

REPUBLIC OF THE PHILIPPINES  
***COURT OF APPEALS***

MANILA

REPUBLIC OF THE PHILIPPINES,  
Plaintiff,

- versus - CA G.R~ SP. NO. **70014**

RTC BRANCH 111, PASAY CITY,  
JULIAN M. TALLANO, ET AL.,  
Respondents.

X-----X

**COMMENTS AND OPPOSITION  
TO THE PETITION**

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**REPUBLIC OF THE PHILIPPINES**  
***COURT OF APPEALS***  
MANILA

**REPUBLIC OF THE PHILIPPINES**  
**Petitioner,**

**- versus -**

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

**RTC BRANCH 111 PASAY CITY,**  
**JULIAN M. TALLANO, ET AL.,**  
**Respondents.**

**X ----- X**

**COMMENTS AND**  
**OPPOSITION**  
**TO THE PETITION**

COMES NOW the Respondent **JULIAN M. TALLANO**. by the undersigned counsel, and unto this HONORABLE TRIBUNAL, most respectfully SUBMITS his COMMENTS and VIGOROUS OPPOSITION to the Petition, as follows:

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### **I. BRIEF STATEMENT OF THE AVERMENTS OF THE PETITION:**

Allegedly, the Petition is “**in defense of the integrity of the Philippines as a sovereign state since what are being assailed are decisions and rulings of a Regional Trial Court which recognized the allegedly ridiculous claim of Private Respondents over the entire Philippine archipelago consisting of more than 16 million hectares of plains, mountains, forests and seas.**”

The Honorable Solicitor General avers that private respondent JULIAN M. TALLANO and his group are zealous in their efforts to dispossess registered owners of more than 500,000 hectares of land, including even the Hospicio de San Jose, charitable institutions for homeless orphans, and possibly affecting landed properties belonging probably to the Honorable Members of the Court of Appeals and the Supreme Court. He added that the respondent RTC of Pasay City mandated the reconstitution and execution of the decisions “**despite the allegedly patent absurdities of the assailed rulings which raise serious and unending doubts as to their origin.** He pointed out the “**absurd nature of the claim is patent on the face of the decision sought to be set aside.**”

## **COMMENTS & OPPOSITION**

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Furthermore, the Honorable Solicitor General opines that the existence of the decisions and rulings sought to be annulled is not just a disturbing presence but a malignant tumor that must be excised before it causes a breakdown in the Trust of the public, not only in the Torrens System but in the entire judicial system as well.

## **II. PREFATORY STATEMENT:**

We most respectfully but firmly **DISAGREE** with the above-stated sweeping allegations and unsupported asseverations of” the Honorable Solicitor General.

In the first place, the averment that what is stake is “the Integrity of the Philippines as a sovereign state” is, more imagined than real. This is clearly a blatant attempt to immediately **BELOUD** the **ISSUE** and **CAMOUFLAGE** the **FACTS** and **MERITS** of this case.

The allegation that the claim of the private respondents over the vast tracts of land is ridiculous and that the absurd nature of the claim is patent on the very face of the decisions sought to be annulled, are mere opinions and conclusions of the Honorable Solicitor General that really have **NO BASIS** both in **Fact** and in **Law**. It is one thing to allege and aver; what is of

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paramount importance is the PROOF, and the Petition is sorely wanting in this regard.

The petition, at the very outset, seeks to alienate right away the respondents from the HONORABLE MAGISTRATES of this August Tribunal by asseverating that resprudents’ agents and lawyers are already zealous in harassing and dispossessing legitimate property owners probably including the Members of the High Tribunals of the Land which is FARTHEST FROM THE TRUTH and berefl of factual foundation.

Finally, the Petitioner is trying to make it appear that it is its mission to prevent a breakdown of the Torrens System and the judicial system as well. Far from it. On the contrary, to give due course to the said petition will do violence to several time-honored rules and maxims that form the very core and foundation of Philippine Law and Jurisprudence, such as : The presumption of REGULARITY in the performance of official functions and duties by our duly constituted Courts and authorities, the INDEFEASIBILITY of Torrens Titles such as those of private respondent, the doctrine of FINALITY of Court decisions, and the necessity of putting an end to Court litigations, *inter alia*.

In the ventilation of all arguments PRO and CON and in appreciating the FACTS and EVIDENCE concerning the Petition, we most respectfully APPEAL to the Honorable

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Magistrates to kindly disregard the very iconoclastic approach and highly sensationalistic arguments and emotional appeal resorted to by the Honorable Solicitor General in the presentation of his case.

### **III. THE COURT DECISIONS, ORDERS, AND RULINGS SOUGHT TO BE SET ASIDE:**

The PETITION seeks to annul the following:

- a) The DECISION dated February 4, 1972 rendered / by the Honorable Judge ENRIQUE A. AGANA of RTC Branch 111, Pasay City, in LRC/CIVIL CASE NO. 3957-P which is a case for Quieting of Titles/ Reconveyance of Real Properties with Reconstitution of Tiles in accordance with RA No. 26 (ANNEX A, Petition);
- b) Clarificatory ORDER dated March 21, 1974, also issued by Judge ENRIQUE A. AGANA (ANNEX B, Petition);
- c) Another DECISION dated November 4, 1975 also rendered by Judge ENRIQUE A. AGANA (ANNEX C, Petition);

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- d) Clarificatory DECISION dated January 19, 1976, also rendered by Judge ENRIQUE AGANA ( ANNEX D, Petition);
- e) ENTRY OF JUDGMENT dated June 14, 1972 in LRC/CIVIL CASE NO. 3957-P (ANNEX E, Petition);
- f) WRIT OF EXECUTION, DEMOLITION & POSSESSION dated September 10, 1974 in the same case (ANNEX F, Petition);
- g) CERTIFICATE OF SHERIFF'S RETURN dated November 17, 1974 (ANNEX G, Petition);
- h) LETTERS OF ADMINISTRATION dated July 6, 1976 (ANNEX H, Petition);
- i) CERTIFIED TRUE COPY OF JUDICIAL FORM NO. 140, G.L.R.O. FORM NO. 68, BOOK NO. 34 OF T.C.T. NO. T-408 (ANNEX I, Petition);
- j) CERTIFIED TRUE PHOTOCOPY OF T.C.T. NO. T- 408 (ANNEX J, Petition);

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- k) ORDER OF THIRD ALIAS WRIT OF EXECUTION, POSSESSION, AND DEMOLITION dated May 28, 1989 (ANNEX K) Petition);
  
- l) Court ORDER dated July 7, 1997 ordering the Reconstitution of the records of cases which were gutted and destroyed by the fire that burned down the Old Pasay Hall on January 18, 1992 (ANNEX L, Petition);
  
- m) Court ORDER dated July 11, 2001 issued by Honorable Judge ERNESTO A. REYES in LRC/CIVIL CASE NO. 3957-P formally ordering the RECONSTITUTION, after due notice and hearing, of the Decision with Compromise Agreement dated February 4, 1972 and all subsequent and important Court Orders and processes (ANNEX M. Petition), and
  
- n) Court ORDER dated October 8, 2001, also issued by Hon. Judge ERNESTO REYES DENYING the Petitioner's Motion for Recon-sideration of the Order of Reconstitution (ANNEX N, Petition).



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May it please be known and emphasized at this early stage, that the OFFICE OF THE SOLICITOR GENERAL filed the aforesaid Motion for Reconsideration in behalf of the State and said OFFICE ably and FULLY represented the Republic of the Philippines not only during the process of Judicial RECONSTITUTION of the records, of LRC/CIVIL CASE NO. 3957-A but also in the original case.

### **IV. BRIEF COUNTER-STATEMENT OF FACTS:**

O.C.T. NO. T-01-4 is a Land Title of probative value which was issued by virtue of the Royal Decree of 1764 and was rectified by the Spanish Mortgage Law in the name Rajah LACAN TAGEAN TALLANO. T.C.T. NO. T-408 and T.C.T. NO. T-498 which are TORRENS titles in Character, are derivative titles thereof.

O.C.T. NO. T-01-4 was registered on October 3, 1904 and given its corresponding Decree of Registration: **DECREE NO. 297, in CASE NO. 475**, hence, covered by Land Registration Act No. 496.

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PRINCE LACAN TAGEAN TALLANO had since gone to the Great Beyond and was succeeded by his Heirs and Successors-in-Interest, notably Prince JULIAN MACLEOD TALLANO, and now Prince JULIAN MORDEN TALLANO, one of the respondents in the case at bar.

LRC/CIVIL CASE NO. 997-P , later numbered as was filed in the then Court of First Instance of Pasay, Branch 28, which later became RTC Branch III, Pasay City. This is a Civil Case / Land Registration Case, for Quieting of Titles, Reconveyance with Reconstitution of OCT NO. T-01-4 and TCT NOS. 408 AND 498. The REPUBLIC OF THE PHILIPPINES was a defendant in this case, duly represented by the Solicitor General.

\* The REPUBLIC OF THE PHILIPPINES then entered into a Compromise Agreement with the HEIRS of Prince JUL (AN. MACLEOD TALLANO, acknowledging the autLenticity of OCT NO. T-01-4 and recognizing the proprietary rights of the TALLANO Family over the lands ocured by said Torrens Title. The parties prayed for a separate Decision in view of the Compromise Agreement. and on FEBRUARY 4, 1972, the Hon. Judge EENRIQUE A. AGANA rendered the Decision, ANNEX "A" of the Petition.

Among other dispositions, the Decision ordered the RECONSTITUTION of OCT NO. T-01-4 and the issuance of its derivative Torrens Titles, TCT NOS. T-408 and T-498.

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As the DECISION was based on a Compromise Agreement, no party appealed therefrom, and the TALLANO Family began the painful process of execution and implementation of the Decision.

But before the Decision could be fully implemented, the records were burned/gutted by the fire that ravaged the Old Pasay City Hall on January 18, 1992.

In 1997 respondent JULIAN MORDEN TALLANO petitioned for the Reconstitution of the records of LRC/CIVIL CASE NO. 3957-P and on July 11, 2001, after due Notice and EXTENSIVE hearings the COURT A QUO formally issued the ORDER OF RECONSTITUTION, ANNEX “M” , of the Petition.

The Honorable Solicitor General who, all this time, had been representing the REPUBLIC OF THE PHILIPPINES since the inception of LRC/CIVIL CASE NO. 997-P and later re-numbered as LRC/CIVIL CASE NO. 3957-P. moved for a Reconsideration, but which was DENIED, as per ORDER dated October 8, 2001, ANNEX “N” of the Petition.

Notwithstanding receipt of the Order of Denial, the Solicitor General DID NOT APPEAL therefrom nor file any petition for Certiorari.

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### **V. ALLEGED GROUNDS FOR ANNULMENT:**

As alleged in the Petition, pp. 73-76 the grounds, albeit eight (8) in number, can be trimmed down as follows

- A) ALLEGEDLY, THE RESPONDENT COURT HAD NO JURISDICTION TO ORDER THE RE-CONSTITUTION OF O.C.T. NO. T-01-4 AND DERIVATIVE TITLES TCT NOS. 408 & 498 IN CIVIL CASE NO. 395 7-P.
- B) That the ASSAILED DECISIONS/ORDERS WERE OBTAINED THRU EXTRINSIC FRAUD.
- C) LACK OF JURISDICTION TO ISSUE THE ORDERS, ANNEXES L, M & N FOR FAILURE TO COMPLY WITH THE PROVISIONS OF R.A. 26.
- D) THE RECONSTITUTED ORDERS and DECISIONS CAN NO LONGER BE ENFORCED DUE TO PRESCRIPTION, and

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E) THAT SAID DECISIONS/ORDERS AND  
TITLES ARE INTRINSICALLY VOID  
AND SPURIOUS ON THEIR FACES.

It is IS our humble submission that all these grounds are untenable ar indefensible, baseless and groundless!

## **VI. COMMENTS AND REFUTATIONS:**

A) **RE: The Issue of NO.**  
**JURISDICTION:**

With all due respect, it is incorrect for the Honorable Solicitor General to claim that the Respondent COURI' had NO JURISDICTION to order the reconstitution of the titles in the assailed DECISION dated February 4, 1972. He claims that this cannot be done in a civil case. This claim is WRONG because the Honorable Solicitor General is proceeding from a WRONG premise.

The Recitals of Fact of the assailed Decision show that the case was a consolidation of a Land Registration Case

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and a Civil Case, LRC/ CIVIL CASE NO. 997-P, later re-numbered LRC/CIVIL CASE NO. 3957-P (p.3., Decision. AANEX A).

Hence, the respondent COURT. acting both as a regular an Land Registration Court, had full and complete JURISDICTION to order the RECONSTITUTION OF OCT NO. T-01-4 and its derivative titles.

It is further alleged that the Court A *QUO* did not acquire JURISDICTION due to NON-publication in the Official Gazette. Granting, without admitting, that this may be true, we humbly SUBMIT, is now TOO LATE to raise this iss ue.

In the first place, the Court had JURISDICTION over both the Civil Case and the consolidated Land Registration case, because it is axiomatic that JURISDICTION is conferred by Law.

We most respectfully SUBMIT that publication in the Official Gazette is NOT a fatal condition *since qua non*.

Besides the State is in **ESTOPPEL** in view of its failure to a timely objection in the court below and its having entered into a Compromise Agreement with the TALLANO

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Likewise, LACHES prevents the Honorable Solicitor General from raising this issue at this very late Hour!

It is also alleged that the RECONSTITUTION of OCT NO. 01-4 is null & void as it constitutes a collateral attack on virtually all Torrens Titles all over the country. This argument is far-fetched because OCT NO. T-0 1-4 is in itself the FIRST TORRENS TITLE, having been registered on October 3, 1904 under Registration Decree No. 297 in CLR CASE No. 475, hence, covered by the Land Registration Act No. 496 (p. 5 and p. 98, Decision ).

### **B) RE: The Issue of EXTRINSIC FRAUD:**

ANNEX "A", the assailed Decision dated February 4, 1972 is a Certified True Copy. The Presumption of Regularity in favor of its valid issuance remains strong and unshaken. The Solicitor General's reliance on a simple AFFIDAVIT of Ms RIZALINA TIONGSON that the reconsituted rulings were not received by the Office of the Solicitor General certainly cannot even prevail over the very positive assertion of the Late Solicitor DOMINADOR CARIASO (Bless his Soul and may he Rest in Peace) who is now being falsely and unjustly maligned with no chance at all to defend his Honor and his assertion in favor of the TALLANO Family.

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There is simply NO EVIDENCE of this allegation of EXTRINSIC FRAUD. How could there be. when the records of the case are replete with the able participation, all stages of the Solicitor General in representation of the State (pp. 23 2 117, Decision).

**C) RE: The Issue of Alleged Non-Compliance with Jurisdictional Requisites under R.A. 26:**

We most respectfully SUBMIT that once again ESTOPPEL and LACHES effective prevent the I Honorable Solicitor General from raising this issue, only here and now. By his very own admissions splashed across more than ten (40) pages of his voluminous petition. the OSG had received c multi anous pleadings, orders and notices in connection with the reconstitution of the records of LRC/CIVIL CASE NO . 3957-P had actively participated therein, never raissing the issue of non-compliance with the requisites of Act No. 3110 particularly the question of publication. It is our humble belief that under R.A. 3110, no particular Order of publication required for the Reconstitution of’ the records of a particular case and it is presumed that the Clerk of Court had complied I with his duty of’ publishing the fact of burning of the Old I Pasay City Hall and that reconstitution of the records of all eases can begin. If the RTC Clerk of Couti failed in this regard, we believe this was NOT a fatal jurisdictional defect.



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*“Besides, it has been decided by the Supreme Court Courts have inherent power to reconstitute at any time the records of their finished cases in accordance with Rule 124, Sect. S (h) (now Rule 135, Sect. S (h) of the 1997 Rules on Civil Procedure).*

*xxx Neither R.A. 441 nor A 3110 is applicable because these refer to pending judicial proceedings.”*

### YATCO VS. CRUZ

6 SCRA 1077

#### D) RE: The issue of PRESCRIPTION:

The imprescriptibility clause is clearly embodied in the assailed Decision. With or without this clause, prescription stil cannot be availed of because, as already established, OCT NO . T-01-4, TCT NO. 408 and TCT NO. 498 are TORRENS titles and it is well established in Philippine Law and Jurisprudence that Prescription does not lie against the owner of a land i covered by Torrens Title”

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### E) **RE: That the Decision, Orders and Titles are intrinsically Void and Spurious on their Faces :**

We need not BELABOR this point which, we respectfully SUBMIT, does not deserve serious consideration for being too sweeping an assertion and too gross *a* generalization, with no given norms or standards of corn parison as to what is ridiculous or preposterous and what is not.

## **VII. ADDITIONAL ARGUMENTS:**

### A) **ThisCASE was Filed Out of Time:**

The Decision sought to be annulled was rendered on February 4, 1972 or a good 30 years ago. All other ORDERS, Writ and documents emanated from this ancient document Hence, the date of reckoning is the year 1972. As the State had ente red into a Compromise Agreement with the TALLANO Clan resulting in the rendition of the said decision, and in view of The lapse of so much time, the action is clearly BARRED by the statutory time of four (4) years and also by LACHES and ESTOPPEL. (Sec. 3, Rule 47, 1997 Rules of Civil Procedure).

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The prescriptive period for an action of annulment of judgment based on extrinsic fraud is four (4) years from discovery of the fraud ( See also Arts. 1146 (1) and 1391 of the Civil Code).

Ordinarily, an action to declare the nullity of a void judgment does not prescribe (**VDA, DE MACOY vs. CA, 206 SCRA 244**). However, the ground of lack of jurisdiction can be barred by ESTOPPEL OR LACHES (**TIJAM vs. SIBONGHANOY, 23 SCRA 29**).

### **B. There are No Grounds for Annulment:**

We humbly SUBMIT that we have already fully discussed these points: That there was NO EXTRINSIC FRAUD and that the Court A 0(10 had JURISDICTION to hear, try and decide LRCICIVIL CASE NO. 3957-P and to issu the various orders and Writs which find their source and root in the Decision, ANNEX A.

Under Sect. 2, Rule 47, the only grounds for Annulment of judgment are extrinsic fraud and lack of jurisdiction. The Petitioner cannot now avail of annulment on the ground of extrinsic fraud because the Solicitor General did not avail of the appropriate remedies of New Trial, Petition for Relief,

## COMMENTS & OPPOSITION

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Appeal or Certirari as the case may be. This Rule is very clear and explicit and needs no further elaboration.

### **C. THE VERY ACTIVE PARTICIPATION BY THE SOLGEN IN ALL ASPECTS OF THE CASE SINCE ITS INCEPTION EFFECTIVELY BARS THE STATE FROM SEEKING THE ANNULMENT:**

We will not tire of stating over and over again that the records are extant and profuse with evidences showing the sending of numerous notices/pleadings/orders to the OSG and its very active participation in almost all aspects of the case. The OSG assisted the then President of the Philippines in entering into that Compromise Agreement culminating in the Decision of February 4, 1972, and took no further legal steps thereafter, except after' the burning of the Pasay City Ilall. Frowt thereon, the OSG was bombarded by countless Notices/Orders/pleadings, as narrated in the very Petition from page 30 to page 75. How then can the OSG cry only now, to th High Heavens, that there was "extrinsic fraud" and that the Court all along was acting" without JURISDICTION". If this does not stagger the imagination, nothing will

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It is a settled jurisprudence that a party who voluntarily submit himself to the jurisdiction of a court can no longer challenge the jurisdiction of said court in the event of adverse decision against him.

### **VIII. OPPOSITION TO THE PRAYER FOR PRELIMINARY INJUNCTION:**

With all due respect, in view of all the above-discussed Considerations, most respectfully SUBMITTING that the Petitioner has absolutely NO GROUNDS for Annulment of Judgment, *A FORTIORI*, it follows that the State is not entitled to the extra-ordinary remedy of INJUNCTION. Besides, it is not true that the answering respondent is bent on implementing the assailed decision to the detriment of the general public, which may include, as falsely claimed by the Petitioner members of this August Tribunal and the Supreme Court. Respondent is bound by the terms of the Amicable Settlement.

We therefOre most respectfully BESEECH this Honorable Tribunal to lift the T.R.O. and that the same be ordered dissolved and that NO INJUNCTION be issued thereafter.

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We end with a quote from the Supreme Court

**“It is axiomatic that final and executory judgments can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the Supreme Court.”**

**PANADO V. CA**  
**298 SCRA 110.**

RESPECTFULLY SUBMITTED.

Cabanatuan City for Manila, June 6, 2002.

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Kindly submit upon receipt.



e.f.j.