Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **March 30, 2022**, *which reads as follows:*

"**G.R. No. 217771** ***(Provincial Superior of the Salesian Society of St. John Bosco, Cebu Province, Inc., petitioner,* v. *Republic of the Philippines, respondent).*** — Imputing error on the part of the Court of Appeals (CA) in reversing the trial court's grant of its application for original registration over Lot No. 13300, a parcel of land located in the Municipality of Dalaguete, Province of Cebu, petitioner Provincial Superior of the Salesian Society of St. John Bosco, Cebu Province, Inc. (petitioner) insists that it has proven its open, continuous, exclusive, and notorious possession and occupation of the property through the positive testimonies of its witnesses. As for the alienable and disposable character of the subject property, petitioner maintains that this was duly established by the Certification[1] dated November 13, 2006 of the Community Environment and Natural Resources Office (CENRO) – Department of Environment and Natural Resources (DENR) it submitted as evidence.[2]

At the outset, the Court sees that the issues raised by petitioner on whether the CA correctly weighed and appreciated the evidence regarding its possession and nature of the subject lot, are questions of fact.[3] These matters are generally beyond the ambit of the Court's jurisdiction in a petition for review on *certiorari*. Nonetheless, this rule of limited jurisdiction admits of exceptions,[4] such as when the CA's findings are contrary to those made by the

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1 Records, p. 9.

2 See Petition for Review; *rollo*, pp. 4–20.

3 *Heirs of Tomakin v. Heirs of Navares*, G.R. No. 223624, July 17, 2019, <https://sc.judiciary.gov.ph/6560/>, citing *Alfredo v. Borras*, 452 Phil. 178, 206 (2003).

4 The recognized exceptions are: (a) When the findings are grounded entirely on speculation, surmises, or conjectures; (b) When the inference made is manifestly mistaken, absurd, or impossible; (c) When there is grave abuse of discretion; (d) When the judgment is based on a misapprehension of facts; (e) When the findings of facts are conflicting; (f) When in making its findings the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (g) When the CA's findings are contrary to those by the trial court; (h) When the findings are conclusions without citation of specific evidence on which they are based; (i) 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; (j) When the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; or (k) When the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion. (See *Navaja v. de Castro*, 761 Phil. 142, 155 [2015].)

trial court, as in this case. For this reason, the Court shall re-examine the records of the case to determine whether there is a compelling reason to disturb the CA's ruling.

Intuitively, it is an established doctrine that all lands not appearing to be clearly of private dominion presumptively belong to the State. The legal concept that all lands of the public domain belong to the State is based on the Regalian doctrine.[5] This principle means that unless reclassified or released as alienable agricultural land, or alienated to a private person by the State, all lands remain part of the inalienable public domain.[6] The burden, therefore, to overturn this presumption rests with the applicant.

In its application for original registration, petitioner prayed that the subject land be brought under the operation of the Property Registration Decree or Presidential Decree (PD) No. 1529.[7] In particular, paragraphs (1) and (2), Section 14 of PD No. 1529 state that the persons who may apply for original registration are:

> (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[; and]
>
> (2) Those who have acquired ownership of private lands by prescription under the provision of existing laws.

The Court notes that petitioner's Application for Original Registration of Title[8] did not specify under what provision of Section 14 of PD No. 1529 the registration is sought. Section 14 (1) allows registration based on possession since June 12, 1945, or earlier, while Section 14 (2) is based on acquisitive prescription. Inasmuch as the requirements and bases for registration under these two (2) provisions differ from one another,[9] the Court will proceed to ascertain whether the evidence submitted by petitioner would satisfy the requirements in paragraph (1) **or** paragraph (2), Section 14 of PD No. 1529.

Registration based on possession; Section 14 (1) of PD No. 1529

Under this mode, applicants for confirmation of imperfect title must **first** prove that at the time of the filing of the petition/application, the land is

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5 See CONST., Art., XII, Sec. 2, par. 1.
6 *Republic v. Espinosa*, 637 Phil. 377, 385 (2010).
7 Entitled "AMENDING AND CODIFYING THE LAWS RELATIVE TO REGISTRATION OF PROPERTY AND FOR OTHER PURPOSES" (June 11, 1978).
8 Records, pp. 1–4.
9 *Republic v. Rovency Realty and Development Corp*oration, 823 Phil. 177, 194 (2018).

part of the alienable and disposable agricultural lands of the public domain[10] before they can adduce evidence of the **second** requirement, that they have been in open, continuous, exclusive, and notorious possession and occupation of the same under a *bona fide* claim of ownership either since time immemorial or since June 12, 1945.[11]

To establish the first requisite that the land is alienable, petitioner relied on the CENRO Certification which states:

> THIS IS TO CERTIFY THAT per projection made by Forester Martiliano O. Gamboa, a tract of land per Lot no. 13300, containing an area of **TEN THOUSAND THIRTY ONE SQUARE METERS** (10,031sq. m.) situated at Barangay Mantalongon, Dalaguete, Cebu as shown and described in the sketch plan at the back hereof **was found to be within the Alienable and Disposable lands**, Block 111, Project No. 25, per Land Classification Map No. 1363 of Dalaguete, Cebu, certified under BFD-Forestry Administrative Order No. 4-509 dated 05 October 1939.
>
> This certification is issued upon the request of Montseratt A. Villanueva for the purpose of ascertaining the land classification status for titling purposes.[12] (Emphases supplied)

In denying petitioner's application for registration, the CA ruled that petitioner's CENRO Certification alone is insufficient in proving the alienable and disposable character of the land.[13] We agree.

In 2008, the Court, in *Republic v. T.A.N. Properties, Inc.*,[14] held that it is not enough for the CENRO to certify that a land is alienable and disposable. An applicant for land registration must prove as well 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 a survey by the CENRO.[15] As explained in *Republic v. Cortez*,[16] there must be a positive act of the government declaring the land as alienable and disposable, such as: (1) a presidential proclamation or an executive order; (2) an administrative action; (3) investigation reports of the Bureau of Lands investigators; and (4) a legislative act or statute. If there is none, the applicant must, at the very least, present a certificate of land classification status issued by the CENRO of the DENR, accompanied by a proof that the DENR Secretary approved this classification. Further, the applicant must present a copy of the original

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10 See *Heirs of Malabanan v. Republic*, 605 Phil. 244, 293 (2009), citing *Republic v. CA*, 489 Phil. 405, 414 (2005).
11 See *Republic v. Espinosa*, 637 Phil. 377, 384 (2010).
12 Records, p. 9.
13 *Rollo*, p. 36.
14 578 Phil. 441 (2008).
15 Id. at 452–453.
16 726 Phil. 212 (2014).

classification approved by the DENR Secretary, and certified as true copy by the legal custodian of the official records.[17]

Indeed, there were instances wherein the Court relaxed the stringent requirements laid down in *Republic v. T.A.N. Properties, Inc.*[18] For instance, in *Republic v. Vega*,[19] the Court ruled that there was substantial compliance with the requirement to show that the subject land was alienable and disposable because the applicant presented an Investigation Report, the testimony of the Special Investigator from CENRO, and the subdivision plan approved by the DENR which expressly indicated that the subject land was alienable and disposable.[20] Recently, in *Republic v. Banal na Pag-aaral, Phil., Inc.*,[21] the applicant submitted both the CENRO Certification and the certified true copy of FAO No. 4-1656 issued by then Minister of Natural Resources Teodoro Q. Peña. The Court considered the documents as sufficient to show that the government executed a positive act of declaration that the subject lot was alienable and disposable land of the public domain.[22] In both cases, however, the Court clarified that substantial compliance may only be permitted *pro hac vice*, or if the trial court's judgment was issued prior to *Republic v. T.A.N. Properties, Inc.* which was promulgated on June 26, 2008. Here, the trial court rendered its Decision[23] on January 26, 2009, and petitioner only presented a CENRO Certification,[24] without 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. Petitioner's evidence fell short of the first requirement for original registration because the rule on strict compliance was already in effect.[25]

Regarding the second requirement on possession and occupation of the land since **June 12, 1945 or earlier**, the Court rules that this was likewise not met.

Petitioner admitted that it started occupying the property only in 1959 after it was donated verbally by Conrada Almagro (Conrada). The first commissioned survey was conducted in 1967[26] and as found by the CA, the earliest tax declaration could only be traced back to 1974, or 29 years after 1945. To show that its predecessor-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the land under a *bona fide* claim of ownership since June 12, 1945, or earlier, petitioner presented

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17 Id. at 222, citing *Republic v. Tri-Plus Corporation*, 534 Phil. 181, 194–195 (2006). See also *Republic v. Roche*, 638 Phil. 112, 117–118 (2010).
18 578 Phil. 441 (2008).
19 654 Phil. 511 (2011).
20 Id. at 523.
21 G.R. No. 193305, January 27, 2021, < https://sc.judiciary.gov.ph/19218/>.
22 Id.
23 *Rollo*, pp. 55–61. Penned by Acting Presiding Judge Vidal A. Gella.
24 Records, p. 9.
25 *Republic v. Alora*, 762 Phil. 695, 705 (2015), citing *Republic v. San Mateo*, 746 Phil. 394, 405 (2014).
26 *Rollo*, p. 14.

Conrada's niece, Marcelina Reynes Amamio. However, the latter's testimony did not state when her aunt, or her grandparents, started occupying the lot. The witness did not even mention the character of the possession of her aunt, if any.[27] The Court did not find anything in the records that would support petitioner's allegation that its predecessors had occupied the lot at any time before June 12, 1945. Therefore, petitioner cannot avail itself of registration under Section 14 (1) of PD No. 1529. At this point, the Court reminds applicants asking for original registration of title that they cannot simply give general statements of possession. One cannot harp on mere conclusions of law to show the merits of the application, but must endeavor to establish facts and circumstances evidencing the alleged ownership and possession of the land.[28]

The Court now questions whether petitioner could invoke the second mode under Section 14 (2) of PD No. 1529 as its basis for registration, on the ground that it has been in possession of the property for 48 years at the time it filed its application in 2007.

The answer is still no.

Registration based on prescription; Section 14 (2) of PD No. 1529

The second mode allows the original registration of lands acquired by prescription under existing laws. Specifically, the provision speaks of the 30-year period of possession required for acquisitive prescription under Article 1137[29] of the Civil Code. Nonetheless, one must not lose sight that Section 14 (2) of PD No. 1529 categorically states that it is only applicable to acquisition of "private lands by prescription." Hence, in applications for original registration, the second mode refers to private properties of the State.[30]

In *Republic v. Cortez*,[31] the Court explained that these so-called **patrimonial properties** are those which are not for public use, public service, or intended for the development of national wealth.[32] Thus, it is not enough for the applicant to show that the land sought to be registered was in its possession for a period of 30 years. There must likewise be competent evidence of an "express government manifestation" converting the land to patrimonial property, to prove that it is no longer intended for public use, public service, or for the development of national wealth. Relative to this, it should be stressed that the classification of the subject property as "alienable and disposable land" does not affect its status as property of the public

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27 Id. at 31 and 38.

28 *Lim v. Republic*, 614 Phil. 433, 448 (2009).

29 Article. 1137. Ownership and other real rights over immovables also prescribe through uninterrupted adverse possession thereof for thirty years, without need of title or of good faith.

30 See *Heirs of Malabanan v. Republic*, 605 Phil. 244, 272–282 (2009).

31 726 Phil. 212 (2014).

32 Id. at 224-225. See also CIVIL CODE, Arts. 420 and 421.

dominion. These are distinct concepts. It is only when the property has been declared as "patrimonial" can the prescriptive period for the acquisition of property begin to run. Simply stated, if the mode of acquisition is prescription, there must be proof that the land has already been converted to patrimonial property of the State prior to the requisite acquisitive prescriptive period. Otherwise, the lot cannot be the object of prescription.[33]

Unfortunately, petitioner failed to give competent evidence that Lot No. 13300 has been declared as patrimonial property, or is no longer intended for public use, or for public service. Hence, despite its alleged possession for 48 years, the property is not susceptible to acquisition by prescription just yet.[34]

FOR THESE REASONS, the petition is **DENIED**. The Decision[35] dated August 28, 2014 and the Resolution[36] dated February 25, 2015 of the Court of Appeals, Cebu City in CA-G.R. CV. No. 02918 are **AFFIRMED**. The application for original registration of title filed by petitioner Provincial Superior of the Salesian Society of St. John Bosco, Cebu Province, Inc. is **DISMISSED without prejudice**.

SO ORDERED." (**Zalameda, *J.***, *designated additional member per Raffle dated March 23, 2022.*)

By authority of the Court:

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33 *Lim v. Republic*, 614 Phil. 433, 450 (2009). See also *Heirs of Malabanan v. Republic*, 605 Phil. 244, 272–284 (2009).

34 *Heirs of Malabanan v. Republic*, id. at 278. See also *Republic v. Bautista*, G.R. No. 211664, November 12, 2018, <https://sc.judiciary.gov.ph/3080/>.

35 *Rollo*, pp. 27–42. Penned by Associate Justice Renato C. Francisco, with the concurrence of Associate Justices Gabriel T. Ingles and Jhosep Y. Lopez (now a member of this Court).

36 Id. at 51–54.

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The Presiding Judge
MUNICIPAL TRIAL COURT
Dalaguete, Cebu City
(LRC Case No. 1)

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