 139 pages, the alleged Decision With Compromise Agreement dated February 4, 1972 (**Annex A** hereof) is replete With statements ranging from the hilarious to the incredulous. Among others, a sample of these statements can be found on the following pages:

1. On page 5, it reads: “only to find out their ownership right over the said property consisting of 169,912,500 hectares of plains, forests and seas evidenced by Land Title OCT No. T-01-4 that had been issued by Royal Government of England.”

This statement is unbelievable. No person can be granted a right of ownership over forests and seas because these belong to no one but the State. Neither can they be titled.

2. On pages 5 to 12, the words “quote” and “unquote” appear.

These words seriously cast doubt on the authenticity of the alleged Decision with Compromise Agreement. Ordinarily, when one dictates a quotation or passage to another for the latter to put in writing, the one dictating usually opens the borrowed passage with the word “quote” and ends it with the word

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“unquote”. These words, therefore, should have no place on a printed document.

3. On page 14, it stated that then President Macapagal allegedly waived the rights of the Republic of the Philippines over public lands. Apart from being devoid of any historical basis, this statement is incredible because any head of State ordinarily would never relinquish any right of ownership over public lands because it is part of the territorial jurisdiction of the State. Simply stated, it is not just believable for the President to just give away for free a substantial portion of its territory, an act which would constitute a culpable violation of the Constitution and betrayal of the public trust.

4. On page 51, the alleged Decision with Compromise Agreement stated that the OCT was issued on 1764 by the British Royal Government and its validity was upheld on appeal by a decision of the Royal Audiencia in 1572. What makes this allegation hilarious is that, the Torrens System was only developed and used after the 1900's.

5. On page 51, the alleged Decision with Compromise Agreement stated that OCT represents the four (4) major islands of the Philippines - Luzon, Visayas, Mindanao and Palawan including Kalayaan and Sabah. It is just simply incredible that one title is issued in the name of one person covering the entire archipelago.

6. Pages 137-138 thou that it is more than being complete) y absurd and ridiculous as a disposition of a case as it refers to a

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fictitious person. It is written in a manner similar to a last will and testament. It likewise confers a title of nobility in blatant violation of a constitutional prohibition. The alleged Decision with Compromise Agreement states as follows:

However, in the absence of the herein specified lawful heir, his eligible wife, qualified to suit the requirements set forth by his predecessor, Don Esteban Benitez Tallano, who must be a graduate of a four year course, passed the Professional Regulatory or any government Board Examination, born under the Zodiac sign of either Scorpio, Sagittarius, Capricorn or Gemini, whose name should be identical to late Princess Rowena Maria Elizabeth Overbeck Maclead, whose mentality is highly positive with exerted efforts, of cooperation and determination for the Estate, and her characteristics is with high turpitude free of untainted chastity being a genuine maiden lady, who earned by the Order of this Court the similar Title of Princess to serve as with the Noble title with true love and worthy of services for the Prince or any of his *children*, provided their lawful ages should of no less than 24 years of age.

7. The whole DISPOSITIVE PORTION of the alleged Decision with Compromise Agreement cannot be susceptible of implementation since no specific and enforceable right is indicated. Thus, page 138 thereof, stated as follows:

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Let this Decision with Compromise Agreement be enforced enjoining all concern private persons and government authorities herein specified and everybody, natural or juridical person, to observe and address this Decision with Compromise Agreement observing the imprescriptibility period clause over its execution or issuance of its required original and duplicate copies of OCT 01-4 including its TCT No. 408 and TCT No. T-498 and including the withdrawal of the deposited gold bullion from any government body, within and/or outside the archipelago, either a member of United Nations or any League of Foreign Nations, Federation, as long as within the bond and jurisdiction of the International Court of Justice to serve for the interest of the lawful beneficiaries of late Prince Macleod Tallano and the whole Filipino people in general, otherwise anyone who defies this Order shall be dealt accordingly with the fullest force of the law.

Further, the alleged TCT Nos. 408 and 498 are not Torrens titles simply because their alleged progenitor is the alleged OCT No. T-01-4, which is allegedly a British Royal Title allegedly issued on December 17, 1764. Consequently, they cannot be subject to reconstitution proceedings.

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The assailed Clarificatoiy Decision dated January 19,
1976 (**Annex D** hereof) partly reads:

Wherefore judgment is hereby rendered ordering the Honorable Register of Deeds of Malolos, Bulacati to reconstitute TCT No. 498 and that its second original copy shall be issued the same in th.e name of Don Esteban Benitez Tallano based on its owner's duplicate copy.

That the Honorable Register of Deeds of Pasig by virtue of this judgment has been ordered to reconstitute the said TCT No. T-408 and that Second original duplicate copy together with its second owner's duplicate copy be issued to and in favor of the land owner, Don Gregorio Madrigal Acop based on its Certified true copy issued by the Honorable Register of Deeds of Pasig, which was procured by the Hon. LRC Deputy Corn. Gregorio Bilog before the incident that the Owner's duplicate copy which were turned over to His Excellency President E. Marcos while that original copy compiled in the office of the Register of Deeds of Pasig both had been declared lost. or missing. (p. 54, Clarificatory Order)

On page, 47 of the assailed Clarificatory Decision dated January 19, 1976, the alleged TCT No. T-408 was said to embrace 7 parcels of land containing an; area *of* 271 276 hectares, while the alleged TCT No. 498 was said to 4 parcels containing 125,326.37 hectares.

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Supposedly, these alleged titles were derived from the alleged OCT No. T-01-4 (p. 67, Decision with Compromise Agreement dated February 4, 1972). The alleged OCT No. T-01-4 purportedly covering the entire Philippine archipelago was allegedly issued on December 17, 1764 under the following circumstances:

The Noble King Luisong Tagean, almost nine (9) months after the issuance of the Declaration of the said Treaty, died in peace with happiness in heart could be reflected therein on December 17, 1764, exactly at 270 years of age upon learning the positive fruits of his efforts which was the issuance of Land Title over the archipelago in his honor issued by the British government embracing 7,134 islands embracing around 503,877 square nautical miles under OCT NO. T-01-4 for and in the name of his grandson, Prince Lacan Tagean on December 17, 1764 and later to 16 years old Prince Julian Macleod Tallano in 1864. (p. 46, Decision with Compromise Agreement, **Annex A** hereof)

Since the alleged OCT No. T-01-4 was supposedly issued 'on December 17, 1764 by the British Government, it could not possibly be a Torrens title since the Torrens System was not yet in place at the time. The Torrens system was devised and first introduced in South

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Australia by Sir Robert Torrens in. 1857 (Aquino, Land Registration and Related Proceedings, p. 1). Consequently, the alleged immediate derivative titles of the alleged OCT NO. T-01-04, *i.e.*, the alleged TCT Nos. 408, likewise could not be Torrens title.

The reconstitution proceedings under R.A. No. 26 pertain solely to Torrens titles and do not cover those issued under other systems of land registration, like the Spanish Mortgage Law, which had been abrogated in 1978, with the passage of Presidential Decree (“P.D.”) No. 1529. P.D. 1529 provides that:

Sec. 3. Status of other pre-existing land registration system. The system of registration under the Spanish Mortgage Law is hereby discontinued and all lands recorded under said system which are not yet covered by Torrens instruments affecting lands originally registered under the Section 113 of this Decree, until the land shall have been brought under the operation of the Torrens System.

The books of registration for unregistered lands provided under Section 194 of the Revised Administrative Code, as amended by Act No, 3344, shall continue to remain in force; provided, that all instruments dealing with unregistered lands shall henceforth be registered under Section 113 of this Decree.

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Not being Torrens titles, the alleged TCT Nos. 408 and 498 cannot be proper subjects of a reconstitution proceeding.

All told, the alleged Decision dated February 4, 1972 (**Annex A** hereof) and the subsequent alleged Decisions/ Order which clarified or modified the same (**Annexes B, C and D**) are spurious and therefore void. A void judgment can be attacked either directly or collaterally. *ooyuko, Uy and Cuyos v. Court of Appeals, G.R. No. 102696, July 12, 2001*] A void judgment is, in legal effect, no judgment at all. By it no rights are divested. Through it, no rights can be attained. Being worthless, all proceedings founded upon it are equally worthless. It neither binds nor bars anyone. All acts performed under it and all claims flowing out of it are void [*People v. Velasco, 340 SCRA 207 (2000)*].

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Stated differently, since the assailed Decisions/Orders/writs, including the Orders dated July 7, 1997, July 11, 2001 and October 8, 2001, were rendered without jurisdiction and are null and void, they may be challenged at any stage as they cannot attain finality [*Salva v. Court of Appeals*, 304 SCRA 632 (1999)].

Further, it bears emphasis that the alleged OCT No. T-01-4 and the alleged TCT's No. T-408 and T-498 are void and spurious. In its Report dated October 12, 2000 (Annex UUU-1), the Land Registration Authority (LRA), in Task Force Titulong Malinis (TM) No. 99-015, thus concluded:

As earlier stated, these TCTs Nos. T-498 and T-408 were allegedly derivatives of the alleged OCT No. T-01-4

Verification of records disclosed the following findings:

1. Letter dated 4 April 2000 of Bulacan Register of Deeds (Annex "II" stating that "our present records which include those title reconstituted after the March 7, 1987 fire conflagration of this Registry do not reveal the existence of the alleged subject TCT No. T-498."

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2. Letter dated 4 August 2000 of RD Rizal (thru its Records Officer) stating that “this office has not issued TCT No. T-498 allegedly in the name of Don Esteban Benitez Tallano. Likewise this office did not issue OCT No. T-01-4 allegedly a derivative title of TCT No: T-498” (sic) (see Annex “I”).

3. Letter dated 31 August 1998 of Rizal Register of Deeds Antonio L. Leachon. III (Annex “I”) stating that this office has no record of TCT No. 408 issued on 7 June 1932 allegedly in the name of GREGORIO MADRIGAL ACOPIADO; and that the. existing TCT No. 408 was issued on 23 May 1910 at 10:00 a.m. in the name of Matias dela Cruz covering a parcel of land in Navotas, Rizal (see Annex “J-2”). The Register of Deeds further informed this Authority that the questionable TCT No. 408 (Acopiado) was the subject of a request for administrative reconstitution on 5 May 1997 under Entry No. 3913 but was denied registration on 9 May 1997 for reasons stated in the notice of denial dated 9 May 1997, to wit: that administrative reconstitution was no longer available as remedy; that the office has no jurisdiction as far as registration is concerned with respect to property located at Laguna and Cavite (as appearing in TCT No. 408), and the office has no record of TCT No. 408 subject matter of the order in Civil Case No. 3957-P. and it appearing: that the certificate of title issued by this Office in

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June 1932 have five (5) digits such as TCT No. 21896 et al., (see Annex “j-1”).

4. Letter dated 12 November 1998 of Engr. Tomas R. Calvelo, OIC, Geodetic Surveys Division of the Land Management Bureau (Annex “K”) informing this Authority of their findings regarding Plan II-69 (mentioned in the alleged title of Acopiado). The findings are narrated in the letter dated 23 February 1998 of Mr. Jose Gatus also of the Lands. Management Bureau, to wit:

5. With respect the alleged plan II-69, this particular plan was never salvaged after the last World War II. Interested parties, however, exhibited as alleged copy of II-69. The xerox copy that was exhibited however shows some flaws:

a) The print copy shows that it was surveyed on February 24 to May 5, 1904 and approved on February 5, 1905 by Director Chas A. Sleeper. This could not be because Chas A. Sleeper became the Director of Lands in November 1, 1905 only;

b) Plan II-18 was surveyed on February 16, 1907 and approved on June 1, 1907, II-61 was surveyed on June 22-25, 1907 and approved on March 13, 1909. II-18 and II-61 must be earlier than II-69. On other hand the exhibited

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copy of 11-69 which is a higher survey was allegedly surveyed on February 21 to May 5, **1904. These facts proye that** the exhibited copy of 11-69 being exhibited to this **Office**. Because we do not have the original. 11-69, the requests for validation of plan presented by different parties were all denied.

5. Letter dated 11 October 2000 of Rizal Deputy Register of Deeds (thru Records Office Bernard P. Develos, see Annex “K-2”), informing the following findings:

In reply to your letter regarding to Task Fbrce TM No. 99-0151, please be informed that this office has not issued the ff:

1. Certification dated 10 December 1980 a l l e g e d l y signed by Acting RD Victoriano S. Torres;

2. TCT No. T-498 allegedly in the name of . Don Esteban Benitez Tallano;

3. Certification dated. 4 November 1972 of RD Oscar Eusebio relative to TCT No. T-408;

4. TCT No. T-408 allegedly in the name of Don Gregorio Madrigal Acop; and

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5. OCT No. T-01-4 allegedly in the name of Prince Lacan Acuña Tallano Tageda.

The following discrepancies are also observed on said alleged TCT's Nos. T-408 and, T-498:

1. TCTs Nos. T-408 and T-498 were allegedly issued by Rizal Registry of Deeds covering parcels of land situated in the provinces of Quezon, Rizal and Bulacan. Under the law, a Register of Deeds of a province can issue title only for lands within the province.

2. TCTs Nos. T-408 and T-498 are in Judicial Form 140 which is used for lands administratively titled. Lands described in said TCTs T-408 and T-498 were allegedly issued pursuant, to Decree No. 297 in GLRO Cadastral Record No.475 (which is judicial).

3. Lands described in TCTs Nos. T-408 and T-498 were allegedly registered (originally) on 7 January 1764 as OCT No. 01-4 in Cadastral Record No. 475. It is a fact that in 1764 there were no cadastral proceedings because the Cadastral Act (Act 2259) took effect only on 11 February 1913.

Further verification showed that the LRA Reconstitution division has no records of TCTs, Nos. T-408 and T-498 in the names of Don Esteban Benitez Tallano and Don Gregorio Madrigal Acop respectively (see Annex "L"). The

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LRA Micrographics and Computer Division has a copy of TCT No. 408 but it was issued by Rizal RD on 22 August 1946 in favor of Primitivo A. Cruz (see Annex “M” and “M-1”) and put in the name of Don Gregorio Madrigal Acop. It has no record of TCT No. 498 particularly in the name of Don Esteban Tallano.

The falsity of OCT No. 01-4 (which is actually the same as Titulo de Propiedad Royal Decree No. 01-1 Protocol of 1881 or Titulo de Propiedad de Terrenos of 1891, Royal Decree OLT 01-4 Protocol), allegedly the mother title of TCTs Nos. T-498 and T-408, is narrated in the Report dated 9 February 1999 Task Force TM No. 99-0023) which was approved by the Honorable Administrator on 13 March 1999 (see Annex “N”).

Based on the foregoing findings, it is safe to state that TCTs Nos. T-498 (purportedly in the name of Don Esteban Benitez Tallano) and T-408 (purportedly in the name of Don Gregorio Madrigal Acop) are questionable and not issued by Registers of Deeds concerned. It is therefore recommended that the parties concerned be informed of the foregoing findings for their appropriate action. (pp. 3-6)

The absurdity of the foregoing exposition finds no parallel in the annals of our country’s land registration system.

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Finally, the dubious origin of the reconstituted rulings, in fact, is *conclusively* confirmed by the references therein to facts or events that have not yet transpired at the time of their issuance. Incidentally, the Decision dated November 4, 1975 (p. 31), for instance, makes mention of newsmen of the Philippine Daily Inquirer as beneficiaries when at that time the said newspaper was not yet in existence (**Annex GGGG** hereof).

GROUND IN SUPPORT OF THE
PRAYER FOR ISSUANCE OF A
TEMPORARY RESTRAINING ORDER OR A
WRIT OF PRELIMINARY INJUNCTION

Petitioner hereby repleads the foregoing allegations and discussions to the extent pertinent and additionally, avers the following discussions in support of its prayer for an injunctive writ.

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Despite the pendency of private respondent Acopiado's Motion for Reconsideration of the Order dated July 11, 2001, the alleged TCT No. 408 was reconstituted by the Registry of Deeds of Rizal.

Even before the reconstitution of said certificate of title, private respondents, especially private respondent Taliano, have been zealous in their efforts to dispossess the registered owners of the subject properties. They have, in fact, filed several cases to this effect. Among these are:

<u>Case No./Venue</u>	<u>Case Title</u>	<u>Status</u>
Civil Case No. Q-98-3 5385. (RTC-Br. 77, Quezon City)	"Don Jaime M. Rables as Administrator of the interstate Estate of Hermogenes Rodriguez vs. Amanda E Reyes, et al."	Dismissed.
Civil Case No. C-152-V-98 (RTC-13r. 75, Valenzuela)	"Don Jaime M. Robles, etc. us. Sps. Romelito D. Lopez, et al"	Dismissed.
Civil Case No. C-17938 (RTC-Br. 126,	"Don Jaime M. Rabies, etc. vs. Sps. Virgilio & Ligaya	Dismissed.

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Civil Case No. 66707 (RTC-Br. 1 53 Pasig City)	<i>“Don Jaime M. Robles, etc. vs. Heirs of Domingo Viray, etc.”</i>	Dismissed.
Civil Case No. C- 181153 (RTC. Br. 126, Caloocan City)	<i>“Don Jaime M. Robles, etc. vs. Erlinda & Gerundio Kong, et al.”</i>	Dismissed.
CA-G.R. SP No. 54718 (Court of Appeals)	<i>“Don Jaime M. Rabies, etc. vs. Hon. Briccio C. Ygana, et al.”</i>	Dismissed.
Civil Case No. Q-01-45365 (RTC-Br. 101, Quezon City)	<i>“The Estate of Don Esteban Benitez of the RTC, Tallano, et al. vs. The Beneficiary Successors-in- interest of Bonifacio Regalado et al.”</i>	The Order dated October 8, 2001 Branch 111 Pasay City in LRC/Civil Case No. 3957-P denied the Republic’s motion for reconsideration of the Orde dated July 11, 2001 directing the Republic and the other defendants to comply with the writ of execution. OSG filed its Position Paper maintaining that OCT No. 333 had been declared valid by the Supreme Court and that the aforesaid Decision with Compromise Agreement has dubious origin. hearings on plaintiffs’ prayer for the issuance of temporary restraining order and preliminary

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injunction are ste on April
 2002 anad May 31, 2002.

<p>CA-GR. CV No. 70700 (Court of Appeals, 14th Division)</p>	<p>“Heirs Hermogenes Rodriguez and Isidora Rodriguez, petitioners”</p>	<p>of After the RTC Pasig granted the application for registration on October 25, 2.000, OSG appealed the Decision to the Court of Appeals on February 26, 2002. Said appellate Court is presently awaiting submission of appellee’s brief</p>
<p>Case Na. 1826 (RTC-Br. 159, Pasig City)</p>	<p>“Julian Tallano vs. MMDA”</p>	<p>Dismissed on motion of the OSG</p>
<p>Case No. 1938 (RTC-Br. 151, Pasig City)</p>	<p>“Julian Tallano vs. MMDA”</p>	<p>Dismissed on motion of the OSG</p>
<p>Case No. 99-0763 (RTC-Br. 111, Pasay City)</p>	<p>“Heirs of Anacleto Madrigal Acopiado vs. MIAA, et al.”</p>	<p>Awaiting Decision.</p>
<p>Case No. 99-0673 (RTC-Br. 231, Pasay City)</p>	<p>“Ernesto Solis, Sr. vs. Pasay , City Government, MIAA, et al.”</p>	<p>For pre-trial conference.</p>
<p>CA—GR. CV No. 32815 (Court of Appeals) at.”</p>	<p>“Republic vs. Wilson P. Orfinada, Sr. et</p>	<p>Dismissed.</p>
<p>Civil Case No. SPL-0377 (RTC-Br. 93, San Pedro Laguna)</p>	<p>“Jaime M. Robles, et al vs. Heirs of Sps. Pedro Alora”</p>	<p>As per record of the case, 18 January 1999 Motion for Reconsideration to Order of dismissal (of the case) dated January 21, 1999.</p>

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was filed by plaintiff Jaime
Robles.

Civil Case No, Q-01-45365 (RTC-Br. 101, Quezon City)	<i>“Tallano- Acop Estate, et at. vs. ‘ United Fairview Homeowners Association, et al.”</i>	Awaiting Decision.
Civil Case No. 67825 (RTC-Br. 267, Pasig City)	<i>“Filemon Manangan Spouses and Teresita Reyes Estacio, et al.”</i>	A. Dismissed. vs. Vivencio
Civil Case No. 67825 (RTC-Br. 267, Pasig City)	<i>“Filemon Manangan, and RPA Land Development Corporation vs. Jesus M. Tallano, Register of Deeds, Pasig, Metro Manila and Director of Lands”.</i>	A. Dismissed.

On October 3, 2001, the OSG received a letter (**Annex HHHH** hereof) from Atty. Carlos E. Castano reporting the harrassment done on his clients, the spouses Buenviaje, by persons who allegedly have bought the Spouses titled property from the Tallanos who even had posted a signboard over the subject property. A picture of the signboard was attached to Atty. Castano’s letter.

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On February 12, 2001, the OSG received a Manifestation, Motion for Leave to Intervene and File Opposition (Annex **QQQ** hereof) filed by Teresita C. Lo, the owner of Galaxy Hardware located in Cabanatuan City, who had received a letter dated January 9, 2001 from alleged counsel of the Tallano-Acopiado (Acop) Estate claiming ownership of the lot occupied by her hardware.

Even the Hospicio de San Jose, a charitable institution for homeless orphans, was not spared from private respondents evil design, The orphanage received a letter dated December 4, 2001 (**Annex IIII** hereof) from Tallano's attorney-in-fact, Mr. Romeo Cervantes Campos, demanding, under threat of legal action, the surrender of the premises.

On April 3, 2002, petitioner was furnished a letter (**Annex JJJJ** hereof) of the officers and members of Green Valley Lot Owners Association, Molino III, Bacoor Cavite,

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to NBJ Director Reynaldo G. Wy.coco reporting the activities of certain persons who seek to enforce TCT Nos. 408 and 498 in Molino, Bacoor, Cavite.

Obviously, the reconstitution and implementation of the rulings sought to be annulled herein is already wreaking havoc on the Torrens System which petitioner, through the Office of the Solicitor General, is mandated to protect.

Without judicial intervention, the situation could worsen into economic chaos. No person, natural or juridical, would dare buy land within the area covered by the titles claimed by private respondents. The conflict between adverse claimants can easily escalate beyond litigation. The chaos would be national in scope considering the magnitude of the area covered.

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Moreover, as. shown by the foregoing discussion, the, respondent Court acted not only capriciously and whimsically, with grave abuse of discretion amounting to having acted without or in excess of jurisdiction but also without jurisdiction in issuing the assailed alleged Decisions, Orders and writs.

Petitioner is entitled to the relief demanded and part of such relief consists in restraining and enjoining the respondent Court, the Registers of Deeds concerned, and private respondents from implementing the assailed alleged Decisions and Orders.

Unless enjoined during the pendency of the instant Petition, the implementation of the assailed Decisions. and Orders will work injustice to petitioner and to the countless persons and property owners whose titles are subjected to collateral attack, and wreak havoc to the entire gamut of the country's Torrens System.

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In view of the illegality and patent nullity of the assailed alleged Decisions and Orders, said temporary restraining order and/or writ of preliminary injunction should be made permanent after resolving the instant petition on the merits.

It is, therefore, respectfully submitted that the afore-described situation sufficiently constitutes at least one of the grounds for the issuance of an injunctive writ as enumerated in Section 3, Rule. 58 of the Rules of Court:

Sec. 3. Grounds for issuance of preliminary injunction. - A preliminary injunction may be granted when it is established:

(a). That the applicant, is entitled to relief demanded, and. the. whole, or part of such relief consists in restraining the commission or continuance of the: act or acts complained of or in requiring the performance of an act or acts, either for a limited period or perpetually;

(b) That the commission, continuance or non-performance of the act or acts complained of during the

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litigation would probably work injustice to the applicant, or

(c) That a party, court, agency or a person is doing, threatening or is attempting to do, or is procuring or suffering to be done, some act or act probably in violation of the rights of the applicant respecting the subject of the and on or proceeding, and tending to render the judgment ineffectual.

PRAYER

WHEREFORE, it is respectfully prayed of the Honorable Court that:

1) Upon the filing of the instant petition, a Temporary Restraining Order be issued restraining and enjoining, the respondents and their agents and all persons acting on their behalf and/or under their direction and control from doing any act geared towards implementing the assailed alleged Decisions, Orders and writs, including the conduct of

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further proceedings by respondent Court in the case below;

- 2) The instant Petition be given due course;

- 3) After due consideration of petitioner's application for a writ of preliminary injunction, which should follow posthaste or as soon as possible, a writ of preliminary injunction be issued restraining and enjoining respondent Court from the conduct of further proceedings in the case below, and all the respondents, including their agents, and all persons acting on their behalf and/or under their direction and control from implementing the assailed alleged Decisions, Orders and writs;

- 4) After notice and trial, the following alleged Decisions/Order in Civil Case No. 3957-P be annulled and/ or declared void, to wit:

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- c. Alleged Certification of Sheriff's
Return dated 'November 17, 1974;
- d. Alleged TCT No. T-408;
- e. Alleged TCT No. T-498;
- f. Alleged Letters of
Administration dated June 14, 1972;
and
- g. Alleged Entry of Judgment dated
June 14, 1972.

6) The Reconstituted TCT No. T-408 dated December 21, 2001 which was issued pursuant to the aforementioned invalid July 7, 1997 Order of respondent Judge be annulled/cancelled; and

7) The preliminary injunction issued be made permanent.

Other relief's just and equitable are also prayed for.

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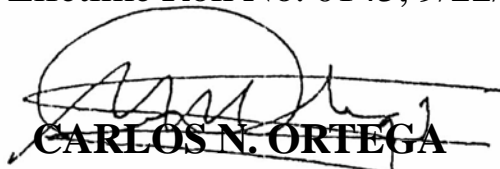
Makati City for the City of Manila, Metro Manila,
April 5, 2002.

OFFICE OF THE SOLICITOR GENERAL

134 Amorsolo Street, Legaspi Village
Makati City 1229

Simeon v. Marcelo
SIMEON V. MARCELO

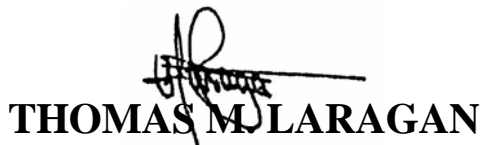
Solicitor General
IBP Lifetime Roll No. 0145, 9/22/93


CARLOS N. ORTEGA

Assistant Solicitor General
IBP No. 550210, 1-11-02

Nestor J. Ballacillo
NESTOR J. BALLACILLO

Assistant Solicitor General
IBP No. 360887, 1/9/02


THOMAS M. LARAGAN

Solicitor
IBP No. 550214, 1-11-02


LUCIANO EMMANUEL L. JOSON JR.

Solicitor
IBP No. 550215, 1-11-02


RICO SEBASTIAN D. LAWANAG

Solicitor
IBP Lifetime Roll No. 0854

X-----X

**VERIFICATION AND CERTIFICATION OF
NON-FORUM SHOPPING**

I. NESTOR J. BALLACILLO, an Assistant Solicitor General at the Office of the Solicitor General, after having been duly sworn in accordance with law, hereby depose and state:

1. I have caused the preparation and filing of the foregoing Petition;

2. I have read and understood the contents thereof;

3. The allegation therein are true and correct based on my/petitioner's personal knowledge and authentic records;

4. The petition proceeds from Civil Case No.

3957-P The petitioner/OSG (the latter being the only statutory counsel of the former)/I have not theretofore commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agency; that to the best of petitioner's/my knowledge, no such action is pending in the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency; that if I/petitioner should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency I/petitioner undertake to promptly inform the aforesaid courts and other tribunal or agency of that fact within five (5) days therefrom.

5. After a review of the records of the Office of the Solicitor General, the following are the cases on land

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registration and reconstitution that appear to be relat to the instant case:

<u>Case No./Venue</u>	<u>Case Ttle</u> <u>Status</u>	<u>Civil Case No.’ “Don</u>
Civil Case No. Q-98-35385 (RTC-Br. 77, Quezori City)	Don Jaime M. Robles, as Administrator of the Interest ate Estate of Hermo genes / Rodriguez , vs. Amarida F. Reyes, ‘et al.’”	Dismissed.
Civil Case No. C-152-V-98 (RTC-Br. 75, 75, Valenzuela) .	“Don Jaime M. Robles, etc, vs. Romelito D. Lopez, et	Dismissed.
Civil Case No. C-17938 (RTC-.Br. 126, Caloocan City)	“Don Jairne M. Robles, etc. vs. Sps. Virgilio & Ligaya Robles, et al.’”	Dismissed.
Civil Case No. 66707 (RTC-Br. 153, Pasig City)	“Don Jaime M. ‘ Dismissed. Robles, etc. vs. Heirs of Domingo Vi ray, etc.’”	
Civil Case No. , C- 181153 (RTC-Br. 126, Caloocan City)	“Don Jaime M. . Dismissed. Robles, etc. vs. Erlinda & Gerundio Kong, et at.’”	
CA-G.R.-SP No. 54718 (Court of Appeals)	“Don . Jaime M. Dismissed. Robles, etc. vs. Hon. Briccio C. Ygana, et al.’”	

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Civil Case No Q-01-45365 (RTC-Br. 10], Quezon City)	<i>“The Estate of Don Esteban Benitez Tallano, et at. vs. The Beneficiary S’uccessors-in- Interest of Bonzfacio Regalado, et al.”</i>	The Order dated October 8, 2001 of the RTC, Branch 111, Pasay City in LRC/Civil Case No. 3957-P denied the Republic’s motion for reconsideration of the Order dated July 11, 2001 directing the Republic and the other defendants to comply with the writ of execution OSG filed its Position Paper . maintaining that OCT No. 333 had been declared valid by the Supreme Court: and that the aforesaid Decision with Compromise Agreement has dubious origin. Hearings on plaintiffs’ prayer for the issuance of temporary restraining order and preliminary injunction are set on April 5, 2002 and May 31, 2002.
CA-GR. CV No. 70700 (Court of Appeals, 14th Division)	<i>“Heirs of Hermogenes Pasig Rodriguez and Isidora Rodriguez, petitioners”</i>	After the RTC granted the application fo registration on October 25, 2000, OSG appealed the Decision to the Court of Appeals on February 26, 2002. Said appellate Court

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is presently awaiting
submission of appellee's brief.

Case No. 1826 (RTC-Br. 159, Pasig City)	<i>“Julian Tallano vs. MMDA”</i>	Dismissed on motion of the OSG
Case No. 1938 (RTC-Br. 151, Pasig City)	<i>“Julian Tallano vs. MMDA”</i>	Dismissed on motion of the OSG
Case No. 99-0763 (RTC-Br. 111, Pasay City)	<i>“Heirs of Anacleto Madrigal Acopiado vs. MIAA, et al.”</i>	Awaiting Decision.
Case No. 99-0763 (RTC-Br. 111, Pasay City)	<i>“Ernesto Solis Sr. vs. Pasay City Government, MIAA, et al.”</i>	For pre-trial conference
CA-G.R. CV No. 32815 (Court of Appeals)	<i>“Republic us. Wilson , P. Orfinada, Sr. et al.”</i>	Dismissed.
Civil Case No. SPL-0377 (RTC-Br. 93, San Pedro Laguna)	<i>“Jaime M. Robles et al. vs. Heirs of Sps. Pedro Alora”</i>	As per record of the case, 18 January 1999 Motion for Reconsideration to Order of dismissal (of the case) dated January 21, 1999 was filed by plaintiff Jaime Robles.
Civil Case No. 0-01-45365 (RTC-Br. 101, Quezon City),	<i>“Tallano-A cop Estate et al. vs. United Fairview Homeowners Association, et aL”</i>	Awaiting Decision.

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Civil Case No. 67825 (RTC-Br. 267, Pasig City)	<i>“Filemon A. Manangan vs. Spouses Vivencio arid Teresita Reyes Estacio, et al.”</i>	Dismissed.
Civil Case No. 67825 (RTC-F3r. 267, Pasig City)	<i>“Filemom A. Manangan, and- RPA Land Development Corporation vs. Jesus M. Tallano, Register of Deeds, Pasig, Metro Manila and Director of Lands”</i>	Dismissed.

6. The foregoing verification and certification is being made by the OSG through the undersigned affiant pursuant to the decision of the Supreme Court in the case of Commissioner of Internal Revenue v. SC Johnson and Son, Inc., arid Court of Appeals, G.R. No. 127105, June 25, 1999 and City Warden of the Manila City Jail v. Raymond S. Estrella, et al., G.R. No. 141211, August 31, 2001, where it was ruled that a certification made by the OSG’ being the only lawyer of the government agencies and their officials ‘under the 1987 Administrative Code —substantially complies with the Rules.

Nestor J. Ballacillo
NESTOR J. BALLACILLO
Solicitor

SUBSCRIBED AND SWORN TO before me this 9th day of April, 2002, in Makati City, Metro Manila.


THOMAS M. LARAGAN
Solicitor

Petition for Annulment of Judgment
Republic vs. Regional Trial Court of
Pasay City, Branch 111, *et al.*,
CA-GR. SP No. _____
(Civil Case No. 3957-P)

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Copy Furnished:
(By Registered Mail)

HON. ERNESTO A. REYES
REGIONAL TRIAL COURT
Branch 111
Pasay City, Metro Manila

ANACLETO MADRIGAL ACOP
c/o ATTY. TERESITO ABELLA
No. 4435, Catalagan Street
Palanan, Makati City
Metro Manila

c/o JULIAN M. TALLANO
No. 31, BMA Avenue
Tatalon, Quezon City
Metro Manila

ANACLETO MADRIGAL ACOPIADO
c/o ATTY. MELICIO V. EMATA
Ground Floor, Door B
Lagasca Apartments
8259 Constancia Street
Makati City, Metro Manila

c/o ROBERT M. DEL RIO
23 Ipil Street, Project 3
Quezon City, Metro Manila

JULIAN M. TALLANO
No. 31, BMA Avenue
Tatalon, Quezon City
Metro Manila

Petition for Annulment of Judgment
Republic vs. Regional Trial Court of
Pasay City, Branch 111, *et al.*,
CA-GR. SP No. _____
(Civil Case No. 3957-P)

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ROBERT M. DEL RIO

Attorney-in—Fact of Anacleto Madrigal Acopiado
and Julian M. Tallano
23 Ipil Street, Project 3
Quezon City, Metro Manila.

MR. ROMEO C. CAMPOS

Attorney-in-Fact of Julian M. Tallano
No. 3-A, John Street
Multinational Village
Parañaque City, Metro Manila

ATTY. TERESITO ABELLA

Counsel for Anacleto Madrigal Acop
and Julian M. Taliano
No. 4435, Calatagan Street
Palanan, Makati City
Metro Manila

ATTY. MELECIO V. EMATA

Counsel for Anacleto Madrigal Acopiado
Ground Floor, Door B
Lagasca Apartments
8259 Constanca Street
Makati City, Metro Manila

REGISTER OF DEEDS OF RIZAL

Pasig City

REGISTER OF DEEDS OF BULACAN

Guiguinto, Bulacan

Petition for Annulment of Judgment
Republic vs. Regional Trial Court of
Pasay City, Branch 111, *et al.*,
CA-GR. SP No. _____
(Civil Case No. 3957-P)

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X-----X

E X P L A N A T I O N
(Under Section 11, Rule 13,
New Rules on Civil Procedure)

This pleading is not served personally because the OSG' does not have sufficient personnel to personally serve all the numerous pleadings it prepares everyday.



THOMAS M. LARAGAN
Solicitor