

MANILA ELECTRIC COMPANY, PETITIONER-APPELLANT, VS. JUDGE FLORELIANA CASTRO-BARTOLOME OF THE COURT OF FIRST INSTANCE OF RIZAL, MAKATI BRANCH XV, AND REPUBLIC OF THE PHILIPPINES, ...

G.R. No. L-49623. June 29, 1982

Ponente: AQUINO, J.

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AQUINO, J.:

This case involves the prohibition in Section 11, Article XIV of the Constitution that "no private corporation or association may hold alienable lands of the public domain except by lease not to exceed one thousand hectares in area."* That prohibition is not found in the 1935 Constitution.

The Manila Electric Company, a domestic corporation organized under Philippine laws, more than sixty percent of whose capital stock is owned by Filipino citizens, in its application filed on December 1, 1976 in the Makati branch of the Court of First Instance of Rizal, prayed for the confirmation of its title to two lots with a total area of one hundred sixty-five square meters, located at Tanay, Rizal with an assessed value of P3,270 (LRC Case No. N-9485, LRC Record No. N-50801).

The Republic of the Philippines opposed the application on the grounds that the applicant, as a private corporation, is disqualified to hold alienable public lands and that the applicant and its predecessors-in-interest have not been in the open, continuous, exclusive and notorious possession and occupation of the land for at least thirty years immediately preceding the filing of the application (pp. 65-66, Rollo).

After the trial had commenced, the Province of Rizal and the Municipality of Tanay filed a joint opposition to the application on the ground that one of the lots, Lot No. 1165 of the Tanay cadastre, would be needed for the widening and improvement of Jose Abad Santos and E. Quirino Streets in the town of Tanay.

The land was possessed by Olimpia Ramos before the Pacific war which broke out in 1941. On July 3, 1947, Ramos sold the land to the spouses Rafael Piguing and Minerva Inocencio (Exh. K). The Piguing spouses constructed a house thereon. Because the Meralco had installed the "anchor guy" of its steel post on the land, the Piguing spouses sold the lot to the Meralco on August 13, 1976.

The said land was included in the 1968 cadastral survey made in Tanay by the Bureau of Lands, Plan AP-04-000902 (Exh. F and H) and was divided into two lots, Lots Nos. 1164 and 1165, so as to segregate Lot No. 1165 which would be used to widen the two streets serving as the land's eastern and southern boundaries.

The land was declared for realty tax purposes since 1945 "and taxes had been paid thereon up to 1977. It is residential in character as distinguished from a strictly agricultural land. It is not included in any military reservation. Since 1927, it has formed part of the alienable portion of the public domain.

After trial, the lower court rendered a decision dismissing the application because in its opinion the Meralco is not

qualified to apply for the registration of the said land since under Section 48(b) of the Public Land Law only Filipino citizens or natural persons can apply for judicial confirmation of their imperfect titles to public land. The Meralco is a juridical person. The trial court assumed that the land which it seeks to register is public land.

From that decision, the Meralco appealed to this Court under Republic Act No. 5440.

It contends that the said land, after having been possessed in the concept of owner by Olimpia Ramos and the Piguing spouses for more than thirty years, had become private land in the hands of the latter, and, therefore, the constitutional prohibition, banning a private corporation from acquiring alienable public land, is not applicable to the said land.

The Meralco further contends that it has invoked Section 48(b) of the Public Land Law, not for itself, but for the Piguing spouses who, as Filipino citizens, could secure a judicial confirmation of their imperfect title to the land.

In reply to these contentions, the Solicitor General counters that the said land is not private land because the Meralco and its predecessors-in-interest have no composition title from the Spanish government nor possessory information title or any other means for the acquisition of public lands such as grants or patents (Republic vs. Court of Appeals and De Jesus, L-40912, September 30, 1976, 73 SCRA 146, 157; Director of Lands vs. Reyes, L-27594, November 28, 1975, and Alinsunurin vs. Director of Lands, L-28144, November 28, 1975, 68 SCRA 177, 195; Lee Hong Hok vs. David, L-30389, December 27, 1972, 48 SCRA 372, 378-9; Director of Lands vs. Court of Appeals and Raymundo, L-29575, April 30, 1971, 38 SCRA 634, 639; Padilla vs. Reyes and Director of Lands, 60 Phil. 967, 969; Heirs of Datu Pendatun vs. Director of Lands, 59 Phil. 600, 603).

The Public Land Law provides:

"CHAPTER VIII.— Judicial confirmation of imperfect or incomplete titles.

"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 therefore under the Land Registration Act, to wit:

"(b) Those who by themselves or through their predecessors in interest have been in open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition of ownership, for at least thirty years 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. (As amended by Republic Act No. 1942, approved on June 22, 1957.)

"SEC. 49. No person claiming title to lands of the public domain not in possession of the qualifications specified in the last preceding section may apply for the benefits of this chapter."

We hold that, as between the State and the Meralco, the said land is still public land. It would cease to be public land only upon the issuance of the certificate of title to any Filipino citizen claiming it under Section 48(b). Because it is still public land and the Meralco, as a juridical person, is disqualified to apply for its registration under Section 48(b), Meralco's application cannot be given due course or has to be dismissed.

This conclusion is supported by the rule announced in *Oh Cho vs. Director of Lands*, 75 Phil. 890, 892, which rule is a compendious or quintessential precis of a pervasive principle of public land law and land registration law, that "all lands that were not acquired from the Government, either by purchase or by grant, belong to the public domain. An exception to the rule would be any land that should have been in the possession of an occupant and of

his predecessors-in-interest since time immemorial, for such possession would justify the presumption that the land had never been part of the public domain or that it had been a private property even before the Spanish conquest." (Cariño vs. Insular Government, 212 U.S. 449, 53 L. ed. 594, 41 Phil. 935 and 7 Phil. 132).

The Meralco relies on the ruling in *Susi vs. Razon and Director of Lands*, 48 Phil. 424, that "an open, continuous, adverse and public possession of a land of the public domain from time immemorial by a private individual personally and through his predecessors confers an effective title on said possessor, whereby the land ceases to be public" and becomes private property.

That ruling is based on the *Cariño* case which is about the possession of land by an Igorot and his ancestors since time immemorial or even before the Spanish conquest. The land involved in the *Susi* case was possessed before 1880 or since a period of time "beyond the reach of memory." That is not the situation in this case. The Meralco does not pretend that the Piguing spouses and their predecessor had been in possession of the land since time immemorial.

In the *Susi* case, this Court applied Section 45(b) of Act No. 2874 which corresponds to what is now Section 48(b). It was held that the long possession of the land under a bona fide claim of ownership since July 26, 1894 gave rise to the conclusive presumption that the occupant had complied with all the conditions essential to a Government grant and was thus entitled to a certificate of title.

On the other hand, in *Uy Un vs. Perez*, 71 Phil. 508, 510-11, it was held that while occupants of public land, who have applied for the confirmation of their title, "tenian asimismo a su favor la presuncion y wre et dejure de que habian cumplido con todas las condiciones necesarias para la concesion del titulo; pero hasta que el titulo se expida no tenian el concepto juridico de ser los verdaderos duettos del terreno ni este dejo de pertenecer a los terrenos piiblicos del Estado susceptibles de enajenacion."

That means that until the certificate of title is issued, a piece of land, over which an imperfect title is sought to be confirmed, remains public land. For that reason in the *Uy Un* case, it was held that if that land was attached by a judgment creditor of the applicant, while his application for confirmation of his imperfect title was pending in the Bureau of Lands, the levy and execution sale of the land were void.

For that same reason, lands over which an imperfect title is sought to be confirmed are governed by the Public Land Law. Such lands would not be covered by the Public Land Law if they were already private lands. The occupants' right to the said lands is characterized in the *Uy Un* case, not as ownership in fee simple, but as a derecho dominical incoativo.

The Meralco in its concluding argument contends that if the Piguing spouses could ask for the confirmation of their imperfect title to the said lands, then why should the Meralco, as their transferee, be denied the same right to register the said land in its name, there being no legal prohibition for the Piguing spouses from selling the land to the Meralco? This Court in disposing of that same contention in the *Oh Cho* case said:

' "The benefits provided in the Public Land Act (meaning the confirmation of an imperfect title under Section 48[b]) for applicant's immediate predecessors-in-interest are or constitute a grant or concession by the State; and before they could acquire any right under such benefits, the applicant's immediate predecessors-in-interest should comply with the condition precedent for the grant of such benefits.

"The condition precedent is to apply for the registration of the land of which they had been in possession at least since July 26, 1894. This the applicant's immediate predecessors-in-interest (meaning the Piguing spouses in the instant case) failed to do.

"They did not have any vested right in the lot amounting to title which was transmissible to the applicant. The only right, if it may thus be called, is their possession of the lot which, tacked to that of their

predecessors-in-interest, may be availed of by a qualified person to apply for its registration but not by a person as the applicant who is disqualified." (75 Phil. 890, 893.)

Finally, it may be observed that the constitutional prohibition makes no distinction between (on one hand) alienable agricultural public lands as to which no occupant has an imperfect title and (on the other hand) alienable lands of the public domain as to which an occupant has an imperfect title subject to judicial confirmation.

Since Section 11 of Article XIV does not distinguish, we should not make any distinction or qualification. The prohibition applies to alienable public lands as to which a Torrens title may be secured under Section 48(b). The proceeding under Section 48(b) "presupposes that the land is public" (Mindanao vs. Director of Lands, L-19535, July 30, 1967, 20 SCRA 641, 644).

The lower court's judgment dismissing Meralco's application is affirmed. Costs against the petitioner-appellant.

SO ORDERED.

Barredo, Makasiar, Guerrero, Melencio-Herrera, Plana, Escolin, Vasquez, Relova and Gutierrez, JJ., concur.

Fernando CJ., concurs and dissents in a separate opinion.

Abad Santos, J., concurs in the result in a separate opinion.

De Castro, J., concurs in a separate opinion.

Teehankee, J., dissents in a separate opinion.

Concepcion Jr., J., is on leave.

* The same issue is involved in the following fourteen pending cases. (1) G.R. No. 51756, Iglesia ni Cristo vs. Director of Lands, et al.; (2) G.R. No. 54045, Director of Lands vs. Dynamarine Corporation, et al.; (3) G.R. No. 54276, Director of Lands vs. Iglesia ni Cristo, et al.; (4) G.R. No. 54952, Director of Lands vs. Hon. Gabriel Valle, Jr., et al.; (5) G.R. No. 55171, Director of Lands vs. Hon. Job B. Madayag, et al.; (6) G.R. No. 55289, Director of Lands vs. Hon. Candido Villanueva, et al.; (7) G.R. No. 56025, Republic vs. Hon. Arsenio Gonong, et al.; (8) G.R. No. 56613, Director of Lands vs. Iglesia ni Cristo, et al.; (9) G.R. No. 57272, Director of Lands vs. Valenzuela Tannery Corportaion, et al.; (10) G.R. No. 57461, Director of Lands vs. Manila Electric Company, et al.; (11) G.R. No. 58077, Director of Lands vs. Hermanos y Hermanas de Sta. Cruz de Mayo, Inc., et al.; (12) G.R. No. 58089, Director of Lands vs. Continental Leaf Tobacco, (Phil.), et al.; (13) G.R. No. 58117, Director of Lands vs. Hon. Emmanuel Cleto, et al. and (14) G.R. No. 58906, Director of Lands vs. United Church of Christ in the Phil., et al.

CONCURRING AND DISSENTING:

FERNANDO, C.J.,

I concur in the ruling of the Court that Meralco "as a juridical person" is disqualified to apply for its registration under Section 48 (b). [1] I dissent insofar as the opinion of the Court would characterize such jurisdictional defect, under the particular circumstances of this case, as an insurmountable obstacle to the relief sought. I would apply by analogy, although the facts could be distinguished, the approach followed by us in *Francisco v. City of Davao*, [2] where the legal question raised, instead of being deferred and possibly taken up in another case, was resolved. By legal fiction [3] and in the exercise of our equitable jurisdiction, I feel that the realistic solution would be to decide the matter as if the application under Section 48 (b) were filed by the Piguing spouses, who I assume suffer from no such disability.

[1] Decision, 6.

[2] 120 Phil. 1417 (1964) (per Concepcion, J.)

[3] Cf. Fuller, Legal Fictions (1967).

CONCURRING:

ABAD SANTOS, J.,

I concur in the result. I am of the opinion that the lots which are sought to be registered have ceased to be lands of the public domain at the time they were acquired by the petitioner corporation. They are already private lands because of acquisitive prescription by the predecessors of the petitioner and all that is needed is the confirmation of the title. Accordingly, the constitutional provision that no private corporation or association may hold alienable lands of the public domain is inapplicable. However, the petitioner is relying on Sec. 48 of the Public Land Act for the confirmation of its title and Mr. Justice Aquino is correct in holding that said provision cannot be availed by juridical entities.

CONCURRING:

DE CASTRO, J.:

Justice Teehankee cites in his dissenting opinion the case of *Herico vs. Dar*,^[1] the decision in which I am the ponente, as reiterating a supposedly well-established doctrine that lands of the public domain which, by reason of possession and cultivation for such a length of time, a grant by the State to the occupant is presumed, and the land thereby ceases to form part of the public domain, but is segregated therefrom as to be no longer subject to the authority of the Director of Lands to dispose under the public land laws or statutes. He would thus consider said land as no longer public land but "private" lands and therefore, not within the prohibition of the New Constitution against corporations from acquiring public lands which provides that "no private corporation or association may hold alienable lands of the public domain except by lease not to exceed one thousand hectares." ^[2]

I cannot subscribe to the view that the land as above described has become private land, even before title thereto, which is, as of this stage, said to be still "an incomplete or imperfect title," has been fully vested on the occupant, through the prescribed procedure known as judicial confirmation of incomplete or imperfect title. ^[3] This is the only legal method by which full and absolute title to the land may be granted, to convert the land into a truly private land. To secure such judicial title, only the courts can be resorted to. The Director of Lands has lost authority over the land, insofar as its disposition is concerned. His authority is limited to another form of disposition of public land, referred to as administrative legalization, resulting in the issuance of free patents, also based on possession, in which case, as in the issuance of homestead and sales patents, the land involved is undoubtedly public land. The possessor of a piece of public land would have the option to acquire title thereto through judicial confirmation or administrative legalization. The difference is that in the latter case, the area disposable to a citizen-applicant by the Director of Lands is limited to 24 hectares. There is no limit to the area subject to judicial confirmation of incomplete or imperfect title, except possibly the limit fixed for a State grant under old Spanish laws and decrees, which certainly is much larger than that set for free patents.

It is because of the divestiture of authority of the Director of Lands to dispose of the land subject to judicial confirmation of incomplete and imperfect title that some statements are found in many cases, such as those cited

by Justice Teehankee, to the effect that such land has ceased to be public land. What these statements, however, really mean is that the land referred to no longer forms part of the mass of public domain still disposable by the Director of Lands, under the authority granted him by the public land statutes. It, however, would not follow that the land covered by Section 48 of the Public Land Act has itself become private land. The fact that its disposition is provided for in the aforementioned Act which deals with "public land" gives rise to the very strong implication, if not a positive conclusion, that the land referred to is still public land. Only when the court adjudicates the land to the applicant for confirmation of title would the land become privately owned land, for in the same proceeding, the court may declare it public land, depending on the evidence.

The discussion of the question of whether the land involved is still public or already private land is, however, entirely pointless, or an idle exercise, if we consider the provision of Section 14, Article XIV of the Constitution which appears to have been lost sight of, which provides that "save in cases of hereditary succession, no private lands shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain." As previously stated, by express provision of the Constitution, no corporation or association may hold alienable lands of the public domain except by lease, not to exceed 1,000 hectares in area.^[4] Hence, even if the land involved in the present case is considered private land, the cited section prohibits its acquisition by the Meralco or Iglesia which admittedly are "corporations or association" within the meaning of the aforementioned provision of the New Constitution. This observation should end all arguments on the issue of whether the land in question is public or private land. Although it may further be observed that supposing a corporation has been in possession of a piece of public land from the very beginning, may it apply for judicial confirmation of the land in question to acquire title to it as owner after possessing the land for the requisite length of time? The answer is believed obvious—it may not. If its possession is not from the beginning but has commenced only upon the transfer to it by the prior possessor, may the corporation apply? The answer is just as obvious—with more reason, it may not.

This separate opinion should have had no need to be written because the majority opinion written by Justice Aquino is already well-reasoned out and supported by applicable authorities. I was impelled to write it only because in the dissenting opinion of Justice Teehankee, the case of *Herico vs. Dar* (supra) which is my ponencia was cited in support of his position. This separate opinion then is more to show and explain that whatever has been stated by me in the *Dar* case should be interpreted in the light of what I have said in this separate opinion, which I believe, does not strengthen Justice Teehankee's position a bit.

[1] 45 SCRA 437.

[2] Section 11, Article XIV, Constitution.

[3] See Section 48 of the Public Land Act.

[4] Section 11, Article XIV, Constitution.

DISSENTING:

TEEHANKEE, J.,

Involved in these two cases are the applications of petitioner Meralco, a nationalized domestic corporation, in the first case and respondent Iglesia ni Cristo, a religious corporation sole, in the second case (both admittedly Filipino corporations qualified to hold and own private lands), for judicial confirmation of their titles to small parcels of land, residential in character as distinguished from strictly agricultural land, acquired by them by purchase or exchange from private persons publicly recognized as the private owners (who have been in the open,

continuous, exclusive and notorious possession and occupation of the lands under a bona fide claim of ownership for at least thirty [30] years immediately preceding the filing of the applications).

This dissent is based on the failure of the majority to adhere to established doctrine since the 1909 case of Cariño and the 1925 case of Susi down to the 1980 case of Herico, *infra*, pursuant to the Public Land Act, as amended, that where a possessor has held the open, exclusive and unchallenged possession of alienable public land for the statutory period provided by law (30 years now under amendatory Rep. Act No. 1942 approved on June 22, 1957), the law itself mandates that the possessor "shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title" and "by legal fiction [the land] has already ceased to be of the public domain and has become private property." Accordingly, the prohibition of the 1973 Constitution and of the Public Land Act against private corporations holding lands of the public domain has no applicability in the present cases. What Meralco and Iglesia have acquired from their predecessors-in-interest had already ceased to be of the public domain and had become private property at the time of the sale to them and therefore their applications for confirmation of title by virtue of their predecessors-in-interest' vested right and title may be duly granted.

The land covered by the Meralco application of November 26, 1976 consists of two (2) small lots with a total area of 165 square meters located at Tanay, Rizal with an assessed value of P3,270.00. This land was possessed by Olimpia Ramos before World War II which broke out in the Pacific in 1941. Olimpia Ramos sold the land on July 3, 1947 to the spouses Rafael Piguing and Minerva Inocencio who constructed a house thereon. But because the Meralco had installed the "anchor guy" of its steel posts on the land, the Piguing spouses sold the land to the Meralco on August 13, 1976. The land had been declared for realty tax purposes since 1945 and realty taxes were regularly paid thereon. It is residential in character as distinguished from strictly agricultural land. It is likewise established that it is not included in any military reservation and that since 1927 it had been certified as part of the alienable or disposable portion of the public domain.

The Land covered by the Iglesia application of September 3, 1977 likewise consists of two (2) small lots located in Barrio Dampol, Plaridel, Bulacan with a total area of 313 square meters and with an assessed value of P1,350.00. The land was acquired by the Iglesia on January 9, 1953 from Andres Perez in exchange for a lot owned by the Iglesia with an area of 247 square meters. The land was already possessed by Perez in 1933. Admittedly also it is not included in any military reservation and is inside an area which was certified since 1927 as part of the alienable or disposable portion of the public domain. A chapel of the Iglesia stands on the said land. It had been duly declared for realty tax purposes in the name of the Iglesia and realty taxes were regularly paid thereon.

Respondent judge in the Meralco case sustained the Republic's opposition and dismissed the application, holding that under both the provisions of the new Constitution and the Public Land Act, Meralco, being a corporation and not a natural person, is not qualified to apply for the registration of title over the public land.

On the other hand, in the Iglesia case, the Republic presented no evidence in support of its opposition but expressly "submitted the case for decision on the basis of the evidence submitted by the applicant." Respondent judge in the case accordingly granted the application for registration of the land in the name of the Iglesia, holding that it had been "satisfactorily established that applicant [Iglesia] and its predecessors-in-interest have been in open, continuous, public and adverse possession of the land . . . under a bona fide claim of ownership for more than thirty (30) years prior to the filing of the application" and is therefore entitled to the registration applied for under the Public Land Act, as amended.

Both decisions are now with the Court for review. I hold that both applications for registration should be granted by virtue of the prevailing principle as enunciated since the 1925 case of *Susi vs. Razon and Director of Lands*[1]

and reaffirmed in a long line of cases down to the 1980 case of *Herico vs. Dar* [2] that the lands in question ceased, ipso jure, or by operation of law, to be lands of the public domain upon completion of the statutory period of open, continuous, exclusive, notorious and unchallenged possession thereof by the applicants' predecessors-in-interest who were qualified natural persons and entitled to registration by right of acquisitive prescription under the provisions of the Public Land Act, and that accordingly the judgment in the *Meralco* case should be reversed and a new judgment entered granting *Meralco's* application, while the judgment in the *Iglesia* case should stand affirmed.

The principal issue at bar may thus be stated:

It is expressly provided in Section 48, par. (b) of the Public Land Act (Commonwealth Act No. 141, as amended by Rep. Act No. 1942, approved on June 22, 1957) that citizens of the Philippines who are natural persons who have occupied lands of the public domain but whose titles have not been perfected or completed may apply to the corresponding court of first instance for confirmation of their claims and the issuance of the certificate of title therefor under the Land Registration Act in cases where they "by themselves or through their predecessors-in-interest have been in the open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition of ownership, for at least thirty years 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 or title under the provisions of this chapter." [3] In such cases, is the land ipso jure or by operation of law converted into private land upon completion of the 30th year of continuous and unchallenged occupation of the land such that thereafter as such private land, it may be duly transferred to and owned by private corporations or does such land, as held by respondent judge in the *Meralco* case, remain part of the public domain and does not become private land until after actual judicial confirmation proceedings and the formal court order for the issuance of the certificate of title?

1. This issue has been squarely resolved by this Court since the 1925 case of *Susi vs. Razon* (and a long line of cases, *infra*). It is established doctrine as first held therein that an open, continuous, adverse and public possession of a land of the public domain for the period provided in the Public Land Act provision in force at the time (from July 26, 1894 in *Susi* under the old law) by a private individual personally and through his predecessors confers an effective title on said possessor, whereby the land ceases to be land of the public domain and becomes private property.

(At that time in 1925 in the *Susi* case, such possession was required "from July 26, 1894" as then provided for in Section 45 (b) of the old Public Land Act No. 2874, amending Act No. 926; whereas at present, as provided for in the corresponding Section 48, par. (b) of the later and subsisting Public Land Act, Commonwealth Act No. 141, as amended by Rep. Act No. 1942 approved on June 22, 1957, in force since 1957, the period of open and unchallenged possession was reduced to "at least thirty years immediately preceding the filing of the application for confirmation of title, equivalent to the period of acquisitive prescription. This is admitted in the main opinion of Mr. Justice Aquino, wherein it is stated that "(I)n the *Susi* case, this court applied Section 45 (b) of Act No. 2874 which corresponds to what is now Section 48(b). It was held that the long possession of the land under a bona fide claim of ownership since July 26, 1894 gave rise to the conclusive presumption that the occupant had complied with all the conditions essential to a Government grant and was thus entitled to a certificate of title." [4] The text of the corresponding Section 48 (b), as amended by Rep. Act 1942 referred to is reproduced verbatim in Mr. Justice Aquino's opinion [5] and quotes the reduced statutory period of open and unchallenged possession of "at least thirty years immediately preceding the filing of the application.")

Accordingly, the Court held that *Susi*, as the rightful possessor of the public land for the statutory period, acquired

the same by operation of law as a grant from the Government, "not only a right to a grant, " and the land thereby "already ceased to be of the public domain and had become private property at least by presumption" as expressly provided in the Act. Therefore, any supposed sale by the Director of Lands of the same land to another person was void and of no effect and Susi as the rightful possessor could recover the land as his private property from the supposed vendee who did not acquire any right thereto since it had ceased to be land of the public domain. The Court thus specifically held therein, as applied to the specific facts of the case, that:

... In favor of Valentin Susi, there is, moreover, the presumption juris et de jure, established in paragraph (b) of Section 45 of Act No. 2874, amending Act No. 926, that all the necessary requirements for a grant by the Government were complied with, for he has been in actual and physical possession, personally and through his predecessors, of an agricultural land of the public domain, openly, continuously, exclusively and publicly since July 26, 1894, with a right to a certificate of title to said land under the provisions of Chapter VIII of said Act. So that when Angela Razon applied for the grant in her favor, Valentin Susi had already acquired, by operation of law, not only a right to a grant, but a grant of the Government, for it is not necessary that certificate of title should be issued in order that said grant may be sanctioned by the courts, an application therefor is sufficient, under the provisions of section 47 of Act No. 2874. If by a legal fiction, Valentin Susi had acquired the land in question by a grant of the State, it had already ceased to be of the public domain and had become private property, at least by presumption, of Valentin Susi, beyond the control of the Director of Lands. Consequently, in selling the land in question to Angela Razon, the Director of Lands disposed of a land over which he had no longer any title or control and the sale thus made was void and of no effect, and Angela Razon did not thereby acquire any right." [6]

2. The above-quoted ruling in Susi has been affirmed and reaffirmed by this Court in a long unbroken line of cases, as follows:

In *Mesina vs. Vda. de Sonza*,^[7] the Court held that "(I)n the case of *Susi vs. Razon, et al.*, 48 Phil 424, it was observed that where all the necessary requirements for a grant by the Government are complied with through actual physical possession openly, continuously, and publicly, with a right to a certificate of title to said land under the provisions of Chapter VIII of Act No. 2874, amending Act No. 926 (carried over as Chapter VIII of Commonwealth Act No. 141), the possessor is deemed to have already acquired by operation of law not only a right to a grant, but a grant of the Government, for it is not necessary that a certificate of title be issued in order that said grant may be sanctioned by the courts —an application therefor being sufficient under the provisions of Section 47 of Act No. 2874 (reproduced as Section 50, Commonwealth Act No. 141), and "(C)onsidering that this case was dismissed by the trial court merely on a motion to dismiss on the ground that plaintiff's action is already barred by the statute of limitations, which apparently is predicated on the theory that a decree of registration can no longer be impugned on the ground of fraud one year after the issuance and entry of the decree, which theory does not apply here because the property involved is allegedly private in nature and has ceased to be part of the public domain, We are of the opinion that the trial court erred in dismissing the case outright without giving plaintiff a chance to prove his claim."

In *Lacaste vs. Director of Lands*,^[8] the Court stressed that by force of possession, the land in question became private property on the strength of the Susi doctrine.

In *Manarpaac vs. Cahanatan*^[9] the Court quoted with favor the text of the above-quoted ruling of Susi, and its ratio decidendi thus:

' The Director of Lands contends that the land in question being of the public domain, the plaintiff-appellee cannot maintain an action to recover possession thereof.

"If, as above stated, that land, the possession of which is in dispute, had already become, by operation of law,

private property, there is lacking only the judicial sanction of his title, Valentin Susi has the right to bring an action to recover the possession thereof and hold it."

In *Miguel vs. Court of Appeals*, [10]the Court again held that where possession has been continuous, uninterrupted, open, adverse and in the concept of an owner, there is a presumption *juris et de jure* that all necessary conditions for a grant by the State have been complied with and he would have been by force of law entitled to the registration of his title to the land (citing *Pamintuan vs. Insular Government*, 8 Phil 485 and *Susi vs. Razon*, 48 Phil 424).

In the latest 1980 case of *Herico vs. Dar*,[11]the Court once more reiterated the Susi doctrine that "(A)nother obvious error of the respondent Court is in holding that after one year from the issuance of the Torrens Title, the same can no longer be reopened to be declared null and void, and has become absolute and indefeasible.. . . Secondly, under the provisions of Republic Act No. 1942, which the respondent court held to be inapplicable to the petitioner's case, with the latter's proven occupation and cultivation for more than 30 years since 1914, by himself and by his predecessors-in-interest, title over the land has vested on petitioner as to segregate the land from the mass of public land. Thereafter, it is no longer disposable under the Public Land Act as by free patent. This is as provided in Republic Act No. 1942, which took effect on June 22, 1957, amending Section 48-b of Commonwealth Act No. 141 which provides: ... As interpreted in several cases when the conditions as specified in the foregoing provision are complied with, the possessor is deemed to have acquired, by operation of law, a right to a grant, a government grant, without the necessity of a certificate of title being issued. The land, therefore, ceases to be of the public domain, and beyond the authority of the Director of Lands to dispose of. The application for confirmation is a mere formality, the lack of which does not affect the legal sufficiency of the title as would be evidenced by the patent and the Torrens title to be issued upon the strength of said patent."

3. In fine, since under the Court's settled doctrine, the acquisitive prescription of alienable or disposable public lands provided for now in Section 48, par. (b) of the Public Land Act takes place by operation of law and the public land is converted to and becomes private property upon a showing of open and unchallenged possession under bonafide claim of ownership by the applicants' predecessors-in-interest for the statutory period of thirty years immediately preceding the filing of the application and 'it is not necessary that a certificate of title should be issued in order that said grant may be sanctioned by the court' which right is expressly backed up by the conclusive presumption or presumption *juris et de jure* of the statute that the possessor has "performed all the conditions essential to a Government grant," the applicant Meralco cannot be said to be barred as a corporation from filing the application for registration of the private property duly acquired by it.

4. It should be noted that respondent judge's decision in the Meralco case expressly finds as established facts that the Meralco's predecessors-in-interest had possessed and occupied as owners the land in question for at least over 35 years; Olympia Ramos having possessed the same since the last world war in 1941 and then having sold the same on July 3, 1947 to the Piguing spouses who built a house thereon and continuously possessed the same until they sold the same in turn to the Meralco on August 13, 1976,[12] Meralco's predecessors-in-interest had therefore acquired by operation of the Public Land Act a Government grant to the property, as well as acquired ownership thereof by right of acquisitive prescription over the land which thereby became private property. The very definition of prescription as a mode of acquiring ownership as set forth in Art. 1106 of the Civil Code provides that "By prescription one acquires ownership and other real rights through lapse of time in the manner and under the conditions laid down by law." The law does not provide that one acquires ownership of a land by prescription only after his title thereto is judicially confirmed. To this same effect is the ruling in *Cariño vs. Insular Government*,[13] where in the U.S. Supreme Court speaking through Justice Holmes held that

"It is true that the language of Articles 4 and 5 attributes title to those 'who may prove' possession for the

necessary time and we do not overlook the argument that this means may prove in registration proceedings. It may be that an English conveyancer would have recommended an application under the foregoing decree, but certainly it was not calculated to convey to the mind of an Igorot chief the notion that ancient family possessions were in danger, if he had read every word of it. The words 'may prove' (acrediten), as well, or better, in view of the other provisions, might be taken to mean when called upon to do so in any litigation. There are indications that registration was expected from all, but none sufficient- to show that, for want of it, ownership actually gained would be lost. The effect of the proof, wherever made, was not to confer title, but simply to establish it, as already conferred by the decree, if not by earlier law."

To the same effect is the Court's ruling in *Legarda and Prieto vs. Saleeby*, 31 Phil 590, that "an owner does not obtain title by virtue of certificate but rather obtains his certificate by virtue of the fact that he has a fee simple title."

5. Since the public land became private property upon completion of the 30th year of continuous, exclusive, and unchallenged possession of the applicant Meralco's predecessors-in-interest, particularly the Piguing spouses who sold the private land to the Meralco, there is no justification for denying the Meralco's application for registration of its duly acquired title to the land. Meralco's predecessors-in-interest had acquired ownership of the land by acquisitive prescription as provided by the Public Land Act and by the Civil Code. The land became private property and Meralco duly acquired it by right of purchase. To deny Meralco's application to register the property because it is not a natural person is unjustified because neither the new constitutional ban under the 1973 Constitution against private corporations owning lands of the public domain or the Public Land Act's limitation on the right of application for confirmation of imperfect title to lands of the public domain can be invoked any longer as the land had long ceased to be public land but had become private property. Meralco's application in effect seeks confirmation of the acquisition of ownership of the land which had become private property of its predecessors-in-interest, the Piguing spouses who thru their open and unchallenged possession of the land for over thirty years acquired title thereto by acquisitive prescription and by conclusive presumption of the Public Land Act itself. There is no legal nor constitutional obstacle to such title being transferred to the Meralco by right of purchase and traditio—for it is not claimed that there is any legal prohibition against the Piguing spouses transferring the ownership of the land to others (whether natural persons or corporations) such as the applicant Meralco, even before the formal issuance of the certificate of title to them.

6. To uphold respondent judge's denial of Meralco's application on the technicality that the Public Land Act allows only citizens of the Philippines who are natural persons to apply for confirmation of their title would be impractical and would just give rise to multiplicity of court actions. Assuming that there was a technical error in not having filed the application for registration in the name of the Piguing spouses as the original owners and vendors, still it is conceded that there is no prohibition against their sale of the land to the applicant Meralco and neither is there any prohibition against the application being refiled with retroactive effect in the name of the original owners and vendors (as such natural persons) with the end result of their application being granted, because of their indisputable acquisition of ownership by operation of law and the conclusive presumption therein provided in their favor. It should not be necessary to go through all the rituals at the great cost of refile of all such applications in their names and adding to the overcrowded court dockets when the Court can after all these years dispose of it here and now. (See *Francisco vs. City of Davao*)[14]

The ends of justice would best be served, therefore, by considering the applications for confirmation as amended to conform to the evidence, i.e. as filed in the names of the original persons who as natural persons are duly qualified to apply for formal confirmation of the title that they had acquired by conclusive presumption and mandate of the Public Land Act and who thereafter duly sold to the herein corporations (both admittedly Filipino corporations duly qualified to hold and own private lands) and granting the applications for confirmation of title

to the private lands so acquired and sold or exchanged.

7. All that has been said here applies of course with equal force to the Iglesia case, save that as already stated at the beginning hereof, the Iglesia application was granted because the Republic presented no evidence in support of its opposition and respondent judge held in effect that the property had ceased to be land of the public domain and had become private property, the title to which could be duly issued in the name of the Iglesia as the transferee of its predecessors-in-interest.

8. It should bear emphasis that what are involved here are small parcels of land, of 165 square meters in the Meralco case used for installation of an "anchor guy" for its steel posts in connection with its tasks as a nationalized domestic corporation to furnish electrical service to the consumer public, and of 313 square meters in the Iglesia case used as the site of its church built thereon to minister to the religious needs of its members. In no way, may the letter, intent and spirit of the prohibition of the 1973 Constitution against corporations "holding alienable lands of the public domain except by lease not to exceed one thousand hectares in area" (which is beamed against the undue control and exploitation of our public lands and natural resources by corporations, Filipino and foreign-controlled) be deemed violated or disregarded by the granting of the applications at bar. The two corporations in truth and in fact do not hold the small parcels of land at bar for their own use or benefit but for the sole use and benefit of the public.

9. With reference to the separate concurring opinion of Mr. Justice De Castro wherein he would blunt the "supposedly (sic) well-established doctrine" (at page 1) from the 1909 case of Cariño and the 1925 case of Susi down to the 1980 case of Herico (supra, at pages 5 to 11) and support the contrary pronouncement in Mr. Justice Aquino's main opinion that "as between the State and the Meralco, the said land is still public land. It would cease to be public land only upon the issuance of the certificate of title to any Filipino citizen claiming it under Section 48(b) [of the Public Land Act]" (at page 5), suffice it to cite his own pronouncement in Herico (reiterating the well-established and prevailing doctrine which this Court has not overturned, as it cannot overturn the mandate of the statute that the unchallenged possessor for at least 30 years is "conclusively presumed to have performed all the conditions essential to a government grant") wherein Mr. Justice De Castro categorically reiterated for the Court that "As interpreted in several cases.....the possessor is deemed to have acquired, by operation of law, a right to a grant, a government grant, without the necessity of a certificate of title being issued. The land, therefore, ceases to be of the public domain, and beyond the authority of the Director of Lands to dispose of. The application for confirmation is a mere formality, the lack of which does not affect the legal sufficiency of the title as would be evidenced by the patent and the Torrens title to be issued upon the strength of said patent."

It only remains to point out, in order to avoid misapprehension or confusion, that Mr. Justice De Castro's seemingly querulous statement that "the discussion of the question of whether the land involved is still public or already private land, is, however, entirely pointless or an idle exercise, if We consider the provision of Section 14, Article XIV of the Constitution which appears to have been lost sight of, which provides that 'save in cases of hereditary succession, no private lands shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain' (at page 2) that "hence, even if the land involved in the present case is considered private land, the cited section prohibits its acquisition by the Meralco or Iglesia which admittedly are 'corporations or associations' within the meaning of the aforecited provision of the New Constitution. This observation should end all arguments on the issue of whether the land in question is public or private land" (idem) might mislead one to the wrong conclusion that corporations with 60% Filipino ownership may not own private lands when the express provisions of Art. XIV, Section 9[15] and Section 14 as quoted by himself as well as the counterpart provisions of the 1935 Constitution have always expressly permitted Filipino-owned corporations to own private lands, and the only change effected in the 1973 Constitution is

Section 11 which now prohibits even such Filipino corporations to own or hold lands of the public domain except by lease not to exceed 1,000 hectares in area.

ACCORDINGLY, I vote for reversal of respondent court's judgment in the Meralco case and for the entry of a new judgment granting Meralco's application and for affirmance of judgment in the second case granting the Iglesia application.

[1] 48 Phil. 424.

[2] 95 SCRA 437 (Jan. 22, 1980), citing *Susu vs. Razon*, 48 Phil. 424; *Mesina vs. Vda. de Sonza*, 108 Phil. 251 (1960).

[3] Italics supplied.

[4] At page 6; italics supplied

[5] At pages 4 and 5 thereof.

[6] Italics supplied.

[7] 108 Phil 251, 153 & 255 (1960).

[8] 63 Phil 654, 655 (1936), citing *De los Reyes vs. Razon*, 38 Phil 480; *Susi vs. Razon*, supra, and *PNB vs. Luis*, 53 Phil 649. See also *Balboa vs. Farrales*, 51 Phil 498, 503 (1928).

[9] 21 SCRA 743, 747-748 (1967).

[10] 29 SCRA 760, 779 (1969).

[11] 95 SCRA 437, 443-444, per De Castro, J.

[12] Record, p. 22.

[13] 41 Phil 935 (1909), 212 U.S. 449, 53 Lawyers ed. 594; italics supplied.

[14] 12 SCRA 628. 634.

[15] "Sec. 9. The disposition, exploration, development, exploitation, or utilization of any of the natural resources of the Philippines shall be limited to citizens of the Philippines, or to corporations or associations at least sixty per centum of the capital of which is owned by such citizens." (Art. XIV, 1973 Constitution)..

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