

G.R. No. 193305 – REPUBLIC OF THE PHILIPPINES, *petitioner*,  
*versus*, BANAL NA PAG-AARAL, PHIL., INC., *respondent*.

Promulgated:

JAN 27 2021

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### SEPARATE CONCURRING OPINION

**CAGUIOA, J.:**

I agree that the respondent sufficiently established that the subject lot is alienable and disposable.<sup>1</sup>

In the instant case, respondent presented: 1) a Community Environment and Natural Resources Office (CENRO) Certification stating that the land subject of respondent's application for registration was verified to fall within the Alienable or Disposable Land established under Project No. 5 per Land Classification (LC) Map No. 3013 (LC-3013) as approved and certified as such on March 15, 1982 under Forestry Administrative Order (FAO) No. 4-1656, and 2) a certified copy of FAO No. 4-1656 issued by the then Minister of Natural Resources Teodoro Q. Peña, declaring as alienable or disposable certain portions of the public domain situated, among others, in the Municipality of Trece Martires under LC Project No. 5 which is "designated and described as alienable and disposable in the [BFD] Map LC-3013."<sup>2</sup> As the CENRO Certification was issued on **December 9, 2008**,<sup>3</sup> the instant Decision correctly applied *Republic v. T.A.N. Properties*<sup>4</sup> (*T.A.N.*), which requires the presentation of (i) a certificate of land classification status issued by the CENRO or Provincial Environment and Natural Resources Office (PENRO) of the Department of Environment and Natural Resources (DENR); and (ii) 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, to prove that property is part of the alienable and disposable lands of the public domain.<sup>5</sup>

I submit this Separate Concurring Opinion only to reiterate my position in *Dumo v. Republic of the Philippines*<sup>6</sup> (*Dumo*), that the **second requirement established in T.A.N. has been rendered superfluous and unnecessary by the issuance of DENR Administrative Order No. 2012-9 (DENR AO 2012-9) on November 14, 2012**, which delegated unto the CENRO, PENRO and the National Capital Region (NCR) Regional Executive Director (RED-NCR) the authority to issue not only **certifications**

<sup>1</sup> *Ponencia*, p. 5.

<sup>2</sup> *Id.* at 6.

<sup>3</sup> *Id.* at 3.

<sup>4</sup> G.R. No. 154953, June 26, 2008, 555 SCRA 447 [First Division, per *J. Carpio*].

<sup>5</sup> *Id.* at 489.

<sup>6</sup> G.R. No. 218269, July 30, 2018, 865 SCRA 119.

on land classification status, but also **certified true copies of approved LC maps**<sup>7</sup> with respect to lands falling within their respective jurisdictions.

DENR AO 2012-9 pertinently provides:

**In view of the thrust of the government to [make] public service more accessible to the public**, the authority to sign and/or issue the following documents is hereby delegated to the [CENROs], except in the National Capital Region (NCR) where the same shall be vested upon the [RED-NCR]:

1. **Certification on land classification status** regardless of area based on existing approved [LC maps]; and
2. **Certified true copy of the approved [LC maps] used as basis in the issuance of the certification on the land classification status of a particular parcel of land x x x** (Emphasis supplied)

Like the instant case, the certification in question in *T.A.N.* was issued prior to DENR AO 2012-9, *i.e.*, in 1997. As such, the Court's decision in *T.A.N.* was correctly premised upon the lack of authority on the part of CENRO to issue certified true copies of approved LC maps or to serve as repository for said copies. The same may be said of the CENRO certifications presented in *Republic v. Lualhati*<sup>8</sup> (*Lualhati*) and *Republic v. Nicolas*<sup>9</sup> (*Nicolas*), which correctly applied *T.A.N.*

However, this lack of authority **no longer holds true under the regime of DENR AO 2012-9**. On this score, it is my view that pursuant to DENR AO 2012-9, certifications of land classification status issued by the CENRO, PENRO, and the RED-NCR should be deemed sufficient for purposes of proving the alienable and disposable character of property subject of land registration proceedings, **provided only** that these certifications expressly bear references to: (i) the LC map; and (ii) the document through which the original classification had been effected, such as a Bureau of Forest Development Administrative Order<sup>10</sup> (BFDAO) issued and signed by the DENR Secretary.

<sup>7</sup> Under the *Guidelines for the Assessment and Delineation of Boundaries Between Forestlands, National Parks and Agricultural Lands* [DENR AO 2008-24, December 8, 2008], land classification maps are defined as those which show "the classification of lands of the public domain based on the land classification system undertaken by the then Department of Agriculture and Natural Resources, through the Bureau of Forestry, the Ministry of Natural Resources, through the Bureau of Forest Development, and the [DENR]." (DENR AO 2008-24, Sec. 4[h].)

<sup>8</sup> G.R. No. 183511, March 25, 2015, 754 SCRA 352 [Third Division, per *C.J. Peralta*]. While the date of the CENRO certificate considered in *Lualhati* cannot be ascertained from the Court's decision, the fact that the same had been issued prior to the effectivity of DENR AO 2012-9 can be inferred from the date of the RTC and CA rulings assailed therein, that is, October 4, 2005 and March 31, 2008, respectively.

<sup>9</sup> G.R. No. 181435, October 2, 2017, 841 SCRA 328 [First Division, per *C.J. Sereno*]. While the date of the CENRO certificate considered in *Nicolas* cannot be ascertained from the Court's decision, the fact that the same had been issued prior to the effectivity of DENR AO 2012-9 can be inferred from the date of the RTC and CA rulings assailed therein, that is, July 31, 2002 and August 23, 2007, respectively.

<sup>10</sup> BFDAOs declaring portions of the public forest as alienable and disposable are issued **under the signature of the Secretary of Natural Resources** upon the recommendation of the Director of the Bureau of Forest.

The BFDAO usually contains the following language:

[BFDAO]

x x x Pursuant to Section 13 of PD 705,<sup>11</sup> otherwise known as the Revised Forestry Code of the Philippines, as amended, I hereby declare an aggregate area of [x x x] hectares, more or less, as alienable or disposable for cropland and other purposes and place the same under the control and management of the Bureau of Lands, for disposition pursuant to the provisions the Public Land Act, **located in [x x x], shown and described in BFD Map [x x x], which is attached hereto and forms and integral part of this Order** x x x<sup>12</sup>

Precisely, the BFDAO (or any other issuance of the same tenor) constitutes the original classification required in *T.A.N.* (*i.e.*, 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). As the language of the BFDAO quoted above indicates, it serves to: (i) confirm the State's intention to release the land identified therein from the public dominion and classify the same as alienable and disposable; and (ii) **define the specific metes and bounds of the subject land by incorporating, through reference, the LC map covering the same.**

Hence, I submit that the presentation of the original classification and LC map no longer serves any further purpose when references thereto already appear on the face of the CENRO, PENRO or RED-NCR certificate submitted by the applicant, **since these references already provide the State with a way to verify the correctness of the certificate against said public documents which are, in turn, in the State's custody.**

To note, CENRO, PENRO or RED-NCR certificates do not fall within the class of public documents which, under Section 23,<sup>13</sup> Rule 132, constitute *prima facie* evidence of their contents. Like private documents, the authenticity of these certificates and the veracity of their contents remain subject to proof in the manner set forth under Section 20, Rule 132:

**SEC. 20. Proof of private document.** — Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:

- (a) By anyone who saw the document executed or written; or
- (b) By evidence of the genuineness of the signature or handwriting of the maker.

<sup>11</sup> REVISING PRESIDENTIAL DECREE NO. 389, OTHERWISE KNOWN AS THE FORESTRY REFORM CODE OF THE PHILIPPINES, May 19, 1975.

<sup>12</sup> Based on BFDAO No. 4-2003 dated June 29, 1987.

<sup>13</sup> Section 32, Rule 132 states:

**SEC. 23. Public documents as evidence.** — Documents consisting of entries in public records made in the performance of a duty by a public officer are *prima facie* evidence of the facts stated therein. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.



Any other private document need only be identified as that which it is claimed to be.

Necessarily, the submission of a CENRO, PENRO or RED-NCR certificate as evidence of registrability entails the presentation of the testimony of the proper issuing officer before the trial court for the purpose of authentication and verification. **This exercise renders the presentation of the original classification and LC map in addition to the CENRO, PENRO or RED-NCR certificate redundant, inasmuch as the matters to which the original classification and LC map pertain may already be threshed out during the direct and cross-examination of the CENRO, PENRO or RED-NCR officer concerned.** Once the certification in question is authenticated and verified by the proper officer, I submit that the burden of proof to establish that the land subject of the proceeding is unregistrable then shifts, as it should, to the State.

I am of the belief that the observance of the proper authentication and verification procedures and the State's participation (through the Office of the Solicitor General) in the trial process are sufficient safeguards against the grant of registration on the basis of falsified or inaccurate certifications.<sup>14</sup> To require the applicant to still carry the burden of proof to establish registrability despite presentation of duly authenticated and verified documents showing the same unduly tips the scale in favor of the State, and compromises the efficiency and accessibility of public service.

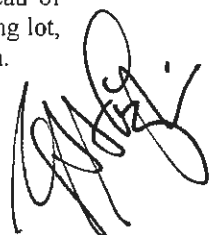
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<sup>14</sup> In fact, in *Victoria v. Republic*, 666 Phil. 519 (2011) (*Victoria*), the Court ordered the OSG to directly undertake the verification and authentication of documentary evidence belatedly presented by the petitioner in the interest of justice. In *Victoria*, a certain Natividad Sta. Ana Victoria (Natividad) applied for the original registration of a 1,729-square meter lot in Bambang, Taguig City before the Metropolitan Trial Court (MeTC). The MeTC granted Natividad's application, prompting the Republic to file an appeal. When Natividad filed her Appellee's Brief, she attached thereto a **Certification dated November 6, 2006 issued by the DENR** certifying that the Bambang lot forms part of the alienable and disposable land of the public domain.

The CA held that Natividad failed to prove that the Bambang lot is alienable and disposable, and thus, granted the Republic's appeal. The CA held that it could not take cognizance of the DENR Certification since Natividad failed to offer it in evidence during the hearing before the MeTC.

Aggrieved, Natividad filed a petition for review before the Court. Resolving Natividad's petition, the Court observed that "the only reason the CA gave in reversing the decision of the MeTC is that [Natividad] failed to submit the [DENR Certification] x x x during the hearing x x x." Accordingly, the Court issued a resolution "requiring the OSG to verify from the DENR whether the Senior Forest Management Specialist of its National Capital Region, Office of the Regional Technical Director for Forest Management Services, who issued the [DENR Certification], is authorized to issue certifications on the status of public lands as alienable and disposable, and to submit a copy of the administrative order or proclamation that declares as alienable and disposable the area where the property involved in this case is located, if any there be."

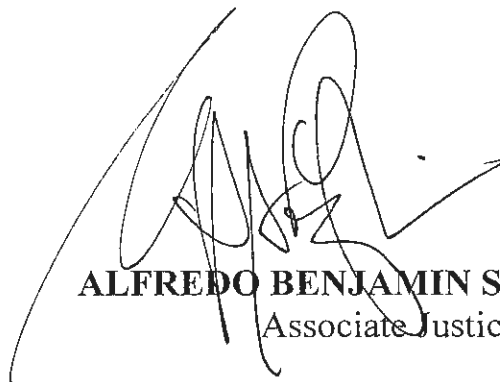
In compliance, the OSG submitted: (i) a certification confirming the Senior Forest Management Specialist's authority to issue said DENR Certification; and (ii) a certified true copy of Forestry Administrative Order 4-1141 dated January 3, 1968, signed by then Secretary of Agriculture and Natural Resources Arturo R. Tanco, Jr., which declared portions of the public domain covered by Bureau of Forestry Map LC-2623, as alienable and disposable. Considering that LC-2623 covered the Bambang lot, the Court granted the petition for review, and in turn, granted Natividad's application for registration.



It bears noting that under Executive Order No. 192<sup>15</sup> (EO 192), the DENR is mandated to exercise supervision and control over forest lands and alienable and disposable lands.<sup>16</sup> To carry out this mandate, EO 192 vests the DENR Secretary with the power to “[e]stablish policies and standards for the efficient and effective operations of the [DENR] in accordance with the programs of the government”; “[p]romulgate rules, regulations and other issuances necessary in carrying out the [DENR]’s mandate, objectives, policies, plans, programs and projects”; and “[d]elegate authority for the performance of any administrative or substantive function to subordinate officials of the [DENR]”.<sup>17</sup> **One such policy is DENR AO 2012-9.**

Contrary to the majority opinion in *Dumo*, I maintain that the simplification of the requirements set forth in *T.A.N.* neither sanctions the amendment of judicial precedent, nor does it place primacy on administrative issuances. **This simplification merely aligns with the specific thrust of government underlying the issuance of DENR AO 2012-9, that is, to make public service more accessible to the public.** It is but a recognition of the DENR Secretary’s powers under EO 192 to “[p]romulgate rules, regulations and other issuances necessary in carrying out the [DENR]’s mandate, objectives, policies, plans, programs and projects”; and “[d]elegate authority for the performance of any administrative or substantive function to subordinate officials of the [DENR]”,<sup>18</sup> which issuances, in turn, carry the same force and effect of law.<sup>19</sup>

In sum, I reiterate that the scope and application of *T.A.N.* should now be limited to CENRO certifications issued **prior** to the effectivity of DENR AO 2012-9.



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

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<sup>15</sup> Entitled “PROVIDING FOR THE REORGANIZATION OF THE DEPARTMENT OF ENVIRONMENT, ENERGY AND NATURAL RESOURCES, RENAMING IT AS THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, AND FOR OTHER PURPOSES, OTHERWISE BE KNOWN AS THE REORGANIZATION ACT OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES”, June 10, 1987.

<sup>16</sup> See EO 192, Sec. 5(d).

<sup>17</sup> Id., Sec. 7(b), (c), and (e).

<sup>18</sup> Id., Sec. 7(c) and (e).

<sup>19</sup> EO 293 was issued by then President Corazon Aquino pursuant to her law-making powers prior to the convention of Congress on July 27, 1987. See generally *Philippine Association of Service Exporters, Inc. v. Torres*, G.R. No. 98472, August 19, 1993, 225 SCRA 417 [*En Banc*, per J. Bellosillo].