



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

REPUBLIC OF THE PHILIPPINES, G.R. No. 205665  
Petitioner,

Present:

CARPIO, J.,  
Chairperson,  
PERALTA,  
PERLAS-BERNABE,  
CAGUIOA, and  
REYES, JR., JJ.

- versus -

METRO CEBU PACIFIC\* SAVINGS  
BANK and CORDOVA TRADING  
POST, INC.,

Promulgated:

Respondents.

04 OCT 2017

*HM Cabalag for Reyes*

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DECISION

REYES, JR., J.:

This is a petition for review on *certiorari*<sup>1</sup> under Rule 45 of the Rules of Court seeking to annul and set aside the Decision<sup>2</sup> dated January 18, 2013 issued by the Court of Appeals (CA) in CA-G.R. CV No. 03296.

Facts

On November 7, 2006, Metro Cebu Public Savings Bank (Metro Cebu) and Cordova Trading Post, Inc. (Cordova Trading) (collectively, respondents) filed with the Municipal Circuit Trial Court (MCTC) of

\* The name of the respondent is Metro Cebu "Public" Savings Bank as mentioned in the Municipal Circuit Trial Court decision.

<sup>1</sup> *Rollo*, pp. 9-69.

<sup>2</sup> Penned by Associate Justice Maria Elisa Sempio Diy, with Associate Justices Ramon Paul L. Hernando and Carmelita Salandanan-Manahan, concurring; id. at 71-80.

*Reyes*

Consolacion-Cordova, Cebu separate applications for original registration of two parcels of land situated in Barangay Poblacion, Cordova, Cebu. Metro Cebu applied for the original registration of Lot No. 325-A, while Cordova Trading applied for Lot No. 325-B. Lot Nos. 325-A and 325-B (subject properties) are both covered by the Cordova Cad. 670 and contains an area of 933 square meters and 531 sq m, respectively.<sup>3</sup>

Cordova Trading claimed that it acquired Lot No. 325-B from Benthel Development Corporation (Benthel) through an exchange of properties, as regards 393-sq-m portion thereof, and by sale, as regards the remaining 118 sq m. In turn, Benthel bought the said parcels of land from Clodualdo Dalumpines (Dalumpines) as evidenced by two (2) Deeds of Absolute Sale executed on August 8, 1994, for the 393-sq-m parcel of land, and on April 3, 1996, for the remaining 118-sq-m parcel of land. Cordova Trading claimed that the parcels of land bought by Benthel from Dalumpines, which it eventually acquired, have been consolidated and is now denominated as Lot No. 325-B.<sup>4</sup>

On the other hand, Metro Cebu averred that Dalumpines, as security for his loan, mortgaged in its favor Lot No. 325-A; and that the mortgage was subsequently foreclosed in favor of Metro Cebu as evidenced by an Affidavit of Consolidation of Ownership.<sup>5</sup>

The respondents further alleged that the entire Lot No. 325 was previously possessed and owned by Dalumpines since 1967; by Fausto Daro from 1966 until 1967; and by Pablo Daro (Pablo) from 1948 until 1966. They averred that an older tax declaration over the subject properties dates as far back as 1945 or earlier still exists in the records. They insist that they and their predecessors-in-interest have been in open, continuous, and peaceful possession of the subject properties for more than 30 years.<sup>6</sup>

The respondents attached the following documents in support of their respective applications for original registration: (1) tracing plan; (2) blue print copies; (3) technical description of the subject properties; (4) surveyor's certificate/exemption; (5) certified true copy of the latest tax declaration; (6) Clearance from the Regional Trial Court and Municipal Trial Court in Cities; and (7) Certification issued by the Community Environment and Natural Resources Office (CENRO) that the subject properties are alienable and disposable.<sup>7</sup>

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<sup>3</sup> Id. at 11; 156.

<sup>4</sup> Id. at 157.

<sup>5</sup> Id. at 158.

<sup>6</sup> Id.

<sup>7</sup> Id. at 14.



The case was set for initial hearing by the MCTC on May 15, 2008. Meanwhile, on February 14, 2008, the Office of the Solicitor General (OSG) filed with the MCTC its Notice of Appearance, Letter of Deputation of the Provincial Prosecutor of Cebu City, and Opposition to the Application for Original Registration. On May 15, 2008, during the initial hearing, the MCTC issued an Order, which set the application for original registration for trial on the merits on June 4, 2008.<sup>8</sup>

During the trial, the respondents presented the testimonies of the following: (1) Gemma Sheila Cruz-Gonzaga (Gonzaga), an employee of Benthel; (2) Corazon G. Oliveras (Oliveras), an employee of Metro Cebu; (3) Roland R. Cotejo (Cotejo), Forester II at the CENRO, Cebu City; and (4) Cristino Indino (Indino), a relative of Dalumpines.<sup>9</sup>

Gonzaga affirmed that Cordova Trading acquired Lot No. 325-B from Benthel which, in turn, acquired the same from Dalumpines. She testified that the remaining portion of Lot No. 325 was mortgaged by Dalumpines to Metro Cebu; and that the mortgage was subsequently foreclosed with Metro Cebu being the highest bidder during the public sale.<sup>10</sup> Oliveras echoed the testimony of Gonzaga insofar as Lot No. 325-A is concerned.

Cotejo testified that, as Forester II in CENRO, Cebu City, his duty includes the evaluation of lands, *i.e.*, the conduct of a projection to determine whether the same is within the alienable and disposable lands of the public domain. He claimed that Lot Nos. 325-A and 325-B, after a projection, was determined by him to be within the alienable and disposable lands of the public domain.<sup>11</sup> Lastly, Indino alleged that he is a distant relative of Dalumpines; that he personally knows that the subject properties are owned by Dalumpines and that the latter had been the owner and in possession of the same for more than 30 years.<sup>12</sup>

On June 29, 2009, the MCTC rendered a Decision,<sup>13</sup> the decretal portion of which reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered ordering for the registration and the conformation of the title of the applicant-corporation over LOT 335-A and 325-B, (sic) Cad 670, containing an area of NINE HUNDRED THIRTY-THREE (933) SQUARE METERS and FIVE HUNDRED THIRTY-ONE (531) SQUARE METERS, respectively, or a total area of ONE THOUSAND FOUR HUNDRED SIXTY-FOUR (1,464) SQUARE METERS and that upon the finality of this decision let a corresponding decree of registration

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<sup>8</sup> Id. at 17.

<sup>9</sup> Id. at 83-89.

<sup>10</sup> Id. at 85-86.

<sup>11</sup> Id. at 88.

<sup>12</sup> Id. at 89.

<sup>13</sup> Issued by Presiding Judge Jocelyn G. Uy-Po; id. at 81-90.



be issued in favor of the herein applicants in accordance with Section 39 of P.D. 1529.

SO ORDERED.<sup>14</sup>

In granting the respondents' application, the MCTC opined that:

After a careful consideration of the evidence presented in the above-entitled application, the Court is convinced, and so holds, that the applicant-corporation[s] [were] able to establish [their] ownership and possession over the subject lot[s] which [are] within the area considered by the Department of Environment and Natural Resources as alienable and disposable land of the public domain.

x x x x

It is to be noted that from the certification issued by the CENRO x x x, the parcel of land applied for was classified as alienable and disposable in 1974 and hence, has been open to private appropriation since that year. Since the applicant-corporation[s] and [their] predecessors-in-interest have been in open, continuous and exclusive possession of the land applied for more than thirty (30) years since 1948 when the same was classified as alienable and disposable, then it could be said that the said portion have been segregated from the mass of public land to become private property of the applicant[s].<sup>15</sup>

Aggrieved, the OSG appealed the MCTC's Decision dated June 29, 2009 to the CA, claiming that the trial court erred in granting the respondents' application for original registration of the subject properties. The OSG maintained that the respondents failed to prove that the subject properties were occupied and possessed by the respondents, by themselves and/or their predecessors-in-interest, for the period required by law.<sup>16</sup>

On January 18, 2013, the CA rendered the herein assailed Decision,<sup>17</sup> which affirmed the MCTC's ruling. The CA opined that the evidence presented by the respondents reflect the twin requirements of ownership and possession over the subject properties for at least 30 years.<sup>18</sup> The CA pointed out that the respondents were able to prove that the subject properties form part of the alienable and disposable lands of the public domain since February 25, 1974, as evidenced by the Certification issued by the CENRO.<sup>19</sup>

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<sup>14</sup> Id. at 90.

<sup>15</sup> Id. at 89-90.

<sup>16</sup> Id. at 91-151.

<sup>17</sup> Id. at 71-80.

<sup>18</sup> Id. at 79.

<sup>19</sup> Id. at 78.

*Meyer*

In this petition for review on *certiorari*, the OSG maintains that the requirement under Section 14(1) of Presidential Decree (P.D.) No. 1529,<sup>20</sup> *i.e.*, open, continuous, exclusive and notorious possession and occupation of the subject properties under a *bona fide* claim of ownership since June 12, 1945, has not been complied with by the respondents.<sup>21</sup>

On the other hand, the respondents maintain that the subject properties form part of the alienable and disposable lands of the public domain as evidenced by the Certification issued by the CENRO, Cebu City.<sup>22</sup> They further insist that they were able to sufficiently prove their open, continuous and exclusive possession of the subject properties, by themselves and their predecessors-in-interest, as evidenced by the tax declarations they presented, the earliest of which was issued sometime in 1947, and by the testimony of Indino.<sup>23</sup>

### Issue

Essentially, the issue for the Court's resolution is whether the CA erred in granting the respondents' Application for Original Registration of the subject properties.

### Ruling of the Court

The petition is granted.

The lower courts should have denied the respondents' applications for original registration of the subject properties since they miserably failed to prove their entitlement thereto. Section 14 of P.D. No. 1529 enumerates those who may apply for original registration of title to land, *viz.*:

Section 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:

(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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<sup>20</sup> The Property Registration Decree.

<sup>21</sup> *Rollo*, p. 31.

<sup>22</sup> *Id.* at 212.

<sup>23</sup> *Id.* at 213.

*Meyer*

(3) Those who have acquired ownership of private lands or abandoned river beds by right of accession or accretion under the existing laws.

(4) Those who have acquired ownership of land in any other manner provided for by law.

x x x x

Contrary to the respondents' claim, their respective applications for original registration of the subject properties should be denied.

Under Section 14(1) of P.D. No. 1529, it is imperative for an applicant for registration of title over a parcel of land to establish the following: (1) possession of the parcel of land under a *bona fide* claim of ownership, by himself and/or through his predecessors-in-interest since June 12, 1945, or earlier; and (2) that the property sought to be registered is already declared alienable and disposable at the time of the application.<sup>24</sup>

The lower courts erred in ruling that the respondents were able to establish that they and their predecessors-in-interest have been in peaceful, open, continuous, exclusive, and notorious possession and occupation of the same in the concept of owners prior to June 12, 1945. It is settled that the applicant must present proof of specific acts of ownership to substantiate the claim and cannot just offer general statements, which are mere conclusions of law rather than factual evidence of possession.<sup>25</sup> Actual possession consists in the manifestation of acts of dominion over it of such a nature as a party would actually exercise over his own property.<sup>26</sup>

The CA, in concluding that the respondents met the required possession and occupation of the subject properties for original registration, opined that:

To prove open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a *bona fide* claim of ownership, appellees presented evidence such as: tax declarations as far as 1947; and the testimony of witness [Indino], who claimed that he is a relative of Mr. Dalumpines and that Mr. Dalumpines has been in possession of the subject lot for a considerable period of time. Witness Mr. Indino likewise claimed that as soon as he reached the age of reason, he had already known that Mr. Dalumpines' family owned the subject lot for a period of forty (40) years.

x x x x

<sup>24</sup> See *Heirs of Malabanan v. Republic of the Philippines*, 605 Phil. 244, 270 (2009).

<sup>25</sup> See *Republic of the Philippines v. Carrasco*, 539 Phil. 205, 216 (2006).

<sup>26</sup> See *Republic of the Philippines v. Candy Maker, Inc.*, 525 Phil. 358, 376-377 (2006).

*Meyer*

x x x Instead, **We find that the evidence presented shows compliance not only with the first requirement of Section 14(1) but also the second requirement thereof.**<sup>27</sup>

The Court does not agree.

Indeed, there is nothing in this case which would substantiate the respondents' claim that they have been in possession of the subject properties since June 12, 1945, or earlier. The earliest tax declaration that was presented in the name of Dalumpines was issued only in 1967.<sup>28</sup> Although the respondents presented a tax declaration over the subject property issued to Pablo in 1948,<sup>29</sup> they failed to establish the relationship of Pablo to Dalumpines.

In any case, the respondents' claim of ownership of the subject properties based on the tax declarations they presented will not prosper. It is only when these tax declarations are coupled with proof of actual possession of the property that they may become the basis of a claim of ownership.<sup>30</sup> In this case, the respondents miserably failed to prove that they and their predecessors-in-interest actually possessed the properties since June 12, 1945 or earlier.

More importantly, the lower courts failed to consider that the respondents failed to sufficiently establish that the subject properties form part of the alienable and disposable lands of the public domain. The well-entrenched rule is that all lands not appearing to be clearly of private dominion presumably belong to the State. The *onus* to overturn, by incontrovertible evidence, the presumption that the land subject of an application for registration is alienable and disposable rests with the applicant.<sup>31</sup>

The applicant for land registration must prove that the Department of Environment and Natural Resources (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 Provincial Environment and Natural Resources Office (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.<sup>32</sup>

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<sup>27</sup> *Rollo*, pp. 78-79.

<sup>28</sup> *Id.* at 52.

<sup>29</sup> *Id.*

<sup>30</sup> See *Cequeña v. Bolante*, 386 Phil. 419, 422 (2000).

<sup>31</sup> *Republic of the Philippines v. T.A.N. Properties, Inc.*, 578 Phil. 441, 450 (2008).

<sup>32</sup> *Id.* at 452-453.

*Meyer*

In *Valiao v. Republic*,<sup>33</sup> the Court declared that “[t]here must be a positive act declaring land of public domain as alienable and disposable.”<sup>34</sup> The applicant must establish the existence of a positive act of the government, such as a presidential proclamation or an executive order; and administrative action, investigation reports of Bureau of Lands investigators; and a legislative act or a statute.

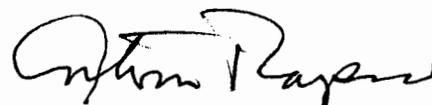
In this case, the respondents failed to present any evidence showing that the DENR Secretary had indeed approved a land classification and released the land of the public domain as alienable and disposable, and that the subject properties fall within the approved area per verification through survey by the PENRO or CENRO. They failed to establish the existence of a positive act from the government declaring the subject properties as alienable and disposable. Absent the primary and preliminary requisite that the lands applied for are alienable and disposable, all other requisites allegedly complied with by the respondents becomes irrelevant and unnecessary.

**WHEREFORE**, in consideration of the foregoing disquisitions, the petition is **GRANTED**. The Decision dated January 18, 2013 issued by the Court of Appeals in CA-G.R. CV No. 03296 is hereby **REVERSED** and **SET ASIDE**. The respective applications for registration of original title to Lot Nos. 325-A and 325-B filed by respondents Metro Cebu Public Savings Bank and Cordova Trading Post, Inc. are hereby **DENIED** for lack of merit.

**SO ORDERED.**

  
**ANDRES B. REYES, JR.**  
Associate Justice

**WE CONCUR:**



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

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<sup>33</sup> 677 Phil. 318 (2011).

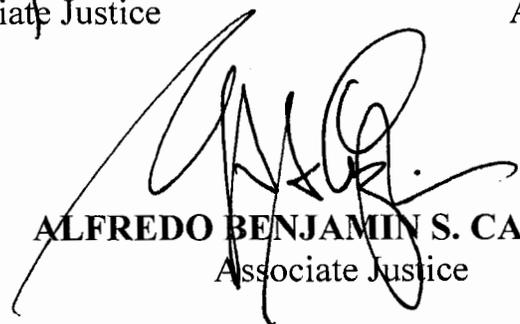
<sup>34</sup> Id. at 327.



**DIOSDADO M. PERALTA**  
Associate Justice



**ESTELA M. PERLAS-BERNABE**  
Associate Justice



**ALFREDO BENJAMIN S. CAGUIOA**  
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.



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division 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