

**TEN FORTY REALTY AND DEVELOPMENT CORP., REPRESENTED BY
ITS PRESIDENT, VERONICA G. LORENZANA, PETITIONER, VS.
MARINA CRUZ, RESPONDENT.**

G.R. No. 151212. September 10, 2003

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In an ejectment suit, the question of ownership may be provisionally ruled upon for the sole purpose of determining who is entitled to possession de facto. In the present case, both parties base their alleged right to possess on their right to own. Hence, the Court of Appeals did not err in passing upon the question of ownership to be able to decide who was entitled to physical possession of the disputed land.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, seeking to nullify the August 31, 2001 Decision[2] and December 19, 2001 Resolution[3] of the Court of Appeals (CA) in CA- GR SP No. 64861. The dispositive portion of the assailed Decision is as follows:

"WHEREFORE, premises considered, the petition is hereby DISMISSED and the Decision dated May 4, 2001 is hereby AFFIRMED."[4]

The assailed Resolution denied petitioner's Motion for Reconsideration.

The Facts

The facts of the case are narrated by the CA as follows:

"A complaint for ejectment was filed by [Petitioner Ten Forty Realty and Development Corporation] against x x x [Respondent Marina Cruz] before the Municipal Trial Court in Cities (MTCC) of Olongapo City, docketed as Civil Case 4269, which alleged that: petitioner is the true and absolute owner of a parcel of lot and residential house situated in #71 18th Street, E.B.B. Olongapo City, particularly described as:

`A parcel of residential house and lot situated in the above-mentioned address containing an area of 324 square meters more or less bounded on the Northeast by 041 (Lot 255, Ts-308); on the Southeast by 044 (Lot 255, Ts-308); on the Southwest by 043 (Lot 226-A & 18th street) and on the Northwest by 045 (Lot 227, Ts-308) and declared for taxation purposes in the name of [petitioner] under T.D. No. 002-4595-R and 002-4596.'

having acquired the same on December 5, 1996 from Barbara Galino by virtue of a Deed of Absolute Sale; the sale was acknowledged by said Barbara Galino through a 'Katunayan'; payment of the capital gains tax for the transfer of the property was evidenced by a Certification Authorizing Registration issued by the Bureau of Internal Revenue; petitioner came to know that Barbara Galino sold the same property on April 24, 1998 to Cruz, who immediately occupied the property and which occupation was merely tolerated by petitioner; on October 16, 1998, a complaint for ejectment was filed with the Barangay East Bajac-Bajac, Olongapo City but for failure to arrive at an amicable settlement, a Certificate to File Action was issued; on April 12, 1999 a demand letter was

sent to [respondent] to vacate and pay reasonable amount for the use and occupation of the same, but was ignored by the latter; and due to the refusal of [respondent] to vacate the premises, petitioner was constrained to secure the services of a counsel for an agreed fee of P5,000.00 as attorney's fee and P500.00 as appearance fee and incurred an expense of P5,000.00 for litigation.

"In respondent's Answer with Counterclaim, it was alleged that: petitioner is not qualified to own the residential lot in dispute, being a public land; according to Barbara Galino, she did not sell her house and lot to petitioner but merely obtained a loan from Veronica Lorenzana; the payment of the capital gains tax does not necessarily show that the Deed of Absolute Sale was at that time already in existence; the court has no jurisdiction over the subject matter because the complaint was filed beyond the one (1) year period after the alleged unlawful deprivation of possession; there is no allegation that petitioner had been in prior possession of the premises and the same was lost thru force, stealth or violence; evidence will show that it was Barbara Galino who was in possession at the time of the sale and vacated the property in favor of respondent; never was there an occasion when petitioner occupied a portion of the premises, before respondent occupied the lot in April 1998, she caused the cancellation of the tax declaration in the name of Barbara Galino and a new one issued in respondent's name; petitioner obtained its tax declaration over the same property on November 3, 1998, seven (7) months [after] the respondent [obtained hers]; at the time the house and lot [were] bought by respondent, the house was not habitable, the power and water connections were disconnected; being a public land, respondent filed a miscellaneous sales application with the Community Environment and Natural Resources Office in Olongapo City; and the action for ejectment cannot succeed where it appears that respondent had been in possession of the property prior to the petitioner." [5]

In a Decision [6] dated October 30, 2000, the Municipal Trial Court in Cities (MTCC) ordered respondent to vacate the property and surrender to petitioner possession thereof. It also directed her to pay, as damages for its continued unlawful use, P500 a month from April 24, 1999 until the property was vacated, P5,000 as attorney's fees, and the costs of the suit.

On appeal, the Regional Trial Court [7] (RTC) of Olongapo City (Branch 72) reversed the MTCC. The RTC ruled as follows: 1) respondent's entry into the property was not by mere tolerance of petitioner, but by virtue of a Waiver and Transfer of Possessory Rights and Deed of Sale in her favor; 2) the execution of the Deed of Sale without actual transfer of the physical possession did not have the effect of making petitioner the owner of the property, because there was no delivery of the object of the sale as provided for in Article 1428 of the Civil Code; and 3) being a corporation, petitioner was disqualified from acquiring the property, which was public land.

Ruling of the Court of Appeals

Sustaining the RTC, the CA held that petitioner had failed to make a case for unlawful detainer, because no contract -- express or implied -- had been entered into by the parties with regard to possession of the property. It ruled that the action should have been for forcible entry, in which prior physical possession was indispensable -- a circumstance petitioner had not shown either.

The appellate court also held that petitioner had challenged the RTC's ruling on the question of ownership for the purpose of compensating for the latter's failure to counter such ruling. The RTC had held that, as a corporation, petitioner had no right to acquire the property which was alienable public land.

Hence, this Petition. [8]

Issues

Petitioner submits the following issues for our consideration:

"1.

The Honorable Court of Appeals had clearly erred in not holding that [r]espondent's occupation or possession of the property in question was merely through the tolerance or permission of the herein [p]etitioner;

"[2.]

The Honorable Court of Appeals had likewise erred in holding that the ejectment case should have been a forcible entry case where prior physical possession is indispensable; and

"[3.]

The Honorable Court of Appeals had also erred when it ruled that the herein [r]espondent's possession or occupation of the said property is in the nature of an exercise of ownership which should put the herein [p]etitioner on guard."[9]

The Court's Ruling

The Petition has no merit.

First Issue:

Alleged Occupation by Tolerance

Petitioner faults the CA for not holding that the former merely tolerated respondent's occupation of the subject property. By raising this issue, petitioner is in effect asking this Court to reassess factual findings. As a general rule, this kind of reassessment cannot be done through a petition for review on certiorari under Rule 45 of the Rules of Court, because this Court is not a trier of facts; it reviews only questions of law.[10] Petitioner has not given us ample reasons to depart from the general rule.

On the basis of the facts found by the CA and the RTC, we find that petitioner failed to substantiate its case for unlawful detainer. Admittedly, no express contract existed between the parties. Not shown either was the corporation's alleged tolerance of respondent's possession.

While possession by tolerance may initially be lawful, it ceases to be so upon the owner's demand that the possessor by tolerance vacate the property.[11] To justify an action for unlawful detainer, the permission or tolerance must have been present at the beginning of the possession.[12] Otherwise, if the possession was unlawful from the start, an action for unlawful detainer would be an improper remedy. *Sarona v. Villegas*[13] elucidates thus:

"A close assessment of the law and the concept of the word 'tolerance' confirms our view heretofore expressed that such tolerance must be present right from the start of possession sought to be recovered, to categorize a cause of action as one of unlawful detainer not of forcible entry. Indeed, to hold otherwise would espouse a dangerous doctrine. And for two reasons. First. Forcible entry into the land is an open challenge to the right of the possessor. Violation of that right authorizes the speedy redress – in the inferior court – provided for in the rules. If one year from the forcible entry is allowed to lapse before suit is filed, then the remedy ceases to be speedy; and the possessor is deemed to have waived his right to seek relief in the inferior court. Second, if a forcible entry action in the inferior court is allowed after the lapse of a number of years, then the result may well be that no action for forcible entry can really prescribe. No matter how long such defendant is in physical possession, plaintiff will merely make a demand, bring suit in the inferior court – upon a plea of tolerance to prevent prescription to set in – and summarily throw him out of the land. Such a conclusion is unreasonable. Especially if we bear in mind the postulates that proceedings of forcible entry and unlawful detainer are summary in nature, and that the one year time bar to suit is but in pursuance of the summary nature of the

action.”[14]

In this case, the Complaint and the other pleadings do not recite any averment of fact that would substantiate the claim of petitioner that it permitted or tolerated the occupation of the property by Respondent Cruz. The Complaint contains only bare allegations that 1) respondent immediately occupied the subject property after its sale to her, an action merely tolerated by petitioner;[15] and 2) her allegedly illegal occupation of the premises was by mere tolerance.[16]

These allegations contradict, rather than support, petitioner's theory that its cause of action is for unlawful detainer. First, these arguments advance the view that respondent's occupation of the property was unlawful at its inception. Second, they counter the essential requirement in unlawful detainer cases that petitioner's supposed act of sufferance or tolerance must be present right from the start of a possession that is later sought to be recovered.[17]

As the bare allegation of petitioner's tolerance of respondent's occupation of the premises has not been proven, the possession should be deemed illegal from the beginning. Thus, the CA correctly ruled that the ejectment case should have been for forcible entry -- an action that had already prescribed, however, when the Complaint was filed on May 12, 1999. The prescriptive period of one year for forcible entry cases is reckoned from the date of respondent's actual entry into the land, which in this case was on April 24, 1998.

Second Issue:

Nature of the Case

Much of the difficulty in the present controversy stems from the legal characterization of the ejectment Complaint filed by petitioner. Specifically, was it for unlawful detainer or for forcible entry?

The answer is given in Section 1 of Rule 70 of the Rules of Court, which we reproduce as follows:

"SECTION 1. Who may institute proceedings, and when. - Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs."

While both causes of action deal only with the sole issue of physical or de facto possession,[18] the two cases are really separate and distinct, as explained below:

"x x x. In forcible entry, one is deprived of physical possession of land or building by means of force, intimidation, threat, strategy, or stealth. In unlawful detainer, one unlawfully withholds possession thereof after the expiration or termination of his right to hold possession under any contract, express or implied. In forcible entry, the possession is illegal from the beginning and the basic inquiry centers on who has the prior possession de facto. In unlawful detainer, the possession was originally lawful but became unlawful by the expiration or termination of the right to possess, hence the issue of rightful possession is decisive for, in such action, the defendant is in actual possession and the plaintiff's cause of action is the termination of the defendant's right to continue in possession.

"What determines the cause of action is the nature of defendant's entry into the land. If the entry is illegal, then the action which may be filed against the intruder within one year therefrom is forcible entry. If, on the other

hand, the entry is legal but the possession thereafter became illegal, the case is one of unlawful detainer which must be filed within one year from the date of the last demand." [19]

It is axiomatic that what determines the nature of an action as well as which court has jurisdiction over it are the allegations in the complaint [20] and the character of the relief sought. [21]

In its Complaint, petitioner alleged that, having acquired the subject property from Barbara Galino on December 5, 1996, [22] it was the true and absolute owner [23] thereof; that Galino had sold the property to Respondent Cruz on April 24, 1998; [24] that after the sale, the latter immediately occupied the property, an action that was merely tolerated by petitioner; [25] and that, in a letter given to respondent on April 12, 1999, [26] petitioner had demanded that the former vacate the property, but that she refused to do so. [27] Petitioner thereupon prayed for judgment ordering her to vacate the property and to pay reasonable rentals for the use of the premises, attorney's fees and the costs of the suit. [28]

The above allegations appeared to show the elements of unlawful detainer. They also conferred initiatory jurisdiction on the MTCC, because the case was filed a month after the last demand to vacate -- hence, within the one-year prescriptive period.

However, what was actually proven by petitioner was that possession by respondent had been illegal from the beginning. While the Complaint was crafted to be an unlawful detainer suit, petitioner's real cause of action was for forcible entry, which had already prescribed. Consequently, the MTCC had no more jurisdiction over the action.

The appellate court, therefore, did not err when it ruled that petitioner's Complaint for unlawful detainer was a mere subterfuge or a disguised substitute action for forcible entry, which had already prescribed. To repeat, to maintain a viable action for forcible entry, plaintiff must have been in prior physical possession of the property; this is an essential element of the suit. [29]

Third Issue:

Alleged Acts of Ownership

Petitioner next questions the CA's pronouncement that respondent's occupation of the property was an exercise of a right flowing from a claim of ownership. It submits that the appellate court should not have passed upon the issue of ownership, because the only question for resolution in an ejectment suit is that of possession de facto.

Clearly, each of the parties claimed the right to possess the disputed property because of alleged ownership of it. Hence, no error could have been imputed to the appellate court when it passed upon the issue of ownership only for the purpose of resolving the issue of possession de facto. [30] The CA's holding is moreover in accord with jurisprudence and the law.

Execution of a Deed of Sale

Not Sufficient as Delivery

In a contract of sale, the buyer acquires the thing sold only upon its delivery "in any of the ways specified in Articles 1497 to 1501, or in any other manner signifying an agreement that the possession is transferred from the vendor to the vendee." [31] With respect to incorporeal property, Article 1498 lays down the general rule: the execution of a public instrument shall be equivalent to the delivery of the thing that is the object of the contract if, from the deed, the contrary does not appear or cannot be clearly inferred.

However, ownership is transferred not by contract but by tradition or delivery. [32] Nowhere in the Civil Code is it provided that the execution of a Deed of Sale is a conclusive presumption of delivery of possession of a piece of

real estate.[33]

This Court has held that the execution of a public instrument gives rise only to a prima facie presumption of delivery. Such presumption is destroyed when the delivery is not effected because of a legal impediment.[34] *Pasagui v. Villablanca*[35] had earlier ruled that such constructive or symbolic delivery, being merely presumptive, was deemed negated by the failure of the vendee to take actual possession of the land sold.

It is undisputed that petitioner did not occupy the property from the time it was allegedly sold to it on December 5, 1996 or at any time thereafter. Nonetheless, it maintains that Galino's continued stay in the premises from the time of the sale up to the time respondent's occupation of the same on April 24, 1998, was possession held on its behalf and had the effect of delivery under the law.[36]

Both the RTC and the CA disagreed. According to the RTC, petitioner did not gain control and possession of the property, because Galino had continued to exercise ownership rights over the realty. That is, she had remained in possession, continued to declare it as her property for tax purposes and sold it to respondent in 1998.

For its part, the CA found it highly unbelievable that petitioner -- which claims to be the owner of the disputed property -- would tolerate possession of the property by respondent from April 24, 1998 up to October 16, 1998. How could it have been so tolerant despite its knowledge that the property had been sold to her, and that it was by virtue of that sale that she had undertaken major repairs and improvements on it?

Petitioner should have likewise been put on guard by respondent's declaration of the property for tax purposes on April 23, 1998,[37] as annotated in the tax certificate filed seven months later.[38] Verily, the tax declaration represented an adverse claim over the unregistered property and was inimical to the right of petitioner.

Indeed, the above circumstances derogated its claim of control and possession of the property.

Order of Preference in Double Sale of Immovable Property

The ownership of immovable property sold to two different buyers at different times is governed by Article 1544 of the Civil Code, which reads as follows:

"Article 1544. x x x

"Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

"Should there be no inscription, the ownership shall pertain to the person who in good faith was first in possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith."

Galino allegedly sold the property in question to petitioner on December 5, 1996 and, subsequently, to respondent on April 24, 1998. Petitioner thus argues that being the first buyer, it has a better right to own the realty. However, it has not been able to establish that its Deed of Sale was recorded in the Registry of Deeds of Olongapo City.[39] Its claim of an unattested and unverified notation on its Deed of Absolute Sale[40] is not equivalent to registration. It admits that, indeed, the sale has not been recorded in the Registry of Deeds.[41]

In the absence of the required inscription, the law gives preferential right to the buyer who in good faith is first in possession. In determining the question of who is first in possession, certain basic parameters have been established by jurisprudence.

First, the possession mentioned in Article 1544 includes not only material but also symbolic possession.[42]

Second, possessors in good faith are those who are not aware of any flaw in their title or mode of acquisition.[43] Third, buyers of real property that is in the possession of persons other than the seller must be wary -- they must investigate the rights of the possessors.[44] Fourth, good faith is always presumed; upon those who allege bad faith on the part of the possessors rests the burden of proof.[45]

Earlier, we ruled that the subject property had not been delivered to petitioner; hence, it did not acquire possession either materially or symbolically. As between the two buyers, therefore, respondent was first in actual possession of the property.

Petitioner has not proven that respondent was aware that her mode of acquiring the property was defective at the time she acquired it from Galino. At the time, the property -- which was public land -- had not been registered in the name of Galino; thus, respondent relied on the tax declarations thereon. As shown, the former's name appeared on the tax declarations for the property until its sale to the latter in 1998. Galino was in fact occupying the realty when respondent took over possession. Thus, there was no circumstance that could have placed the latter upon inquiry or required her to further investigate petitioner's right of ownership.

Disqualification from Ownership of Alienable Public Land

Private corporations are disqualified from acquiring lands of the public domain, as provided under Section 3 of Article XII of the Constitution, which we quote:

"Sec. 3. Lands of the public domain are classified into agricultural, forest or timber, mineral lands, and national parks. Agricultural lands of the public domain may be further classified by law according to the uses to which they may be devoted. Alienable lands of the public domain shall be limited to agricultural lands. Private corporations or associations may not hold such alienable lands of the public domain except by lease, for a period not exceeding twenty-five years, and not to exceed one thousand hectares in area. Citizens of the Philippines may not lease not more than five hundred hectares, or acquire not more than twelve hectares thereof by purchase, homestead, or grant. x x x." (Italics supplied)

While corporations cannot acquire land of the public domain, they can however acquire private land.[46] Hence, the next issue that needs to be resolved is the determination of whether the disputed property is private land or of the public domain.

According to the certification by the City Planning and Development Office of Olongapo City, the contested property in this case is alienable and disposable public land.[47] It was for this reason that respondent filed a miscellaneous sales application to acquire it.[48]

On the other hand, petitioner has not presented proof that, at the time it purchased the property from Galino, the property had ceased to be of the public domain and was already private land. The established rule is that alienable and disposable land of the public domain held and occupied by a possessor -- personally or through predecessors-in-interest, openly, continuously, and exclusively for 30 years -- is ipso jure converted to private property by the mere lapse of time.[49]

In view of the foregoing, we affirm the appellate court's ruling that respondent is entitled to possession de facto. This determination, however, is only provisional in nature.[50] Well-settled is the rule that an award of possession de facto over a piece of property does not constitute res judicata as to the issue of its ownership.[51]

WHEREFORE, this Petition is DENIED and the assailed Decision AFFIRMED. Costs against petitioner.

SO ORDERED.

Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.
Puno, (Chairman), J., on official leave.

[1] Rollo, pp. 8-19.

[2] Penned by Justice Remedios A. Salazar-Fernando and concurred in by Justices Romeo A. Brawner (Division chairman) and Rebecca de Guia-Salvador (member); id., pp. 139-147.

[3] Rollo, p. 162.

[4] CA Decision, p. 8; rollo, p. 146.

[5] Id., pp. 1-3 & 139-141.

[6] Penned by Judge Eduardo D. Alfonso Jr.

[7] The RTC Decision dated May 4, 2001 was penned by Judge Eliodoro G. Ubiadas.

[8] The case was deemed submitted for decision on August 9, 2002, upon the Court's receipt of respondent's Memorandum signed by Atty. Carmelino M. Roque. Petitioner's Memorandum, filed on July 23, 2002, was signed by Atty. Oscar L. Karaan.

[9] Petitioner's Memorandum, p. 8; rollo, p. 199.

[10] Alfaro v. Court of Appeals, 416 Phil. 310, August 28, 2001; Villalon v. Court of Appeals, 377 Phil. 556, December 2, 1999; Cebu Shipyard and Engineering Works v. William Lines, 366 Phil. 439, May 5, 1999.

[11] Arcal v. CA, 348 Phil. 813, January 26, 1998; Hilario v. CA, 329 Phil. 202, August 7, 1996, citing Odsigue v. CA, 233 SCRA 626, July 4, 1994.

[12] Go Jr. v. CA, supra.

[13] 131 Phil. 365, March 27, 1968.

[14] Id., p. 373, per Sanchez, J.

[15] Complaint, par. 7, p. 3; rollo, p. 22.

[16] Position Paper of petitioner, p. 2; rollo, p. 50.

[17] Go Jr. v. CA, supra.

[18] Amagan v. Marayag, 383 Phil. 486, February 28, 2000.

[19] Go v. CA, supra, p. 184, per Gonzaga-Reyes, J., citing Sarmiento v. CA, 320 Phil. 146, 153-154, November 16, 1995, per Regalado J.

[20] Ibid.; Isidro v. Court of Appeals, 228 SCRA 503, December 15, 1993; §33(2) of Batas Pambansa (BP) Blg. 129, as amended by Republic Act (RA) No. 7691.

[21] Chico v. CA, 348 Phil. 37, January 5, 1998, citing several cases; Cañiza v. CA, 335 Phil. 1107, February 24, 1997.

[22] Id., par. 3, pp. 2 & 21.

[23] Complaint, par. 2, p. 1; rollo, p. 20.

[24] Id., par. 6, p. 2; ibid.

[25] Id., par. 7, p. 3; id, p. 22.

[26] Id., par. 10, p. 3; ibid.

[27] Id., par. 11, p. 3; ibid.

[28] Id., p. 4; id, p. 23.

[29] *Gener v. De Leon*, 367 SCRA 631, October 19, 2001; *Tirona v. Alejo*, 367 SCRA 17, October 10, 2001. The other essential element of forcible entry is deprivation of possession by force, intimidation, threats, strategy, or stealth.

[30] §16 of Rule 70 of the Rules of Court.

[31] Article 1496 of the Civil Code.

[32] *Equatorial Realty Development Inc. v. Mayfair Theater, Inc.*, 370 SCRA 56, November 21, 2001; *Ocejo, Perez & Co. v. International Bank*, 37 Phil. 631, February 14, 1918; *Roman v. Grimlt*, 6 Phil. 96, April 11, 1906.

[33] *Santos v. Santos*, 366 SCRA 395, October 2, 2001.

[34] *Equatorial Realty Development Inc. v. Mayfair Theater, Inc.*, *supra*.

[35] *Supra*.

[36] Article 1497 of the Civil Code provides that the "thing sold shall be understood as delivered, when it is placed in the control and possession of the vendee."

[37] Annex "I," Declaration of Real Property; rollo, p. 41.

[38] Annexes "A" and "B" of Complaint; rollo, pp. 25-26.

[39] Under Section 113 of Presidential Decree (PD) No. 1529, to constitute constructive notice to the whole world, instruments of conveyance over unregistered lands must be registered in the office of the Register of Deeds for the province or city where the land lies.

[40] Annex "C" of Complaint; rollo, p. 27.

[41] Petitioner's Memorandum, p. 10; rollo, p. 201.

[42] *Navera v. CA*, 184 SCRA 585, April 26, 1990.

[43] Article 526 of the Civil Code.

[44] *Cardente v. Intermediate Appellate Court*, 155 SCRA 685, November 27, 1987; *Conspecto v. Fruto*, 31 Phil. 144, July 23, 1915, cited in *Bautista v. CA*, 230 SCRA 446, February 28, 1994.

[45] *Development Bank of the Philippines v. CA*, 375 Phil. 114, October 13, 1999; *Ballatan v. CA*, 363 Phil. 408, March 2, 1999.

[46] See Section 7 of Article XII of the Constitution; *Bernas, The 1987 Constitution of the Republic of the Philippines: a Commentary*, 1996 ed., p. 1020.

[47] Rollo, p. 48.

[48] Under the Public Land Act (Commonwealth Act No. 141, as amended), alienable public land may be acquired by the filing of an application for a sales, a homestead, a free or a special patent.

[49] Republic v. CA, 374 Phil. 209, September 30, 1999; Natividad v. CA, 202 SCRA 493, October 4, 1991; Republic v. Intermediate Appellate Court, 168 SCRA 165, November 29, 1988; Director of Lands v. Intermediate Appellate Court, 146 SCRA 509, December 29, 1986.

[50] Amagan v. Marayag, *supra*.

[51] Javelosa v. CA, 333 Phil. 331, December 10, 1996.

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