# NORTHERN CEMENT CORPORATION, APPLICANT-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

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**GALAPATE-LAGUILLES, J:**

The Republic of the Philippines, through the Office of the Solicitor General (OSG), appeals[1] the Decision[2] dated 6 July 2009 of the Regional Trial Court (RTC) of Urdaneta City, Pangasinan, Branch 47, in LRC Case No. U-1130 which granted the application for registration of title of applicant-appellee Northern Cement Corporation (hereinafter appellee).

The facts as culled from the records, are as follows:

On 21 June 2000, the appellee, through its Manager Olegario De Joya, Jr., filed with the Regional Trial Court of Urdaneta City, Pangasinan an Application[3] for the registration of a parcel of land pursuant to Presidential Decree No. 1529 (P.D. 1529), otherwise known as the Property Registration Decree and to have the title thereto registered and confirmed under its name. The said parcel of land, particularly described as Lot No. 1331 Pls. 796 Sison Public Land, is situated in Barangay Labayug, Sison, Pangasinan with an area of Eighty Five Thousand Six Hundred Seventy Three (85,673) square meters. The technical description[4] of the subject property is as follows:

Lot 1331
Pls-796 Sison Public Land Subd.
AP-01-004762
DOROTEO MARINEZ

> A parcel of land (lot 1331, Ap-01-004762, Pls-796 Sison Public Land Subd., L.R.C. REC No. ___) situated at Brgy. Labayug, Mun. of [S]ison, Prov. of Pangasinan, Island of Luzon. Bounded on the SW., along line 1-2 by lot 1330, Leonardo Bactad; on the NW., along line 2-3 by lot 1314, Juan Buncayo; on the North along line 3-4 by lot 1311, Doroteo Martinez; on the SE., along lines 4 to 7 by Creek (10-50 m.w.); along line 7-1 by lot 1329, Jose Kutingui, Pls-796 Sison Public Land Subd. Beginning at a point marked '1' of lot 1331 on plan, being S., deg., 09'E., 5828.76 m. from BLLM No. 1, Pls-796 Sison Public land subd.
> thenceN., 23 deg., 55'W., 202.74 m. to point 2;
> thenceN.. 30 deg., 50'E., 145.07 m. to point 3;
> thenceS., 87 deg., 56'E., 295.76 m. to point 4;
> thenceS., 21 deg., 58'W., 100.21 m. to point 5;
> thenceS., 04 deg., 03'E., 102.41 m. to point 6;
> thenceS., 48 deg., 08'W., 139.92 m. to point 7;
> thenceS., 85 deg., 58'W., 153.84 m. to point of;

Beginning, containing an area of EIGHTY FIVE THOUSAND SIX HUNDRED SEVENTY THREE (75673) SQUARE METERS. All points referred to are indicated on the plan are marked on the ground as Old Bl. Cyl, conc. mons. 15 x 60 cms., Bearings True; date of original survey on June 16, 1964; date of prepared (sic) on June 22, 1998 executed by Engr. Patrick S. Taguba and approved on August 18, 1998.

In the Application, appellee alleged that it is the owner in fee simple over the aforementioned parcel of land with

the latest assessment of Php 25,770.00 per Tax Declaration No. 023-01681.[5] It further contended that to the best of its knowledge, there is no mortgage or encumbrance affecting said land nor is there any other person or entity having interest therein, legal or equitable possession, reminder, reversion or expectancy. Appellee also posited that it acquired the subject parcel of land by way of a Deed of Sale executed by the former owner and it is presently occupying the said land. Appellee likewise averred that it knew the names and addresses of the owners of the adjoining properties of the subject parcel of land.[6]

On 14 July 2000, the RTC issued an Order[7] setting the case for initial hearing on 5 January 2001. The Notice of Initial Hearing[8] of the application for land registration and the date and place of the hearing was published once in the Official Gazette[9] and in the Philippine Weekly,[10] and posted[11] in a conspicuous place in the Municipal building of Sison, Pangasinan where the subject property is located.

On 4 September 2001 the OSG entered its appearance as counsel for the Republic of the Philippines and at the same time authorized the Provincial Prosecutor of Pangasinan to appear in the case.[12]

To support its application, appellee presented the following witnesses: Angelito Cabana (Cabana), its authorized representative; Conchita Cotingue Torres (Torres) and Fortunata Bactad (Bactad), adjoining lot owners; and Lilia Macanlalay (Macanlalay) and Macario M. Lopez, Jr. (Lopez), the records officer and Special Investigator, respectively, of Department of Environment and Natural Resources, Bureau of Lands, Community Environment and Natural Resources Office, Region I, Urdaneta City, Pangasinan.

Cabana testified, among others, that appellee acquired ownership over the subject parcel of land identified as Lot No. 1331 from Rodolfo Chichioco (Chichioco) by virtue of a Deed of Absolute Sale executed on 28 December 1968. From then on, appellee had been occupying the said land and had been paying realty taxes due thereon.[13] Cabana also said that there is no mortgage or encumbrance affecting said land nor is there any other person or entity claiming interest therein.[14]

Torres and Bactad then testified that they are adjoining lot owners and that they interposed no objection to the application for registration of title over the subject land filed by appellee.[15]

Lastly, Macanlalay testified that an investigation was conducted relative to the subject land and that all records relative to the same are complete.[16] Lopez, on the other hand, declared that the subject land is within the disposable portion and outside the forest reservation.[17]

To further substantiate appellee's claim, it offered the following pertinent pieces of evidence, to wit:

> 1.) Approved Survey Plan prepared by the Department of Environment and Natural Resources, Lands Management Service, Region I, San Fernando City;[18]
>
> 2.) Notice to Adjoining Owners;[19]
>
> 3.) Technical Description of the subject parcel of land;[20]
>
> 4.) Deed of Absolute Sale executed by and between Rodolfo Chichioco and appellee on 29 December 1968;[21]
>
> 5.) Tax Declaration No. 023-01681 under the name of appellee for the year 2001;[22]
>
> 6.) Tax Declaration No. 023-00061 under the name of appellee for the year 1995;[23]
>
> 7.) Tax Declaration No. 023-01680 under the name of appellee for the year 1991;[24]
>
> 8.) Tax Declaration No. 863 under the name of appellee for the year 1985;[25]


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9.) Tax Declaration No. 832 under the name of appellee for the year 1980;[26]

10.) Tax Declaration No. 10761 under the name of appellee for the year 1974;[27]

11.) Tax Declaration No. 13179 under the name of appellee for the year 1971;[28]

12.) Tax Declaration No. 11928 under the name of Rodolfo Chichioco for the year 1969;[29]

13.) Tax Declaration No. 023-00072 under the name of appellee for the year 2003;[30]

14.) Tax Clearance dated 21 May 2007 issued by the Municipality of Sison, Pangasinan, stating therein that appellee is not delinquent in the payment of realty taxes;[31]

15.) Affidavit of an Adjoining Landowner executed by Conchita Torres on 26 October 2004, stating therein that she interposes no objection to the application of appellee for the registration of title over the subject land;[32]

16.) Affidavit of an Adjoining Landowner executed by Fortunata Bactad on 26 October 2004, stating therein that she interposes no objection to the application of appellee for the registration of title over the subject land;[33] and

17.) Report dated 11 October 2007 issued by the DENR, Bureau of Lands, Community Environment and Natural Resources Office, Region 1, Urdaneta City, stating, among others, that the subject land is within the alienable and disposable land of the public domain.[34]

On 6 July 2009, the RTC rendered the assailed Decision, the dispositive portion of which reads:

> WHEREFORE, premises considered, the Court, after confirming the Order of General Default, hereby adjudicates Lot 1331 Pls-796 Sison Public [L]and Subd. AP-01-004762, which is the subject land of this registration proceedings in favor of applicant NORTHERN CEMENT CORPORATION, as its real property and hereby likewise orders the registration of title thereto in accordance with PRESIDENTIAL DECREE No. 1529 in the name of the applicant and on the basis of the approved Technical Description (Exh. “J”).
>
> Upon finality of the Decision, let a corresponding Order for the issuance of Decree of Registration be issued.
>
> SO ORDERED.

Hence, this present Appeal by the Republic imputing this lone assignment of error to the RTC, viz:

> THE TRIAL COURT ERRED IN GRANTING THE APPLICATION FOR REGISTRATION OF TITLE IN FAVOR OF APPLICANT DESPITE NON-COMPLIANCE WITH THE REQUIREMENTS UNDER THE PROPERTY REGISTRATION DECREE.

The OSG mainly argues that there is insufficient evidence to prove that the land had been declared alienable and disposable.[35] Assuming arguendo that the subject land had been declared alienable and disposable as early as 1927, there is no competent evidence showing that it is no longer intended for public use or for public service conformably with Article 422 of the Civil Code.[36]

The Appeal is meritorious.

Section 14 of Presidential Decree No. 1529 or The Property Registration Decree enumerates the persons who may apply for the registration of title to land, to wit:

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 provisions of existing laws.
>
> (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

A judicious scrutiny of the attendant facts would reveal that the assailed Decision of the RTC was based on Section 14(2) of said issuance which speaks of prescription. The pertinent portion of the Decision is quoted as follows:

> x x x
>
> As gathered further, applicant and its predecessors-in-interest (sic) had been in the possession in the concept of absolute owners of the property subject of this application since time immemorial and exercised acts of ownership of the said property in the concept of absolute owner against the whole world.
>
> x x x
>
> The applicant in this case fully established to the satisfaction of the Court that it is the owner of the parcel of land subject matter of this application; that it is in possession and occupation of the property sought to be registered since time immemorial or for more than thirty (30) years, tacking his (sic) possession and occupation with that of his predecessors-in-interests (sic). Applicant and its predecessors-in-interest (sic) have been in adverse, continuous, open, public and peaceful possession and occupation of the premises and properties in the concept of absolute owners thereof for the period required of law.
>
> x x x

When Section 14(2) of the Property Registration Decree explicitly provides that persons "who have acquired ownership over private lands by prescription under the provisions of existing laws," it unmistakably refers to the Civil Code as a valid basis for the registration of lands. The Civil Code is the only existing law that specifically allows the acquisition by prescription of private lands, including patrimonial property belonging to the State.[37]

Indeed, under Article 1106 of the Civil Code, prescription is one of the modes of acquiring ownership:

> "By prescription, one acquires ownership and other real rights through the lapse of time in the manner and under the conditions laid down by law."

Article 1113 of the Civil Code defines what properties are susceptible to prescription. Thus :

> "All things which are within the commerce of men are susceptible of prescription, unless otherwise provided. Property of the State or any of its subdivision not patrimonial in character shall not be the object of prescription."

The identification of what consists of patrimonial property is provided by Articles 420 and 421 of the Civil Code, which We quote in full:

> "Art. 420. The following things are property of public dominion:
>
> (1) Those intended for public use, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, banks, shores, roadsteads, and others of similar character;

> (2) Those which belong to the State, without being for public use, and are intended for some public service or for the development of the national wealth.
>
> Art. 421. All other property of the State, which is not of the character stated in the preceding article, is patrimonial property."

Nonetheless, Article 422 of the Civil Code states that "[p]roperty of public dominion, when no longer intended for public use or for public service, shall form part of the patrimonial property of the State." It is this provision that controls how public dominion property may be converted into patrimonial property susceptible to acquisition by prescription. After all, Article 420 (2) makes clear that those property "which belong to the State, without being for public use, and are intended for some public service or for the development of the national wealth" are public dominion property. For as long as the property belongs to the State, although already classified as alienable or disposable, it remains property of the public dominion if when it is "intended for some public service or for the development of the national wealth".[38]

In the case of Heirs of Mario Malabanan v. Republic,[39] the Supreme Court synthesized all the afore-discussed provisions of law and made the doctrinal pronouncement as to the legal requisites for the original registration of land under Section 14 (2) of the Property Registration Decree, to wit:

> x x x
>
> (2) In complying with Section 14(2) of the Property Registration Decree, consider that under the Civil Code, prescription is recognized as a mode of acquiring ownership of patrimonial property. However, public domain lands become only patrimonial property not only with a declaration that these are alienable or disposable. There must also be an express government manifestation that the property is already patrimonial or no longer retained for public service or the development of national wealth, under Article 422 of the Civil Code. And only when the property has become patrimonial can the prescriptive period for the acquisition of property of the public dominion begin to run.
> (a) Patrimonial property is private property of the government. The person acquires ownership of patrimonial property by prescription under the Civil Code is entitled to secure registration thereof under Section 14(2) of the Property Registration Decree.
>
> (b) There are two kinds of prescription by which patrimonial property may be acquired, one ordinary and other extraordinary. Under ordinary acquisitive prescription, a person acquires ownership of a patrimonial property through possession for at least ten (10) years, in good faith and with just title. Under extraordinary acquisitive prescription, a person's uninterrupted adverse possession of patrimonial property for at least thirty (30) years, regardless of good faith or just title, ripens into ownership.

In the instant case, appellee presented in evidence the Report[40] dated 11 October 2007 issued by the DENR, Bureau of Lands, CENRO, Region I, Urdaneta City, Pangasinan, stating, inter alia, that: "the entire area is within the alienable and disposable zone as classified under Project No. 63; L.C. Map No. 698 and released and classified on November 21, 1927. " It is unfortunate, however, that the said Report is not enough in order to commence the thirty (30)-year prescriptive period under Section 14 (2) of P. D. No. 1529 since there is an absence of an express declaration by the State that the subject lot is no longer intended for public service or the development of the national wealth. Absent such well-nigh incontrovertible evidence, this Court cannot accept the submission that the land occupied by appellee was already open to disposition as of November 21, 1927. Matters of land classification or reclassification cannot be assumed.[41] They call for proof.[42] Thus, there appears no basis for the application of the thirty (30)-year prescriptive period in the case at bench. This is in accordance with the ruling of the Supreme Court in the Malabanan case:

> "Without such express declaration, the property, even if classified as alienable or disposable, remains property


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> of the public dominion, pursuant to Article 420(2), and thus incapable of acquisition by prescription. It is only when such alienable and disposable lands are expressly declared by the State to be no longer intended for public service or for the development of the national wealth that the period of acquisitive prescription can begin to run. Such declaration shall be in the form of a law duly enacted by Congress or a Presidential Proclamation in cases where the President is duly authorized by law."

On this point, Malabanan was reiterated in the recent case of Republic v. Rizalvo, Jr.:[43]

> In this case, the respondents were not able to present any "express declaration" from the State, attesting to the patrimonial character of Lot 3. To put it bluntly, the respondents were not able to prove that acquisitive prescription has begun to run against the State, much less that they have acquired title to Lot 3 by virtue thereof. As jurisprudence tells us, a mere certification or report classifying the subject land as alienable and disposable is not sufficient. We are, therefore, left with the unfortunate but necessary verdict that the respondent are not entitled to the registration under Section 14(2) of Presidential Decree No. 1529.

Even if the Court takes the application of appellee to be based on Section 14(1) of the Property Registration Decree, the same should still be denied as there is no clear, positive and convincing evidence presented to show that since June 12, 1945 or prior thereto, appellee and its predecessor-in-interest have already been in open, continuous, exclusive and notorious possession and occupation of the subject land under a bona fide claim of ownership. However, the records of the case are barren of evidence indicating or even suggesting that Chichioco, appellee's predecessor-in-interest, acquired and occupied the property on or before June 12, 1945. Notably, the earliest tax declaration presented was issued only in 1969 under the name Chichioco, appellee's predecessor-in-interest. While tax declarations are not conclusive proof of ownership, they constitute good indicia of possession in the concept of owner and a claim of title over the subject property.[44]

In the same vein, the Deed of Absolute Sale[45] dated 28 December 1968, merely shows how and when the present applicant, herein appellee, acquired the subject land from the alleged original owner, Chichioco. At best, appellee can only prove possession of the land in question since 1968. But as the law now stands with respect to Section 14(1) of the Property Registration Decree, a mere showing of possession for thirty (30) years or more is not sufficient. It must be shown, too, that possession and occupation had started on June 12, 1945 or earlier.[46]

Perforce, this Court finds that the RTC erred in granting the application for registration of title over the subject parcel of land of herein appellee. Much as the Court would want to adhere with the State's policy of encouraging and promoting the distribution of alienable public lands to spur economic growth and remain true to the ideal of social justice,[47] We are constrained by the clear and simple requisites of the law to disallow appellee's application for land registration.

WHEREFORE, upon the foregoing, the present Appeal is GRANTED. The Decision dated 6 July 2009 of the Regional Trial Court of Urdaneta City, Pangasinan, Branch 47, in LRC Case No. U-1130 is hereby REVERSED and SET ASIDE. The application for registration of title over the subject parcel of land of appellee Northern Cement Corporation is DENIED.

**SO ORDERED.**

Punzalan Castillo, M.P., (Chairperson) and Lazaro-Javier, A.C., JJ., concur.

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[1] Rollo, pp. 24-39.

[2] Original Records, pp. 143-151. Penned by Judge Meliton G. Emuslan.


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[3] Id., pp. 1-4.

[4] Id., p. 107, Exhibit “J.”

[5] Id., p. 134, Exhibit “L-4.”

[6] Id., pp. 1-2.

[7] Id., p. 23, Exhibit “A.”

[8] Id., pp. 42-43.

[9] Id., p. 201, Exhibit “C.” See Certificate of Publication issued by the National Printing Office, p. 52. Exhibit “D.”

[10] Id., pp. 62-67, Exhibit “C.”

[11] Id., p. 47. See Certificate of Posting, Exhibit “F.”

[12] Id., p. 32.

[13] TSN, June 3, 2007, pp. 4-5.

[14] TSN, June 3, 2007, p. 6.

[15] TSN, June 4, 2007, p. 11 and p. 15.

[16] TSN, November 26, 2007, pp. 3-4.

[17] TSN, November 26, 2007, p. 9.

[18] Id., p. 102, Exhibit “H.”

[19] Id., p. 103, Exhibit “I.”

[20] Id., p. 107, Exhibit “J.”

[21] Id., pp. 111-113, Exhibit “L.”

[22] Id., p. 134, Exhibit “L-4.”

[23] Id., p. 135, Exhibit “L-5.”

[24] Id., p. 136, Exhibit “L-6.”

[25] Id., p. 137, Exhibit “L-7.”

[26] Id., p. 138, Exhibit “L-8.”

[27] Id., p. 139, Exhibit “L-9.”

[28] Id., p. 140, Exhibit “L-10.”

[29] Id., p. 141, Exhibit “L-11.”

[30] Id., p. 114, Exhibit “M.”

[31] Id., p. 115, Exhibit “N”

[32] Id., p. 116, Exhibit “P.”

[33] Id., p. 117, Exhibit “Q.”

[34] Id., pp. 118-121, Exhibit “R.”

[35] Rollo, p. 36.

[36] Id., p. 37.

[37] Heirs of Mario Malabanan v. Republic, G.R. No. 179987, April 29, 2009.

[38] Heirs of Mario Malabanan v. Republic, supra.

[39] Supra.

[40] Original Records, pp. 118-121, Exhibit “R.”

[41] Republic of the Philippines v. Santos III and Santos, Jr., G.R. No. 160453, November 12, 2012, citing Secretary of the DENR v. Yap, G.R. Nos. 167707 and 173775, October 8, 2008.

[42] Id.

[43] G.R. No. 172011, March 7, 2011.

[44] Ong v. Republic, G.R. No. 175746, March 12, 2008, citing Tan v. Mueco, 420 Phil. 497, 503 (2001).

[45] Original Records, pp. 111-113, Exhibit “L.”.

[46] In Re: Application for Land Registration of Title, etc. v. Republic of the Philippines, G.R. No. 147359, March 28, 2008.

[47] Republic vs. Bibonia, G.R. No. 157466, June 21, 2007 citing Menguito vs. Republic, G.R. No. 134308, December 14, 2000.


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