Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES,
Petitioner,

- *versus* -

HEIRS OF SPOUSES TOMASA ESTACIO and EULALIO OCOL,
Respondents.

G.R. No. 208350

Present:

CARPIO,* *J.*,
VELASCO, JR.,** *J., Chairperson,*
PERALTA,***
PEREZ, and
REYES, *JJ.*

Promulgated:
November 14, 2016

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DECISION

PERALTA, *J.*:

Before us is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court which seeks the reversal of the Decision[2] dated February 20, 2013, and Resolution[3] dated July 26, 2013 of the Court of Appeals (*CA*) in CA-G.R. CV No. 96879. The CA affirmed the Order[4] of the Regional Trial Court (*RTC*) in LRC Case No. N-11598 granting respondents' application for registration and confirmation of title over three (3) parcels of land located at Barangay Calzada, Taguig City with a total area of 11,380 square meters.

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* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated September 22, 2014.

** On official leave

*** Acting Chairperson per Special Order No. 2395 dated October 19, 2016.

1 *Rollo,* pp. 7-26.

2 Penned by Associate Justice Ramon M. Bato, Jr., with Associate Justices Andres B. Reyes, Jr. and Rodil V. Zalameda, concurring; *id.* at 28-41.

3 *Id.* at 42-43.

4 *Rollo,* pp. 44-49.

The factual antecedents are as follows:

On September 19, 2008,[5] respondents, Heirs of Spouses Tomasa Estacio and Eulalio Ocol filed with the RTC of Pasig City, Branch 266 an application for land registration under Presidential Decree No. 1529 (PD 1529) otherwise known as the Property Registration Decree. The application covers three (3) parcels of land described as follows: a) Lot 2 under approved survey plan Ccs-00-000258 with an area of 3,731 square meters; b) Lot 1672-A under approved subdivision plan Csd-00-001798 consisting of 1,583 square meters; c) a lot under approved survey plan Cvn-00-000194 consisting of 6,066 square meters.[6] The total assessed value of the parcels of land is ₱288,970.00[7]

On October 6, 2008, the RTC issued a Notice of Initial Hearing, copy furnished the Land Registration Authority (*LRA*). The notice was sent to the Official Gazette for publication and was served on all the adjoining owners. It was likewise posted conspicuously on each parcel of land included in the application.[8] During the initial hearing on January 13, 2010, respondents, by counsel, presented the jurisdictional requirements (*Exhibits "A" to "I" and their sub-markings*). There being no private oppositor, an Order of General Default was issued except against the Republic of the Philippines.

At the *ex-parte* presentation of evidence on January 22, 2010, respondents Rosa Ocol, 72 years old, and Felipe Ocol, 70 years old, testified that they are the children of the late Tomasa Estacio and Eulalio Ocol (*Exhibits "U" and "V"*). They inherited the subject lots from their father and mother who died on February 1, 1949 and March 22, 1999, respectively. When Felipe Ocol was only about eight years old and Rosa was still in grade school, their parents developed and cultivated the subject lots as rice fields. In the 1940's, there were only a few houses around their house. At present, one of the lots is residential while the two remaining lots have become idle. Their parents and grandparents had been in continuous, actual and physical possession of the lots without any interruption for more than sixty five (65) years. Felipe and Rosa have been in possession of the land for more than fifty (50) years. There is no existing mortgage or encumbrance over the said lots.[9]

Respondents presented witness Antonia Marcelo who was 85 years old at the time she testified. She is the neighbor of Tomasa Estacio and Eulalio Ocol in *Barangay* Calzada where she has been residing for more than fifty (50) years. She testified that during her childhood days, she used to play on

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5 *Id.* at 29.
6 *Id.* at 44-46.
7 *Id.* at 29.
8 *Id.* at 30.
9 *Id.* at 47.

the subject lots and had seen the spouses Ocol cultivate the lots by planting vegetables, rice and trees.[10]

In support of their application, respondents presented documentary evidence which sought to establish the following:

1. The first lot which is Lot 2 of the conv. Subd. plan Ccs-00- 000258 with an area of 3,731 square meters was declared for taxation purposes in the names of Tomasa Estacio and Eulalio Ocol in the years 1966, 1974, 1979, 1985, 2000 and 2002 (*Exhibits "T" to "T-7");*
2. The second lot which is Lot 1672-A under approved subdivision plan Csd-00-001798 consisting of 1,583 square meters was declared for taxation purposes in the names of Tomasa Estacio and Eulalio Ocol in the years 1942, 1949, 1966, 1974, 1979, 1985, 1994, 2000 and 2002 (*Exhibits "R" to "R-10");*
3. The third lot which is a lot under approved survey plan CVN-00-000194 consisting of 6,066 square meters, being a conversion of Lot 1889, MCadm, 590-D Taguig Cadastral Mapping, was declared for taxation purposes in the names of Tomasa Estacio and Eulalio Ocol in the years 1949, 1974, 1979, 1985, 2000 and 2002 (*Exhibits "S" to "S-6"*);
4. The subject lots used to have larger areas but certain portions were taken and designated as legal easements. On December 17, 2009, the real property tax on the subject lots, declared in the names of Tomasa Estacio and Eulalio Ocol as owners, were paid (*Exhibits "Q", "Q-1" and "Q-2"*);
5. The subject lots were surveyed for Tomasa Vda. de Ocol as evidenced by the Geodetic Engineers' Certificates and Conversion Subdivision Plans (*Exhibits "J", "K", "L", "P", "P-1", and "P-2"*);
6. The subject lots are verified to be within alienable and disposable land under Project No. 27-B Taguig Cadastral Mapping as per LC Map No. 2623 approved on January 3, 1968 as evidenced by Certifications dated January 28, 2010 issued by the Department of Environment and Natural Resources-National Capital Region (*Exhibits "J-3, "K-2" and "L-3"*).[11]

On February 11, 2010, respondents formally offered their documentary evidence. The RTC set the case for presentation of evidence of the government on April 16, 2010. On the date of the hearing, there was no appearance from the government. Hence, the court, upon motion of applicants, considered the case submitted for resolution.

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10 *Id.*

11 *Id.* at 46-47.

On August 12, 2010, the RTC issued an Order granting the respondents' application for registration of title to the subject properties, *viz.:*

> WHEREFORE, judgment is hereby rendered thus: the title of the heirs of Tomasa Estacio and Eulalio Ocol, namely, Rosa Ocol; and Felipe Ocol, to the three (3) parcels of land above-described is hereby CONFIRMED.
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> Upon the finality of the judgment, let the proper Decree of Registration and Certificates of Title be issued to the applicants pursuant to Section 39 of P.D. 1529.
>
> Let two (2) copies of this Order be furnished the Land registration Authority Administrator Benedicto B. Ulep thru Salvador L. Oriel, the Chief of the Docket Division of said Office, East Avenue, Quezon City.
>
> SO ORDERED.[12]

The RTC found that respondents were able to prove that their predecessors-in-interest possessed the subject lots from 1966 until 2002 with respect to the first lot; from 1942 to 2002, with respect to the second lot; and from 1949 to 2002 with respect to the third lot, as shown in the tax declarations. The court posited that even if the subject lots were declared as alienable and disposable public land only on January 3, 1968, respondents had already "acquired title to the land according to P.D. 1529" by virtue of the continued possession of the respondents and their predecessors-in-interest from January 3, 1968 to the present.[13]

A motion for reconsideration was filed by the petitioner raising the following grounds:

(a) Respondents did not comply with the requirements in acquiring ownership of the subject lots by prescription because the few tax declarations of respondents failed to substantiate the requirement of open, continuous, notorious and exclusive possession of the subject lots for the required period as stated in the case of *Wee vs. Republic*;[14]
(b) The evidence is insufficient to establish the nature of possession because the testimony of witness Antonia Marcelo with regard to the cultivation of the subject properties by spouses Ocol does not convincingly prove possession and enjoyment of the subject lots to the exclusion of other people;
(c) There was no declaration, either in the form of a law or a presidential proclamation, showing that the lots are no longer intended for public use or for the development of national wealth, or that it has

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12 *Id.* at 48-49.
13 *Id.* at 48.
14 622 Phil. 944 (2009).

> been converted to patrimonial property as stated in the case of *Heirs of Malabanan v. Republic.*[15]

The Motion for Reconsideration was denied by the RTC on February 15, 2011.

The RTC opined that the case of *Wee vs. Republic*[16] is not applicable in the instant case because the parcels of land involved in the said case are "unirrigated ricefields". In the instant case, the first and third lots are ricefields while the second lot is a residential one as shown in the tax declarations. The RTC averred that, even prior to the dates stated in the tax declarations specifically during the 1940s, spouses Tomasa and Eulalio Ocol had started planting rice on the first and third lots as testified to by respondents. The testimony was corroborated by witness Antonia Marcelo, who is 15 years older than the respondents, when she testified that she played on the subject lots and had seen the spouses Ocol cultivate the same by planting vegetables, rice and trees in the 1930s. As to the second lot, the RTC gave credence to the testimony of respondents that in the 1940s, respondents' house was already erected on the said lot. According to the court, such is proof that the lot has been used for residential purposes even prior to 1942 which is the earliest date of the tax declaration on the lot.

The RTC further held that the case of *Heirs of Malabanan vs. Republic*[17] does not apply in the case at bar because the said case involved a 71,324-square-meter lot, while the subject lots have a total area of 11,380 square meters only. The court pointed out that respondents are not just entitled to a grant of their application under Section 14(1) of PD 1529 but also under Section 14(2) of the same law because respondents had proven that their predecessors-in-interest were in possession of the subject lands earlier than 1945. Thus, there is no need for an express government manifestation that the property is patrimonial, or that such is no longer intended for public service or for the development of national wealth.

Aggrieved, petitioner filed an appeal before the CA. In a Decision dated February 20, 2013, the CA affirmed the Decision of the RTC. The *fallo* of the Decision states:

> WHEREFORE, the instant appeal is DISMISSED, and the Order dated August 12, 2010, of the Regional Trial Court of Pasig City, Branch 266, in L.R.C. Case No. N-11598 (LRA Record No. N-79393) is AFFIRMED IN TOTO.
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> SO ORDERED.[18]

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15 605 Phil. 244 (2009).
16 *Supra* note 14.
17 *Supra* note 15.
18 *Rollo*, p. 40.

In affirming the RTC Order, the CA made the following ratiocinations:

> In the case at bar, the applicants-appellees seek the confirmation of their ownership to the subject lands not based on prescription, but based on their claim that "they have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a *bonafide* claim of ownership since June 12, 1945, or earlier". (Section 14[1], PD 1529). The requirement of prior declaration that the property is patrimonial property of the State, therefore, does not apply. As explained in *Heirs of Malabanan*, for application based on Section 14(1) of the Property Registration Decree, it is enough that the property is alienable and disposable property of the State and the applicant has been in open, continuous, exclusive, and notorious possession and occupation of the subject land under a *bona fide* claim of ownership from June 12, 1945 or earlier. Both of these requirements are present in this case.[19]

A motion for reconsideration was filed by the petitioner but the same was denied by the CA on July 26, 2013.

Hence, this petition, raising the following errors:

1. THE RECORD IS BEREFT OF PROOF THAT THE SUBJECT PROPERTIES HAD BEEN CLASSIFIED AS ALIENABLE AND DISPOSABLE;

2. THE RECORD IS BEREFT OF PROOF THAT RESPONDENTS HAVE BEEN IN OPEN, CONTINUOUS, EXCLUSIVE AND NOTORIOUS POSSESSION Of THE SUBJECT LOTS UNDER A *BONA FIDE* CLAIM OF OWNERSHIP SINCE JUNE 12, 1945, OR EARLIER;

3. ALTERNATIVELY, RESPONDENTS CANNOT INVOKE PRESCRIPTION UNDER SECTION 14(2) OF PRESIDENTIAL DECREE NO. 1529. THE SUBJECT LOTS HAVE NOT BEEN CONVERTED INTO PATRIMONIAL PROPERTY OF THE STATE.[20]

On the first ground, petitioner states that respondents failed to present a copy of the original certification, approved by the DENR Secretary and certified as a true copy by the legal custodian, which would support respondents' claim that the subject lands are alienable and disposable. The certification of Senior Forest Management Specialist Corazon D. Calamno and Chief of the Forest Utilization and Law Enforcement Division of the DENR should not be treated as sufficient compliance with the requirements of the law because she was not presented during trial to testify on the contents of the certification.

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19 *Id.* at 39-40.

20 *Id.* at 11.

On the second ground, petitioner argues that there is insufficient evidence of acts of dominion on the part of respondents and their predecessors-in-interest for the following reasons:

(a) Respondents did not explain how the properties were acquired. The only explanation as to the acquisition of Lot 1672-A was that it was first acquired from a certain Gregorio, without even mentioning the date of acquisition as well as any document evidencing the same.[21]
(b) It was unusual for respondents' parents to possess and occupy three (3) parcels of land that are not contiguous to one another;
(c) Respondents were able to present a tax receipt only for the year 2009;
(d) In terms of improvements, respondents did not go to the extent of specifying whether fences were erected on the lots. While they claim that crops were planted, it did not appear that they exclusively and continuously enjoyed the possession of the lots;
(e) While respondents consistently affirm the development of the lots as ricefields, they failed to consider the fact that the second lot, Lot 1672-A, is a residential land as stated on the tax declaration of the land.

On the third ground, petitioner avers that respondents cannot invoke prescription under Section 14(2) of P.D. 1529 because they failed to present the necessary documents which would show that the subject properties are no longer intended for public service or no longer used for the development of the national wealth. They did not present a declaration in the form of a law or a Presidential Proclamation.

In their Comment,[22] respondents counter that the certifications issued by the DENR constitute substantial compliance with the legal requirement, and that with their continuous possession of the subject lots for more than thirty (30) years, they had acquired ownership over the subject lots through prescription under Section 14(2) of P.D. 1529.

In Reply,[23] petitioner maintains that respondents failed to establish their compliance with the requisites for original registration either under Section 14 (1) or Section 14 (2) of P.D. No. 1529. The certifications of Senior Forest Management specialist Corazon C. Calamno and the Chief of the Forest Utilization and Law Enforcement Division of the DENR did not comply with the legal requirements for lack of approval by the DENR Secretary and for lack of certification by its legal custodian. Respondents failed to establish that the State expressly declared, either through a law or a presidential proclamation, that the parcels of land are no longer retained for public service

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21 *Id.* at 17.
22 *Id.* at 57-60.
23 *Id.* at 75-80.

or the development of national wealth, or that they had been converted into patrimonial properties. Without such, the subject lots remain part of public dominion.

Petitioner further maintains that the tax declarations do not represent regular assertion of ownership because of the large gaps in the years between declarations. Such sporadic assertion of alleged ownership does not prove open, continuous, exclusive and notorious possession and occupation in the concept of an owner. And that, since the parcels of land are not contiguous, alleged possession and occupation over one parcel of land cannot prove possession and occupation over the other parcels of land.[24]

The petition is meritorious.

Under the *Regalian Doctrine*, which is embodied in our Constitution, all lands of the public domain belong to the State, which is the source of any asserted right to any ownership of land. All lands not appearing to be clearly within private ownership are presumed to belong to the State. Accordingly, public lands not shown to have been reclassified or released as alienable agricultural land, or alienated to a private person by the State, remain part of the inalienable public domain. The burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for registration, who must prove that the land subject of the application is alienable or disposable. To overcome this presumption, incontrovertible evidence must be presented to establish that the land subject of the application is alienable or disposable.[25]

Section 14 (1) of PD 1529, otherwise known as the *Property Registration Decree* provides:

> SEC. 14. *Who may apply*. - The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:
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> (1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a *bona fide* claim of ownership since June 12, 1945, or earlier.
>
> (2) Those who have acquired ownership of private lands by prescription under the provision of existing laws.
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> x x x

In the Order of the RTC granting the registration of the subject lots, it was stated that respondents had "acquired title to the land according to P.D.

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24 *Id.* at 76.

25 *Republic v. Medida*, 692 Phil. 454, 463 (2012).

1529" by virtue of the continued possession of the respondents and their predecessors-in-interest from January 3, 1968 to present. On motion for reconsideration, however, the court added that respondents are not just entitled to a grant of their application under Section 14(2) of the P.D. 1529, but also under Section 14(1) of the same law because respondents had proven that their predecessors-in-interest were in possession of the subject lots earlier than 1945. The CA explained, however, that the confirmation of the ownership to the subject lots is not based on prescription, but on Section 14 (1), since it was established that the lots are alienable and disposable, and the applicants are in continuous possession thereof since June 12, 1945 or earlier.

To distinguish between registration under Section 14(1) of P.D. No. 1529 from the one filed under Section 14(2) of P.D. No. 1529, this Court held in the case of *Heirs of Mario Malabanan v. Republic*:[26]

> Section 14(1) mandates registration on the basis of possession, while Section 14(2) entitles registration on the basis of prescription. Registration under Section 14(1) is extended under the aegis of the Property Registration Decree and the Public Land Act while registration under Section 14(2) is made available both by the Property Registration Decree and the Civil Code.[27]

Registration under Section 14(1) of P.D. No. 1529 is based on possession and occupation of the alienable and disposable land of the public domain since June 12, 1945 or earlier, without regard to whether the land was susceptible to private ownership at that time. The applicant needs only to show that the land had already been declared alienable and disposable at any time prior to the filing of the application for registration.[28]

On the other hand, registration under Section 14(2) of P.D. No. 1529 is based on acquisitive prescription and must comply with the law on prescription as provided by the Civil Code. In that regard, only the patrimonial property of the State may be acquired by prescription pursuant to the Civil Code. For acquisitive prescription to set in, therefore, the land being possessed and occupied must already be classified or declared as patrimonial property of the State. Otherwise, no length of possession would vest any right in the possessor if the property has remained land of the public dominion.[29]

Moreover, Section 14(1) of P.D. No. 1529 refers to the judicial confirmation of imperfect or incomplete titles to public land acquired under Section 48(b) of Commonwealth Act No. 141, or the Public Land Act, as

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26 *Supra* note 15.

27 *Supra* note 15, at 206.

28 *Republic v. Zurbaran Realty and Development Corp.*, G.R. No. 164408, March 24, 2014, 719 SCRA 601, 612.

29 *Id.* at 612- 613.

amended by P.D. No. 1073.[30] Under Section 14(1), respondents need to prove that: (1) the land forms part of the alienable and disposable land of the public domain; and (2) they, by themselves or through their predecessors-in-interest, have been in open, continuous, exclusive, and notorious possession and occupation of the subject land under a *bona fide* claim of ownership from June 12, 1945 or earlier. These the respondents must prove by no less than clear, positive and convincing evidence.[31]

In the case at bar, the first requirement was not satisfied. To prove that the subject property forms part of the alienable and disposable lands of the public domain, the respondents presented three certifications - two are dated January 29, 2010 (Exhibits "J-3" and "K-2") and one is dated January 28, 2010 (Exhibits "L-3") - issued by Senior Forest Management Specialist Corazon D. Calamno and Chief of the Forest Utilization and Law Enforcement Division of the DENR-National Capital Region. [32] The certification attests that the lots are verified to be within alienable and disposable land under Project No. 27-B Taguig Cadastral Mapping as per LC Map No. 2623 approved on January 3, 1968, thus:

> This is to certify that the tract of land as shown and described at the reverse side hereof xxx as surveyed by Geodetic Engineer Jose S. Agres, Jr. for Tomasa Vda de Ocol is verified to be within the Alienable and Disposable Land, under Project No. 27-B of Taguig City as per LC Map 2623, approved on January 3, 1968.[33]

However, the certifications presented by the respondents are insufficient to prove that the subject properties are alienable and disposable. We reiterate the standing doctrine that land of the public domain, to be the subject of appropriation, must be declared alienable and disposable either by the President or the Secretary of the DENR. Applicants must present a copy of the original classification approved by the DENR Secretary and certified as

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30 Sec. 48(b) of the Public Land Act, as amended by P.D. No. 1073, provides that:
Sec. 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:
x x x
(b) Those who by themselves or through their predecessors–in–interest have been in open, continuous, exclusive, and notorious possession and occupation of alienable and disposable lands of the public domain, under a *bona fide* claim of acquisition or ownership, since June 12, 1945, or earlier, immediately preceding the filing of the application for confirmation of title except when prevented by war or *force majeure*. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.

31 *Republic v. De la Paz, et al.*, 649 Phil. 106, 119-120 (2010).

32 *Rollo*, p. 35.

33 *Id.* at 35-36.

true copy by the legal custodian of the records. In *Republic of the Philippines v. T.A.N. Properties, Inc.*,[34] this Court explicitly ruled:

> Further, it is not enough for the PENRO or CENRO[35] to certify that a land is alienable and disposable. The applicant for land registration must prove that the DENR Secretary had approved the land classification and released the land of the public domain as alienable and disposable, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO or CENRO. **In addition, the applicant for land registration must present a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records. These facts must be established to prove that the land is alienable and disposable.** Respondent failed to do so because the certifications presented by respondent do not, by themselves, prove that the land is alienable and disposable.[36]

In *Republic v. Bantigue Point Development Corporation,*[37] this Court deemed it appropriate to reiterate the ruling in *T.A.N. Properties, viz.*:

> The Regalian doctrine dictates that all lands of the public domain belong to the State. The applicant for land registration has the burden of overcoming the presumption of State ownership by establishing through incontrovertible evidence that the land sought to be registered is alienable or disposable **based on a positive act of the government.** We held in *Republic v. T.A.N. Properties, Inc.* that a CENRO certification is insufficient to prove the alienable and disposable character of the land sought to be registered. The applicant must also show sufficient proof that the DENR Secretary has approved the land classification and released the land in question as alienable and disposable.
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> Thus, the present rule is that an application for original registration must be accompanied by (1) a CENRO or PENRO Certification; and (2) a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records.
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> Here, respondent Corporation only presented a CENRO certification in support of its application. Clearly, this falls short of the requirements for original registration.[38]

Similarly, in *Republic v. Cortez,*[39] this Court declared that:

> x x x. To prove that the subject property forms part of the alienable and disposable lands of the public domain, Cortez adduced in evidence a survey plan Csd-00-000633 (conversion-subdivision plan of Lot 2697,

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34 578 Phil. 441 (2008).

35 Certificate of Community Environment and Natural Resources Office (CENRO) and Provincial Environmental and Natural Resources Office (PENRO).

36 *Republic v. T.A.N. Properties, Inc., supra* note 34, at 452-453. (Emphasis ours)

37 684 Phil. 192 (2012).

38 *Republic v. Bantigue Point Development Corporation, supra,* at 205-206. (Emphasis in the original).

39 G.R. No. 186639, February 5, 2014, 715 SCRA 417.

MCadm 594-D, Pateros Cadastral Mapping) prepared by Geodetic Engineer Oscar B. Fernandez and certified by the Lands Management Bureau of the DENR. The said survey plan contained the following annotation:

> This survey is inside L.C. Map No. 2623, Project No. 29, classified as alienable & disposable by the Bureau of Forest Development on Jan. 3, 1968.

However, **Cortez' reliance on the foregoing annotation in the survey plan is amiss; it does not constitute incontrovertible evidence to overcome the presumption that the subject property remains part of the inalienable public domain**. In *Republic of the Philippines v. Tri-Plus Corporation,*[40] the Court clarified that, the applicant must at the very least submit a certification from the proper government agency stating that the parcel of land subject of the application for registration is indeed alienable and disposable, *viz.*:

> It must be stressed that incontrovertible evidence must be presented to establish that the land subject of the application is alienable or disposable.
>
> In the present case, the only evidence to prove the character of the subject lands as required by law is the notation appearing in the Advance Plan stating in effect that the said properties are alienable and disposable. However, this is hardly the kind of proof required by law. To prove that the land subject of an application for registration is alienable, an applicant must establish the existence of a positive act of the government such as a presidential proclamation or an executive order, an administrative action, investigation reports of Bureau of Lands investigators, and a legislative act or statute. The applicant may also secure a certification from the Government that the lands applied for are alienable and disposable. In the case at bar, **while the Advance Plan bearing the notation was certified by the Lands Management Services of the DENR, the certification refers only to the technical correctness of the survey plotted in the said plan and has nothing to do whatsoever with the nature and character of the property surveyed**. Respondents failed to submit a certification from the proper government agency to prove that the lands subject for registration are indeed alienable and disposable.[41]

Clearly, the aforestated doctrine unavoidably means that the mere certification issued by the DENR does not suffice to support the application for registration, because the applicant must also submit a copy of the original classification of the land as alienable and disposable as approved by the

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40 534 Phil. 181 (2006).

41 *Supra* note 39, at 427-428. (Emphasis ours)

DENR Secretary and certified as a true copy by the legal custodian of the official records.[42]

Hence, in the instant case, the DENR certifications that were presented by the respondents in support of their application for registration are not sufficient to prove that the subject properties are indeed classified by the DENR Secretary as alienable and disposable. It is still imperative for the respondents to present a copy of the original classification approved by the DENR Secretary, which must be certified by the legal custodian thereof as a true copy. Accordingly, the lower courts erred in granting the application for registration in spite of the failure of the respondents to prove by well–nigh incontrovertible evidence that the subject properties are alienable and disposable.[43]

Anent the second requirement, the tax declarations do not prove respondents' assertion. Although respondents claim that they possessed the subject lots through their predecessors-in-interest since the 1930s, their tax declarations belie the same. The earliest tax declarations presented for the first lot was issued only in 1966, while the earliest tax declaration for the third lot was issued in 1949.

If it is true that the parents of respondents had been in possession of the properties in the 1930s as testified to by witness Antonia Marcelo, why was the first lot declared for taxation purposes for the first time only in 1966, and the third lot was declared only in 1949? While belated declaration of a property for taxation purposes does not necessarily negate the fact of possession, tax declarations or realty tax payments of property are, nevertheless, good *indicia* of possession in the concept of an owner, for no one in his right mind would be paying taxes for a property that is not in his actual or, at least, constructive possession.[44]

That the subject properties were first declared for taxation purposes only in those mentioned years gives rise to the presumption that the respondents claimed ownership or possession of the subject properties starting in the year 1966 only with respect to the first lot; and year 1949, with respect to the third lot.[45] The voluntary declaration of a piece of property for taxation purposes not only manifests one's sincere and honest desire to obtain title to the property, but also announces an adverse claim against the State and all other interested parties with an intention to contribute needed revenues to the

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42 *Republic v. Rosario de Guzman Vda. de Joson,* G.R. No. 163767, March 10, 2014, 718 SCRA 229, 243.

43 *Republic v. Remman Enterprises, Inc.,* G.R. No. 199310, February 19, 2014, 717 SCRA 171, 188.

44 *Republic v. Alconaba,* 471 Phil. 607, 622 (2004).

45 *Republic v. T.A.N. Properties, Inc., supra* note 34, at 457-458.

government. Such an act strengthens ones *bona fide* claim of acquisition of ownership.[46]

Likewise, this Court notes that the tax declarations on the subject properties presented by the respondents were only for the years 1966, 1974, 1979, 1985, 2000 and 2002 with respect to the first lot (*Lot 2 of the conv. Subd. plan Ccs-00- 000258 with an area of 3,731 square meters*); for the years 1942, 1949, 1966, 1974, 1979, 1985, 1994, 2000 and 2002 with respect to the second lot (*Lot 1672-A under approved subdivision plan Csd-00-001798 consisting of 1,583 square meters*); for the years 1949, 1974, 1979, 1985, 2000 and 2002 with respect to the third lot (*a lot under approved survey plan CVN-00-000194 consisting of 6,066 square meters being a conversion of Lot 1889, MCadm, 590-D Taguig Cadastral Mapping*).

Thus, there are only six tax declarations for the first lot, nine tax declarations for the second lot and five tax declarations for the third lot within the alleged actual and physical possession of the lands without any interruption for more than sixty five (65) years. In *Wee v. Republic of the Philippines,*[47] this Court stated that:

> It bears stressing that petitioner presented only **five tax declarations** (for the years 1957, 1961, 1967, 1980 and 1985) for a claimed possession and occupation of **more than 45 years** (1945-1993). **This type of intermittent and sporadic assertion of alleged ownership does not prove open, continuous, exclusive and notorious possession and occupation.** In any event, in the absence of other competent evidence, tax declarations do not conclusively establish either possession or declarant's right to registration of title.[48]

Moreover, this Court emphasizes that respondents paid the taxes due on the parcels of land subject of the application only in 2009, a year after the filing of the application. There is no showing of any tax payments before 2009. This Court held in the case of *Tan, et al. vs. Republic:* [49]

> Tax declarations *per se* do not qualify as competent evidence of actual possession for purposes of prescription. More so, if the **payment of the taxes due on the property is episodic, irregular and random** such as in this case. Indeed, **how can the petitioners claim of possession for the entire prescriptive period be ascribed any ounce of credibility when taxes were paid only on eleven (11) occasions within the 40-year period from 1961 to 2001?**[50]

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46 *Republic v. Alconaba, supra* note 44, at 620.
47 *Supra* note 14.
48 *Id.* at 956. (Emphasis ours)
49 G.R. No. 193443, April 16, 2012, 669 SCRA 499.
50 *Tan, et al. v. Republic, supra,* at 509. (Emphasis ours)

From the foregoing, this Court doubts the respondents' claim that their predecessors-in-interest have been in continuous, exclusive, and adverse possession and occupation thereof in the concept of owners from June 12, 1945, or earlier. The evidence presented by the respondents does not prove title thru possession and occupation of public land under Section 14(1) of P.D. 1529.

Further, the RTC ruled that with the continuous possession of the subject lots for more than 30 years, respondents had acquired ownership over the subject lots through prescription under Section 14(2) of P.D.529. This view was adopted by the respondents in their Comment,[51] to the petition.

An application for original registration of land of the public domain under Section 14(2) of Presidential Decree (PD) No. 1529 must show not only that the land has previously been declared alienable and disposable, but also that the land has been declared patrimonial property of the State at the onset of the 30-year or 10-year period of possession and occupation required under the law on acquisitive prescription.[52]

It was elucidated in *Heirs of Malabanan*[53] that possession and occupation of an alienable and disposable public land for the periods provided under the Civil Code will not convert it to patrimonial or private property. There must be an express declaration that the property is no longer intended for public service or the development of national wealth. In the absence thereof, the property remains to be alienable and disposable and may not be acquired by prescription under Section 14(2) of P.D. No. 1529.

This Court, therefore, stresses that there must be an official declaration by the State that the public dominion property is no longer intended for public use, public service, or for the development of national wealth before it can be acquired by prescription; that a mere declaration by government officials that a land of the public domain is already alienable and disposable would not suffice for purposes of registration under Section 14(2) of P.D. No. 1529. The period of acquisitive prescription would only begin to run from the time that the State officially declares that the public dominion property is no longer intended for public use, public service, or for the development of national wealth[54].

In *Republic v. Rizalvo, Jr.,*[55] this Court reiterated the ruling in *Malabanan, viz.*:

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51 *Rollo,* pp. 57-60.

52 *Republic v. Zurbaran Realty and Development Corporation, supra* note 28, at 603.

53 *Supra* note 15.

54 *Republic v. Cortez, supra* note 39, at 431- 432.

55 659 Phil. 578, 589 (2011).

> On this basis, respondent would have been eligible for application for registration because his claim of ownership and possession over the subject property even exceeds thirty (30) years. However, it is jurisprudentially clear that the thirty (30)-year period of prescription for purposes of acquiring ownership and registration of public land under Section 14 (2) of P.D. No. 1529 only begins from the moment the State expressly declares that the public dominion property is no longer intended for public service or the development of the national wealth or that the property has been converted into patrimonial. x x x

In this case, there is no evidence showing that the parcels of land in question were within an area expressly declared by law either to be the patrimonial property of the State, or to be no longer intended for public service or the development of the national wealth.

Evidently, there being no compliance, with either the first or second paragraph of Section 14 of PD 1529, the *Regalian* presumption stands and must be enforced in this case.

WHEREFORE, the petition is **GRANTED**. The Decision of the Court of Appeals dated February 20, 2013, in CA-G.R. CV No. 96879, affirming the Decision of the Regional Trial Court of Pasig City, Branch 266, in LRC Case No. N-11598, is **REVERSED** and **SET ASIDE.** The application for registration and confirmation of title filed by respondents Heirs of Spouses Tomasa Estacio and Eulalio Ocol over three parcels of land, with a total area of eleven thousand three hundred eighty (11,380) square meters situated at *Barangay* Calzada, Taguig City, Metro Manila, is **DENIED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice

On official leave
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

JOSE PORTUGAL PEREZ
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ATTESTATION

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

DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson, Third Division

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
DEC 01 2016