

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR OF THE LAND MANAGEMENT BUREAU (LMB), PETITIONER, VS. FILEMON SAROMO, RESPONDENT.*G.R. No. 189803. March 14, 2018*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-189803/>**CAGUIOA, J:**

Before the Court is a petition for review on certiorari[1] (Petition) under Rule 45 of the Rules of Court assailing the Decision[2] dated June 30, 2009 (Decision) of the Court of Appeals[3] (CA) in CA-G.R. CV. No. 87801, denying the appeal of the petitioner Republic of the Philippines (Republic) and affirming the Decision[4] dated October 24, 2005 of the Regional Trial Court of Balayan, Batangas, Branch 9 (RTC) in Civil Case No. 3929. The RTC Decision dismissed the reversion and cancellation of title complaint filed by the Republic against respondent Filemon Saromo (Saromo). The Petition also assails the Resolution[5] dated October 12, 2009 of the CA denying the motion for reconsideration filed by the Republic.

The Facts and Antecedent Proceedings

As culled from the CA Decision, the facts are as follows:

On September 25, 1980, Geodetic Engineer Francisco C. Guevarra surveyed the land subject of this case for x x x Filemon Saromo. Engineer Guevarra then prepared Survey Plan No. PSU-4-A-004479 (Exhibit "A"). At the bottom left hand portion of the plan is a NOTE that states: "This survey is formerly a portion of China Sea. This survey is inside unclassified public forest land and is apparently inside the area covered by Proclamation No. 1801 dated November 10, 1978. This survey is within 100.00 meters strip along the shore line. This survey was endorsed by the District Land Officer D.L.O. No. (IV-A-1), Batangas City dated December 11, 1980." The survey plan of the subject lot includes the salvage zone.

On September 30, 1980, Survey Plan No. PSU-4-A-004479 was submitted to Region IV-A for approval.

On December 11, 1980, the survey plan was endorsed by the District Land Officer, Batangas City and on the following day, December 12, 1980, the plan was approved by Flor U. Pelayo, Officer-in-Charge.

On December 24, 1980, Saromo, then fifty [50] years old, executed an Application for Free Patent (Exh. "N"), covering the subject property, which he filed with the Bureau of Lands, District Land Office No. IV-A-1 in Batangas City. The application stated among others that the land is an agricultural public land covered by Survey No. PSU-4-A-004479, containing an area of forty five thousand eight hundred eight (45,808) square meters and that Saromo first occupied and cultivated the land by himself in 1944 (Exh. "N-2" and "N-3").

x x x x

On the same date, Saromo executed an affidavit (Exh. "4"), stating that he is the holder of Free Patent Application No. (IV-A-1) 15603 and that he holds himself responsible for any liability, whether civil and/or criminal that may arise if the land has already been adjudicated as private property and/or the corresponding certificate of title had in fact been issued and for any statement he had made therein that may be found untrue or false.

On January 24, 1981, Saromo executed an affidavit (Exh. ["J3"]) in support of a Notice of Application for Free Patent stating that said Notice of Application for Free Patent (which was not signed by the Director of Lands) was posted on the bulletin board of the barrio where the land is situated and at the door of the municipal building on December 24, 1980 until the 24th day of January 1981.

On March 4, 1981, Alberto A. Aguilar executed an investigation report (Exh. "P") stating that on January 14, 1981, he went to and examined the land applied for by Saromo; that the land applied for is inside agricultural area under proposed Project No. 31 LC Map 225. While the certified true copy of said investigation report submitted by the Republic mentions "LC Map 225", the xerox copy of the same investigation report offered in evidence by Saromo as "Exhibit 26", contains an insertion of the number ["J#235" above the words LC Map 225.

On May 18, 1981, Jaime Juanillo, District Land Officer, issued an Order (Exh. "O") approving the application for free patent of Saromo and ordering the issuance of Patent No. 17522 in his favor. The Order stated that the land applied for has been classified as alienable and disposable; the investigation conducted by Land Investigation/Inspector Alberto A. Aguilar revealed that the land applied for has been occupied and cultivated by the applicant himself and/or his predecessors[-]in[-]interest since July 4, 1926 or prior thereto.

On May 26, 1981, Original Certificate of Title No. P-331 (Exh. "C") was issued in the name of Filemon Saromo by Deputy Register of Deeds for the Province of Batangas, Gregorio C. Sembrano.

On October 16, 1981, a certain Luis Mendoza filed with the Bureau of Lands a protest against the Free Patent awarded to Saromo. The investigation was not terminated because of the resignation of the investigator from the Bureau and his departure for the United States. (Exh. "B"; p. 21, TSN, April 5, 2002, Atty. Rogelio Mandar)

On September 6, 1999, the Director of Lands issued Special Order No. 99-99 creating an investigation team headed by Atty. Rogelio C. Mandar to verify and determine the legality of the issuance of Free Patent No. 17522, now OCT No. P-331, in the name of Saromo covering the subject parcel of land identified as Lot No. 3, Plan PSU-4-A-004479, containing an area of forty five thousand eight hundred eight (45,808) square meters (Exhs. "B"; pp. 6-7, TSN, April 15, 2002, Atty. Mandar). The investigation team found from the documents gathered that:

a) the subject lot covered by Free Patent No. 17522 in the name of Saromo, identified and described under Plan PSU-4-A-004479, was not alienable and disposable at the time of the issuance thereof, as it was found upon investigation to be "inside unclassified public forest and covered by Proclamation No. 1801 declaring the whole of Batangas Coastline as tourist zone (Exh. "B", p. 2)

b) the issuance of Free Patent No. 17522 in the name of Saromo was highly improper and irregular, and Free Patent No. 17522 and the corresponding OCT N[o]. P-331 issued to Saromo is null and void ab initio and the land covered must be reverted to the State. x x x

x x x (O)n September 19, 2001, the Republic filed this case for Reversion/Cancellation of Title before the [RTC].

[The Republic], in its Complaint, alleged that the subject lot covered by OCT No. P-331 is inside the unclassified forest [land] and also inside the area covered by Proclamation No. 1801 dated November 10, 1978 declaring the land as Tourist Zones and Marine Preserve under the administration and control of the Philippine Tourism Industry. It further alleged that upon ocular inspection, it was ascertained that the land is situated along the coastline of Brgy. Balibago and that since it is part of the shore, it concluded that the subject lot is part of the public dominion and therefore, cannot be titled in the name of private person.

On the other hand, (Saromo), in his Answer, denied the allegations of [the Republic] and countered that the subject land is disposable and alienable the same being an agricultural land suited for cultivation and plantation of fruit bearing trees at the time the free patent was issued to him. He claimed that he is the owner of the subject lot

in fee simple by virtue of OCT No. [P-]331 and Free Patent No. 17522, which was lawfully issued to him by the Lands Management Bureau (formerly, Bureau of Lands).[6]

Ruling of the RTC

The RTC rendered a Decision[7] dated October 24, 2005 in favor of Saromo, the dispositive portion of which states:

WHEREFORE, premises considered, the instant complaint is hereby DISMISSED for lack of merit.

No pronouncement as to the costs.

SO ORDERED.[8]

The RTC relied heavily on the testimony of Engr. Francisco Guevara[9] (Engr. Guevara), who testified that the note appearing on the survey plan indicated "past and present annotations" placed by the office of the Bureau of Lands and that the "land is no longer a forest land and it belongs to what was alienated and disposed by the [then] Bureau of Lands and therefore, it is suited for plantation, cultivation[.]"[10]

The RTC also stated that the then Bureau of Lands verified the truthfulness of the information given by Saromo before it approved the free patent application; and the fact that the free patent was issued to Saromo only confirmed his statement in his application that the subject land was alienable and disposable, being agricultural land.[11] The RTC concluded that the findings of the field investigator of the then Bureau of Lands as to the nature of the subject land after conducting his ocular inspection at the time of the application for free patent should be given more weight since that is the foremost issue to be considered by the concerned agency before granting the application for free patent.[12] The RTC found that the Republic failed to overturn the presumption of regularity in the performance of the official function of the employee of the then Bureau of Lands who approved the free patent.[13]

Regarding the issue that the subject land is covered by Proclamation No. 1801,[14] the RTC stated that it "was so explicit in enumerating the areas covered by the said law and it shows that the subject property was not one of those listed therein."[15] According to the RTC, there is, likewise, nothing in the law which provides that those covered thereby is inalienable and non--disposable because the law declares certain islands, coves and peninsulas in the Philippines as Tourist Zones and Marine Reserve under the administration and control of the Philippine Tourism Authority (PTA).[16]

The RTC concluded that the subject land is well within the purview of a public land which is alienable and disposable, and the patent title issued to Saromo is not tainted with any irregularity as claimed by the Republic.[17]

The Republic filed a motion for reconsideration, which was opposed by Saromo. The RTC denied the motion in its Resolution dated April 24, 2006.[18]

The Republic appealed the RTC Decision to the CA.

Ruling of the CA

The CA in its Decision[19] dated June 30, 2009 denied the appeal of the Republic. The dispositive portion thereof states:

IN THE LIGHT OF ALL THE FOREGOING, the appeal is hereby DENIED. The decision dated 24 October 2005 of the Regional Trial Court of Balayan, Batangas, Branch 9, in Civil Case No. 3929 is hereby AFFIRMED.

No costs.

SO ORDERED.[20]

The CA also relied on the testimony of Engr. Guevara, who was the person who prepared the survey plan referred to above, to the effect that the subject land is an agricultural land and, therefore, alienable and disposable.[21] The CA noted the explanation of Engr. Guevara on the meaning of "unclassified public forest land" annotated on the survey plan to the effect that since the subject land is "capable of being cultivated and planted with trees, vegetables and other plantation done by any occupants," it follows that the same is already alienable and disposable.[22] Thus, the CA ruled that the Republic failed to prove its cause of action by preponderance of evidence.[23]

The CA further noted that Saromo complied with all the necessary requirements for the issuance of a free patent and he relied on the knowledge and expertise of the District Land Office, which is tasked to manage and issue patents pursuant to existing laws.[24] The CA determined that the Republic failed to prove the fraud and misrepresentation that Saromo allegedly committed.[25]

The Republic filed a motion for reconsideration, which was opposed by Saromo and denied by the CA in its Resolution dated October 12, 2009.[26]

Hence, the instant Petition. Saromo filed his Comment[27] dated March 9, 2010.

The Issues

The Petition raises the following issues:

1. Whether the CA erred on a question of law in upholding that the subject land is alienable and disposable at the time of issuance of free patent title to Saromo.
2. Whether the CA erred in not applying Section 91 of the Public Land Act on fraud and misrepresentation and in disregarding the attendant fraud and misrepresentation of Saromo in his free patent application.
3. Whether the CA erred in applying the presumption of regularity in the performance of official duties of the officer who issued Saromo's free patent.
4. Whether the principle of Regalian doctrine applies in the present case.[28]

The Court's Ruling

The Petition is impressed with merit.

While the Republic seeks the reversal of the finding of both the CA and the RTC that the subject land is alienable and disposable via a question of law issue, it actually seeks a review by the Court of their factual findings. The Court cannot make the legal conclusion that the Republic seeks without a review of the facts upon which the CA and the RTC based their ruling that the subject land is alienable and disposable.

As a rule, the factual findings of the CA affirming those of the trial court are final and conclusive, and they cannot be reviewed by the Court which has jurisdiction to rule only on questions of law in petitions to review decisions of the CA filed before the Court, save only in the following circumstances: (1) when the factual conclusion is a finding grounded entirely on speculations, surmises and conjectures; (2) when the inference is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the CA went beyond the issues of the case in making its findings, which are further contrary to the admissions of both the appellant and the

appellee; (7) when the CA's findings are contrary to those of the trial court; (8) when the conclusions do not cite the specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; (10) when the CA's findings of fact, supposedly premised on the absence of evidence, are contradicted by the evidence on record;^[29] or (11) when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.^[30] Thus, for the Court to review the factual findings of the courts below, any of these exceptions must be present in this case.

The subject land is unclassified public forest land.

From the outset, the Republic argues that Proclamation No. 1801 expressly declared the Batangas Coastline as a tourist zone; hence, it is a reserved area incapable of alienation and disposition by private individuals.^[31]

The Court is not persuaded by this argument of the Republic.

Indeed, Proclamation No. 1801 includes the "Whole of Batangas Coastline"^[32] as a tourist zone and marine reserve under the administration and control of the PTA, and the law requires that: "No development projects or construction for any purposes shall be introduced within the zones without prior approval of the President of the Philippines upon recommendation of the Philippine Tourism Authority."^[33] However, as correctly observed by the RTC, there is nothing in the law which provides that the areas covered thereby are necessarily inalienable and non--disposable.^[34]

Section 4 of Presidential Decree No. 564^[35] provides that the PTA has the purpose of promoting "the development into integrated resort complexes of selected and well defined geographic areas with potential tourism value, known otherwise as 'tourist zones'."

On the other hand, the Tourism Act of 2009 or Republic Act No. (RA) 9593^[36] defines "Tourism Enterprise Zones" or TEZs in the following manner:

SEC. 59. Tourism Enterprise Zones. - Any geographic area with the following characteristics may be designated as a Tourism Enterprise Zone:

- (a) The area is capable of being defined into one contiguous territory;
- (b) It has historical and cultural significance, environmental beauty, or existing or potential integrated leisure facilities within its bounds or within reasonable distances from it;
- (c) It has, or it may have, strategic access through transportation infrastructure, and reasonable connection with utilities infrastructure systems;
- (d) It is sufficient in size, such that it may be further utilized for bringing in new investments in tourism establishments and services; and
- (e) It is in a strategic location such as to catalyze the socioeconomic development of their neighboring communities.

Under RA 9593, it is the newly created TIEZA (Tourism Infrastructure and Enterprise Zone Authority) that shall designate TEZs, upon recommendation of any local government unit (LGU) or private entity, or through joint ventures between the public and the private sectors.^[37]

From the above descriptions of "tourist zones" and TEZs, they appear to be the same. But, there is nothing from their descriptions from which it can be deduced that as tourist zones or TEZs, they are therefore inalienable and non-disposable.

Proclamation No. 1801 also declares the "Whole of Batangas Coastline" a marine reserve. As defined: "A Marine Reserve is an MPA where strict sanctuary conditions are not mandated for the entire area, but there is still a desire to control access and activities, such as boating, mooring and various fishing techniques. It may consist of multiple zones including a sanctuary area,"[38] while "[a] Marine Protected Area (MPA) is any specific marine area that has been reserved by law or other effective means and is governed by special rules or guidelines to manage activities and protect the entire, or part of, the enclosed coastal and marine environment." [39]

Based on the above definitions, there may be indications that the concerned area may be subject to special rules or guidelines for its management and protection; but, it does not follow that as a marine reserve, the area is automatically inalienable and non-disposable.

Given the foregoing, the presidential declaration that the whole of the Batangas coastline is a tourist zone and marine reserve is not sufficient to prove that the subject land is inalienable and non-disposable.

Unfortunately, the very survey plan that Saromo submitted to the then Bureau of Lands as basis for his application for free patent and its approval contains a notation that the subject land is "inside unclassified public forest land." [40] To recall, the NOTE appearing at the bottom left hand portion of the Survey Plan No. PSU-4A-004479 (Exhibit "A" [41]) prepared by Engr. Guevara states: "This survey is formerly a portion of China Sea. This survey is inside unclassified public forest land and is apparently inside the area cover[ed] by Proclamation No. 1801 dated Nov[ember] 10, 1978. This survey is within 100.00 meters strip along the shore line. This survey was indorsed by the District Land Officer D.L.O. No. (IV-A-1), Batangas City dated December 11, 1980." [42]

As is, the NOTE qualifies as an admission of Saromo under Section 26, Rule 130 of the Rules of Court, which provides: "[t]he act, declaration or omission of a party as to a relevant fact may be given in evidence against him." The NOTE is an admission by Saromo that the subject land is "inside unclassified public forest land." Thus, unless Saromo is able to rebut in a clear and convincing manner such admission or declaration, it will remain as an admission against his interest and binding upon him.

Saromo presented the testimonies of Engr. Guevara, Alberto Aguilar (Aguilar) and Engineer Carlita Cabrera (Engr. Cabrera) to rebut the land classification expressly indicated in the NOTE.

Both the RTC and the CA were convinced of the testimonial evidence that Saromo adduced, and they relied heavily on the testimony of Engr. Guevara in arriving at the factual conclusion that the subject land is agricultural land and, thus, alienable and disposable. The CA even quoted Engr. Guevara's testimony on cross-examination, [43] to wit:

[Atty. Benjamin C. Asido: (to the witness)]

Q

May we ask you again, what you mean by the note, "This survey is inside unclassified public forest land," what is the meaning of that?

A

It meant that the place was already alienable and disposable as classified by the Bureau of Forestry and if there are any improvements such as grasses, they really reflect as unclassified forest. But then, this is capable of being cultivated and planted with trees, vegetables and other plantation done by any occupants, sir.

Q

In other words, what you are saying is, is that the meaning of inside unclassified public forest is that it is

already alienable and disposable, is that what you mean?

A

Yes, sir.[44]

Aside from the foregoing explanation, Engr. Guevara commented on the significance of the said NOTE during his direct examination, to wit:

[Atty. Paciano B. Balita (to witness)]

Q

In your plan, there is a note, what is the significance of that note, if any?

A

In the note it is placed here that all corners not otherwise described PLS are cyl. concrete monuments 15x60 cm, and the others were planted PS cyl. concrete monuments 15x60 and these comers are formerly a portion of China sea and this survey is inside unclassified public forest land and is apparently inside the area covered by Proclamation No. 1801 dated November 10, 1978 and all the survey is within 100 meters strip along the shoreline and this survey was indorsed by the district land officer D.L.O. Bo. (IV-A1), Batangas City dated December 11, 1980. These are the notes placed by the office of the Bureau of Lands, indicating that all these are past and present annotations in the place, sir.[45]

The CA also stated: "And his testimony on the meaning of 'unclassified public forest land' was not rebutted by the [Republic]."[46]

The CA further mentioned the testimony of Aguilar, who was the investigator of the District Land Office of the then Bureau of Lands in Batangas City and conducted an ocular inspection of the subject land during the processing of Saromo's free patent application. Aside from identifying his investigation report[47] and the order of approval of Saromo's application,[48] Aguilar merely made a conclusion when asked as to the "physical feature" of the land, to wit:

[Atty. Paciano B. Balita (to the witness)]

Q

You made a report. Now, during your inspection, would you tell the Court what actually was the physical feature of the land?

A

The land being applied for free-patent is agricultural in nature, sir.[49]

As reflected in his investigation report, the improvements in the land consisted of "coconuts" and that "the land applied for is inside Agricultural area under proposed project No. 31 L.C. map 225."[50]

Engr. Cabrera, a geodetic engineer, who was assigned as a final verifier of the Chief Survey Division of the then Bureau of Lands and conducted a verification survey, testified as well on the "physical feature or condition" of the subject land in this manner:

[Atty. Paciano B. Balita (to the witness)]

Q

Would you be able to tell the Honorable Court, actually the physical feature or condition of this property

subject of this suit?

A

That is agricultural in nature because there was an improvement thereon; planted with coconut trees, beach houses, sir.

Q

It is not a forest land or timber land?

A

No, sir.[51]

Both the RTC and the CA erred in unduly relying on the testimony of Engr. Guevara because his observation as to the physical features of the subject land is not conclusive to remove the subject land from its "unclassified forest land" classification and overturn the NOTE that the area he surveyed was "inside unclassified public forest land." Similarly, the testimonies of Engr. Guevara, Aguilar and Engr. Cabrera on their observations as to the physical features of the subject land during their ocular inspection are not clear and convincing proof that the subject land is alienable and disposable.

As the Court held in *The Secretary of the Department of Environment and Natural Resources v. Yap*,[52] forest land of the public domain in the context of both the Public Land Act and the Constitution is a classification descriptive of its legal nature or status and does not have to be descriptive of what the land looks like, viz.:

Forests, in the context of both the Public Land Act and the Constitution[53] 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.[54] The discussion in *Heirs of Amunategui v. Director of Forestry*[55] is particularly instructive:

A forested area classified as forest land of the public domain does not lose such classification simply because loggers or settlers 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.[56] (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.[57] 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.[58]

From the foregoing, testimonial evidence on the physical layout or condition of the subject land—that it was planted with coconut trees and beach houses had been constructed thereon—are not conclusive on the classification of the subject land as alienable agricultural land. Rather, it is the official proclamation releasing the land classified as public forest land to form part of disposable agricultural lands of the public domain that is definitive. Such official proclamation, if there is any, is conspicuously missing in the instant case.

The term "unclassified land" is likewise a legal classification and a positive act is required to declassify inalienable public land into disposable agricultural land. The Court in *Heirs of the late Sps. Palanca v. Republic*[59] observed that:

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.[60] When the property is still unclassified, whatever possession applicants may have had, and however long, still cannot ripen into private ownership.[61] This is because, pursuant to Constitutional precepts, all lands of the public domain belong to the State, and the State is the source of any asserted right to ownership in such lands and is charged with the conservation of such patrimony.[62] Thus, the Court has emphasized the need to show in registration proceedings that the government, through a positive act, has declassified inalienable public land into disposable land for agricultural or other purposes.[63]

Given the foregoing, the misapprehension of the "facts" as adduced by Saromo through the foregoing testimonial evidence warrants the review by the Court of the findings of fact of both the CA and the RTC. Without the official declaration that the subject land is alienable and disposable or proof of its declassification into disposable agricultural land, the "unclassified public forest land's" legal classification of the subject land remains.

Engr. Guevara even admitted that the NOTE in his survey plan indicated "past and present annotations" placed by the "office of the Bureau of Lands." This is confirmation of the land classification status of the subject land as "unclassified public forest land" and such remained even at the time when he executed the survey plan. Otherwise, the NOTE should have contained a further annotation that said classification had been changed. Also, Engr. Guevara did not present and testify on the applicable land classification map that would corroborate his finding that the subject land was already disposable agricultural land.

In addition to the exception that the judgments of the courts below are based on misapprehension of facts, the other exception that is applicable in this case is when the findings of fact are contradicted by the evidence on record.

The Republic has adduced compelling evidence, which were not contradicted by Saromo, that the subject land was inalienable and non--disposable at the time of his application.

The Republic presented as witness Leonito D. Calubayan (Engr. Calubayan), a geodetic engineer and Community Environment Resources Officer of Calaca, Batangas of the Department of Environment and Natural Resources, who testified as follows:

[Atty. Benjamin C. Asido (to witness)]

Q

Sometime in July 2002, did you receive a letter request [from] one Atty. Benjamin Asido in relation to this complaint in this particular case?

A

Yes, sir.

x x x x

Q

Do you have [the] letter request of Atty. Asido?

x x x x

A

Yes, it is on file, sir.

ASIDO:

Q

May I have that record?

INTERPRETER:

Witness showing a letter request addressed to CENRO Officer dated July 10, 2002.

ASIDO:

May I make [of] record, your Honor, that the letter request be marked as Exhibit "1". A letter request dated July 10, 2002 requesting the CENRO Officer to certify whether or not the land subject of this case is alienable or disposable.

Q

What action, if any, did you take on the letter request?

A

It is a standard operating procedure that whenever communication of this nature has been received by our office, I used to forward this to our Chief of Forestry, the Chief of Forest Management Service, sir.

Q

Q What action, if any, did your Chief of Management Service take?

A

Well, as requested in the request, the office through the Chief of Forest Management Service prepared a certification, sir.

Q

May I have that Certification?

A

(Witness showing a Certification dated October 9, 2002)

ASIDO:

May I request, your Honor, that this Certification prepared by Pedro Caringal, Jr. be marked as Exhibit "J".

x x x x

ASIDO:

Q

In this Certification marked as Exhibit "J", you stated under paragraph 1 and I quote: "Plan PSU-4A-004479 surveyed in the name of Filemon Saromo covered by Original Certificate of Title No. P-331 with an area of 4.5

hectares more or less in the Municipality of Calatagan, Batangas," do you have that plan with you now? Plan PSU-4A-004479?

A

I have the copy of that plan, sir. This is the copy of the plan on record, sir.

(Witness showing a plan of the land surveyed for Filemon Saromo)

x x x x

Q

Under paragraph 1 of this Certification, Exhibit "J", you stated that the area covered by OCT No. P-331 is within the foreshore area of the Municipality of Calatagan?

A

Yes, sir, because the approved plan of PSU-4A-004479 was projected and verified against [sheet] 5 of 9 sheets land classification map number, in short, under LC Map 3276 verified on June 29, 1987, sir.

Q

Do you have that LC map with you?

A

Yes, sir.

Q

May I have that LC Map?

A

This is the LC Map that I am referring to (Witness showing LC Map 3276)

Q

Will you please indicate in your report the land subject of this case in the LC Map 3276?

A

This is the area where the subject PSU Plan falls when verified and plotted in the LC Map. It falls on Project No. 38-A, Block C, which states that it is forest land (permanent forest) with an area of 38.8 hectares the overall area of the project where that PSU falls, sir.

ASIDO:

May we request that the LC Map be marked as Exhibit "L" for the plaintiff and area indicated by the witness subject of this case be marked as Exhibit "L-1", your Honor.

x x x x

ASIDO:

We [request] that the investigation report relative to the application for Free Patent [of Saromo] be marked as Exhibit "P", your Honor.

x x x x

Q

Now in this Investigation Report under paragraph 7 it states that the land is not inside agricultural area LC Map No. 225, do you have this LC Map 225?

A

I have with me the record of LC Map 225 (Witness showing LC Map 225)

Q

Is this LC Map for the Province of Batangas?

A

It says here, it is Sibulan, sir.

Q

Where is Sibulan?

A

May I see the map, sir. According to this LC [Map] 225, it appears that it covers the Municipality of Sibulan, Negros Oriental.

ASIDO:

May we request, your Honor, that the LC Map No. 225 be marked as an evidence as Exhibit "Q" and the Municipality of Sibulan, Negros Oriental be marked as Exhibit "Q-1", your Honor.

May we request that paragraph 7 of the investigation report be marked as Exhibit "P-1", your Honor.

Q

Also this LC Map, it made mention [of] Project No. 31. Do you have that map?

A

This LC 718, there is written project No. 31 but this subdivision, the Municipality of Taal, sir.

Q

Where is that?

A

This is also in Batangas, sir.

Q

How far is Barrio Balibago from Taal? A It is so far away, Taal and Balibago, sir.

ASIDO:

May we request, your Honor, that Project No. 31 be marked as Exhibit "R", your Honor.[64]

On cross-examination, Engr. Calubayan explained that based on the projection of the survey plan for Saromo, it is within the Municipality of Calatagan despite the indication in OCT No. P-331 issued to Saromo that it is in Balibago, Lian, Batangas, to wit:

[Atty. Paciano B. Balita (to witness)]

Q

Did you see before that the property, subject of this suit, is located at Calatagan, Batangas?

A

According to our findings, when the property in question was projected, the foreshore area is within the Municipality of Calatagan, sir.

Q

What is the basis of your findings?

A

Based on our projection with the land classification map, it appears that it falls within the foreshore area of the Municipality of Calatagan. There is a technical data. The land classification map has a latitude and longitude. The land in question is also provided with that geographic coordinate so we computed that, so by means of that coordinate, we can project on the land classification map where the property could be located or could fall, sir.

Q

So, your basis was a technical data?

A

Yes, sir.

x x x x

Q

The torrens title of OCT No. P-331, from the description, would you still insist that the property could be traced as indicated in the title?

A

The title states that this is located in Lian, however, when we issued a certification that was based on the land classification map, that was issued sometime in 1987, so the survey appears to be executed earlier than what the land classification map was issued, sir.[65]

From the foregoing, it is clear that when Plan Psu-4A-004479 surveyed in the name of Saromo was verified and plotted by the Forest Management Service in the corresponding land classification map, it falls on Project No. 38-A, Block C, of the Land Classification (LC) Map No. 3276 (Exh. "L") certified on June 29, 1987, which is forest land (permanent forest) within the foreshore area of Calatagan, Batangas.[66]

In addition, LC Map No. 3342 (Exh. "M") was presented to prove that as of October 10, 1984, the whole of Calatagan, Batangas was unclassified public forest and that there was no land classification certified or declared prior to 1984 covering the subject land.[67] Engr. Calubayan explained the reference to the LC Map of Calatagan, Batangas as warranted by the technical data found in the survey plan prepared by Engr. Guevara for Saromo such that when the said data are projected, they fall within the LC Map of Calatagan, Batangas.

In fine, the Republic presented credible evidence to show that the subject land remains within unclassified forest land, which conforms with the NOTE in the survey plan for Saromo. The subject land, is therefore, inalienable and non-disposable and could not have been the valid subject of a free patent application because only agricultural

public lands subject to disposition can be the subject of free patents.[68]

There are attenuating circumstances that put in doubt the applicability of the presumption of regularity in the performance of official duties.

The presumption of regularity in the performance of official duties in the processing and approval of Saromo's free patent has been controverted by the evidence presented by the Republic. Also, the evidence presented by Saromo put in serious doubt the regularity in the processing and approval of his free patent.

The survey plan in question includes a NOTE that the subject land is within "unclassified public forest land." The investigator and verifier of the then Bureau of Lands, who processed Saromo's application, did not present any land classification map that would negate such NOTE.

Also, as testified to by Engr. Calubayan, the investigation report of Aguilar mentioned that the land applied for is inside agricultural land under proposed project No. 31, LC Map 225 (Exh. "26" as corrected[69] but LC Map 225 is for Sibulan, Negros Oriental. LC Map 718 mentioned in the Survey Authority (Exh. "25" as corrected[70]) refers to Taal, Batangas.

Even Saromo himself contradicted the investigation report of Aguilar which indicated that "[t]he occupation and cultivation of the applicant [Saromo], as far as [Aguilar has] been able to ascertain date from 1944" and the subject land was "first occupied and cultivated by Filemon Saromo in 1944." [71] His very Application for Free Patent (Exh. "2" [72]), which is under oath, contained untrue information, as confirmed by him, although he attributed the incorrectness to clerical error. Since the year "1944" appears in both his Application for Free Patent and in the investigation report of Aguilar, the error can no longer be categorized as clerical. Rather, an intention to mislead or make a false representation is evident.

Saromo testified as follows:

[Atty. Paciano Balita (to witness)]

Q

Since when have you been occupying this property, subject of this suit?

A

When I purchased the adjacent land, it was [in] 1967 and some of it was in the year 1969, sir.

x x x x

Q

By the way, in your affidavit or application it is stated here that when you submitted an application you were only 11 years old, what can you say to that?

A

No, sir. I was already 44 or 46 years old.

Q

Why it was indicated here that you were 11 years old, who prepared this?

A

It was the surveyor and it was a pro forma of the Bureau of Lands. I believed that is a clerical error. It is

impossible that I was only 11 years old because I'm not in a position to purchase a lot yet, sir.

Q

That was in 1980?

A

Yes, sir.

Q

And now, 2004 that is 24 years ago?

A

Yes, sir.

Q

How old are you now?

A

69, sir. This coming March I'll be 70 years old.[73]

Saromo could not have first occupied the subject land in 1944 as indicated in his sworn Application for Free Patent and in the investigation report, because he bought the subject land in 1967 at the earliest or 1969 at the latest, and he was then 44 or 46 years old.

Given the foregoing discrepancies in the documents relative to Saromo's free patent application, the processing and approval of his free patent were far from regular. Thus, the validity of his free patent cannot be affirmed based on the mere presumption of regularity in the performance of official duties.

Reversion of the subject land is warranted under Section 91 of Commonwealth Act No. (CA) 141.

Section 91 of CA 141, otherwise known as The Public Land Act, provides:

SEC. 91. The statements made in the application shall be considered as essential conditions and parts of any concession, title, or permit issued on the basis of such application, and any false statement therein or omission of facts altering, changing, or modifying the consideration of the facts set forth in such statements, and any subsequent modification, alteration, or change of the material facts set forth in the application shall ipso facto produce the cancellation of the concession, title, or permit granted. It shall be the duty of the Director of Lands, from time to time and whenever he may deem it advisable, to make the necessary investigations for the purpose of ascertaining whether the material facts set out in the application are true, or whether they continue to exist and are maintained and preserved in good faith, and for the purposes of such investigation, the Director of Lands is hereby empowered to issue subpoenas or subpoena duces tecum and, if necessary, to obtain compulsory process from the courts. In every investigation made in accordance with this section, the existence of bad faith, fraud, concealment, or fraudulent and illegal modification of essential facts shall be presumed if the grantee or possessor of the land shall refuse or fail to obey a subpoena or subpoena duces tecum lawfully issued by the Director of Lands or his authorized delegates or agents, or shall refuse or fail to give direct and specific answers to pertinent questions, and on the basis of such presumption, an order of cancellation may issue without further proceedings.

As mentioned above, there are several discrepancies in the documents relative to Saromo's free patent application, which indicate incorrect and misleading facts and statements. Taken together, they can be considered as "false

statements" on the essential conditions for the grant of the free patent in favor of Saromo, and as such, they ipso facto justify the cancellation of the free patent and the corresponding Torrens certificate of title issued to him.

Even if Section 91 of CA 141 is ruled out, reversion is warranted based on mistake or error on the part of government officials or agents.

In *Republic v. Hachero*,^[74] the Court observed:

Reversion is an action where the ultimate relief sought is to revert the land back to the government under the Regalian doctrine. Considering that the land subject of the action originated from a grant by the government, its cancellation therefore is a matter between the grantor and the grantee.^[75] In *Republic v. Guerrero*,^[76] the Court gave a more general statement that "this remedy of reversion can only be availed of in cases of fraudulent or unlawful inclusion of the land in patents or certificates of title."^[77] Nonetheless, the Court recognized in *Republic v. Mangotara*,^[78] that there were instances when it granted reversion for reasons other than fraud:

x x x. In *Estate of the Late Jesus S. Yujuico v. Republic* (Yujuico case), reversion was defined as an action which seeks to restore public land fraudulently awarded and disposed of to private individuals or corporations to the mass of public domain. It bears to point out, though, that the Court also allowed the resort by the Government to actions for reversion to cancel titles that were void for reasons other than fraud, i.e., violation by the grantee of a patent of the conditions imposed by law; and lack of jurisdiction of the Director of Lands to grant a patent covering inalienable forest land or portion of a river, even when such grant was made through mere oversight.^[79] [Emphasis Supplied]

In the case at bench, although the Republic's action for cancellation of patent and title and for reversion was not based on fraud or misrepresentation on the part of Hachero, his title could still be cancelled and the subject land reverted back to the State because the grant was made through mistake or oversight. x x x^[80]

The Court further observed in *Hachero*:

At any rate, it is a time-honored principle that the statute of limitations or the lapse of time does not run against the State. Jurisprudence also recognizes the State's immunity from estoppel as a result of the mistakes or errors of its officials and agents. These well-established principles apply in the case at bench. The Court in *Republic v. Roxas* elucidated:

x x x x

Be that as it may, the mistake or error of the officials or agents of the [Bureau of Lands] in this regard cannot be invoked against the government with regard to property of the public domain. It has been said that the State cannot be estopped by the omission, mistake or error of its officials or agents.

It is well-recognized that if a person obtains a title under the Public Land Act which includes, by oversight, lands which cannot be registered under the Torrens system, or when the Director of Lands did not have jurisdiction over the same because it is a public domain, the grantee does not, by virtue of the said certificate of title alone, become the owner of the land or property illegally included. Otherwise stated, property of the public domain is incapable of registration and its inclusion in a title nullifies that title.^[81]

Since, at the very least, the government officials concerned in the processing and approval of Saromo's free patent application erred or were mistaken in granting a free patent over unclassified public forest land, which could not be registered under the Torrens system and over which the Director of Lands had no jurisdiction, the free patent issued to Saromo ought to be cancelled. In the same vein, the Torrens title issued pursuant to the invalid free patent should likewise be cancelled.

Since the reversion of the subject land to the State is in order, needless to say that the Regalian doctrine has been accordingly applied in the resolution of this case.

WHEREFORE, the Petition is hereby GRANTED. The Decision dated June 30, 2009 of the Court of Appeals in CA-G.R. CV. No. 87801, denying the appeal of the petitioner and affirming the Decision dated October 24, 2005 of the Regional Trial Court of Balayan, Batangas, Branch 9 in Civil Case No. 3929, and the Court of Appeals' Resolution dated October 12, 2009, denying the petitioner's motion for reconsideration, are REVERSED and SET ASIDE. The dismissal of the Complaint for Reversion and/or Cancellation of Title is REVERSED and is given DUE COURSE. Free Patent No. 17522 and Original Certificate of Title No. P-331 issued in favor of respondent Filemon Saromo are declared NULL and VOID. The Register of Deeds for the Province of Batangas is hereby directed to CANCEL Original Certificate of Title No. P-331 and all subsequent, derivative certificates of title, if any, which may have been issued during the pendency of the case. The REVERSION in favor of the State of Lot No. Psu-4A-004479 with technical description indicated in Original Certificate of Title No. P-331 situated in Balibago, Lian, Batangas with an area of 45,808 square meters is hereby ordered.

SO ORDERED.

Carpio,[*] Acting C. J., (Chairperson), Peralta, Perlas-Bernabe, and Reyes, Jr., JJ., concur.

[*] Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.

[1] Rollo, pp. 9-62, excluding Annexes.

[2] Id. at 64-76. Penned by Associate Justice Pampio A. Abarintos, with Associate Justices Amelita G. Tolentino and Sixto C. Marella, Jr. concurring.

[3] Special Twelfth Division.

[4] Rollo, pp. 79-97. Penned by Vice-Executive Judge Elihu A. Ybañez.

[5] Id. at 78 to 78-A.

[6] Id. at 64-68.

[7] Id. at 79-97.

[8] Id. at 97.

[9] Also spelled as Guevarra in some parts of the records.

[10] Rollo, p. 93.

[11] Id. at 93-94.

[12] Id. at 94.

[13] Id.

[14] DECLARING CERTAIN ISLANDS, COVES AND PENINSULAS IN THE PHILIPPINES AS TOURIST ZONES AND MARINE RESERVE UNDER THE ADMINISTRATION AND CONTROL OF THE PHILIPPINE TOURISM AUTHORITY, November 10, 1978.

[15] Rollo, p. 95.

[16] See id.

[17] Id. at 96-97.

[18] Id. at 70.

[19] Id. at 64-76.

[20] Id. at 76.

[21] Id. at 73.

[22] Id. at 73-74.

[23] Id. at 75.

[24] Id. at 74.

[25] Id. at 75.

[26] Id. at 78 to 78-A.

[27] Id. at 204-207.

[28] Id. at 28.

[29] Republic v. Sps. Tan, 676 Phil. 337, 351 (2011), citing Philippine National Oil Company v. Maglasang, 591 Phil. 534, 544-545 (2008).

[30] Co v. Vargas, 676 Phil. 463, 471 (2011), citing Development Bank of the Philippines v. Traders Royal Bank, 642 Phil. 547, 556-557 (2010).

[31] Rollo, pp. 30-31.

[32] Proclamation No. 1801, No. 1.

[33] Proclamation No. 1801.

[34] Rollo, p. 95.

[35] REVISING THE CHAPTER OF THE PHILIPPINE TOURISM AUTHORITY CREATED UNDER PRESIDENTIAL DECREE NO. 189, DATED MAY 11, 1973, October 2, 1974.

[36] AN ACT DECLARING A NATIONAL POLICY FOR TOURISM AS AN ENGINE OF INVESTMENT, EMPLOYMENT, GROWTH AND NATIONAL DEVELOPMENT, AND STRENGTHENING THE DEPARTMENT OF TOURISM AND ITS ATTACHED AGENCIES TO EFFECTIVELY AND EFFICIENTLY IMPLEMENT THAT POLICY, AND APPROPRIATING FUNDS THEREFOR, May 12, 2009.

[37] RA 9593, Sec. 60.

[38] "Increasing the Resilience of Marine Ecosystems: Creating and Managing Marine Protected Areas in the Philippines" by Karin Post, Marine Conservation Philippines, <<https://www.marineconservationphilippines.org/wp-content/uploads/Marine-Protected-Areas-in-the-Philippines.pdf>>, p. 6 (last accessed on January 26, 2018).

[39] Id.

[40] Records (Vol. I), p. 28.

[41] Id. at 28-29.

[42] Id. at 28; emphasis and underscoring supplied.

- [43] Rollo, pp. 73-74.
- [44] TSN, February 23, 2004, p. 23.
- [45] Id. at 18-19.
- [46] Rollo, p. 74.
- [47] Exh. "26" (as corrected), formerly marked Exh. "15," records (Vol. II), pp. 415-417.
- [48] Exh. "16," id. at 402.
- [49] TSN, September 13, 2004, p. 8.
- [50] With "235" written above 225. Exh. "26," supra note 47, at 415.
- [51] TSN, September 13, 2004, p. 18.
- [52] 589 Phil. 156 (2008).
- [53] CONSTITUTION (1987), Art. XII, Sec. 3; CONSTITUTION (1973), Art. XIV, Sec. 10, as amended; and CONSTITUTION (1935), Art. XIII, Sec. 1.
- [54] Republic v. Naguiat, 515 Phil. 560, 564 (2006).
- [55] 211 Phil. 260 (1983).
- [56] Id. at 265.
- [57] Republic v. Court of Appeals, 238 Phil. 475, 482 (1987).
- [58] The Secretary of the Department of Environment and Natural Resources v. Yap, supra note 52, at 191-192.
- [59] 531 Phil. 602, 616-617 (2006).
- [60] Director of Lands v. IAC, 292 Phil. 341, 352 (1993), citing Yngson v. Sec. of Agriculture and Natural Resources, 208 Phil. 374, 379 (1983); Republic v. CA, 188 Phil. 142 (1980).
- [61] Director of Lands v. CA, 214 Phil. 606, 610 (1984); Adorable v. Director of Forestry, 107 Phil. 401, 404 (1960); Republic v. CA, 178 Phil. 530, 537 (1979).
- [62] Director of Lands v. CA, id. at 609.
- [63] Director of Lands v. IAC, supra note 60, at 350.
- [64] TSN, March 10, 2003, pp. 5-16, 26-29; underscoring and emphasis supplied.
- [65] TSN, May 26, 2003, 12-15.
- [66] See Purpose of Offer of Exhs. "J" and "L," records (Vol. II), pp. 262 and 263.
- [67] Id. at 263.
- [68] See Commonwealth Act No. 141, Sec. 44.
- [69] Records (Vol. II), p. 415.
- [70] Id. at 414.
- [71] Id. at 415.

[72] Records (Vol. I), p. 22. The Application for Free Patent indicates that Saromo first occupied and cultivated by himself in 1944 and he entered upon and began cultivation of the subject land in 1944.

[73] TSN, January 26, 2004, pp. 17-21.

[74] 785 Phil. 784 (2016).

[75] Republic v. Roxas, 723 Phil. 279, 308 (2013).

[76] 520 Phil. 296 (2006).

[77] Id. at 314.

[78] 638 Phil. 353 (2010).

[79] Id. at 461.

[80] Supra note 74, at 795-796.

[81] Id. at 797-799.

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