

THE SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, THE REGIONAL EXECUTIVE DIRECTOR, DENR-REGION VI, REGIONAL TECHNICAL DIRECTOR FOR LANDS, LANDS MANAGEMENT BU...

G.R. No. 167707. October 08, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

AT stake in these consolidated cases is the right of the present occupants of Boracay Island to secure titles over their occupied lands.

There are two consolidated petitions. The first is G.R. No. 167707, a petition for review on certiorari of the Decision[1] of the Court of Appeals (CA) affirming that[2] of the Regional Trial Court (RTC) in Kalibo, Aklan, which granted the petition for declaratory relief filed by respondents-claimants Mayor Jose Yap, et al. and ordered the survey of Boracay for titling purposes. The second is G.R. No. 173775, a petition for prohibition, mandamus, and nullification of Proclamation No. 1064[3] issued by President Gloria Macapagal-Arroyo classifying Boracay into reserved forest and agricultural land.

The Antecedents

G.R. No. 167707

Boracay Island in the Municipality of Malay, Aklan, with its powdery white sand beaches and warm crystalline waters, is reputedly a premier Philippine tourist destination. The island is also home to 12,003 inhabitants[4] who live in the bone-shaped island's three barangays.[5]

On April 14, 1976, the Department of Environment and Natural Resources (DENR) approved the National Reservation Survey of Boracay Island,[6] which identified several lots as being occupied or claimed by named persons.[7]

On November 10, 1978, then President Ferdinand Marcos issued Proclamation No. 1801[8] declaring Boracay Island, among other islands, caves and peninsulas in the Philippines, as tourist zones and marine reserves under the administration of the Philippine Tourism Authority (PTA). President Marcos later approved the issuance of PTA Circular 3-82[9] dated September 3, 1982, to implement Proclamation No. 1801.

Claiming that Proclamation No. 1801 and PTA Circular No 3-82 precluded them from filing an application for judicial confirmation of imperfect title or survey of land for titling purposes, respondents-claimants

Mayor Jose S. Yap, Jr., Libertad Talapian, Mila Y. Sumndad, and Aniceto Yap filed a petition for declaratory relief with the RTC in Kalibo, Aklan.

In their petition, respondents-claimants alleged that Proclamation No. 1801 and PTA Circular No. 3-82 raised doubts on their right to secure titles over their occupied lands. They declared that they themselves, or through

their predecessors-in-interest, had been in open, continuous, exclusive, and notorious possession and occupation in Boracay since June 12, 1945, or earlier since time immemorial. They declared their lands for tax purposes and paid realty taxes on them.[10]

Respondents-claimants posited that Proclamation No. 1801 and its implementing Circular did not place Boracay beyond the commerce of man. Since the Island was classified as a tourist zone, it was susceptible of private ownership. Under Section 48(b) of Commonwealth Act (CA) No. 141, otherwise known as the Public Land Act, they had the right to have the lots registered in their names through judicial confirmation of imperfect titles.

The Republic, through the Office of the Solicitor General (OSG), opposed the petition for declaratory relief. The OSG countered that Boracay Island was an unclassified land of the public domain. It formed part of the mass of lands classified as "public forest," which was not available for disposition pursuant to Section 3(a) of Presidential Decree (PD) No. 705 or the Revised Forestry Code,[11] as amended.

The OSG maintained that respondents-claimants' reliance on PD No. 1801 and PTA Circular No. 3-82 was misplaced. Their right to judicial confirmation of title was governed by CA No. 141 and PD No. 705. Since Boracay Island had not been classified as alienable and disposable, whatever possession they had cannot ripen into ownership.

During pre-trial, respondents-claimants and the OSG stipulated on the following facts: (1) respondents-claimants were presently in possession of parcels of land in Boracay Island; (2) these parcels of land were planted with coconut trees and other natural growing trees; (3) the coconut trees had heights of more or less twenty (20) meters and were planted more or less fifty (50) years ago; and (4) respondents-claimants declared the land they were occupying for tax purposes.[12]

The parties also agreed that the principal issue for resolution was purely legal: whether Proclamation No. 1801 posed any legal hindrance or impediment to the titling of the lands in Boracay. They decided to forego with the trial and to submit the case for resolution upon submission of their respective memoranda.[13]

The RTC took judicial notice[14] that certain parcels of land in Boracay Island, more particularly Lots 1 and 30, Plan PSU-5344, were covered by Original Certificate of Title No. 19502 (RO 2222) in the name of the Heirs of Ciriaco S. Tirol. These lots were involved in Civil Case Nos. 5222 and 5262 filed before the RTC of Kalibo, Aklan.[15] The titles were issued on August 7, 1933.[16]

RTC and CA Dispositions

On July 14, 1999, the RTC rendered a decision in favor of respondents-claimants, with a fallo reading:

WHEREFORE, in view of the foregoing, the Court declares that Proclamation No. 1801 and PTA Circular No. 3-82 pose no legal obstacle to the petitioners and those similarly situated to acquire title to their lands in Boracay, in accordance with the applicable laws and in the manner prescribed therein; and to have their lands surveyed and approved by respondent Regional Technical Director of Lands as the approved survey does not in itself constitute a title to the land.

SO ORDERED.[17]

The RTC upheld respondents-claimants' right to have their occupied lands titled in their name. It ruled that neither Proclamation No. 1801 nor PTA Circular No. 3-82 mentioned that lands in Boracay were inalienable or could not be the subject of disposition.[18] The Circular itself recognized private ownership of lands.[19] The trial court cited Sections 87[20] and 53[21] of the Public Land Act as basis for acknowledging private ownership of lands in Boracay and that only those forested areas in public lands were declared as part of the forest reserve.[22]

The OSG moved for reconsideration but its motion was denied.[23] The Republic then appealed to the CA.

On December 9, 2004, the appellate court affirmed in toto the RTC decision, disposing as follows:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DENYING the appeal filed in this case and AFFIRMING the decision of the lower court.[24]

The CA held that respondents-claimants could not be prejudiced by a declaration that the lands they occupied since time immemorial were part of a forest reserve.

Again, the OSG sought reconsideration but it was similarly denied.[25] Hence, the present petition under Rule 45.

G.R. No. 173775

On May 22, 2006, during the pendency of G.R. No. 167707, President Gloria Macapagal-Arroyo issued Proclamation No. 1064[26] classifying Boracay Island into four hundred (400) hectares of reserved forest land (protection purposes) and six hundred twenty-eight and 96/100 (628.96) hectares of agricultural land (alienable and disposable). The Proclamation likewise provided for a fifteen-meter buffer zone on each side of the centerline of roads and trails, reserved for right-of-way and which shall form part of the area reserved for forest land protection purposes.

On August 10, 2006, petitioners-claimants Dr. Orlando Sacay,[27] Wilfredo Gelito,[28] and other landowners[29] in Boracay filed with this Court an original petition for prohibition, mandamus, and nullification of Proclamation No. 1064.[30] They allege that the Proclamation infringed on their "prior vested rights" over portions of Boracay. They have been in continued possession of their respective lots in Boracay since time immemorial. They have also invested billions of pesos in developing their lands and building internationally renowned first class resorts on their lots.[31]

Petitioners-claimants contended that there is no need for a proclamation reclassifying Boracay into agricultural land. Being classified as neither mineral nor timber land, the island is deemed agricultural pursuant to the Philippine Bill of 1902 and Act No. 926, known as the first Public Land Act.[32] Thus, their possession in the concept of owner for the required period entitled them to judicial confirmation of imperfect title.

Opposing the petition, the OSG argued that petitioners-claimants do not have a vested right over their occupied portions in the island. Boracay is an unclassified public forest land pursuant to Section 3(a) of PD No. 705. Being public forest, the claimed portions of the island are inalienable and cannot be the subject of judicial confirmation of imperfect title. It is only the executive department, not the courts, which has authority to reclassify lands of the public domain into alienable and disposable lands. There is a need for a positive government act in order to release the lots for disposition.

On November 21, 2006, this Court ordered the consolidation of the two petitions as they principally involve the same issues on the land classification of Boracay Island.[33]

Issues

G.R. No. 167707

The OSG raises the lone issue of whether Proclamation No. 1801 and PTA Circular No. 3-82 pose any legal obstacle for respondents, and all those similarly situated, to acquire title to their occupied lands in Boracay Island.[34]

G.R. No. 173775

Petitioners-claimants hoist five (5) issues, namely:

I.

AT THE TIME OF THE ESTABLISHED POSSESSION OF PETITIONERS IN CONCEPT OF OWNER OVER THEIR RESPECTIVE AREAS IN BORACAY, SINCE TIME IMMEMORIAL OR AT THE LATEST SINCE 30 YRS. PRIOR TO THE FILING OF THE PETITION FOR DECLARATORY RELIEF ON NOV. 19, 1997, WERE THE AREAS OCCUPIED BY THEM PUBLIC AGRICULTURAL LANDS AS DEFINED BY LAWS THEN ON JUDICIAL CONFIRMATION OF IMPERFECT TITLES OR PUBLIC FOREST AS DEFINED BY SEC. 3a, PD 705?

II.

HAVE PETITIONERS OCCUPANTS ACQUIRED PRIOR VESTED RIGHT OF PRIVATE OWNERSHIP OVER THEIR OCCUPIED PORTIONS OF BORACAY LAND, DESPITE THE FACT THAT THEY HAVE NOT APPLIED YET FOR JUDICIAL CONFIRMATION OF IMPERFECT TITLE?

III.

IS THE EXECUTIVE DECLARATION OF THEIR AREAS AS ALIENABLE AND DISPOSABLE UNDER SEC 6, CA 141 [AN] INDISPENSABLE PRE-REQUISITE FOR PETITIONERS TO OBTAIN TITLE UNDER THE TORRENS SYSTEM?

IV.

IS THE ISSUANCE OF PROCLAMATION 1064 ON MAY 22, 2006, VIOLATIVE OF THE PRIOR VESTED RIGHTS TO PRIVATE OWNERSHIP OF PETITIONERS OVER THEIR LANDS IN BORACAY, PROTECTED BY THE DUE PROCESS CLAUSE OF THE CONSTITUTION OR IS PROCLAMATION 1064 CONTRARY TO SEC. 8, CA 141, OR SEC. 4(a) OF RA 6657.

V.

CAN RESPONDENTS BE COMPELLED BY MANDAMUS TO ALLOW THE SURVEY AND TO APPROVE THE SURVEY PLANS FOR PURPOSES OF THE APPLICATION FOR TITLING OF THE LANDS OF PETITIONERS IN BORACAY?[35] (Underscoring supplied)

In capsule, the main issue is whether private claimants (respondents-claimants in G.R. No. 167707 and petitioners-claimants in G.R. No. 173775) have a right to secure titles over their occupied portions in Boracay. The twin petitions pertain to their right, if any, to judicial confirmation of imperfect title under CA No. 141, as amended. They do not involve their right to secure title under other pertinent laws.

Our Ruling

Regalian Doctrine and power of the executive
to reclassify lands of the public domain

Private claimants rely on three (3) laws and executive acts in their bid for judicial confirmation of imperfect title, namely: (a) Philippine Bill of 1902[36] in relation to Act No. 926, later amended and/or superseded by Act No. 2874 and CA No. 141;[37] (b) Proclamation No. 1801[38] issued by then President Marcos; and (c) Proclamation No. 1064[39] issued by President Gloria Macapagal-Arroyo. We shall proceed to determine their rights to apply for judicial confirmation of imperfect title under these laws and executive acts.

But first, a peek at the Regalian principle and the power of the executive to reclassify lands of the public domain.

The 1935 Constitution classified lands of the public domain into agricultural, forest or timber.[40] Meanwhile, the 1973 Constitution provided the following divisions: agricultural, industrial or commercial, residential,

resettlement, mineral, timber or forest and grazing lands, and such other classes as may be provided by law,[41] giving the government great leeway for classification.[42] Then the 1987 Constitution reverted to the 1935 Constitution classification with one addition: national parks.[43] Of these, only agricultural lands may be alienated.[44] Prior to Proclamation No. 1064 of May 22, 2006, Boracay Island had never been expressly and administratively classified under any of these grand divisions. Boracay was an unclassified land of the public domain.

The Regalian Doctrine dictates that all lands of the public domain belong to the State, that the State is the source of any asserted right to ownership of land and charged with the conservation of such patrimony.[45] The doctrine has been consistently adopted under the 1935, 1973, and 1987 Constitutions.[46]

All lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State.[47] Thus, all lands that have not been acquired from the government, either by purchase or by grant, belong to the State as part of the inalienable public domain.[48] Necessarily, it is up to the State to determine if lands of the public domain will be disposed of for private ownership. The government, as the agent of the state, is possessed of the plenary power as the persona in law to determine who shall be the favored recipients of public lands, as well as under what terms they may be granted such privilege, not excluding the placing of obstacles in the way of their exercise of what otherwise would be ordinary acts of ownership.[49]

Our present land law traces its roots to the Regalian Doctrine. Upon the Spanish conquest of the Philippines, ownership of all lands, territories and possessions in the Philippines passed to the Spanish Crown.[50] The Regalian doctrine was first introduced in the Philippines through the Laws of the Indies and the Royal Cédulas, which laid the foundation that "all lands that were not acquired from the Government, either by purchase or by grant, belong to the public domain." [51]

The Laws of the Indies was followed by the Ley Hipotecaria or the Mortgage Law of 1893. The Spanish Mortgage Law provided for the systematic registration of titles and deeds as well as possessory claims.[52]

The Royal Decree of 1894 or the Maura Law[53] partly amended the Spanish Mortgage Law and the Laws of the Indies. It established possessory information as the method of legalizing possession of vacant Crown land, under certain conditions which were set forth in said decree.[54] Under Section 393 of the Maura Law, an *informacion posesoria* or possessory information title,[55] when duly inscribed in the Registry of Property, is converted into a title of ownership only after the lapse of twenty (20) years of uninterrupted possession which must be actual, public, and adverse,[56] from the date of its inscription.[57] However, possessory information title had to be perfected one year after the promulgation of the Maura Law, or until April 17, 1895. Otherwise, the lands would revert to the State.[58]

In sum, private ownership of land under the Spanish regime could only be founded on royal concessions which took various forms, namely: (1) *titulo real* or royal grant; (2) *concesion especial* or special grant; (3) *composicion con el estado* or adjustment title; (4) *titulo de compra* or title by purchase; and (5) *informacion posesoria* or possessory information title.[59]

The first law governing the disposition of public lands in the Philippines under American rule was embodied in the Philippine Bill of 1902.[60] By this law, lands of the public domain in the Philippine Islands were classified into three (3) grand divisions, to wit: agricultural, mineral, and timber or forest lands.[61] The act provided for, among others, the disposal of mineral lands by means of absolute grant (freehold system) and by lease (leasehold system).[62] It also provided the definition by exclusion of "agricultural public lands." [63] Interpreting the meaning of "agricultural lands" under the Philippine Bill of 1902, the Court declared in *Mapa v. Insular Government*: [64]

x x x In other words, that the phrase "agricultural land" as used in Act No. 926 means those public lands acquired from Spain which are not timber or mineral lands. x x x[65] (Emphasis Ours)

On February 1, 1903, the Philippine Legislature passed Act No. 496, otherwise known as the Land Registration Act. The act established a system of registration by which recorded title becomes absolute, indefeasible, and imprescriptible. This is known as the Torrens system.[66]

Concurrently, on October 7, 1903, the Philippine Commission passed Act No. 926, which was the first Public Land Act. The Act introduced the homestead system and made provisions for judicial and administrative confirmation of imperfect titles and for the sale or lease of public lands. It permitted corporations regardless of the nationality of persons owning the controlling stock to lease or purchase lands of the public domain.[67] Under the Act, open, continuous, exclusive, and notorious possession and occupation of agricultural lands for the next ten (10) years preceding July 26, 1904 was sufficient for judicial confirmation of imperfect title.[68]

On November 29, 1919, Act No. 926 was superseded by Act No. 2874, otherwise known as the second Public Land Act. This new, more comprehensive law limited the exploitation of agricultural lands to Filipinos and Americans and citizens of other countries which gave Filipinos the same privileges. For judicial confirmation of title, possession and occupation en concepto dueño since time immemorial, or since July 26, 1894, was required.[69]

After the passage of the 1935 Constitution, CA No. 141 amended Act No. 2874 on December 1, 1936. To this day, CA No. 141, as amended, remains as the existing general law governing the classification and disposition of lands of the public domain other than timber and mineral lands,[70] and privately owned lands which reverted to the State.[71]

Section 48(b) of CA No. 141 retained the requirement under Act No. 2874 of possession and occupation of lands of the public domain since time immemorial or since July 26, 1894. However, this provision was superseded by Republic Act (RA) No. 1942,[72] which provided for a simple thirty-year prescriptive period for judicial confirmation of imperfect title. The provision was last amended by PD No. 1073,[73] which now provides for possession and occupation of the land applied for since June 12, 1945, or earlier.[74]

The issuance of PD No. 892[75] on February 16, 1976 discontinued the use of Spanish titles as evidence in land registration proceedings.[76] Under the decree, all holders of Spanish titles or grants should apply for registration of their lands under Act No. 496 within six (6) months from the effectivity of the decree on February 16, 1976. Thereafter, the recording of all unregistered lands[77] shall be governed by Section 194 of the Revised Administrative Code, as amended by Act No. 3344.

On June 11, 1978, Act No. 496 was amended and updated by PD No. 1529, known as the Property Registration Decree. It was enacted to codify the various laws relative to registration of property.[78] It governs registration of lands under the Torrens system as well as unregistered lands, including chattel mortgages.[79]

A positive act declaring land as alienable and disposable is required. In keeping with the presumption of State ownership, the Court has time and again emphasized that there must be a positive act of the government, such as an official proclamation,[80] declassifying inalienable public land into disposable land for agricultural or other purposes.[81] In fact, Section 8 of CA No. 141 limits alienable or disposable lands only to those lands which have been "officially delimited and classified." [82]

The burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for registration (or claiming ownership), who must prove that the land subject of the application is alienable or disposable.[83] To overcome this presumption, incontrovertible evidence must be established that

the land subject of the application (or claim) is alienable or disposable.[84] There must still be a positive act declaring land of the public domain as alienable and disposable. To prove that the land subject of an application for registration is alienable, the applicant must establish the existence of a positive act of the government such as a presidential proclamation or an executive order; an administrative action; investigation reports of Bureau of Lands investigators; and a legislative act or a statute.[85] The applicant may also secure a certification from the government that the land claimed to have been possessed for the required number of years is alienable and disposable.[86]

In the case at bar, no such proclamation, executive order, administrative action, report, statute, or certification was presented to the Court. The records are bereft of evidence showing that, prior to 2006, the portions of Boracay occupied by private claimants were subject of a government proclamation that the land is alienable and disposable. Absent such well-nigh incontrovertible evidence, the Court cannot accept the submission that lands occupied by private claimants were already open to disposition before 2006. Matters of land classification or reclassification cannot be assumed. They call for proof.[87]

Ankron and De Aldecoa did not make the whole of Boracay Island, or portions of it, agricultural lands. Private claimants posit that Boracay was already an agricultural land pursuant to the old cases *Ankron v. Government of the Philippine Islands* (1919)[88] and *De Aldecoa v. The Insular Government* (1909).[89] These cases were decided under the provisions of the Philippine Bill of 1902 and Act No. 926. There is a statement in these old cases that "in the absence of evidence to the contrary, that in each case the lands are agricultural lands until the contrary is shown." [90]

Private claimants' reliance on *Ankron* and *De Aldecoa* is misplaced. These cases did not have the effect of converting the whole of Boracay Island or portions of it into agricultural lands. It should be stressed that the Philippine Bill of 1902 and Act No. 926 merely provided the manner through which land registration courts would classify lands of the public domain. Whether the land would be classified as timber, mineral, or agricultural depended on proof presented in each case.

Ankron and *De Aldecoa* were decided at a time when the President of the Philippines had no power to classify lands of the public domain into mineral, timber, and agricultural. At that time, the courts were free to make corresponding classifications in justiciable cases, or were vested with implicit power to do so, depending upon the preponderance of the evidence.[91] This was the Court's ruling in *Heirs of the Late Spouses Pedro S. Palanca and Soterranea Rafols Vda. De Palanca v. Republic*, [92] in which it stated, through Justice Adolfo Azcuna, viz.:

x x x Petitioners furthermore insist that a particular land need not be formally released by an act of the Executive before it can be deemed open to private ownership, citing the cases of *Ramos v. Director of Lands* and *Ankron v. Government of the Philippine Islands*.

x x x x

Petitioner's reliance upon *Ramos v. Director of Lands* and *Ankron v. Government* is misplaced. These cases were decided under the Philippine Bill of 1902 and the first Public Land Act No. 926 enacted by the Philippine Commission on October 7, 1926, under which there was no legal provision vesting in the Chief Executive or President of the Philippines the power to classify lands of the public domain into mineral, timber and agricultural so that the courts then were free to make corresponding classifications in justiciable cases, or were vested with implicit power to do so, depending upon the preponderance of the evidence.[93]

To aid the courts in resolving land registration cases under Act No. 926, it was then necessary to devise a presumption on land classification. Thus evolved the dictum in *Ankron* that "the courts have a right to presume, in the absence of evidence to the contrary, that in each case the lands are agricultural lands until the contrary is

shown."[94]

But We cannot unduly expand the presumption in *Ankron and De Aldecoa* to an argument that all lands of the public domain had been automatically reclassified as disposable and alienable agricultural lands. By no stretch of imagination did the presumption convert all lands of the public domain into agricultural lands.

If We accept the position of private claimants, the Philippine Bill of 1902 and Act No. 926 would have automatically made all lands in the Philippines, except those already classified as timber or mineral land, alienable and disposable lands. That would take these lands out of State ownership and worse, would be utterly inconsistent with and totally repugnant to the long-entrenched Regalian doctrine.

The presumption in *Ankron and De Aldecoa* attaches only to land registration cases brought under the provisions of Act No. 926, or more specifically those cases dealing with judicial and administrative confirmation of imperfect titles. The presumption applies to an applicant for judicial or administrative confirmation of imperfect title under Act No. 926. It certainly cannot apply to landowners, such as private claimants or their predecessors-in-interest, who failed to avail themselves of the benefits of Act No. 926. As to them, their land remained unclassified and, by virtue of the Regalian doctrine, continued to be owned by the State.

In any case, the assumption in *Ankron and De Aldecoa* was not absolute. Land classification was, in the end, dependent on proof. If there was proof that the land was better suited for non-agricultural uses, the courts could adjudge it as a mineral or timber land despite the presumption. In *Ankron*, this Court stated:

In the case of *Jocson vs. Director of Forestry* (*supra*), the Attorney-General admitted in effect that whether the particular land in question belongs to one class or another is a question of fact. The mere fact that a tract of land has trees upon it or has mineral within it is not of itself sufficient to declare that one is forestry land and the other, mineral land. There must be some proof of the extent and present or future value of the forestry and of the minerals. While, as we have just said, many definitions have been given for "agriculture," "forestry," and "mineral" lands, and that in each case it is a question of fact, we think it is safe to say that in order to be forestry or mineral land the proof must show that it is more valuable for the forestry or the mineral which it contains than it is for agricultural purposes. (Sec. 7, Act No. 1148.) It is not sufficient to show that there exists some trees upon the land or that it bears some mineral. Land may be classified as forestry or mineral today, and, by reason of the exhaustion of the timber or mineral, be classified as agricultural land tomorrow. And vice-versa, by reason of the rapid growth of timber or the discovery of valuable minerals, lands classified as agricultural today may be differently classified tomorrow. Each case must be decided upon the proof in that particular case, having regard for its present or future value for one or the other purposes. We believe, however, considering the fact that it is a matter of public knowledge that a majority of the lands in the Philippine Islands are agricultural lands that the courts have a right to presume, in the absence of evidence to the contrary, that in each case the lands are agricultural lands until the contrary is shown. Whatever the land involved in a particular land registration case is forestry or mineral land must, therefore, be a matter of proof. Its superior value for one purpose or the other is a question of fact to be settled by the proof in each particular case. The fact that the land is a manglar [mangrove swamp] is not sufficient for the courts to decide whether it is agricultural, forestry, or mineral land. It may perchance belong to one or the other of said classes of land. The Government, in the first instance, under the provisions of Act No. 1148, may, by reservation, decide for itself what portions of public land shall be considered forestry land, unless private interests have intervened before such reservation is made. In the latter case, whether the land is agricultural, forestry, or mineral, is a question of proof. Until private interests have intervened, the Government, by virtue of the terms of said Act (No. 1148), may decide for itself what portions of the "public domain" shall be set aside and reserved as forestry or mineral land. (*Ramos vs. Director of Lands*, 39 Phil. 175; *Jocson vs. Director of Forestry*, *supra*)[95] (Emphasis ours)

Since 1919, courts were no longer free to determine the classification of lands from the facts of each case, except

those that have already become private lands.[96] Act No. 2874, promulgated in 1919 and reproduced in Section 6 of CA No. 141, gave the Executive Department, through the President, the exclusive prerogative to classify or reclassify public lands into alienable or disposable, mineral or forest.[96-a] Since then, courts no longer had the authority, whether express or implied, to determine the classification of lands of the public domain.[97]

Here, private claimants, unlike the Heirs of Ciriaco Tirol who were issued their title in 1933,[98] did not present a justiciable case for determination by the land registration court of the property's land classification. Simply put, there was no opportunity for the courts then to resolve if the land the Boracay occupants are now claiming were agricultural lands. When Act No. 926 was supplanted by Act No. 2874 in 1919, without an application for judicial confirmation having been filed by private claimants or their predecessors-in-interest, the courts were no longer authorized to determine the property's land classification. Hence, private claimants cannot bank on Act No. 926.

We note that the RTC decision[99] in G.R. No. 167707 mentioned *Krivenko v. Register of Deeds of Manila*,[100] which was decided in 1947 when CA No. 141, vesting the Executive with the sole power to classify lands of the public domain was already in effect. *Krivenko* cited the old cases *Mapa v. Insular Government*,[101] *De Aldecoa v. The Insular Government*,[102] and *Ankron v. Government of the Philippine Islands*. [103]

Krivenko, however, is not controlling here because it involved a totally different issue. The pertinent issue in *Krivenko* was whether residential lots were included in the general classification of agricultural lands; and if so, whether an alien could acquire a residential lot. This Court ruled that as an alien, *Krivenko* was prohibited by the 1935 Constitution[104] from acquiring agricultural land, which included residential lots. Here, the issue is whether unclassified lands of the public domain are automatically deemed agricultural.

Notably, the definition of "agricultural public lands" mentioned in *Krivenko* relied on the old cases decided prior to the enactment of Act No. 2874, including *Ankron* and *De Aldecoa*. [105] As We have already stated, those cases cannot apply here, since they were decided when the Executive did not have the authority to classify lands as agricultural, timber, or mineral.

Private claimants' continued possession under Act No. 926 does not create a presumption that the land is alienable. Private claimants also contend that their continued possession of portions of Boracay Island for the requisite period of ten (10) years under Act No. 926[106] ipso facto converted the island into private ownership. Hence, they may apply for a title in their name.

A similar argument was squarely rejected by the Court in *Collado v. Court of Appeals*. [107] *Collado*, citing the separate opinion of now Chief Justice Reynato S. Puno in *Cruz v. Secretary of Environment and Natural Resources*, [107-a] ruled:

"Act No. 926, the first Public Land Act, was passed in pursuance of the provisions of the Philippine Bill of 1902. The law governed the disposition of lands of the public domain. It prescribed rules and regulations for the homesteading, selling and leasing of portions of the public domain of the Philippine Islands, and prescribed the terms and conditions to enable persons to perfect their titles to public lands in the Islands. It also provided for the "issuance of patents to certain native settlers upon public lands," for the establishment of town sites and sale of lots therein, for the completion of imperfect titles, and for the cancellation or confirmation of Spanish concessions and grants in the Islands." In short, the Public Land Act operated on the assumption that title to public lands in the Philippine Islands remained in the government; and that the government's title to public land sprung from the Treaty of Paris and other subsequent treaties between Spain and the United States. The term "public land" referred to all lands of the public domain whose title still remained in the government and are thrown open to private appropriation and settlement, and excluded the patrimonial property of the government and the friar lands."

Thus, it is plain error for petitioners to argue that under the Philippine Bill of 1902 and Public Land Act No. 926, mere possession by private individuals of lands creates the legal presumption that the lands are alienable and disposable.[108] (Emphasis Ours)

Except for lands already covered by existing titles, Boracay was an unclassified land of the public domain prior to Proclamation No. 1064. Such unclassified lands are considered public forest under PD No. 705. The DENR[109] and the National Mapping and Resource Information Authority[110] certify that Boracay Island is an unclassified land of the public domain.

PD No. 705 issued by President Marcos categorized all unclassified lands of the public domain as public forest. Section 3(a) of PD No. 705 defines a public forest as "a mass of lands of the public domain which has not been the subject of the present system of classification for the determination of which lands are needed for forest purpose and which are not." Applying PD No. 705, all unclassified lands, including those in Boracay Island, are ipso facto considered public forests. PD No. 705, however, respects titles already existing prior to its effectivity.

The Court notes that the classification of Boracay as a forest land under PD No. 705 may seem to be out of touch with the present realities in the island. Boracay, no doubt, has been partly stripped of its forest cover to pave the way for commercial developments. As a premier tourist destination for local and foreign tourists, Boracay appears more of a commercial island resort, rather than a forest land.

Nevertheless, that the occupants of Boracay have built multi-million peso beach resorts on the island;[111]that the island has already been stripped of its forest cover; or that the implementation of Proclamation No. 1064 will destroy the island's tourism industry, do not negate its character as public forest.

Forests, in the context of both the Public Land Act and the Constitution[112]classifying lands of the public domain into "agricultural, forest or timber, mineral lands, and national parks," do not necessarily refer to large tracts of wooded land or expanses covered by dense growths of trees and underbrushes.[113] The discussion in *Heirs of Amunategui v. Director of Forestry*[114] is particularly instructive:

A forested area classified as forest land of the public domain does not lose such classification simply because loggers or settlers may have stripped it of its forest cover. Parcels of land classified as forest land may actually be covered with grass or planted to crops by kaingin cultivators or other farmers. "Forest lands" do not have to be on mountains or in out of the way places. Swampy areas covered by mangrove trees, nipa palms, and other trees growing in brackish or sea water may also be classified as forest land. The classification is descriptive of its legal nature or status and does not have to be descriptive of what the land actually looks like. Unless and until the land classified as "forest" is released in an official proclamation to that effect so that it may form part of the disposable agricultural lands of the public domain, the rules on confirmation of imperfect title do not apply.[115] (Emphasis supplied)

There is a big difference between "forest" as defined in a dictionary and "forest or timber land" as a classification of lands of the public domain as appearing in our statutes. One is descriptive of what appears on the land while the other is a legal status, a classification for legal purposes.[116] At any rate, the Court is tasked to determine the legal status of Boracay Island, and not look into its physical layout. Hence, even if its forest cover has been replaced by beach resorts, restaurants and other commercial establishments, it has not been automatically converted from public forest to alienable agricultural land.

Private claimants cannot rely on Proclamation No. 1801 as basis for judicial confirmation of imperfect title. The proclamation did not convert Boracay into an agricultural land. However, private claimants argue that Proclamation No. 1801 issued by then President Marcos in 1978 entitles them to judicial confirmation of imperfect title. The Proclamation classified Boracay, among other islands, as a tourist zone. Private claimants

assert that, as a tourist spot, the island is susceptible of private ownership.

Proclamation No. 1801 or PTA Circular No. 3-82 did not convert the whole of Boracay into an agricultural land. There is nothing in the law or the Circular which made Boracay Island an agricultural land. The reference in Circular No. 3-82 to "private lands"[117] and "areas declared as alienable and disposable"[118] does not by itself classify the entire island as agricultural. Notably, Circular No. 3-82 makes reference not only to private lands and areas but also to public forested lands. Rule VIII, Section 3 provides:

No trees in forested private lands may be cut without prior authority from the PTA. All forested areas in public lands are declared forest reserves. (Emphasis supplied)

Clearly, the reference in the Circular to both private and public lands merely recognizes that the island can be classified by the Executive department pursuant to its powers under CA No. 141. In fact, Section 5 of the Circular recognizes the then Bureau of Forest Development's authority to declare areas in the island as alienable and disposable when it provides:

Subsistence farming, in areas declared as alienable and disposable by the Bureau of Forest Development.

Therefore, Proclamation No. 1801 cannot be deemed the positive act needed to classify Boracay Island as alienable and disposable land. If President Marcos intended to classify the island as alienable and disposable or forest, or both, he would have identified the specific limits of each, as President Arroyo did in Proclamation No. 1064. This was not done in Proclamation No. 1801.

The Whereas clauses of Proclamation No. 1801 also explain the rationale behind the declaration of Boracay Island, together with other islands, caves and peninsulas in the Philippines, as a tourist zone and marine reserve to be administered by the PTA - to ensure the concentrated efforts of the public and private sectors in the development of the areas' tourism potential with due regard for ecological balance in the marine environment. Simply put, the proclamation is aimed at administering the islands for tourism and ecological purposes. It does not address the areas' alienability.[119]

More importantly, Proclamation No. 1801 covers not only Boracay Island, but sixty-four (64) other islands, coves, and peninsulas in the Philippines, such as Fortune and Verde Islands in Batangas, Port Galera in Oriental Mindoro, Panglao and Balicasag Islands in Bohol, Coron Island, Puerto Princesa and surrounding areas in Palawan, Camiguin Island in Cagayan de Oro, and Misamis Oriental, to name a few. If the designation of Boracay Island as tourist zone makes it alienable and disposable by virtue of Proclamation No. 1801, all the other areas mentioned would likewise be declared wide open for private disposition. That could not have been, and is clearly beyond, the intent of the proclamation.

It was Proclamation No. 1064 of 2006 which positively declared part of Boracay as alienable and opened the same to private ownership. Sections 6 and 7 of CA No. 141[120] provide that it is only the President, upon the recommendation of the proper department head, who has the authority to classify the lands of the public domain into alienable or disposable, timber and mineral lands.[121]

In issuing Proclamation No. 1064, President Gloria Macapagal-Arroyo merely exercised the authority granted to her to classify lands of the public domain, presumably subject to existing vested rights. Classification of public lands is the exclusive prerogative of the Executive Department, through the Office of the President. Courts have no authority to do so.[122] Absent such classification, the land remains unclassified until released and rendered open to disposition.[123]

Proclamation No. 1064 classifies Boracay into 400 hectares of reserved forest land and 628.96 hectares of agricultural land. The Proclamation likewise provides for a 15-meter buffer zone on each side of the center line of

roads and trails, which are reserved for right of way and which shall form part of the area reserved for forest land protection purposes.

Contrary to private claimants' argument, there was nothing invalid or irregular, much less unconstitutional, about the classification of Boracay Island made by the President through Proclamation No. 1064. It was within her authority to make such classification, subject to existing vested rights.

Proclamation No. 1064 does not violate the Comprehensive Agrarian Reform Law. Private claimants further assert that Proclamation No. 1064 violates the provision of the Comprehensive Agrarian Reform Law (CARL) or RA No. 6657 barring conversion of public forests into agricultural lands. They claim that since Boracay is a public forest under PD No. 705, President Arroyo can no longer convert it into an agricultural land without running afoul of Section 4(a) of RA No. 6657, thus:

SEC. 4. Scope. - The Comprehensive Agrarian Reform Law of 1988 shall cover, regardless of tenurial arrangement and commodity produced, all public and private agricultural lands as provided in Proclamation No. 131 and Executive Order No. 229, including other lands of the public domain suitable for agriculture.

More specifically, the following lands are covered by the Comprehensive Agrarian Reform Program:

(a) All alienable and disposable lands of the public domain devoted to or suitable for agriculture. No reclassification of forest or mineral lands to agricultural lands shall be undertaken after the approval of this Act until Congress, taking into account ecological, developmental and equity considerations, shall have determined by law, the specific limits of the public domain.

That Boracay Island was classified as a public forest under PD No. 705 did not bar the Executive from later converting it into agricultural land. Boracay Island still remained an unclassified land of the public domain despite PD No. 705.

In *Heirs of the Late Spouses Pedro S. Palanca and Soterranea Rafols v. Republic*,^[124] the Court stated that unclassified lands are public forests.

While it is true that the land classification map does not categorically state that the islands are public forests, the fact that they were unclassified lands leads to the same result. In the absence of the classification as mineral or timber land, the land remains unclassified land until released and rendered open to disposition.^[125] (Emphasis supplied)

Moreover, the prohibition under the CARL applies only to a "reclassification" of land. If the land had never been previously classified, as in the case of Boracay, there can be no prohibited reclassification under the agrarian law. We agree with the opinion of the Department of Justice^[126] on this point:

Indeed, the key word to the correct application of the prohibition in Section 4(a) is the word "reclassification." Where there has been no previous classification of public forest [referring, we repeat, to the mass of the public domain which has not been the subject of the present system of classification for purposes of determining which are needed for forest purposes and which are not] into permanent forest or forest reserves or some other forest uses under the Revised Forestry Code, there can be no "reclassification of forest lands" to speak of within the meaning of Section 4(a).

Thus, obviously, the prohibition in Section 4(a) of the CARL against the reclassification of forest lands to agricultural lands without a prior law delimiting the limits of the public domain, does not, and cannot, apply to those lands of the public domain, denominated as "public forest" under the Revised Forestry Code, which have not been previously determined, or classified, as needed for forest purposes in accordance with the provisions of the Revised Forestry Code.^[127]

Private claimants are not entitled to apply for judicial confirmation of imperfect title under CA No. 141. Neither

do they have vested rights over the occupied lands under the said law. There are two requisites for judicial confirmation of imperfect or incomplete title under CA No. 141, namely: (1) open, continuous, exclusive, and notorious possession and occupation of the subject land by himself or through his predecessors-in-interest under a bona fide claim of ownership since time immemorial or from June 12, 1945; and (2) the classification of the land as alienable and disposable land of the public domain.[128]

As discussed, the Philippine Bill of 1902, Act No. 926, and Proclamation No. 1801 did not convert portions of Boracay Island into an agricultural land. The island remained an unclassified land of the public domain and, applying the Regalian doctrine, is considered State property.

Private claimants' bid for judicial confirmation of imperfect title, relying on the Philippine Bill of 1902, Act No. 926, and Proclamation No. 1801, must fail because of the absence of the second element of alienable and disposable land. Their entitlement to a government grant under our present Public Land Act presupposes that the land possessed and applied for is already alienable and disposable. This is clear from the wording of the law itself.[129] Where the land is not alienable and disposable, possession of the land, no matter how long, cannot confer ownership or possessory rights.[130]

Neither may private claimants apply for judicial confirmation of imperfect title under Proclamation No. 1064, with respect to those lands which were classified as agricultural lands. Private claimants failed to prove the first element of open, continuous, exclusive, and notorious possession of their lands in Boracay since June 12, 1945.

We cannot sustain the CA and RTC conclusion in the petition for declaratory relief that private claimants complied with the requisite period of possession.

The tax declarations in the name of private claimants are insufficient to prove the first element of possession. We note that the earliest of the tax declarations in the name of private claimants were issued in 1993. Being of recent dates, the tax declarations are not sufficient to convince this Court that the period of possession and occupation commenced on June 12, 1945.

Private claimants insist that they have a vested right in Boracay, having been in possession of the island for a long time. They have invested millions of pesos in developing the island into a tourist spot. They say their continued possession and investments give them a vested right which cannot be unilaterally rescinded by Proclamation No. 1064.

The continued possession and considerable investment of private claimants do not automatically give them a vested right in Boracay. Nor do these give them a right to apply for a title to the land they are presently occupying. This Court is constitutionally bound to decide cases based on the evidence presented and the laws applicable. As the law and jurisprudence stand, private claimants are ineligible to apply for a judicial confirmation of title over their occupied portions in Boracay even with their continued possession and considerable investment in the island.

One Last Note

The Court is aware that millions of pesos have been invested for the development of Boracay Island, making it a by-word in the local and international tourism industry. The Court also notes that for a number of years, thousands of people have called the island their home. While the Court commiserates with private claimants' plight, We are bound to apply the law strictly and judiciously. This is the law and it should prevail. *Ito ang batas at ito ang dapat umiral.*

All is not lost, however, for private claimants. While they may not be eligible to apply for judicial confirmation of imperfect title under Section 48(b) of CA No. 141, as amended, this does not denote their automatic ouster from

the residential, commercial, and other areas they possess now classified as agricultural. Neither will this mean the loss of their substantial investments on their occupied alienable lands. Lack of title does not necessarily mean lack of right to possess.

For one thing, those with lawful possession may claim good faith as builders of improvements. They can take steps to preserve or protect their possession. For another, they may look into other modes of applying for original registration of title, such as by homestead^[131] or sales patent,^[132] subject to the conditions imposed by law.

More realistically, Congress may enact a law to entitle private claimants to acquire title to their occupied lots or to exempt them from certain requirements under the present land laws. There is one such bill^[133] now pending in the House of Representatives. Whether that bill or a similar bill will become a law is for Congress to decide.

In issuing Proclamation No. 1064, the government has taken the step necessary to open up the island to private ownership. This gesture may not be sufficient to appease some sectors which view the classification of the island partially into a forest reserve as absurd. That the island is no longer overrun by trees, however, does not becloud the vision to protect its remaining forest cover and to strike a healthy balance between progress and ecology. Ecological conservation is as important as economic progress.

To be sure, forest lands are fundamental to our nation's survival. Their promotion and protection are not just fancy rhetoric for politicians and activists. These are needs that become more urgent as destruction of our environment gets prevalent and difficult to control. As aptly observed by Justice Conrado Sanchez in 1968 in *Director of Forestry v. Munoz*:^[134]

The view this Court takes of the cases at bar is but in adherence to public policy that should be followed with respect to forest lands. Many have written much, and many more have spoken, and quite often, about the pressing need for forest preservation, conservation, protection, development and reforestation. Not without justification. For, forests constitute a vital segment of any country's natural resources. It is of common knowledge by now that absence of the necessary green cover on our lands produces a number of adverse or ill effects of serious proportions. Without the trees, watersheds dry up; rivers and lakes which they supply are emptied of their contents. The fish disappear. Denuded areas become dust bowls. As waterfalls cease to function, so will hydroelectric plants. With the rains, the fertile topsoil is washed away; geological erosion results. With erosion come the dreaded floods that wreak havoc and destruction to property - crops, livestock, houses, and highways - not to mention precious human lives. Indeed, the foregoing observations should be written down in a lumberman's decalogue.^[135]

WHEREFORE, judgment is rendered as follows:

- The petition for certiorari in G.R. No. 167707 is GRANTED and the Court of Appeals Decision in CA-G.R. CV No. 71118 REVERSED AND SET ASIDE.
- The petition for certiorari in G.R. No. 173775 is DISMISSED for lack of merit.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Azcuna, Chico-Nazario, Velasco, Jr., and Brion, JJ., concur.

Carpio, J., no part, relatives who are not parties are similarly situated as petitioner in G.R. 173775.

Corona[*], J., on official leave.

Nachura[**], J., no part

Austria-Martinez, Carpio Morales, Tinga, Leonardo-De Castro, and Brion, JJ., in the result.

[*] On official leave per Special Order No. 520 dated September 19, 2008.

[**] No part. Justice Nachura participated in the present case as Solicitor General.

[1] Rollo (G.R. No. 167707), pp. 37-43. CA-G.R. CV No. 71118, promulgated on December 9, 2004. Penned by Associate Justice Isaias P. Dicdican, with Associate Justices Sesinando E. Villon and Ramon M. Bato, Jr., concurring.

[2] Id. at 47-54; Annex "C." Spl. Civil Case No. 5403. Penned by Judge Niovady M. Marin, RTC, Kalibo, Branch 5.

[3] Rollo (G.R. No. 173775), pp. 101-114. Annex "F." Classifying Boracay Island Situated in the Municipality of Malay, Province of Aklan Into Forestland (Protection Purposes) and Into Agricultural Land (Alienable and Disposable) Pursuant to Presidential Decree No. 705 (Revised Forestry Reform Code of the Philippines). Issued on May 22, 2006.

[4] As of the year 2000. <http://www.nscb.gov.ph/ru6/boracay.htm>.

[5] Manoc-Manoc, Balabag, and Yapak. <http://www.nscb.gov.ph/ru6/boracay.htm>.

[6] Under Survey Plan No. NR-06-000001.

[7] Rollo (G.R. No. 167707), p. 49.

[8] Id. at 21-23; Annex "B." Declaring Certain Islands, Coves, and Peninsulas in the Philippines as Tourist Zones and Marine Reserves Under the Administration and Control of the Philippine Tourism Authority.

[9] Id. at 24-27. Rules and Regulations Governing Activities at Boracay Island Tourist Zone.

[10] Records, pp. 13-32; Annexes "A" to "A-18."

[11] Issued on May 19, 1975.

[12] Records, p. 148.

[13] Id.

[14] Rules of Court, Rule 129, Sec. 2.

[15] Records, p. 148.

[16] Id. at 177, 178.

[17] Rollo (G.R. No. 167707), p. 54.

[18] Id. at 51.

[19] Id.; PTA Circular No. 3-82, Rule VIII, Sec. 1(3) states:

No trees in forested private lands may be cut without prior authority from the PTA. All forested areas in public lands are declared forest reserves.

[20] Sec. 87. If all the lands included in the proclamation of the President are not registered under the Land Registration Act, the Solicitor-General, if requested to do so by the Secretary of Agriculture and Natural Resources, shall proceed in accordance with the provisions of section fifty-three of this Act.

[21] Sec. 53. It shall be lawful for the Director of Lands, whenever in the opinion of the President the public

interests shall require it, to cause to be filed in the proper Court of First Instance, through the Solicitor General or the officer acting in his stead, a petition against the holder, claimant, possessor, or occupant of any land who shall not have voluntarily come in under the provisions of this chapter or of the Land Registration Act, stating in substance that the title of such holder, claimant, possessor, or occupant is open to discussion; or that the boundaries of any such land which has not been brought into court as aforesaid are open to question; or that it is advisable that the title to such land be settled and adjudicated, and praying that the title to any such land or the boundaries thereof or the right to occupancy thereof be settled and adjudicated. The judicial proceedings under this section shall be in accordance with the laws on adjudication of title in cadastral proceedings.

[22] Rollo (G.R. No. 167707), p. 51.

[23] *Id.* at 211-121.

[24] *Id.* at 42.

[25] *Id.* at 45-46.

[26] *Supra* note 3.

[27] Owner of Waling-Waling Beach Resort and Chairman of the Board of Boracay Foundation, Inc.

[28] Owner of Willy's Beach Resort.

[29] Rollo (G.R. No. 173775), p. 20; Annex "A."

[30] Petitioners in G.R. No. 173775 claim that they are also petitioners in the declaratory case filed in November 1997 before the RTC in Kalibo, Aklan, docketed as Sp. Civil Case No. 5403 and now before this Court as G.R. No. 167707.

[31] Rollo (G.R. No. 173775), pp. 4-5.

[32] *Id.* at 4.

[33] *Id.* at 143.

[34] Rollo (G.R. No. 167707), p. 26.

[35] Rollo (G.R. No. 173775), pp. 280-281.

[36] An Act Temporarily to Provide for the Administration of the Affairs of Civil Government in the Philippine Islands, and for Other Purposes. Issued on July 1, 1902.

[37] An Act to Amend and Compile the Laws Relative to Lands of the Public Domain. Approved on December 1, 1936.

[38] See note 8.

[39] See note 3.

[40] CONSTITUTION (1935), Art. XIII, Sec. 1.

[41] CONSTITUTION (1973), Art. XIV, Sec. 10.

[42] Bernas, S.J., *The Intent of the 1986 Constitution Writers*, 1995 ed., p. 830.

[43] CONSTITUTION (1987), Art. XII, Sec. 3.

[44] Id.

[45] Zarate v. Director of Lands, G.R. No. 131501, July 14, 2004, 434 SCRA 322; Reyes v. Court of Appeals, 356 Phil. 606, 624 (1998).

[46] Chavez v. Public Estates Authority, G.R. No. 133250, July 9, 2002, 384 SCRA 152.

[47] Zarate v. Director of Lands, supra; Collado v. Court of Appeals, G.R. No. 107764, October 4, 2002, 390 SCRA 343; Director of Lands v. Intermediate Appellate Court, G.R. No. 73246, March 2, 1993, 219 SCRA 339.

[48] Republic v. Estonilo, G.R. No. 157306, November 25, 2005, 476 SCRA 265; Zarate v. Director of Lands, supra.

[49] De los Reyes v. Ramolete, G.R. No. L-47331, June 21, 1983, 122 SCRA 652, citing Gonzaga v. Court of Appeals, G.R. No. L-27455, June 28, 1973, 51 SCRA 381.

[50] Collado v. Court of Appeals, supra, citing Chavez v. Public Estates Authority, supra.

[51] Id., citing separate opinion of then Justice Reynato S. Puno in Cruz v. Secretary of Environment and Natural Resources, G.R. No. 135385, December 6, 2000, 347 SCRA 128, and Chavez v. Public Estates Authority, supra note 46.

[52] Collado v. Court of Appeals, supra note 47.

[53] Effective February 13, 1894.

[54] De Aldecoa v. The Insular Government, 13 Phil. 159 (1909).

[55] A valid title based upon adverse possession or a valid title based upon prescription. Noblejas, A.H. and Noblejas, E.H., Registration of Land Titles and Deeds, 1986 ed., p. 39, citing Cruz v. De Leon, 21 Phil. 199 (1912).

[56] Ten (10) years, according to Archbishop of Manila v. Arnedo, 30 Phil. 593 (1915).

[57] Noblejas, A.H. and Noblejas, E.H., Registration of Land Titles and Deeds, supra at 8.

[58] Id. at 9; Director of Forest Administration v. Fernandez, G.R. Nos. 36827, 56622 & 70076, December 10, 1990, 192 SCRA 121, 137.

[59] Id. at 5-11.

[60] See note 36.

[61] Director of Forestry v. Villareal, G.R. No. L-32266, February 27, 1989, 170 SCRA 598, 601.

[62] Noblejas, A.H. and Noblejas, E.H., Registration of Land Titles and Deeds, supra note 55, at 347.

[63] The provisions relevant to the definition are:

Sec.13. That the Government of the Philippine Islands, subject to the provisions of this Act and except as herein provided, shall classify according to its agricultural character and productiveness, and shall immediately make rules and regulations for the lease, sale, or other disposition of the public lands other than timber or mineral lands, but such rules and regulations shall not go into effect or have the force of law until they have received the approval of the President, and when approved by the President they shall be submitted by him to Congress at the beginning of the next ensuing session thereof and unless disapproved or amended by Congress at said session they shall at the close of such period have the force and effect of law in the Philippine Islands: Provided, That a single

homestead entry shall not exceed sixteen hectares in extent.

Sec.14.That the Government of the Philippine Islands is hereby authorized and empowered to enact rules and regulations and to prescribe terms and conditions to enable persons to perfect their title to public lands in said Islands, who, prior to the transfer of sovereignty from Spain to the United States, had fulfilled all or some of the conditions required by the Spanish laws and royal decrees of the Kingdom of Spain for the acquisition of legal title thereto, yet failed to secure conveyance of title; and the Philippine Commission is authorized to issue patents, without compensation, to any native of said Islands, conveying title to any tract of land not more than sixteen hectares in extent, which were public lands and had been actually occupied by such native or his ancestors prior to and on the thirteenth of August, eighteen hundred and ninety-eight.

Sec. 15.That the Government of the Philippine Islands is hereby authorized and empowered, on such terms as it may prescribe, by general legislation, to provide for the granting or sale and conveyance to actual occupants and settlers and other citizens of said Islands such parts and portions of the public domain, other than timber and mineral lands, of the United States in said Islands as it may deem wise, not exceeding sixteen hectares to any one person and for the sale and conveyance of not more than one thousand and twenty-four hectares to any corporation or association of persons: Provided, That the grant or sale of such lands, whether the purchase price be paid at once or in partial payments, shall be conditioned upon actual and continued occupancy, improvement, and cultivation of the premises sold for a period of not less than five years, during which time the purchaser or grantee can not alienate or encumber said land or the title thereto; but such restriction shall not apply to transfers of rights and title of inheritance under the laws for the distribution of the estates of decedents.

[64] 10 Phil. 175 (1908).

[65] *Id.* at 182.

[66] *Collado v. Court of Appeals*, *supra* note 47.

[67] *Noblejas, A.H. and Noblejas, E.H., Registration of Land Titles and Deeds*, *supra* note 55.

[68] Sec. 54, par. 6.

[69] Sec. 45(b); *Public Estates Authority v. Court of Appeals*, G.R. No. 112172, November 20, 2000, 345 SCRA 96; *Director of Lands v. Buyco*, G.R. No. 91189, November 27, 1992, 216 SCRA 78.

[70] *Collado v. Court of Appeals*, *supra* note 47, see separate opinion of Justice Puno in *Cruz v. Secretary of Environment and Natural Resources*, *supra* note 51, and *Chavez v. Public Estates Authority*, *supra* note 46.

[71] Sec. 2.

[72] An Act to Amend Subsection (b) of Section Forty-Eight of Commonwealth Act Numbered One Hundred Forty-One, Otherwise Known as the Public Land Act. Approved on June 22, 1957.

[73] Extending the Period of Filing Applications for Administrative Legislation (Free Patent) and Judicial Confirmation of Imperfect and Incomplete Titles to Alienable and Disposable Lands in the Public Domain Under Chapter VII and Chapter VIII of Commonwealth Act No. 141, As Amended, For Eleven (11) Years Commencing January 1, 1977. Approved on January 25, 1977.

[74] *Republic v. Doldol*, G.R. No. 132963, September 10, 1998, 295 SCRA 359.

[75] *Discontinuance of the Spanish Mortgage System of Registration and of the Use of Spanish Titles as Evidence in Land Registration Proceedings* (Issued - February 16, 1976).

- [76] Director of Forest Administration v. Fernandez, *supra* note 58, citing Director of Lands v. Rivas, G.R. No. L-61539, February 14, 1986, 141 SCRA 329.
- [77] Lands which were not recorded under the Maura Law and were not yet covered by Torrens titles.
- [78] Presidential Decree No. 1529, Preamble; Director of Lands v. Intermediate Appellate Court, *supra* note 47.
- [79] Peña, N. and Peña, Jr., N., Registration of Land Titles and Deeds, 1988 ed., p. 9.
- [80] Republic v. Court of Appeals, G.R. No. 48227, August 21, 1991, 201 SCRA 1; Director of Lands v. Court of Appeals, G.R. No. 83609, October 26, 1989, 178 SCRA 708.
- [81] Heirs of the Late Spouses Pedro S. Palanca and Soterranea Rafols Vda. De Palanca v. Republic, G.R. No. 151312, August 30, 2006, 500 SCRA 209; Director of Lands v. Intermediate Appellate Court, *supra* note 47, citing Director of Lands v. Aquino, G.R. No. 31688, December 17, 1990, 192 SCRA 296.
- [82] Chavez v. Public Estates Authority, *supra* note 46.
- [83] Republic v. Lao, G.R. No. 150413, July 1, 2003; 405 SCRA 291; Director of Lands v. Intermediate Appellate Court, *supra* note 47, citing Director of Lands v. Aquino, *supra*.
- [84] Republic v. Lao, *supra*; Pagkatipun v. Court of Appeals, 429 Phil. 377, 389-390 (2002).
- [85] Republic of the Philippines v. Muñoz, G.R. No. 151910, October 15, 2007.
- [86] Heirs of the Late Spouses Pedro S. Palanca and Soterranea Rafols Vda. De Palanca v. Republic, *supra*; Gutierrez Hermanos v. Court of Appeals, G.R. Nos. 54472-77, September 28, 1989, 178 SCRA 37.
- [87] Republic v. Naguiat, G.R. No. 134209, January 24, 2006, 479 SCRA 585.
- [88] 40 Phil. 10 (1919).
- [89] *Supra* note 54.
- [90] Ankron v. Government of the Philippine Islands, *supra* at 16.
- [91] Heirs of the Late Spouses Pedro S. Palanca and Soterranea Rafols Vda. De Palanca v. Republic, *supra* note 81.
- [92] *Id.* at 76.
- [93] *Id.* at 219-223.
- [94] Ankron v. Government of the Philippine Islands, *supra* note 88, at 16.
- [95] *Id.* at 15-16.
- [96] Act No. 2874, Sec. 8; Republic v. Court of Appeals, G.R. No. 155450, August 6, 2008; Republic v. Court of Appeals, G.R. No. 127245, January 30, 2001.
- [96-a] Bureau of Forestry v. Court of Appeals, G.R. No. L-37995, August 31, 1987, 153 SCRA 351, 357.
- [97] Heirs of the Late Spouses Pedro S. Palanca and Soterranea Rafols Vda. De Palanca v. Republic, *supra* note 81.
- [98] The records do not show the manner in which title was issued to the Heirs of Ciriaco Tirol.
- [99] Records, p. 179.

[100] 79 Phil. 461 (1947).

[101] Supra note 64.

[102] Supra note 54.

[103] Supra note 88.

[104] Art. XIII, Sec. 1.

[105] Krivenko v. Register of Deeds of Manila, supra note 100, at 468-469.

[106] Act No. 926, Sec. 54, par. 6 states:

SEC. 54. The following described persons or their legal successors in right, occupying lands in the Philippines, or claiming to own any such land or interest therein but whose titles to such land have not been perfected may apply to the Court of Land Registration of the Philippine Islands for confirmation of their claims and the issuance of a certificate of title therefor to wit -

x x x x

(6) All persons who by themselves or their predecessors in interest have been in the open, continuous exclusive, and notorious possession and occupation of agricultural public lands, as defined by said Act of Congress of July first, nineteen hundred and two, under a bona fide claim of ownership except as against the Government, for a period of ten years next preceding the taking effect of this act, except when prevented by war, or force majeure, shall be conclusively presumed to have performed all the conditions essential to a Government grant and to have received the same, and shall be entitled to a certificate of title to such land under the provisions of this chapter.

[107] Supra note 47.

[107-a] G.R. No. 135385, December 6, 2000, 347 SCRA 128.

[108] Collado v. Court of Appeals, id. at 356.

[109] Records, p. 101; Annex "A."

[110] Id. at 106; Exhibit "1-a."

[111] Rollo (G.R. No. 173775), p. 5.

[112] CONSTITUTION (1987), Art. XII, Sec. 3; Constitution (1973), Art. XIV, Sec. 10, as amended; and Constitution (1935), Art. XIII, Sec. 1.

[113] Republic v. Naguiat, supra note 87.

[114] G.R. No. L-27873, November 29, 1983, 126 SCRA 69.

[115] Heirs of Amunategui v. Director of Forestry, id. at 75.

[116] Republic v. Court of Appeals, G.R. No. L-56948, September 30, 1987, 154 SCRA 476, 482-483.

[117] Sec. 3 provides:

Establishment of or low-density human settlements in private lands, or subdivisions, if any, subject to prior approval by the Ministry of Human Settlements, PTA and local building officials; Provided, that no structures shall be constructed within 30 meters from the shorelines.

[118] Sec. 5 states:

Subsistence farming, in areas declared as alienable and disposable by the Bureau of Forest Development.

[119] Pars. 3-4.

[120] SEC. 6. The President, upon recommendation of the Secretary of Agriculture and Commerce (now the Secretary of the Department of Environment and Natural Resources), shall from time to time classify lands of the public domain into -

- (a) Alienable or disposable,
- (b) Timber, and
- (c) Mineral lands,

And may at any time and in a like manner transfer such lands from one class to another, for the purposes of their administration and disposition.

SEC. 7. For the purposes of administration and disposition of alienable or disposable public lands, the President, upon recommendation by the Secretary of Agriculture and Commerce (now the Secretary of the Department of Environment and Natural Resources), shall from time to time declare what lands are open to disposition or concession under this Act.

[121] Director of Lands v. Intermediate Appellate Court, *supra* note 47; Manalo v. Intermediate Appellate Court, G.R. No. 64753, April 26, 1989, 172 SCRA 795.

[122] Republic v. Register of Deeds of Quezon, G.R. No. 73974, May 31, 1995, 244 SCRA 537; Director of Lands v. Intermediate Appellate Court, *supra* note 47.

[123] Director of Lands v. Intermediate Appellate Court, *supra* note 47, citing Yngson v. Secretary of Agriculture and Natural Resources, G.R. No. L-36847, July 20, 1983, 123 SCRA 441; Republic v. Court of Appeals, G.R. No. L-45202, September 11, 1980, 99 SCRA 742.

[124] *Supra* note 81.

[125] Heirs of the Late Spouses Pedro S. Palanca and Soterranea Rafols Vda. De Palanca v. Republic, *id.* at 222-223.

[126] Reconsideration of DOJ Opinion No. 169, s. 1993, on the DOJ affirmative stand on whether the prohibition against the reclassification of forest lands applies to "unclassified public forest."

[127] Rollo (G.R. No. 173775), p. 139.

[128] Del Rosario-Igtiben v. Republic, G.R. No. 158449, October 22, 2004, 441 SCRA 188; Republic v. Lao, *supra* note 83.

[129] Public Land Act, Sec. 48(b).

[130] Public Estates Authority v. Court of Appeals, *supra* note 69.

[131] Commonwealth Act No. 141, Chapter IV.

[132] *Id.*, Chapter V.

[133] House Bill No. 1109. Declaring Certain Parcels of the Public Domain Within Boracay Island, Malay, Aklan as Agricultural Land Open to Disposition.

[134] G.R. No. L-24796, June 28, 1968, 23 SCRA 1183, cited in *Lepanto Consolidated Mining Company v. Dumyung*, G.R. Nos. L-31666-68, April 30, 1979, 89 SCRA 532.

[135] *Director of Forestry v. Muñoz*, *id.* at 1214.

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