Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

NAVY OFFICERS' VILLAGE ASSOCIATION, INC. (NOVAI),
Petitioner,

- versus -

REPUBLIC OF THE PHILIPPINES,
Respondent.

G.R. No. 177168

Present:

CARPIO, *J., Chairperson,*
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

Promulgated:

03 AUG 2015

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DECISION

BRION, *J.*:

We resolve the present petition for review on *certiorari*[1] assailing the December 28, 2006 decision[2] and March 28, 2007 resolution[3] of the Court of Appeals *(CA)* in CA-G.R. CV No. 85179.

The CA reversed and set aside the August 20, 2004 decision[4] of the Regional Trial Court *(RTC)* Branch 67, Pasig City, that dismissed the complaint filed by the Republic of the Philippines *(respondent or the Republic)* for the cancellation of Transfer Certificate of Title *(TCT)* No. T-15387 issued in the name of Navy Officers' Village Association, Inc. or NOVAI (*petitioner*).

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1 *Rollo*, pp. 8-45.

2 Penned by Associate Justice Renato C. Dacudao and concurred in by Associate Justices Rosmari D. Carandang and Estela M. Perlas-Bernabe (now a Member of this Court), id. at 47-88.

3 Id. at 90.

4 Civil Case No. 63983, penned by Judge Mariano M. Singzon, Jr., id. at 182-190.

The Factual Antecedents

TCT No. T-15387,[5] issued in NOVAI's name, covers a 475,009 square-meter parcel of land (*the property*)[6] situated inside the former Fort Andres Bonifacio Military Reservation *(FBMR)* in Taguig, Metro Manila.

The property previously formed part of a larger 15,812,684 square-meter parcel of land situated at the former Fort William McKinley, Rizal, which was covered by TCT No. 61524 issued in the name of the Republic of the Philippines.

On July 12, 1957, then President Carlos P. Garcia issued **Proclamation No. 423**[7] "reserving for military purposes certain parcels of the public domain situated in the municipalities of Pasig, Taguig, Parañaque, province of Rizal, and Pasay City," which included the 15,812,684 square-meter parcel of land covered by TCT No. 61524.

On September 29, 1965, then Pres. Diosdado Macapagal issued **Proclamation No. 461**[8] which excluded from Fort McKinley "a certain portion of land embraced therein, situated in the municipalities of Taguig and Parañaque, Province of Rizal, and Pasay City," with an area of 2,455,310 square meters, and declared the excluded area as "AFP Officers' Village" to be disposed of under the provisions of Republic Act Nos. 274[9] and 730.[10]

Barely a month after, or on October 25, 1965, Pres. Macapagal issued **Proclamation No. 478**[11] "reserving for the veterans rehabilitation, medicare and training center site purposes" an area of 537,520 square meters of the land previously declared as AFP Officers' Village under Proclamation No.

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5 Annex"B" of the Records, Vol. I, pp. 9-11.

6 Designated as Lot 3, SWO-13-000183; *rollo,* pp. 96-97.

7 Entitled "RESERVING FOR MILITARY PURPOSES CERTAIN PARCELS OF THE PUBLIC DOMAIN SITUATED IN THE MUNICIPALITIES OF PASIG, TAGUIG, PARAÑAQUE, PROVINCE OF RIZAL AND PASAY CITY."

8 Entitled "EXCLUDING FROM THE OPERATION OF PROCLAMATION NO. 423 DATED JULY 12, 1957, WHICH ESTABLISHED THE MILITARY RESERVATION KNOWN AS FORT WILLIAM MCKINLEY (NOW FORT ANDRES BONIFACIO) SITUATED IN THE MUNICIPALITIES OF PASIG, TAGUIG AND PARAÑAQUE, PROVINCE OF RIZAL, AND PASAY CITY, A CERTAIN PORTION OF LAND EMBRACED THEREIN, SITUATED IN THE MUNICIPALITIES OF TAGUIG AND PARAÑAQUE, PROVINCE OF RIZAL, AND PASAY CITY, ISLAND OF LUZON, AND DECLARING THE SAME AS AFP OFFICERS' VILLAGE TO BE DISPOSED OF UNDER THE PROVISIONS OF REPUBLIC ACTS NOS. 274 AND 730."

9 Entitled "AN ACT AUTHORIZING THE DIRECTOR OF LANDS TO SUBDIVIDE THE LANDS WITHIN MILITARY RESERVATIONS BELONGING TO THE REPUBLIC OF THE PHILIPPINES WHICH ARE NO LONGER NEEDED FOR MILITARY PURPOSES, AND TO DISPOSE OF THE SAME BY SALE SUBJECT TO CERTAIN CONDITIONS, AND FOR OTHER PURPOSES," Approved June 15, 1948.

10 Entitled "AN ACT TO PERMIT THE SALE WITHOUT PUBLIC AUCTION OF PUBLIC LANDS OF THE REPUBLIC OF THE PHILIPPINES FOR RESIDENTIAL PURPOSES TO QUALIFIED APPLICANTS UNDER CERTAIN CONDITIONS," Approved June 18, 1952.

11 Entitled "RESERVING FOR THE VETERANS REHABILITATION, MEDICARE AND TRAINING CENTER SITE PURPOSES A CERTAIN PARCEL OF LAND OF THE PRIVATE DOMAIN SITUATED IN THE PROVINCE OF RIZAL, ISLAND OF LUZON."

461, and placed the reserved area under the administration of the Veterans Federation of the Philippines *(VFP)*.

The property is within the 537,520 square-meter parcel of land reserved in VFP's favor.

On November 15, 1991, the property was the subject of a Deed of Sale[12] between the Republic of the Philippines, through former Land Management Bureau (*LMB*) Director Abelardo G. Palad, Jr., *(Dir. Palad)* **and petitioner NOVAI. The deed of sale was subsequently registered and from which TCT No. T-15387 was issued in NOVAI's name.**

The Republic's Complaint for Cancellation of Title

In its complaint[13] filed with the RTC on December 23, 1993, the Republic sought to cancel NOVAI's title based on the following grounds: (a) the land covered by NOVAI's title is part of a military reservation; (b) the deed of sale conveying the property to NOVAI, which became the basis for the issuance of TCT No. 15387, is fictitious; (c) the LMB has no records of any application made by NOVAI for the purchase of the property, and of the NOVAI's alleged payment of □14,250,270.00 for the property; and (d) the presidential proclamation, *i.e.*, Proclamation No. 2487, claimed to have been issued by then President Corazon C. Aquino in 1991 that authorized the transfer and titling of the property to NOVAI, is fictitious.

NOVAI's Answer to the Complaint

In its answer (which was later amended) to the Republic's complaint, NOVAI counter-argued that the property was no longer part of the public dominion, as the land had long been segregated from the military reservation pursuant to Proclamation No. 461.

NOVAI claimed that, contrary to the Republic's contention that there were no records of the sale, it had actually filed a letter-application for a sales patent over the property with the LMB which prepared, verified and approved the property's plan and technical description; and that the LMB delivered to it a copy of the deed of sale, signed and executed by Dir. Palad, after it had paid a portion of the □14,250,270.00 purchase price, corresponding taxes, and other charges, with the balance to be paid in installments.

Also, NOVAI contended that, since any alleged irregularities that may have attended the sale pertained only to formalities, the proper remedy for the Republic was to file an action for reformation of instrument, not for cancellation of title. In any event, it added that the Republic's cause of

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12 Records, Vol. IV, pp. 682-684.
13 Records, Vol. I, pp. 1-5.

action had prescribed because its title to the property had already become indefeasible.

The RTC's decision

The RTC narrowed down the issues to: (a) the character of the property in question, *i.e.,* whether the property in question was part of the FBMR, and hence, inalienable; and (b) the validity of the deed of sale conveying the property to NOVAI, *i.e.,* whether the title over the property was acquired by NOVAI through fraud. **The RTC resolved both issues in NOVAI's favor.**

In its decision, the RTC ruled that: (a) the property is alienable and disposable in character, as the land falls within the area segregated from the FBMR pursuant to Proclamation No. 461; (b) the subject deed of sale should be presumed valid on its face, as it was executed with all the formalities of a notarial certification; (c) notwithstanding the claims of forgery, the signature of Dir. Palad on the deed of sale appeared genuine and authentic; and (d) NOVAI's title to the property had attained indefeasibility since the Republic's action for cancellation of title was filed close to two (2) years from the issuance of the title.

The CA's decision

The CA reversed and set aside the RTC's decision. It ruled that the property is inalienable land of the public domain; thus, it cannot be disposed of or be the subject of a sale. It pointed out that, since NOVAI failed to discharge its burden of proving the existence of Proclamation No. 2487 – the positive governmental act that would have removed the property from the public domain – the property remained reserved for veterans rehabilitation purposes under Proclamation No. 478, the latest executive issuance affecting the property.

Since the property is inalienable, the CA held that the incontestability and indefeasibility generally accorded to a Torrens title cannot apply because the property, as in this case, is unregistrable land; that a title issued by reason or on account of any sale, alienation, or transfer of an inalienable property is void and a patent nullity; and that, consequently, the Republic's action for the cancellation of NOVAI's title cannot be barred by prescription.

Also, the CA held that there can be no presumption of regularity in the execution of the subject deed of sale given the questionable circumstances that surrounded the alleged sale of the property to NOVAI,[14] *e.g.,* NOVAI's

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[14] See *rollo,* pp. 79-80, where the CA enumerated the following circumstances that cast strong doubt on the validity of the property's sale in favour of NOVAI: (1) the lack of record with the LMB of NOVAI's application for sales patent; (2) the survey return shows that the subdivision survey was requested by NOVAI itself; and (3) the technical description presented by NOVAI was prepared by the LMB for reference purposes only, and not for registration of title.

failure to go through the regular process in the Department of Environment and Natural Resources (*DENR*) or the LMB Offices in the filing of an application for sales patent and in the conduct of survey and investigation; the execution of the deed of sale without payment of the full purchase price as required by policy; and the appearances of forgery and falsification of Dir. Palad's signature on the deed of sale and on the receipts issued to NOVAI for its installment payments on the property, among others.

Lastly, the CA held that the Court's observations and ruling in *Republic of the Philippines v. Southside Homeowners Association, Inc* (*Southside*)[15] is applicable to the present case. In *Southside*, the Republic similarly sought the cancellation of title – TCT No. 15084 – issued in favor of Southside Homeowners Association, Inc. *(SHAI)* over a 39.99 hectare area of land situated in what was known as the Joint U.S. Military Assistance Group (*JUSMAG*) housing area in Fort Bonifacio. The Court cancelled the certificate of title issued to SHAI, as the latter failed to prove that the JUSMAG area had been withdrawn from the military reservation and had been declared open for disposition. The Court therein ruled that, since the JUSMAG area was still part of the FBMR, its alleged sale to SHAI is necessarily void and of no effect.

NOVAI sought reconsideration of the CA's decision, which the CA denied in its March 28, 2007 resolution;[16] hence, this petition.

The Petition

NOVAI alleges that the CA erred in declaring that: (a) the property is inalienable land of the public domain, (b) the deed of sale and Proclamation No. 2487 were void and nonexistent, respectively, (c) the Republic's action for cancellation of title was not barred by prescription, and (d) the ruling in *Southside* was applicable to the present case.

In support of its petition, NOVAI raises the following arguments:

(a) The property is no longer part of the public domain because, by virtue of Proclamation No. 461, s. of 1965, the property was excluded from the FBMR and made available for disposition to qualified persons, subject to the provisions of R.A. Nos. 274 and 720 in relation to the Public Land Act;

(b) The deed of sale was, in all respects, valid and enforceable, as it was shown to have been officially executed by an authorized

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[15] G.R. No. 156951, September 22, 2006, cited in *rollo*, pp. 80-86. The CA's December 28, 2006 decision stated the name of the respondent in GR No. 156951 as *"**Southcom** Homeowners Association, Inc."* We believe the name *"Southcom"* was a clear typographical error and what the CA was obviously referring to was *"Southside"* for other than the word *"Southcom,"* the quoted portion of the ruling, the GR No. and the date all pertains to the case entitled *"Republic of the Philippines v. **Southside** Homeowners Association, Inc. and the Register of Deeds, et. al."*

[16] *Supra* note 3.

public officer under the provisions of the Public Land Act, and celebrated with all the formalities of a notarial certification;

(c) Proclamation No. 2487 is to be presumed valid until proven otherwise; that the Republic carried the burden of proving that Proclamation No. 2487 was a forgery, and that it failed to discharge this burden;

(d) The CA should not have considered as evidence the testimony of Senator Franklin Drilon on the nonexistence of Proclamation No. 2487 because such testimony was given by Senator Drilon in another case[17] and was not formally offered in evidence by the Republic during the trial of the present case before the RTC;

(e) The action for cancellation of title filed by the Republic is already barred by prescription because it was filed only on December 23, 1993, or close to two (2) years from the issuance of NOVAI's title on January 9, 1992; and

(f) The case of *Southside* is not a cognate or companion case to the present case because the two cases involve completely dissimilar factual and doctrinal bases; thus, the Court's observations and ruling in *Southside* should not be applied to the present case.

The Republic's Comment to the Petition

Procedurally, the Republic assails the propriety of the issues raised by NOVAI, such as "whether Proclamation No. 2487 and the signature of LMB Director Palad on the assailed deed of sale are forged or fictitious," and "whether the Republic had presented adequate evidence to establish the spuriousness of the subject proclamation," which are factual in nature and not allowed in a Rule 45 petition.

On the petition's substance, the Republic counters that:

(a) The property is inalienable public land incapable of private appropriation because, while the property formed part of the area segregated from the FBMR under Proclamation No. 461, it was subsequently reserved for a specific public use or purpose under Proclamation No. 478;

(b) Proclamation No. 2487, which purportedly revoked Proclamation No. 478, does not legally exist and thus cannot be presumed valid and constitutional unless proven otherwise; the presumption of validity and constitutionality of a law applies only where there is

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[17] *People v. Eduardo Domingo, et al.,* Criminal Case No. 98-164382; TSN, November 17, 2003; CA *rollo,* pp. 172-201.

no dispute as to the authenticity and due execution of the law in issue;

(c) The deed of sale executed by NOVAI and by Dir. Palad was undeniably forged, as Dir. Palad categorically denied having signed the deed of sale, and a handwriting expert from the National Bureau of Investigation (*NBI*) confirmed that Dir. Palad's signature was indeed a forgery;[18]

(d) NOVAI, a private corporation, is disqualified from purchasing the property because R.A. Nos. 274 and 730, and the Public Land Act only allow the sale of alienable and disposable public lands to natural persons, not juridical persons; and

(e) The Court's decision in *Southside* applies to the present case because of the strong factual and evidentiary relationship between the two cases.

BCDA's Comment-in-Intervention

On December 28, 2007, and while the case was pending before this Court, the Bases Conversion Development Authority (*BCDA*) filed a motion for leave to file comment-in-intervention and to admit the attached comment-in-intervention.[19]

In a resolution dated February 18, 2008,[20] the Court allowed the BCDA's intervention.

As the Republic has done, the BCDA contends that NOVAI is disqualified from acquiring the property given the constitutional and statutory provisions that prohibit the acquisition of lands of the public domain by a corporation or association; that any sale of land in violation of the Constitution or of the provisions of R.A. Nos. 274 and 730, and the Public Land Act are null and void; and that any title which may have been issued by mistake or error on the part of a public official can be cancelled at any time by the State.

The BCDA further contends that NOVAI miserably failed to comply with the legal requirements for the release of the property from the military reservation. More specifically, (1) the Director of Lands did not cause the property's subdivision, including the determination of the number of prospective applicants and the area of each subdivision lot which should not exceed one thousand (1,000) square meters for residential purposes; (2) the purchase price for the property was not fixed by the Director of Lands as approved by the DENR Secretary; (3) NOVAI did not pay the purchase

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18 Records, Vol. II, pp. 433-436.
19 *Rollo,* pp. 660-671. Comment-in-intervention, id. at 672-725.
20 Id., insert between pp. 746 and 747.

price or a portion of it to the LMB; and (4) the Deed of Sale was not signed by the President of the Republic of the Philippines or by the Executive Secretary, but was signed only by the LMB Director.

Also, the BCDA observed that NOVAI was incorporated only on December 11, 1991, while the deed of sale was purportedly executed on November 15, 1991, which shows that NOVAI did not yet legally exist at the time of the property's purported sale.

OUR RULING

We resolve to **DENY** NOVAI's petition for review on *certiorari* as we find **no reversible error** committed by the CA in issuing its December 28, 2006 decision and March 28, 2007 resolution.

I. Procedural Objections

A. In the filing of the present petition before this Court

Under Section 1, Rule 45 of the Rules of Court, a party desiring to appeal from a judgment or final order of the CA shall raise only questions of law which must be distinctly set forth.

A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence on a certain state of facts.[21] The issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of the facts being admitted.[22] In contrast, a question of fact exists when a doubt or difference arises as to the truth or falsehood of facts or when the query invites the calibration of the whole evidence considering mainly the credibility of the witnesses; the existence and relevancy of specific surrounding circumstances, as well as their relation to each other and to the whole; and the probability of the situation.[23]

The rule that only questions of law may be the subject of a Rule 45 Petition before this Court, however, has exceptions.[24] Among these

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21 See *Altres, et al. v. Empleo, et al.*, 594 Phil. 246, 263 (2008).

22 Id.

23 See *Altres, et al. v. Empleo, et al., supra* note 21, at 263; *Republic v. Medida,* GR No. 195097, August 13, 2012, 678 SCRA 317, 323-324.

24 In *Development Bank of the Philippines v. Traders Royal Bank,* G.R. No. 171982, August 18, 2010, 628 SCRA 404, the Court held:

> "The jurisdiction of the Court in cases brought before it from the appellate court is limited to reviewing errors of law, and findings of fact of the Court of Appeals are conclusive upon the Court since it is not the Court's function to analyze and weigh the evidence all over again. Nevertheless, in several cases, the Court enumerated the exceptions to the rule that factual findings of the Court of Appeals are binding on the Court: (1) when the findings are grounded entirely on speculations, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7**) when**

exceptions is when there is **conflict between the factual findings of the RTC and that of the CA**.

In this case, the CA totally reversed the RTC on the nature and character of the land in question, and on the validity of the deed of sale between the parties. Due to the conflicting findings of the RTC and the CA on these issues, we are allowed to reexamine the facts and the parties' evidence in order to finally resolve the present controversy.

B. On BCDA's Intervention

In its reply[25] to the BCDA's comment-in-intervention, NOVAI primarily objects to the BCDA's intervention because it was made too late.

Intervention is a proceeding in a suit or action by which a third person is permitted by the court to make himself a party, either joining the plaintiff or defendant, or demanding something adverse to both of them.[26] Its purpose is to enable such third party to protect or preserve a right or interest which may be affected by the proceeding,[27] such interest being actual, material, direct and immediate, not simply contingent and expectant.[28]

As a general rule, intervention cannot be made at the appeal stage. Section 2, Rule 19 of the Rules of Court, governing interventions, provides that "the motion to intervene may be filed at any time before rendition of judgment by the trial court." This rule notwithstanding, intervention may be allowed after judgment where it is necessary to protect some interest which cannot otherwise be protected, and may be allowed for the purpose of preserving the intervenor's right to appeal.[29] "The rule on intervention, like all other rules of procedure, is intended to make the powers of the Court fully and completely available for justice x x x and aimed to facilitate a comprehensive adjudication of rival claims overriding technicalities on the timeliness of the filing thereof."[30]

Thus, in exceptional cases, the Court may allow intervention although the trial court has already rendered judgment. In fact, the Court had allowed

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the findings are contrary to that of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; or (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion." (emphasis supplied)

25 *Rollo*, pp. 783-807.

26 See *GSIS v. Court of Appeals*, 251 Phil. 222, 234 (1989).

27 See *First Philippine Holdings Corporation v. Sandiganbayan, et. al.*, 323 Phil. 36, 47 (1996).

28 See *Garcia, et al. v. David, et al.*, 67 Phil. 279, 282 (1939); and *Tahanan Development Corp. v. CA, et al.*, 203 Phil. 652, 688-691 (1982).

29 See *Pinlac v. Court of Appeals*, 457 Phil. 527, 534 (2003).

30 Id.

intervention in one case even when the petition for review was already submitted for decision before it.[31]

In the present case, the BCDA is indisputably the agency specifically created under R.A. No. 7227[32] to own, hold and/or administer military reservations including, among others, those located inside the FBMR. If we are to affirm the CA's decision, the BCDA stands to benefit as a favorable ruling will enable it to pursue its mandate under R.A. No. 7227. On the other hand, if we reverse the CA's decision, it stands to suffer as the contrary ruling will greatly affect the BCDA's performance of its legal mandate as it will lose the property without the opportunity to defend its right in court.

Indeed, the BCDA has such substantial and material interest both in the outcome of the case and in the disputed property that a final adjudication cannot be made in its absence without affecting such interest. Clearly, the BCDA's intervention is necessary; hence, we allow the BCDA's intervention although made beyond the period prescribed under Section 2, Rule 19 of the Rules of Court.

II. Substantive Issues

A. *The property is non-disposable land of the public domain reserved for public or quasi-public use or purpose*

We agree with the CA that the property remains a part of the public domain that could not have been validly disposed of in NOVAI's favor. NOVAI failed to discharge its burden of proving that the property was withdrawn from the intended public or quasi-public use or purpose.

While the parties disagree on the character and nature of the property at the time of the questioned sale, they agree, however, that the property formed part of the FBMR – a military reservation belonging to the public domain. We note that the FBMR has been the subject of several presidential proclamations and statues issued subsequent to Proclamation No. 423, which either removed or reserved for specific public or quasi-public use or purpose certain of its portions.

On the one hand, NOVAI argues that Proclamation No. 461 had already transferred the property from the State's "public domain" to its "private domain." On the other hand, the respondents argue that

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[31] See *Pinlac v. Court of Appeals, supra* note 29, at 534-535 (2003), citing *Director of Lands v. Court of Appeals,* 181 Phil. 432 (1979).

[32] Entitled "AN ACT ACCELERATING THE CONVERSION OF MILITARY RESERVATIONS INTO OTHER PRODUCTIVE USES, CREATING THE BASES CONVERSION AND DEVELOPMENT AUTHORITY FOR THIS PURPOSE, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES" or otherwise known as the "BASES CONVERSION AND DEVELOPMENT ACT OF 1992;" approved on March 13, 1992.

Proclamation No. 478, in relation with RA 7227 and EO No. 40, had reverted the property to the inalienable property of the "public domain."

The classification and disposition of lands of the public domain are governed by Commonwealth Act (*C.A.*) No. 141 or the Public Land Act, the country's primary law on the matter.

Under Section 6 of C.A. No. 141, the President of the Republic of the Philippines, upon the recommendation of the Secretary of Agriculture and Natural Resources, may, from time to time, *classify* lands of the public domain into alienable or disposable, timber and mineral lands, and *transfer* these lands from one class to another for purposes of their administration and disposition.

Under Section 7 of C.A. No. 141, the President may, from time to time, upon recommendation of the Secretary of Agriculture and Natural Resources and for purposes of the administration and disposition of alienable and disposable public lands, *declare* what lands are open to disposition or concession under the Acts' provisions.[33]

Section 8 of C.A. No. 141 sets out the public lands open to disposition or concession and the requirement that they have been officially delimited and classified, and when practicable, surveyed. Section 8 excludes (by implication) from disposition or concession, public lands which have been reserved for public or quasi-public uses; appropriated by the Government; or in any manner have become private property, or those on which a private right authorized and recognized by the Act or any other valid law may be claimed. Further, Section 8 authorizes the President to suspend the concession or disposition of lands previously declared open to disposition, until again declared open to disposition by his proclamation or by act of Congress.

Lands of the public domain classified as alienable and disposable are further classified, under Section 9 of C.A. No. 141, according to their use or purpose into: (1) agricultural; (2) residential, commercial, industrial, or for similar productive purposes; (3) educational, charitable, or other similar purposes; and (4) reservations for townsites and for public and quasi-public uses. Section 9 also authorizes the President to make the classifications and, at any time, transfer lands from one class to another.

Section 83 of C.A. No. 141 defines **public domain lands classified as reservations for public and quasi-public uses** as "any tract or tracts of **land of the public domain**" which the President, by proclamation and upon recommendation of the Secretary of Agriculture and Natural Resources, may *designate* "as reservations for the use of the Republic of the Philippines or any of its branches, or of the inhabitants thereof" or "for quasi-public uses or

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[33] See Section 7 of Commonwealth Act No. 141.

purposes when the public interest requires it."[34] Under Section 88 of the same Act, **these "reserved tract or tracts of lands shall be non-alienable and shall not be subject to occupation, entry, sale, lease or other disposition until again declared alienable under the provisions of [CA No. 141] or by proclamation of the President**."[35]

As these provisions operate, the President may classify lands of the public domain as alienable and disposable, mineral or timber land, and transfer such lands from one class to another at any time.

Within the class of alienable and disposable lands of the public domain, the President may further classify public domain lands, according to the use or purpose to which they are destined, as agricultural: residential, commercial, industrial, etc.; educational, charitable, etc.; and reservations for townsites and for public and quasi-public uses; and, he may transfer such lands from one class to the other at any time.

Thus, the President may, for example, transfer a certain parcel of land from its classification as agricultural (under Section 9 [a]), to residential, commercial, industrial, or for similar purposes (under Section 9 [b]) and declare it available for disposition under any of the modes of disposition of alienable and disposable public lands available under C.A. No. 141, as amended.

The modes of disposition of alienable and disposable lands available under C.A. No. 141 include: (1) by homestead settlement (Chapter IV), by sale (Chapter V), by lease (Chapter VI) and by confirmation of imperfect or incomplete titles (Chapters VII and VIII) for agricultural lands under Title II of C.A. No. 141 as amended; (2) by sale or by lease for residential, commercial, or industrial lands under Title III of C.A. No. 141, as amended; (3) by donation, sale, lease, exchange or any other form for educational and charitable lands under Title IV of C.A. No. 141, as amended; and (4) by sale by public auction for townsite reservations under Chapter XI, Title V of C.A. No. 141, as amended.

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34 Section 83, C.A. No. 141 reads in full:

SECTION 83. Upon the recommendation of the Secretary of Agriculture and Natural Resources, the **President may designate by proclamation any tract or tracts of land of the public domain as reservations for the use of the Republic of the Philippines or of any of its branches, or of the inhabitants thereof, in accordance with regulations prescribed for this purposes, or for quasi-public uses or purposes when the public interest requires it,** including reservations for highways, rights of way for railroads, hydraulic power sites, irrigation systems, communal pastures or lequas communales, public parks, public quarries, public fishponds, working men's village and other improvements for the public benefit. (emphasis supplied)

35 Section 88, C.A. No. 141 provides in full:

SECTION 88. The tract or tracts of land reserved under the provisions of Section eighty-three **shall be non-alienable** and shall not be subject to occupation, entry, sale, lease, or other disposition **until again declared alienable** under the provisions of this Act or by proclamation of the President. (emphasis supplied)

Once these parcels of lands are actually acquired by private persons, either by sale, grant, or other modes of disposition, they are removed from the mass of land of the public domain and become, by operation of law, their private property.

With particular regard, however, to parcels of land classified as reservations for public and quasi-public uses (under Section 9 [d]), when the President transfers them to the class of alienable and disposable public domain lands destined for residential, commercial, industrial, or for similar purposes (under Section 9 [b]), or some other class under Section 9, these reserved public domain lands become available for disposition under any of the available modes of disposition under C.A. No. 141, as provided above. Once these re-classified lands (to residential purposes from reservation for public and quasi-public uses) are actually acquired by private persons, they become private property.

In the meantime, however, and until the parcels of land are actually granted to, acquired, or purchased by private persons, they remain lands of the public domain which the President, under Section 9 of C.A. No. 141, may classify again as reservations for public and quasi-public uses. The President may also, under Section 8 of C.A. No. 141, suspend their concession or disposition.

If these parcels of land are re-classified as reservations before they are actually acquired by private persons, or if the President suspends their concession or disposition, they shall not be subject to occupation, entry, sale, lease, or other disposition until again declared open for disposition by proclamation of the President pursuant to Section 88 in relation with Section 8 of C.A. No. 141.

Thus, in a limited sense, parcels of land classified as reservations for public or quasi-public uses under Section 9 (d) of C.A. No. 141 are still non-alienable and non-disposable, even though they are, by the general classification under Section 6, alienable and disposable lands of the public domain. By specific declaration under Section 88, in relation with Section 8, these lands classified as reservations are non-alienable and non-disposable.

In short, parcels of land classified as reservations for public or quasi-public uses: (1) are non-alienable and non-disposable in view of Section 88 (in relation with Section 8) of CA No. 141 specifically declaring them as non-alienable and not subject to disposition; and (2) they remain public domain lands until they are actually disposed of in favor of private persons.

Complementing and reinforcing this interpretation – that lands designated as reservations for public and quasi-public uses are non-alienable and non-disposable and retain their character as land of the public domain – is the Civil Code with its provisions on Property that deal with lands in general. We find these provisions significant to our discussion and

interpretation as lands are property, whether they are public lands or private lands.[36]

In this regard, Article 419 of the Civil Code classifies property as either of public dominion or of private ownership. Article 420[37] defines property of the public dominion as those which are intended for public use or, while not intended for public use, belong to the State and are intended for some public service. Article 421, on the other hand, defines patrimonial property as all other property of the State which is not of the character stated in Article 420. While Article 422 states that public dominion property which is no longer intended for public use or service shall form part of the State's patrimonial property.

Thus, from the perspective of the general Civil Code provisions on Property, lands which are intended for public use or public service such as reservations for public or quasi-public uses are property of the public dominion and remain to be so as long as they remain reserved.

As property of the public dominion, public lands reserved for public or quasi-public uses are outside the commerce of man.[38] They cannot be subject to sale, disposition or encumbrance; any sale, disposition or encumbrance of such property of the public dominion is void for being contrary to law and public policy.[39]

To be subject to sale, occupation or other disposition, lands of the public domain designated as reservations must first be withdrawn, by act of Congress or by proclamation of the President, from the public or quasi-public use for which it has been reserved or otherwise positively declared to have been converted to patrimonial property, pursuant to Sections 8 and 88 of C.A. No. 141 and Article 422 of the Civil Code.[40] Without such express declaration or positive governmental act, the reserved public domain lands remain to be public dominion property of the State.[41]

To summarize our discussion:

(1) Lands of the public domain classified as reservations for public or quasi-public uses are non-alienable and shall not be subject to disposition, although they are, by the general classification under Section 6 of C.A. No.

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36 See J. Brion Dissent in *Heirs of Mario Malabanan v. Rep. of the Philippines,* 605 Phil. 244 (2009).

37 Article 420 of the Civil Code reads in full:

> Art. 420.The following things are the property of public dominion:
>
> (1) Those **intended for public use**, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, banks, shores, roadsteads, and others of similar character;
>
> (2) Those **which belong to the State**, without being for public use, and are **intended for some public service** or for the development of the national wealth. (emphasis supplied)

38 See *Manila International Airport Authority v. Court of Appeals,* 528 Phil. 181, 218-221 (2006).

39 Id. at at 219.

40 Id. at 219-220.

41 Id. at 220-221.

141, alienable and disposable lands of the public domain, until declared open for disposition by proclamation of the President; and

(2) Lands of the public domain classified as reservations are property of the public dominion; they remain to be property of the public dominion until withdrawn from the public or quasi-public use for which they have been reserved, by act of Congress or by proclamation of the President, or otherwise positively declared to have been converted to patrimonial property.

Based on these principles, we now examine the various issuances affecting the property in order to determine the property's character and nature, *i.e.,* whether the property remains public domain property of the State or has become its private property.

For easier reference, we reiterate the various presidential proclamations and statutes affecting the property:

(1) Proclamation No. 423, series of 1957 – established the FBMR, a military reservation; the property falls within the FBMR;

(2) Proclamation No. 461, series of (September) 1965 – segregated, from the FBMR, a portion of Parcel 3, plan Psd-2031, which includes the property, for disposition in favor of the AFPOVAI;

(3) Proclamation No. 478, series of (October) 1965 – reserved the property in favor of the Veterans Rehabilitation and Medical Training Center (*VRMTC*); and

(4) RA No. 7227 (1992), as implemented by EO No. 40, series of 1992 – subject to certain specified exemptions, transferred the military camps within Metro Manila, among others, to the BCDA.

1. *Proclamation No. 461 was not the legal basis for the property's sale in favor of NOVAI*

We agree with the respondents that while Proclamation No. 461, issued in September 1965, removed from the FBMR a certain parcel of land that includes the property, Proclamation No. 478, issued in October 1965, in turn segregated the property from the area made available for disposition under Proclamation No. 461, and reserved it for the use of the VRMTC.

We find it clear that Proclamation No. 478 was issued after, not before, Proclamation No. 461. Hence, while Proclamation No. 461 withdrew a certain area or parcel of land from the FBMR and made the

covered area available for disposition in favor of the AFPOVAI, Proclamation No. 478 subsequently withdrew the property from the total disposable portion and reserved it for the use of the VRMTC. With the issuance of Proclamation No. 478, the property was transferred back to that class of public domain land reserved for public or quasi-public use or purpose which, consistent with Article 420 of the Civil Code, is property of the public dominion, not patrimonial property of the State.

Even under the parties' deed of sale, Proclamation No. 2487, not Proclamation No. 461, was used as the authority for the transfer and sale of the property to NOVAI. The subject deed of sale pertinently reads:

> "This DEED OF SALE, made and executed in Manila, Philippines, by the Director of Lands, Pursuant to Batas Pambansa Blg. 878 and in representation of the Republic of the Philippines, hereinafter referred to as the Vendor, in favor of THE NAVY OFFICERS VILLAGE ASSOCIATION (NOVA) and residing in Fort Bonifacio, Metro Manila, referred to as the Vendee, WITNESSETH:
>
> x x x x
>
> WHEREAS, **pursuant to Presidential proclamation No. 478 as amended by proclamation No. 2487** in relation to the provision of Act No. 3038 and similar Acts supplemented thereto, the Vendee applied for the purchase of a portion of the above-described Property which portion is identical to Lot 3, Swo-000183 and more particularly described on page two hereof;
>
> x x x x
>
> WHEREAS, the Vendee has complied with all other conditions required by Act No. 3038 in relation to Commonwealth Act No. 141, as amended, and the rules and regulation promulgated thereunder.
>
> x x x x. (emphasis supplied)

Clearly, the legal basis of the property's sale could not have been Proclamation No. 461.

2. *Proclamation No. 2487 which purportedly revoked Proclamation No. 478 does not legally exist; hence, it did not withdraw the property from the reservation or from the public dominion*

Neither can Proclamation No. 2487 serve as legal basis for the property's sale in NOVAI's favor. Proclamation No. 2487 purportedly revoked Proclamation No. 478 and declared the property open for disposition in favor of NOVAI.

The Republic and the BCDA (now *respondents*) argue that Proclamation No. 2487 does not legally exist; it could not have served to release the property from the mass of the non-alienable property of the State.

Hence, even if NOVAI relies on Proclamation No. 2487 – on which it did not as it relied on Proclamation No. 461 – the sale and NOVAI's title are still void. NOVAI, on the other hand, claims in defense that Proclamation No. 2487 is presumed valid and constitutional, and the burden of proving otherwise rests on the respondents.

In insisting on the presumptive validity of law, NOVAI obviously failed to grasp and appreciate the thrust of the respondents' arguments, including the impact of the evidence which they presented to support the question they raised regarding the authenticity of Proclamation No. 2487.

Rather than the validity or constitutionality of Proclamation No. 2487, what the respondents assailed was its legal existence, not whether it was constitutional or not. Put differently, they claimed that Proclamation No. 2487 was never issued by former Pres. Aquino; hence, the presumptive validity and constitutionality of laws cannot apply.

Accordingly, after the respondents presented their evidence, it was NOVAI's turn to present its own evidence sufficient to rebut that of the respondents. On this point, we find the Republic's evidence sufficiently convincing to show that Proclamation No. 2487 does not legally exist. These pieces of evidence include:

First, the October 26, 1993 letter of the Solicitor General to the Office of the President inquiring about the existence of Proclamation No. 2487.[42]

Second, the November 12, 1993 letter-reply of the Office of the President informing the Solicitor General that Proclamation No. 2487 "is not among the alleged documents on file with [its] Office."[43]

Third, the testimony of the Assistant Director of the Records Office in Malacañang confirming that indeed, after verifying their records or of the

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[42] The October 26, 1999 letter of then Solicitor General Raul I. Goco to Director Aurora T. Aquino of the Office of the President inquiring about the existence of Proclamation No. 2487, records, Vol. II, pp. 205-206. It pertinently reads :

> "Dear Director Aquino,
>
> The President, in Memorandum Order No. 173, directed the Solicitor General, in coordination with the Administrator of the Land Authority, to file an action for the cancellation of x x x (ii) TCT No. 15387 in the name of Navy Officers Village Association, covering Lot 3, SWO-13-000183 with an area of 47.5009 hectares, otherwise known as the NOVA area.
>
> Also, please furnish us with a copy of Proclamation No. 2487 which purportedly excluded from Proclamation No. 478 {reservation for the Veterans Rehabilitation, Medicare and Training Center} that portion known as NOVA area for disposition."

[43] The November 12, 1993 reply-letter of Director Aurora T. Aquino to Solicitor General Drilon, records, Vol. II, pp. 208-206. It reads in part:

> "This has reference to your letter dated October 20, 1993 x x x
>
> It is further informed that the alleged Proclamation No. 2487 excluding from the Proclamation No. 478 dated October 25, 1965, {reservation for the Veterans Rehabilitation, Medicare and Training Center site purposes} the NOVA AREA for disposition, is not among the signed documents on file with this Office x x x."

different implementing agencies, "[t]here is no existing document(s) in [their] possession regarding that alleged Proclamation No. 2487;"[44] and

Fourth and last, the October 11, 1993 Memorandum of then Department of Justice Secretary Franklin M. Drilon *(DOJ Secretary Drilon)* to the NBI to investigate, among others, the circumstances surrounding the issuance of Proclamation No. 2487.[45] Notably, this October 11, 1993 Memorandum of DOJ Secretary Drilon stated that: "Proclamation No. 2487 is null and void x x x. [It] does not exist in the official records of the Office of the President x x x [and] could not have been issued by the former President since the last Proclamation issued during her term was proclamation No. 932 dated 19 June 1992."[46]

In this regard, we quote with approval the CA's observations in its December 28, 2006 decision:

> Cast against this backdrop, it stands to reason enough that the defendant-appellee NOVAI was inevitably duty bound to prove and establish the very existence, as well as the genuineness or authenticity, of this Presidential Proclamation No. 2487. For certain inexplicable reasons, however, the defendant-appellee did not do so, but opted to build up and erect its case upon Presidential Proclamation No. 461.
>
> To be sure, the existence of **Presidential Proclamation No. 2487 could be easily proved, and established, by its publication in the Official Gazette. But the defendant-appellee could not, as it did not, submit or present any copy or issue of the Official Gazette mentioning or referring to this Presidential Proclamation No. 2487,** this even in the face of the Government's determined and unrelenting claim that it does not exist at all.[47] (emphasis supplied)

A final point, we did not fail to notice the all too obvious and significant difference between the proclamation number of Proclamation No. 2487 and the numbers of the proclamations actually issued by then President Corazon C. Aquino on or about that time.

We take judicial notice that on September 25, 1991 – the very day when Proclamation No. 2487 was supposedly issued – former Pres. Aquino issued Proclamation No. 800[48] and Proclamation No. 801."[49] Previously, on

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44 Testimony of Marianito Dimaandal, Assistant Director of the Records Office of Malacañang, records, Vol. II, pp. 208-211.

45 Records, Vol. II, pp. 361-364.

46 Id. at 364.

47 *Rollo,* unnumbered page between pp. 74 and 75.

48 "DECLARING FRIDAY, SEPTEMBER 27, 1991, AS A SPECIAL DAY IN THE PROVINCE OF BATANGAS AND THE CITIES OF BATANGAS AND LIPA;" www.gov.ph/1991/09/25/proclamation-no-800-s-1991/ (last accessed May 22, 2015).

49 "RESERVING FOR SCHOOL SITE PURPOSES A CERTAIN PARCEL OF LAND OF THE PUBLIC DOMAIN SITUATED IN BARANGAY MADAUM, MUNICIPALITY OF TAGUM, PROVINCE OF DAVAO DEL NORTE ISLAND OF MINDANAO www.gov.ph/1991/09/25/proclamation-no-801-s-1991/ (last accessed May 23, 2015).

September 20, 1991, Pres. Aquino issued Proclamation No. 799;[50] and thereafter, on September 27, 1991, she issued Proclamation No. 802.[51]

Other proclamations issued around or close to September 25, 1991, included the following:

1. Proclamation No. 750 issued on July 1, 1991;[52]
2. Proclamation No. 760 issued on July 18, 1991;[53]
3. Proclamation No. 770 issued on August 12, 1991;[54]
4. Proclamation No. 780 issued on August 26, 1991;[55]
5. Proclamation No. 790 issued on September 3, 1991;[56]
6. Proclamation No. 792 issued on September 5, 1991;[57]
7. Proclamation No. 797 issued on September 11, 1991;[58]
8. Proclamation No. 798 issued on September 12, 1991;[59]
9. Proclamation No. 804 issued on September 30, 1991;[60]
10. Proclamation No. 805 issued on September 30, 1991;[61]
11. Proclamation No. 806 issued on October 2, 1991;[62]
12. Proclamation No. 810 issued on October 7, 1991;[63]

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50 "DECLARING THE PERIOD FROM NOVEMBER 3 TO 9, 1991 AS 'CIVIL ENGINEERING WEEK;'" www.gov.ph/1991/09/20/proclamation-no-799-s-1991/ (last accessed May 23, 2015).

51 "REVOKING PROCLAMATION NO. 207, SERIES OF 1950, WHICH RESERVED FOR RESIDENCIA SITE PURPOSES A CERTAIN PARCEL OF LAND SITUATED IN THE MUNICIPALITY OF SANTIAGO, ISABELA, ISLAND OF LUZON, AND RESERVING THE LOT EMBRACED THEREIN FOR MARKET EXPANSION AND OTHER COMMERCIAL SITE PURPOSES OF THE MUNICIPALITY OF SANTIAGO, ISABELA;" www.gov.ph/1991/09/27/proclamation-no-802-s-1991/ (last accessed May 23, 2015).

52 "DECLARING THE MONTH OF JULY, 1991 AND EVERY YEAR THEREAFTER, AS 'KABISIG HOUSING MONTH;" www.gov.ph/1991/07/01/proclamation-no-750-s-1991/ (last accessed May 22, 2015).

53 "DECLARING MONDAY, JULY 22, 1991 A DAY OF ECUMENICAL PRAYER FOR NATIONAL UNITY AND A NON-WORKING DAY IN METRO MANILA;" www.gov.ph/1991/07/18/proclamation-no-760-s-1991/ (last accessed May 22, 2015).

54 "DECLARING SEPTEMBER 1991 AS 'WORLD QUIZ BEE MONTH;" www.gov.ph/1991/08/26/proclamation-no-780-s-1991/ (last accessed May 22, 2015).

55 "DECLARING FRIDAY, SEPTEMBER 6, 1991, AS A 'SPECIAL DAY' IN THE PROVINCE OF BUKIDNON;" www.gov.ph/1991/07/01/proclamation-no-750-s-1991/ (last accessed May 22, 2015).

56 "AMENDING PROCLAMATION NO. 770 DATED AUGUST 12, 1991 TO DECLARE NOVEMBER 1991 AS 'WORLD QUIZ BEE MONTH', INSTEAD OF SEPTEMBER 1991;" www.gov.ph/1991/09/03/proclamation-no-790-s-1991/ (last accessed May 22, 2015).

57 "CONVERTING A PORTION OF THE PRISON SITE OF THE NEW BILIBID PRISON TO PATRIMONIAL PROPERTY OF THE GOVERNMENT AND DECLARING THE SAME OPEN TO DISPOSITION AS THE SITE OF THE DEPARTMENT OF JUSTICE HOUSING PROJECT IN ACCORDANCE WITH THE PROVISIONS OF ACT NUMBERED THREE THOUSAND AND THIRTY-EIGHT;" http://www.gov.ph/1991/09/05/proclamation-no-792-s-1991/ (last accessed May 23, 2015).

58 "DECLARING SATURDAY, OCTOBER 12, 1991, AS A SPECIAL DAY IN ZAMBOANGA CITY;" www.gov.ph/1991/09/11/proclamation-no-797-s-1991/ (last accessed May 23, 2015)

59 "DECLARING THE MONTH OF OCTOBER OF EVERY YEAR AS MUSEUMS AND GALLERIES MONTH;" www.gov.ph/1991/09/12/proclamation-no-798-s-1991/ (last accessed May 23, 2015).

60 "RESERVING FOR SCHOOL SITE PURPOSES OF THE KORONADAL CENTRAL ELEMENTARY SCHOOL A CERTAIN PARCEL OF LAND OF THE PUBLIC DOMAIN SITUATED IN THE POBLACION, MUNICIPALITY OF KORONADAL, PROVINCE OF SOUTH COTABATO, ISLAND OF MINDANAO;" www.gov.ph/1991/09/30/proclamation-no-804-s-1991/ (last accessed May 23, 2015).

61 "FURTHER EXTENDING THE NATIONAL MEMBERSHIP, EDUCATIONAL AND FUND CAMPAIGN PERIOD OF THE PHILIPPINE MENTAL HEALTH ASSOCIATION UP TO SEPTEMBER 30, 1992;" www.gov.ph/1991/09/30/proclamation-no-805-s-1991/ (last accessed May 23, 2015).

62 "AUTHORIZING THE FEDERATION OF SENIOR CITIZENS ASSOCIATION OF THE PHILIPPINES, INC. TO CONDUCT A NATIONAL FUND CAMPAIGN FOR A PERIOD OF ONE YEAR;" www.gov.ph/1991/10/02/proclamation-no-806-s-1991/ (last accessed May 23, 2015).

13. Proclamation No. 820 issued on October 25, 1991;[64]
14. Proclamation No. 834 issued on November 13, 1991;[65] and
15. Proclamation No. 840 issued on November 26, 1991.[66]

This list shows that the proclamations issued by former Pres. Aquino followed a series or sequential pattern with each succeeding issuance bearing a proclamation number one count higher than the proclamation number of the preceding Presidential Proclamation. It also shows that on or about the time Proclamation No. 2487 was purportedly issued, the proclamation numbers of the proclamations issued by President Aquino did not go beyond the hundreds series.

It is highly implausible that Proclamation No. 2487 was issued on September 25, 1991, or on any day close to September 25, 1991, when the proclamations issued for the same period were sequentially numbered and bore three-digit proclamation numbers.

As Proclamation No. 2487 does not legally exist and therefore could not have validly revoked Proclamation No. 478, we find, as the CA also correctly did, that Proclamation No. 478 stands as the most recent manifestation of the State's intention to reserve the property anew for some public or quasi-public use or purpose. Thus, consistent with Sections 88, in relation with Section 8, of C.A. No. 141 and Article 420 of the Civil Code, as discussed above, the property which was classified again as reservation for public or quasi-public use or purpose is non-alienable and not subject to disposition; it also remains property of the public dominion; hence, non-alienable and non-disposable land of the public domain.

As a consequence, when R.A. No. 7227 took effect in 1992, the property subject of this case, which does not fall among the areas specifically designated as exempt from the law's operation[67] was, by legal fiat, transferred to the BCDA's authority.

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63 "RESERVING FOR ZAMBOANGA CITY GOVERNMENT CENTER SITE PURPOSES A CERTAIN PARCEL OF LAND OF THE PUBLIC DOMAIN SITUATED IN THE POBLACION, CITY OF ZAMBOANGA, ISLAND OF MINDANAO" www.gov.ph/1991/10/07/proclamation-no-810-s-1991/ (last accessed May 22, 2015).

64 "ESTABLISHING AS KABANKALAN WATERSHED FOREST RESERVE FOR PURPOSES OF PROTECTING, MAINTAINING OR IMPROVING ITS WATER YIELD AND PROVIDING RESTRAINING MECHANISM FOR INAPPROPRIATE FOREST EXPLOITATION AND DISRUPTIVE LAND-USE A PARCEL OF LAND OF THE PUBLIC DOMAIN LOCATED IN THE MUNICIPALITY OF KABANKALAN, PROVINCE OF NEGROS OCCIDENTAL, ISLAND OF NEGROS, PHILIPPINES" www.gov.ph/1991/10/25/proclamation-no-820-s-1991/ (last accessed May 22, 2015)

65 "ESTABLISHING AS CABADBARAN RIVER WATERSHED FOREST RESERVE FOR PURPOSES OF PROTECTING, MAINTAINING AND IMPROVING ITS WATER YIELD AND TO PROVIDE RESTRAINING MECHANISM FOR INAPPROPRIATE FOREST EXPLOITATION AND DISRUPTIVE LAND-USE, A CERTAIN PARCEL OF LAND OF THE PUBLIC DOMAIN SITUATED IN THE MUNICIPALITIES OF CABADBARAN AND SANTIAGO, PROVINCE OF AGUSAN DEL NORTE, ISLAND OF MINDANAO, PHILIPPINES" www.gov.ph/1991/11/13/proclamation-no-834-s-1991/ (last accessed May 22, 2015).

66 "RESERVING FOR PROVINCIAL GOVERNMENT CENTER SITE PURPOSES A CERTAIN PARCEL OF LAND OF THE PUBLIC DOMAIN SITUATED IN THE BARANGAY OF BULANAO, MUNICIPALITY OF TABUK, PROVINCE OF KALINGA-APAYAO, ISLAND OF LUZON" www.gov.ph/1991/11/26/proclamation-no-840-s-1991/ (last accessed May 22, 2015).

67 The areas specifically exempted from sale, as enumerated under Section 8 of RA 7227, are:

B. As the property remains a reserved public domain land, its sale and the title issued pursuant to the sale are void

As the property remains a reserved public domain land, it is outside the commerce of man. Property which are intended for public or quasi-public use or for some public purpose are public dominion property of the State[68] and are outside the commerce of man. NOVAI, therefore, could not have validly purchased the property in 1991.

We reiterate and emphasize that property which has been reserved for public or quasi-public use or purpose are non-alienable and shall not be subject to sale or other disposition until again declared alienable by law or by proclamation of the President.[69] Any sale or disposition of property of the public dominion is void for being contrary to law and public policy.[70]

Since the sale of the property, in this case, is void, the title issued to NOVAI is similarly void *ab initio*. It is a well-settled doctrine that registration under the Torrens System does not, by itself, vest title as it is not a mode of acquiring ownership;[71] that registration under the Torrens System merely confirms the registrant's already existing title.[72]

(a) Approximately 148.80 hectares in Fort Bonifacio for the National Capital Region (NCR) Security Brigade, Philippine Army (PA) officers' housing area, and Philippine National Police (PNP) jails and support services (presently Camp Bagong Diwa);
(b) Approximately 99.91 hectares in Villamore Air Base for the Presidential Airlift Wing, one squadron of helicopters for the NCR and respective security units;
(c) The following areas segregated by Proclamation Nos.:
    (1) 461, series of 1965; (AFP Officers Village)
    (2) 462, series of 1965; (AFP Enlisted Men's Village)
    (3) 192, series of 1967; (Veterans Center)
    (4) 208, series of 1967; (National Shrines)
    (5) 469, series of 1969; (Philippine College of Commerce)
    (6) 653, series of 1970; (National Manpower and Youth Council)
    (7) 684, series of 1970; (University Center)
    (8) 1041, series of 1972; (Open Lease Concession)
    (9) 1160, series of 1973; (Manila Technical Institute)
    (10) 1217, series of 1970; (Maharlika Village)
    (11) 682, series of 1970; (Civil Aviation Purposes)
    (12) 1048, series of 1975; (Civil Aviation Purposes)
    (13) 1453, series of 1975; (National Police Commission)
    (14) 1633, series of 1977; (Housing and Urban Development)
    (15) 2219, series of 1982; (Ministry of Human Settlements, BLISS)
    (16) 172, series of 1987; (Upper, Lower and Western Bicutan and Signal Housing)
    (17) 389, series of 1989; (National Mapping and Resource Information Authority)
    (18) 518, series of 1990; (CEMBO, SO CEMBO, W REMBO, E REMBO, COMEMBO, PEMBO, PITOGO)
    (19) 467, series of 1968; (General Manila Terminal Food Market Site)
    (20) 347, series of 1968; (Greater Manila Food Market Site)
    (21) 376, series of 1968; (National Development Board and Science Community)
(d) A proposal of 15 hectares as relocation site for families to be affected by circumferential road 5 and radial road 4 construction; *Provided, further,* That the boundaries and technical description of these crumpet areas shall be determined by an actual group survey.

[68] See Article 420 of the Civil Code.

[69] See Section 88, C.A. No. 141.

[70] *Supra* note 38, at 218-219.

[71] See *Lorzano v. Tabayag, Jr.,* G.R. No. 189647, February 6, 2012, 665 SCRA 38, 51, citing *Republic v. Heirs of Felipe Alejaga, Sr.,* 441 Phil. 656 (2002).

[72] Id. at 51. See also *Torbela v. Rosario,* GR No. 140553, December 7, 2011, 661 SCRA 633, 659.

Accordingly, the indefeasibility of a Torrens title does not apply in this case and does not attach to NOVAI's title. The principle of indefeasibility does not apply when the sale of the property and the title based thereon are null and void. Hence, the Republic's action to declare the nullity of NOVAI's void title has not prescribed.

NOVAI insists that the deed of sale carries the presumption of regularity in the performance of official duties as it bears all the earmarks of a valid deed of sale and is duly notarized.

While we agree that duly notarized deeds of sale carry the legal presumption of regularity in the performance of official duties,[73] the presumption of regularity in the performance of official duties, like all other disputable legal presumptions, applies only in the absence of clear and convincing evidence establishing the contrary.[74]

When, as in this case, the evidence on record shows not only that the property was reserved for public use or purpose, and thus, non-disposable – a fact that on its own defeats all the evidence which the petitioner may have had to support the validity of the sale – but also shows that the sale and the circumstances leading to it are void in form and in substance, the disputable presumption of regularity in the performance of official duties certainly cannot apply.

C. Even assuming that Proclamation No. 2487 legally exists, the sale of the property to NOVAI is illegal.

1. Dir. Palad did not have the authority to sell and convey the property.

The subject deed of sale points to Proclamation No. 2487, purportedly amending Proclamation No. 478, **in relation with Act No. 3038**,[75] as legal basis for authorizing the sale.

Section 1[76] of Act No. 3038 authorizes the sale or lease only: (i) of land of the private domain, not land of the public domain; and (ii) by the Secretary of Agriculture and Natural Resources, not by the LMB Director. Section 2[77] of the said Act, in fact, specifically exempts from its coverage

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73 See Section 3 (k), Rule 131 of the Rules of Court.

74 See Section 3, Rule 131 of the Rules of Court. See also *Delfin v. Billones,* 519 Phil. 720, 732 (2006).

75 Approved on March 9, 1922, entitled "An Act Authorizing the Secretary of Agriculture and Natural Resources to Sell or Lease Land of the Private Domain of the Government of the Philippine Islands."

76 "Section 1. The Secretary of Agriculture and Natural Resources is hereby authorized to sell or lease land of the private domain of the Government of the Philippines Islands, or any part thereof, to such persons, corporations or associations as are, under the provisions of Act Numbered Twenty-eight hundred and seventy-four, known as the Public Land Act, entitled to apply for the purchase or lease of agricultural public land."

77 "Sec. 2. The sale or lease of the land referred to in the preceding section shall, if such land is agricultural, be made in the manner and subject to the limitations prescribed in chapters five and six, respectively, of said Public Land Act, and if it be classified differently in conformity with the provisions of

"land necessary for the public service." As the sale was executed by the LMB Director covering the property that was reserved for the use of the VRMTC, it, therefore, clearly violated the provisions of Act No. 3038.

2. *The area subject of the sale far exceeded the area that the Director of Lands is authorized to convey.*

Batas Pambansa (*B.P.*) Blg. 878[78] which, per the Deed of Sale, purportedly authorized the Director of Lands, representing the Republic, to sell the property in favor of NOVAI, limits the authority of the Director of Lands to sign patents or certificates covering lands to ten (10) hectares.

In this case, the subject deed of sale covers a total area of 475,009 square meters or 47.5009 hectares. Obviously, the area covered by the deed of sale and which NOVAI purportedly purchased, far exceeds the area that the Director of Lands is authorized to convey under B.P. Blg. 878.

3. *The evidence on record and the highly suspect circumstances surrounding the sale fully supports the conclusion that the property's sale to NOVAI is fictitious, thus, void.*

We note the following irregularities that attended the sale of the property to NOVAI:

a. The absence, on file with the LMB, of any request for approval of any survey plan or of an approved survey plan in NOVAI's name covering the property.[79] The approved survey plan relating to Lot 3, SWO-13-000183 subject of NOVAI's TCT No. 15387 pertains to the AFPOVAI under Proclamation No. 461;[80]

b. The technical description, which the DENR prepared for the property as covered by TCT No. T-15387, was issued upon NOVAI's request only for purposes of reference, not for registration of title, and was based on the approved survey plan of the AFPOVAI;[81]

c. There is no record of any public land application filed by NOVAI with the LMB or with the DENR Office for the purchase of the property or of any parcel of land in Metro Manila;[82]

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chapter nine of said Act: Provided, however, That the land necessary for the public service shall be exempt from the provision of this Act."

78 Entitled "AN ACT FURTHER AMENDING SECTION ONE HUNDRED SEVEN OF COMMONWEALTH ACT NUMBER ONE HUNDRED FORTY-ONE, OTHERWISE KNOWN AS THE PUBLIC LAND ACT, AS AMENDED." It was enacted on July 9, 1985.

79 See testimony of Ernesto Erive, then Chief of Surveys Division of the National Capital Region, Department of Environment and Natural Resources *(DENR-NCR)*, TSN, September 16, 1996, pp. 18-25.

80 See testimony of Ernesto Erive, then Chief of Surveys Division, DENR-NCR, TSN, pp. April 22, 1996, pp. 2-24.

81 See testimony of Ernesto Erive, then Chief of Surveys Division, DENR-NCR, TSN, August 26, 1996, pp. 2-3.

82 Certification of Jose Mariano, Chief of the LMB Records Management Division, dated September 24, 1993, records, Vol. II, p. 347.

d. LMB Dir. Palad categorically denied signing and executing the deed of sale;[83]

e. The findings of the NBI handwriting expert, detailed in the Questioned Documents Report No. 815-1093 dated October 29, 1993,[84] revealed that the signature of LMB Director Palad as it appeared on the Deed of Sale and his standard/sample signature as they appeared on the submitted comparison documents "were not written by one and the same person,"[85] and concluded that "[t]he questioned signature of 'ABELARDO G. PALAD, JR.' xxx is a TRACED FORGERY by carbon process;"[86] and

f. Lastly, the LMB Cashier's Office did not receive the amount of ₱14,250,270.00 allegedly paid by NOVAI as consideration for the property. The receipts[87] – O.R. No. 8282851 dated November 28, 1991, for ₱160,000.00 and O.R. No. 317024 dated December 23, 1992, for ₱200,000.00 – which NOVAI presented as evidence of its alleged payment bore official receipt numbers which were not among the series of official receipts issued by the National Printing Office to the LMB, and in fact, were not among the series used by the LMB on the pertinent dates.[88]

In sum, we find – based on the facts, the law, and jurisprudence – that the property, at the time of the sale, was a reserved public domain land. Its sale, therefore, and the corresponding title issued in favor of petitioner NOVAI, is void.

WHEREFORE, we hereby **DENY** the present petition for review on *certiorari*. No reversible error attended the decision dated December 28, 2006, and the resolution dated March 28, 2007, of the Court of Appeals in CA-G.R. CV No. 85179.

SO ORDERED.

ARTURO D. BRION
Associate Justice

See also TSN of the testimonies of Armando B. Bangayan, then Chief of the LMB Records Management Division, January 10, 1996; Jose Parayno, Records Officer I of the DENR-NCR South CENRO, September 16, 1996, pp. 3-7; and of Ernesto Erive, Chief of Surveys Division, DENR-NCR, July 13, 1996, pp. 3-10.

[83] See October 4, 1993 letter of LMB Director Palad to Captain Nilo Rosario Villarta, Office of the Naval Judge Advocate, records, Vol. II, pp. 343-344; and TSN, February 12, 1997.

[84] Submitted by Eliodoro M. Constantino NBI Document Examiner III, Records, Vol. II, pp. 433-436. See also TSNs dated July 25, 1997 and December 2, 1997 where NBI Document Examiner Constantino confirmed his findings in the October 29, 1993 Questioned Documents Report.

[85] Records, Vol. II, p. 436.

[86] Id.

[87] Records, Vol. I, p. 163.

[88] See November 22, 1994 Certification issued by the LMB Cash Section, signed by Cash Section OIC Lilibeth Sloan, records, Vo. II, p. 348.

LMB Cashier Lilibeth Sloan testified that the official receipts which the LMB used on November 28, 1991, started from No. 4195501 S up to 4195550 S; while those which it used on December 23, 1992, started with 4195699 S up to 4195709 S, TSN, September 3, 2002, pp. 7-9.

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

CERTIFICATION

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

ANTONIO T. CARPIO
Acting Chief Justice