

LA TONDEÑA, INC., PETITIONER, VS. REPUBLIC OF THE PHILIPPINES RESPONDENT.

G.R. No. 194617. August 05, 2015

Ponente: LEONEN, J.

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LEONEN, J.:

La Tondeña, Inc. (La Tondeña) applied for registration of a 14,286- square-meter parcel of land, with La Tondeña alleging acquisition and possession even before the Second World War. It argues the inadmissibility of the Department of Environment and Natural Resources-Community Environment and Natural Resources Office's (DENR-CENRO) Report on the land's classification as alienable and disposable only on January 21, 1987 as this Report was not formally offered as evidence before the trial court.

This case involves an application of Section 14(1) of Property Registration Decree in relation to Section 48(b) of Commonwealth Act No. 141, as amended, on the requisites for judicial confirmation of imperfect title.[1]

This Petition for Review on Certiorari[2] assails the Court of Appeals August 10, 2010 Decision[3] that reversed and set aside the Municipal Trial Court December 15, 2005 Decision[4] granting La Tondeña's application for land registration.[5] La Tondeña prays that this court reverse and set aside the Court of Appeals Decision and Resolution,[6] then affirm in toto the Municipal Trial Court Decision or, in the alternative, remand the case for further reception of evidence.[7]

On September 28, 2004, La Tondeña, through its Vice President Rosendo A. Bautista,[8] filed an Application[9] for the registration of a 14,286- square-meter parcel of land in Central West, Bauang, La Union.[10]

La Tondeña alleged obtaining title or ownership by purchase from one Pablo Rimorin and attached the following documents with its application: "(a) original tracing plan together with its print copies; (b) technical description of the land; (c) certification, in lieu of lost Surveyor's Certificate for registration; (d) certificate of tax assessment from 1948 up to the present; (e) copy of Tax Declaration No. 27726; and (f) copy of the Secretary's Certificate authorizing Rosendo A. Bautista." [11]

On October 15, 2004, the Land Registration Authority Administrator forwarded the entire records to the Municipal Trial Court.[12] On December 17, 2004, the trial court sent a Notice of Initial Hearing to the Office of the Solicitor General.[13]

On March 21, 2005, during the initial hearing, the trial court entered an Order of Special Default against the whole world except against the Republic of the Philippines that filed a formal written opposition to the application.[14]

The trial court scheduled the hearing for marking of exhibits on April 12, 2005.[15] Rosendo A. Bautista testified and identified the documents submitted with the application for registration.[16] He alleged that all records showing La Tondeña's purchase of the land from one Pablo Rimorin were burned, thus, applicant can only present tax declarations in its name for years 1948, 1953, 1964, 1974, 1980, 1985, 1994, and 1999.[17]

On May 30, 2005, La Tondeña's property administrator Victor Dumuk testified that from the time his father, Juan Dumuk, was property administrator before the Second World War up to Victor Dumuk's present administration, La Tondeña's ownership of the land was uncontested, and its possession was peaceful, continuous, open, and public.[18] He testified that property taxes were paid from 1994 to 2005, and that mango trees and a basketball court can be found on the land.[19]

DENR-CENRO Land Investigator Wilfredo Valera submitted a Report dated May 31, 2005 to the trial court, stating that the land was declared alienable and disposable only on January 21, 1987.[20] The trial court summarized the Report's contents in its Decision:

In the investigation report submitted by Special Investigator Wilfreda B. Valera of the DENR, CENRO, San Fernando City, La Union, the land is covered by Survey Plan No. AP-01-004436 approved by the Regional Land District/Land Management Bureau, Region I, pursuant to P.D. No. 239 dated September 1973; that it consists of 14,286 square meters and is located in Brgy. Central West, Bauang, La Union; that the entire area is within the alienable and disposable zone as classified under Project No. 9, LC No. 3330 and released as well as certified as such on January 21, 1987; that this parcel of land is not within any civil or military reservations, and is outside of any forest zone and watershed reservations; that it is not covered by any previously issued land patent, decree or title; that this land was declared for the first time in the year 1948 under Tax declaration No. 1745 in the name of La Tondeña Distilleries with an area of 13,292 square meters; that this land is now covered by Tax declaration No. 27726 in the name of La Tondeña Distilleria Incorporada; that the corresponding realty taxes as per record of the Municipal Treasurer of Bauang, La Union have been paid since 1948; that this lot has not been earmarked for public use and not reserved for any future government projects; that this lot is flat in terrain, presently for agricultural purposes, with bamboos and some fruit trees planted in it and about .00365 kilometers from the poblacion; that this lot was found to be free from adverse claims and conflicts during the inspection; that La Tondeña Distilleria Incorporada is in actual occupation and possession of the land; that this lot does not encroach upon any bodies of water, Right of Way, and park sites that are devoted to the public; and that during the investigation and ocular inspection of the area, applicant La Tondeña Inc. thru its authorized representative, presented the following documents, to wit: Print copy of AP-01-004436 and tax declarations from the year 1948 up to the present?[21] (Emphasis supplied)

La Tondeña alleged that this Report was not presented and formally offered during the proceedings, and it only learned of its existence during appeal.[22]

The Municipal Trial Court, in its Decision dated December 15, 2005, approved La Tondeña's application for registration:

Considering that the government represented by the Asst. Provincial Prosecutor, Bauang, La Union for and in behalf of the Solicitor General (SOLGEN) is not presenting any evidence, documentary or testimonial to substantiate the formal written opposition which was filed, the said formal written opposition is hereby ordered dismissed for lack of merit.

Wherefore, this Court, confirming the Order of Special Default, hereby approves the application and orders the adjudication and registration of the land described in Survey Plan No. AP-01-004436 (Exh. "J") and the Technical description of said lot, Lot 4551, CAD 474-D, Bauang Cadastre (Exh. "K") containing an area of Fourteen thousand two hundred eighty-six (14,286) square meters situated at Brgy. Central West, Bauang, La Union.

Once this decision becomes final and executory, let the corresponding decree be issued.

So Ordered.[23]

The Republic of the Philippines filed a Notice of Appeal[24] before the Court of Appeals on the ground that the

trial court's Decision was "contrary to law and evidence." [25] It raised the Report dated May 31, 2005 on the land's classification as alienable and disposable only on January 21, 1987, thus, the land cannot be the subject matter of an application for judicial confirmation of imperfect title under Commonwealth Act No. 141 that requires possession from June 12, 1945 or earlier. [26]

Instead of filing its Memorandum, La Tondeña filed a Manifestation with Motion to Remand Case [27] dated January 29, 2007 to present further evidence that the land was private land at the time of its acquisition. [28] The Court of Appeals noted the Comment of the Republic of the Philippines, and denied the Motion of La Tondeña. [29]

La Tondeña filed a Motion for Reconsideration [30] dated December 18, 2008 attaching as newly discovered evidence the "Plan of Private Land as surveyed for Pablo Rimolin" under Psu-67458 duly approved on March 5, 1930. [31] The Court of Appeals denied reconsideration. [32]

The Court of Appeals, in its Decision dated August 10, 2010, reversed and set aside the Municipal Trial Court December 15, 2005 Decision, and dismissed La Tondeña's application for registration. [33] It also denied reconsideration. [34]

Hence, La Tondeña filed this Petition.

La Tondeña submits that the Report dated May 31, 2005 should not have been considered by the trial court since it was not identified and formally offered as evidence. [35] Wilfredo Valera was never presented in court, thus, he was never cross-examined in violation of La Tondeña's right to due process. [36] La Tondeña alleges that it only saw a copy of the Report when the case was on appeal. [37]

In any event, La Tondeña raises the survey plan notation confirming that the land was "inside alienable and disposable area as per Project No. 09, L.C. Map No. 0333 as certified on Aug. 12, 1934." [38] The survey plan was approved by the Department of Environment and Natural Resources in the performance of its official function that carries the presumption of regularity. [39] La Tondeña argues that the Republic of the Philippines did not controvert this evidence, and Wilfredo Valera's Report dated May 31, 2005 that was not formally offered as evidence cannot prevail over the survey plan that the trial court duly admitted as evidence. [40]

Assuming the land was only reclassified on January 21, 1987, La Tondeña argues that it acquired a vested right over the land under the 1935 Constitution that allows a private corporation to acquire alienable and disposable land of public domain. [41]

With due indulgence, the Honorable Court of Appeals failed to consider that petitioner has acquired a vested right over the land sought to be registered under the 1935 Philippine Constitution and prior to the effectivity of the 1973 and 1987 Philippine Constitutions. As a general rule, constitutional provisions are given prospective application, not retroactive, unless retroactivity is expressly provided or necessarily implied (*People vs. Isagani, et al.*, 63 SCRA 4). Hence, due to the prospective application of the 1973 and 1987 Constitutions, it is the provisions of the 1935 Constitution that should apply to petitioner's application for registration. Undoubtedly, under the 1935 Philippine Constitution, private corporations are allowed in acquiring alienable and disposable land of the public domain. (*Republic vs. T.A.N. Properties, Inc.*, GR. No. 154953, June 26, 2008).

Interestingly, the original reckoning point for the required length of possession under the Public Land Act (C.A. 141) is possession since July 26, 1894. The period of possession was shortened to thirty (30) years by Republic Act No. 1942, which was enacted on June 22, 1957. Then, on January 25, 1977, Presidential Decree No. 1073 was enacted pegging the reckoning point of possession to June 12, 1945. Hence, until 1972, prior to the effectivity of the 1973 Philippine Constitution, the required possession of alienable public land that would

qualify to judicial confirmation under C.A. 141 is at least thirty (30) years, or at least from the year 1942. If reckoned from 1972, the latest date when private corporations are allowed to acquire alienable public lands. Therefore, petitioner already acquired a vested right over the subject property in 1972.[42]

La Tondeña submits that "its possession was open, continuous, uninterrupted for more than thirty (30) years until 1972 prior to the effectivity of the 1973 and 1987 Philippine Constitution[,] [t]hus, the land became a private property by acquisitive prescription in accordance with the doctrine that open, exclusive and undisputed possession of alienable land for the period prescribed by law creates the legal fiction whereby the land, upon completion of the requisite period, ipso jure and without the need of judicial order or other sanction ceases to be public land and becomes private property." [43]

La Tondeña contends that it presented sufficient evidence for approval of its application for registration. Alternatively, a remand would allow it to cross-examine Wilfredo Valera on his Report, and La Tondeña can present additional evidence to show that the land was private land as early as March 5, 1930 as stated in the "Plan of Private Land as Surveyed for Pablo Rimorin" approved by the Department of Agriculture and Natural Resources.[44]

The Republic of the Philippines counters that Section 29 of Presidential Decree No. 1529 provides that courts are "duty-bound to consider not only the evidence presented by the [parties,] but also the reports of the Commissioner of Land Registration and the Director of Lands[.]" [45]

Assuming the Report dated May 31, 2005 is inadmissible in evidence, La Tondeña still failed to present proof that the land was declared alienable and disposable on or before June 12, 1945.[46] La Tondeña cannot rely on the notation on the Sephia Plan of AP-01-004436 and its blueprint copy since this is not the proof required by law.[47] Neither can La Tondeña invoke the 30-year prescriptive period under Republic Act No. 1942 since Presidential Decree No. 1073, already applicable when La Tondeña filed its application for registration in 2004, requires possession from June 12, 1945 or earlier.[48] The Republic of the Philippines quoted at length *Heirs of Mario Malabanan v. Republic* [49] and *Republic v. Rizalvo, Jr.* [50] on the 30-year rule on land registration.[51] Lastly, La Tondeña cannot invoke Article 1113 of the Civil Code since it did not present evidence that the state declared the land "no longer intended for public service or for the development of the national wealth." [52]

The issues for resolution are:

First, whether petitioner La Tondeña, Inc. complied with all the requirements for land registration under Section 48(b) of Commonwealth Act No. 141, as amended, in relation to Section 14(1) of Presidential Decree No. 1529;

Second, whether petitioner La Tondeña, Inc. acquired a vested right under the 1935 Constitution that allows a private corporation to acquire alienable and disposable land of public domain; and

Finally, whether the Court of Appeals can consider the Report dated May 31, 2005 that was not marked, identified, and formally offered as evidence before the trial court.

We deny the Petition.

I

Commonwealth Act No. 141 known as The Public Land Act covers matters such as "what lands are open to disposition or concession[.]" [53] Section 48(b), as amended, governs judicial confirmation of imperfect title:

SEC. 48. The following-described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their

claims and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:

...

(b)

Those who by themselves or through their predecessors in interest have been in open, continuous, exclusive, and notorious possession and occupation of alienable and disposable lands of the public domain, under a bona fide claim of acquisition or ownership, since June 12, 1945, or earlier, immediately preceding the filing of the applications for confirmation of title except when prevented by war or force majeure. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.[54] (Emphasis supplied)

Section 14(1) of Presidential Decree No. 1529 known as the Property Registration Decree similarly reads:

SEC. 14. Who may apply.-The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:

- Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership since June 12, 1945, or earlier.

Based on Section 48(b) of the Public Land Act in relation to Section 14(1) of the Property Registration Decree, an applicant for land registration must comply with the following requirements:

- The applicant, by himself or through his predecessor-in-interest, has been in possession and occupation of the property subject of the application;
- The possession and occupation must be open, continuous, exclusive, and notorious;
- The possession and occupation must be under a bona fide claim of acquisition of ownership;
- The possession and occupation must have taken place since June 12, 1945, or earlier; and
- The property subject of the application must be an agricultural land of the public domain.[55]

Petitioner argues that the survey plan notation stating that the land was confirmed as alienable and disposable on August 12, 1934 should prevail over the Report dated May 31, 2005 stating that the land was reclassified as alienable and disposable only on January 21, 1987 since this Report was not formally offered as evidence before the trial court.[56]

Respondent counters that Section 29 of Presidential Decree No. 1529 mandates the court to consider the Report dated May 31, 2005,[57] and even assuming this Report is inadmissible, petitioner still failed to prove that the land was declared alienable and disposable on or before June 12, 1945.[58] Section 29 reads:

SEC. 29. Judgment confirming title.-All conflicting claims of ownership and interest in the land subject of the application shall be determined by the court. If the court, after considering the evidence and the reports of the Commissioner of Land Registration and the Director of Lands, finds that the applicant or the oppositor has sufficient title proper for registration, judgment shall be rendered confirming the title of the applicant, or the oppositor, to the land or portions thereof. (Emphasis supplied)

The parties' arguments on the admissibility of the Report dated May 31, 2005 as evidence on when the land was classified as alienable and disposable are mooted by this court's ruling in *Heirs of Mario Malabanan v. Republic*.[59]

Heirs of Mario Malabanan clarified that the June 12, 1945 reckoning point refers to date of possession and not to

date of land classification as alienable and disposable.[60]

This court held that "the agricultural land subject of the application needs only to be classified as alienable and disposable as of the time of the application, provided the applicant's possession and occupation of the land dated back to June 12, 1945, or earlier." [61]

Petitioner filed the application for registration on September 28, 2004. All dates claimed as dates of classification of the land as alienable and disposable—August 12, 1934 as stated in the survey plan notation that petitioner relies upon; January 21, 1987 as stated in the Report dated May 31, 2005 that petitioner argues to be inadmissible; and March 5, 1930 as stated in the "Plan of Private Land as Surveyed for Pablo Rimorin" that petitioner would like to present as additional evidence if the court remands the case—were all prior to the September 28, 2004 application date, in compliance with the Heirs of Mario Malabanan ruling.

II

Petitioner's vested-right argument based on the 1935 Constitution that allows a private corporation to acquire alienable and disposable land of public domain [62] must also fail.

Under the 1935 Constitution, private corporations can still acquire public agricultural lands within the limited area prescribed. [63] In *The Director of Lands v. Intermediate Appellate Court*, [64] "the land was already private land when Acme acquired it from its owners in 1962 and, thus, Acme acquired a registrable title." [65]

In *Republic v. T.A.N. Properties, Inc.* [66] this court found *The Director of Lands* inapplicable since respondent corporation "acquired the land on 8 August 1997 from Porting, who, along with his predecessors-in-interest, has not shown to have been, as of that date, in open, continuous, and adverse possession of the land for 30 years since 12 June 1945[,] [i]n short, when respondent acquired the land from Porting, the land was not yet private property." [67]

Similarly, petitioner has not shown any proof of its purchase of the land, alleging that all records of this transaction were burned. [68] Without evidence on the exact acquisition date, or the character of its predecessor's occupation or possession of the land, [69] no proof exists that the property was already private land at the time of petitioner's acquisition.

Survey notations are not considered substantive evidence of the land's classification as alienable and disposable. *Republic v. T.A.N Properties, Inc.* discussed the required proof:

Further, it is not enough for the PENRO or CENRO to certify that a land is alienable and disposable. The applicant for land registration must prove that the DENR Secretary had approved the land classification and released the land of the public domain as alienable and disposable, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO or CENRO. In addition, the applicant for land registration must present a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records. These facts must be established to prove that the land is alienable and disposable. Respondent failed to do so because the certifications presented by respondent do not, by themselves, prove that the land is alienable and disposable. [70] (Emphasis supplied)

Petitioner's contention—that it acquired a vested right over the land in 1972 since Republic Act No. 1942 was enacted on June 22, 1957 shortened the required possession to 30 years, thus, until 1972 or prior to the 1973 Constitution and Presidential Decree No. 1073, the required possession for judicial confirmation is at least 30 years or at least from 1942 [71]—also fails to convince.

Heirs of Mario Malabanan discussed that the 30-year-period rule in Republic Act No. 1942 was repealed by

Presidential Decree No. 1073 in 1977, thus, only applications for registration filed prior to 1977 may invoke Republic Act No. 1942.[72] Since petitioner only filed for registration on September 28, 2004, the June 12, 1945 reckoning date under Presidential Decree No. 1073 applies.

III

Petitioner failed to prove possession and occupation since June 12, 1945 or earlier.

Petitioner's evidence consisted of tax declarations, and the testimonies of Rosendo Bautista and Victor Dumuk.[73]

The trial court granted the application, despite lack of records showing petitioner's purchase and possession of the land prior to June 12, 1945, by relying on Rosendo Bautista's testimony:

Based on the evidences [sic] presented, testimonial and documentary as well, it is appearing that the applicant company, La Tondeña Inc., thru its representative has established a satisfactory proof that it has a registrable title over the subject property, it being a corporation duly organized and existing under the law of the Philippines with principal address at CPJ Bldg., 105 Carlos Palanca, Jr. St., Legaspi Village, Makati City, Metro Manila, and qualified to own, acquire and possess land in the Philippines, it being established that its possession dates back to 1948 when it was first declared for the first time but before that, said applicant La Tondeña Inc. has owned the land subject of this case before the Second World War since the oldest tax declaration recorded which is Tax declaration No. 1745 series of 1948 cancelled Tax declaration No. 6590. Besides, this Court believes the testimony of Rosendo Bautista to be trustworthy being given in the ordinary course of business when he stated that La Tondeña Inc. acquired this property by purchase from a certain Pablo Rimorin but he had no records about that transaction and all that the company has are tax declarations as early as 1948 and tax receipt. Hence, applicant La Tondeña Inc. has established a satisfactory proof that it has a reg[i]strable title to the said land subject of this case since it has owned it for more than fifty-seven (57) years or more.[74]

The Court of Appeals did not err in reversing and setting aside the trial court's Decision, and dismissing petitioner's application for registration. It discussed the insufficiency of proof regarding petitioner's acquisition of the land and, consequently, the character of the alleged possession by its predecessor-in-interest:

The OSG correctly points out the property is incapable of being the subject matter of an application for judicial confirmation of imperfect title under C.A. 141, as amended, even by a natural person because of the requirement that the period of possession must be from June 12, 1945 or earlier. Confronted with the DENR-CENRO Report dated May 31, 2005, appellee did not present proof to establish its claim that the property was already alienable and disposable from the time it acquired the same in 1948, let alone, its allegation that it acquired the property by purchase. Even Appellee's exact date of acquisition as purported buyer was not shown with clarity. Neither did it show how its predecessor-in-interest himself got hold of the property, the character of his possession or occupation, and how long a time did he exercise the same on the land, if at all.[75] (Emphasis supplied)

On the tax declarations, the oldest recorded one presented by petitioner was for year 1948.[76] This does not prove possession on or before June 12, 1945.[77]

In *Republic v. Heirs of Dorotea Montoya*,[78] the only evidence presented to prove occupation and possession from 1940 was a tax declaration for year 1947 with notation that realty tax payments were paid since 1940.[79] This court discussed that "[a] tax declaration, much less a tax declaration the existence of which is proved by means of an annotation, is not a conclusive evidence of ownership, which is, at best, only a basis for inferring possession." [80]

Petitioner claims possession even before the Second World War, yet petitioner only produced nine (9) tax declarations.[81] This court has held that "intermittent and sporadic assertion of alleged ownership does not prove open, continuous, exclusive and notorious possession and occupation." [82]

This court has also held that "it is only when these tax declarations are coupled with proof of actual possession of the property that they may become the basis of a claim of ownership." [83]

On property administrator Victor Dumuk's testimony, he mentioned that his father was property administrator before the Second World War until he died in 1984 after which his mother, Felicidad Dumuk, took over.[84] While the tax declarations indicated his father as property administrator,[85] again, none of these were issued on or before June 12, 1945.

The letter dated March 23, 1994[86] of petitioner's VP Treasurer Amando C. Ramat, Jr. to Victor Dumuk confirming Victor Dumuk as caretaker of all petitioner's properties in Bauang, La Union effective January 1, 1994[87] also does not prove possession on or before June 12, 1945.

Since petitioner failed to comply with all the requisites for registration as provided by law, the Court of Appeals did not err in reversing the trial court, and dismissing petitioner's application for registration.

WHEREFORE, the Petition is DENIED.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, and Mendoza, JJ., concur.

Brion, J., see: concurring & dissenting opinion.

[1] See *Heirs of Mario Malabanan v. Republic*, G.R. No. 179987, September 3, 2013, 704 SCRA 561, 580 [Per J. Bersamin, En Banc].

[2] *Rollo*, pp. 9-33.

[3] *Id.* at 34-45. The Decision was penned by Associate Justice Amy C. Lazaro-Javier and concurred in by Associate Justices Rebecca De Guia-Salvador (Chair) and Sesonando E. Villon of the Fifth Division.

[4] *Id.* at 75-79. The Decision was penned by Judge Romeo V. Perez.

[5] *Id.* at 9 and 31.

[6] *Id.* at 47. The Resolution was penned by Associate Justice Amy C. Lazaro-Javier and concurred in by Associate Justices Rebecca De Guia-Salvador (Chair) and Sesonando E. Villon of the Fifth Division.

[7] *Id.* at 31.

[8] *Id.* at 15.

[9] *Id.* at 53-56. The application was docketed as LRC Case No. 85-MTC-Bg. LU.

[10] *Id.* at 34-35 and 75.

[11] *Id.* at 35.

[12] *Id.*

[13] *Id.* at 35-36.

[14] Id. at 36 and 75.

[15] Id. at 36.

[16] Id.

[17] Id. at 36 and 77.

[18] Id. at 37 and 77.

[19] Id. at 37 and 78.

[20] Id. at 19.

[21] Id. at 78-79.

[22] Id. at 19-20.

[23] Id. at 79.

[24] Id. at 80.

[25] Id.

[26] Id. at 40.

[27] Id. at 81-84.

[28] Id. at 40.

[29] Id. at 86.

[30] Id. at 87-92.

[31] Id. at 40-41.

[32] Id. at 94.

[33] Id. at 44.

[34] Id. at 47.

[35] Id. at 180.

[36] Id. at 181.

[37] Id.

[38] Id.

[39] Id. at 181-182.

[40] Id. at 182.

[41] Id. at 183.

[42] Id. at 183-184.

[43] Id. at 185.

[44] Id. at 186 and 188-189.

- [45] Id. at 215.
- [46] Id. at 216.
- [47] Id. at 216-217.
- [48] Id. at 225.
- [49] 605 Phil. 244, 275-279 (2009) [Per J. Tinga, En Banc].
- [50] 659 Phil. 578, 585-590 (2011) [Per J. Villarama, Jr., Third Division].
- [51] Rollo, pp. 218-225.
- [52] Id. at 225.
- [53] Com. Act No. 141 (1936), sec. 7.
- [54] See *Heirs of Mario Malabanan v. Republic*, G.R. No. 179987, September 3, 2013, 704 SCRA 561, 578-579 [Per J. Bersamin, En Banc].
- [55] *Heirs of Mario Malabanan v. Republic*, G.R. No. 179987, September 3, 2013, 704 SCRA 561, 579-580 [Per J. Bersamin, En Banc].
- [56] Rollo, p. 182.
- [57] Id. at 214-215.
- [58] Id. at 216.
- [59] G.R. No. 179987, September 3, 2013, 704 SCRA 561 [Per J. Bersamin, En Banc].
- [60] Id. at 581.
- [61] Id. at 584.
- [62] Rollo, pp. 183-184.
- [63] See *Republic v. T.A.N. Properties, Inc.*, 578 Phil. 44 J, 460 (2008) [Per J. Carpio, First Division].
- [64] 230 Phil. 590,605 (1986) [Per J. Narvasa, En Banc].
- [65] *Republic v. T.A.N. Properties, Inc.*, 578 Phil. 441,460 (2008) [Per J. Carpio, First Division].
- [66] 578 Phil. 441 (2008) [Per J. Carpio, First Division].
- [67] Id. at 461.
- [68] Rollo, pp. 36 and 77.
- [69] Id. at 42-43.
- [70] *Republic v. T.A.N. Properties, Inc.*, 578 Phil. 441, 452-453 (2008) [Per J. Carpio, First Division].
- [71] Rollo, p. 184.
- [72] *Heirs of Mario Malabanan v. Republic*, 605 Phil. 244, 275-276 (2009) [Per J. Tinga, En Banc].
- [73] Rollo, p. 76.

[74] Id. at 78.

[75] Id. at 42-43.

[76] Id. at 51-52.

[77] See Republic v. Santos, G.R. No. 180027, July 18, 2012, 677 SCRA 144, 155 [Per J. Perez, Second Division].

[78] GR. No. 195137, June 13, 2012, 672 SCRA 576 [Per J. Reyes, Second Division].

[79] Id. at 586.

[80] Id., citing Republic v. Court of Appeals, 328 Phil. 238 (1996) [Per J. Torres, Jr., Second Division].

[81] Rollo, pp. 51-52.

[82] Republic v. East Silverlane Realty Development Corporation, 682 Phil. 376, 394 (2012) [Per J. Reyes, Second Division], quoting Wee v. Republic, 622 Phil. 944, 956 (2009) [Per J. Del Castillo, Second Division].

[83] Id. at 394, citing Cequeña v. Bolante, 386 Phil. 419, 430 (2000) [Per J. Panganiban, Third Division].

[84] Rollo, p. 77.

[85] Id.

[86] Id. at 71.

[87] Id. at 52.

CONCURRING AND DISSENTING OPINION

BRION, J.

I concur with the DENIAL of the petition. I agree that petitioner La Tondeña, Inc. (La Tondeña) failed to comply with all the requirements for land registration under Section 48 (b) of Commonwealth Act No. 141[1] or the Public Land Act (PLA) in relation with Section 14 (1) of Presidential Decree No. 1529[2] or the Property Registration Decree (PRD).

In particular, I believe that the petition should be denied for the following reasons:

First, La Tondeña failed to prove that the property was already private at the time of its purchase.

Second, it could not have acquired any vested right over the property as of 1972 pursuant to Republic Act No. 1942.[3]

Third and last, that La Tondeña failed to prove possession and occupation since June 12, 1945, or earlier.

I find these conclusions fully supported by the facts (as shown by the evidence or its absence), the relevant laws, and the principles and precedents applying these laws.

I dissent, however, from the ponencia's ruling that "the agricultural land subject of the application [for registration under Section 48 (b) of the PLA in relation with Section 14 (1) of the PRD] needs only to be classified as [A & D] as of the time of the [filing of the] application," not on June 12, 1945, as required by Section 48 (b).

I find this conclusion (that relies heavily on *Heirs of Mario Malabanan v. Republic of the Philippines*)[4] contrary to the Constitution, the law and their underlying principles and the precedents that correctly and logically interpreted them. In ruling on this particular issue, the ponencia effectively read into the law what the Constitution does not, and the legislature did not, provide an exercise in policy determination and policy formulation process that the Court does not have the authority to undertake.

Thus, I submit this opinion to reflect my continuing objection to the majority's continuing disregard, as reflected in its ruling on this case, of the standards set by the Constitution and the PLA.

As I explained in my concurring and dissenting opinion in *Heirs of Mario Malabanan*[5] (herein referred to as the *Malabanan Opinion*), for purposes of confirmation and registration of imperfect title under Section 48 (b) of the PLA (as amended) in relation with Section 14 (1) of the PRD, the public land sought to be registered must have been classified as alienable and disposable as of the cutoff date stated in Section 48 (b)-June 12, 1945, or earlier.

Refutation of the present ponencia
within the context of *Heirs of Mario Malabanan*

It will be recalled that the majority in *Heirs of Mario Malabanan*[6] brushed aside the position taken by the Office of the Solicitor General (OSG) that for "one to acquire the right to seek registration of an alienable and disposable land of the public domain, it is not enough that the applicant and his/her predecessors-in-interest be in possession under a bona fide claim of ownership since 12 June 1945; the alienable and disposable character of the property must have been declared also as of 12 June 1945." [7]

Relying extensively on *Republic v. Court of Appeals and Naguit*, [8] the majority in *Heirs of Mario Malabanan* emphatically declared:

x x x Following the OSGs approach, all lands certified as alienable and disposable after 12 June 1945 cannot be registered either under Section 14(1) of the Property Registration Decree or Section 48(b) of the Public Land Act as amended. The absurdity of such an implication was discussed in *Naguit*.

Petitioner suggests an interpretation that the alienable and disposable character of the land should have already been established since June 12, 1945, or earlier. This is not borne out by the plain meaning of Section 14(1). Since June 12, 1945, as used in the provision, qualifies its antecedent phrase under a bonafide claim of ownership. Generally speaking, qualifying words restrict or modify only the words or phrases to which they are immediately associated, and not those distantly or remotely located. *Ad proximum antecedents fiat relation nisi impediatur sententia*.

Besides, we are mindful of the absurdity that would result if we adopt petitioners position. Absent a legislative amendment, the rule would be, adopting the OSGs view, that all lands of the public domain which were not declared alienable or disposable before June 12, 1945 would not be susceptible to original registration, no matter the length of unchallenged possession by the occupant. Such interpretation renders paragraph (1) of Section 14 virtually inoperative and even precludes the government from giving it effect even as it decides to reclassify public agricultural lands as alienable and disposable. The unreasonableness of the situation would even be aggravated considering that before June 12, 1945, the Philippines was not yet even considered an independent state.

Accordingly, the Court in *Naguit* explained:

[T]he more reasonable interpretation of Section 14(1) is that it merely requires the property sought to be registered as already alienable and disposable at the time the application for registration of title is filed. If the State, at the time the application is made, has not yet deemed it proper to release the property for alienation or disposition, the presumption is that the government is still reserving the right to utilize the property; hence, the need to preserve its ownership in the State irrespective of the length of adverse possession even if in good

faith. However, if the property has already been classified as alienable and disposable, as it is in this case, then there is already an intention on the part of the State to abdicate its exclusive prerogative over the property.

The Court declares that the correct interpretation of Section 14(1) is that which was adopted in Naguit. The contrary pronouncement in Herbieto, as pointed out in Naguit, absurdly limits the application of the provision to the point of virtual inutility since it would only cover lands actually declared alienable and disposable prior to 12 June 1945, even if the current possessor is able to establish open, continuous, exclusive and notorious possession under a bona fide claim of ownership long before that date.

Moreover, the Naguit interpretation allows more possessors under a bona fide claim of ownership to avail of judicial confirmation of their imperfect titles than what would be feasible under Herbieto. This balancing fact is significant, especially considering our forthcoming discussion on the scope and reach of Section 14(2) of the Property Registration Decree. [All emphases and underscoring supplied.]

As I maintain the same view and legal reasoning, I reiterate below the pertinent portions of my Malabanan Opinion that I invoke as basis, *mutatis mutandis*, of my position in the present case.

- Classification is a constitutionally and statutorily required step without which the land forms part of the mass of the public domain that are completely inalienable

The Constitution, under Section 2, Article XII,[9] classifies public lands into agricultural, mineral, and timber. Of these public lands, only agricultural lands can be alienated. These classifications are important and should be given full legal recognition and effect for without the requisite classification, there is no basis to determine which lands of the public domain are alienable and which are not.

In other words, classification is a constitutionally required step. As I explained in my Malabanan Opinion: "...without classification into disposable agricultural land, the land forms part of the mass of the public domain that, not being agricultural, must be mineral or timber land that are completely inalienable and as such cannot be possessed with legal effects. "

This conclusion proceeds from the settled constitutional and jural precept, otherwise known as the regalian doctrine, that all lands of the public domain as well as all natural resources enumerated therein, whether on private or public land, belong to the State. "To allow effective possession is to do violence to the regalian doctrine; the ownership and control that the doctrine denotes will be less than full if the possession that should be with the State as owner, but is elsewhere without any authority, can anyway be recognized." [10]

Classification, too, is a fundamental and indispensable requirement from the perspective of statutory law.

In my Malabanan Opinion, I pointed out that the PLA, under which grants of public lands can be claimed under its Section 48 (b), operates only on public lands already classified as alienable and disposable. A necessary implication of this legal reality is the other legal reality that prior to such classification, possession under Section 48 (b) cannot be claimed.

The reason for this position is simple: "In the absence of such classification, the land remains unclassified public land that fully belongs to the State. This is fully supported by Sections 6, 7, 8, 9, and 10 of CA 141. If the land is either mineral or timber and can never be the subject of administration and disposition, it defies legal logic to allow the possession of these unclassified lands to produce legal effect. Thus, the classification of public land as alienable and disposable is inextricably linked to effective possession that can ripen into a claim under Section

48(b) of the PLA." [11] In short, "[t]here can simply be no imperfect title to be confirmed over lands not yet classified as disposable or alienable."

- Under Article 530 of the Civil Code, only things and rights susceptible of being appropriated may be the object of possession.

Consistent with the constitutional and statutory reasons explained above, I also pointed out in my Malabanan Opinion that possession is essentially a civil law term that can best be understood in terms of the Civil Code given the absence of any specific definition in the PLA except in terms of time of possession.

In this respect, "Article 530 of the Civil Code provides that '[o]nly things and rights which are susceptible of being appropriated may be the object of possession. ' Prior to the declaration of alienability, a land of the public domain cannot be appropriated; hence, any claimed possession of public land [prior to such declaration] cannot have legal effects.'" [12]

Accordingly, whether the application for registration is filed before or after the declaration of alienability of the public land is immaterial if, in one as in the other, no effective possession can be recognized prior to the declaration of alienability.

- Under PD 1073, the intent to count the alienability to June 12, 1945, is seen in the direct, continuous, and seamless linking of the A & D lands of the public domain to June 12, 1945, under the wording of the Decree

As the majority in Heirs of Mario Malabanan assumed (based on its statutory construction reasoning and its reading of Section 48 (b) of the PLA), the ponencia in this case similarly assumes that all that the law requires is possession from June 12, 1945, and that it suffices if the land has been classified as alienable at the time of application for registration.

As I discussed in my Malabanan Opinion, the June 12, 1945 cutoff date was painstakingly set by law and should, thus, be given full significance.

On this point, PD 1073 that amended Section 48(b) categorically shows the full import of this cutoff date, as it reads:

SECTION 4. The provisions of Section 48(b) and Section 48(c), Chapter VIII of the Public Land Act are hereby amended in the sense that these provisions shall apply only to alienable and disposable lands of the public domain which have been in open, continuous, exclusive and notorious possession and occupation by the applicant himself or thru his predecessor-in-interest, under a bona fide claim of acquisition of ownership, since June 12, 1945.

Note well that while "PD 1073 did not expressly state what Section 48(b) should provide under the amendment PD 1073 introduced in terms of the exact wording of the amended Section 48(b), [13] its intent to reckon the alienability of the public land from June 12, 1945, is very clear. The provision "applies only to alienable and disposable lands of the public domain that is described in terms of the character of the possession required since June 12, 1945," i.e., open, continuous, exclusive, and notorious possession and occupation under a bona fide claim of acquisition.

In other words, I submit that the clear legislative intent is demonstrated by the direct, continuous and seamless linking of the alienable and disposable lands of the public domain to June 12, 1945, under the wording of the Decree - an intent which the Court must respect and uphold.

This position is obviously contrary to the position taken by the majority in *Heirs of Mario Malabanan* as they declared that (and I quote again) "[g]enerally speaking, qualifying words restrict or modify only the words or phrases to which they are immediately associated, and not those distantly or remotely located. *Ad proximum antecedents fiat relation nisi impediatur sententia.*"

In simpler terms, the majority in *Heirs of Mario Malabanan* theorized that the June 12, 1945 cutoff date is far removed from. the words "alienable and disposable" by the more proximate words "in open, continuous, exclusive, and notorious possession and occupation" such that the latter is the only condition qualified by the cutoff date. Thus, they hold the position that it is only the time of possession, not the declaration of alienability, which must begin as of June 12, 1945, or earlier.

What the majority in *Heirs of Mario Malabanan* apparently failed to note and mention is that the rule - that the antecedent bears relation to what follows next - applies only as long as it does not destroy the meaning of the sentence.

For the reasons I explained above, I submit that the interpretation espoused in *Heirs of Mario Malabanan* that all the law requires is possession from June 12, 1945, regardless of the declaration-of-alienability date as long as the land has been classified as alienable at the time of application for registration - in fact destroys the meaning of PD 1073 as it amends Section 48 (b) of the PLA.

PD 1073 reads in a continuous, uninterrupted flow from the classification of the land - as alienable and disposable - to the character of the possession of this land (classified as alienable and disposable) as open, continuous, exclusive and notorious possession and occupation by the applicant himself or thru his predecessor-in-interest -that begins as of June 12, 1945.

In other words, the June 12, 1945 cutoff date modifies not only the more immediate words that it follows, i.e., the open, continuous, etc. character of possession that I described above, but also the classification of the land which must be alienable and disposable.

- The use of June 12, 1945 as cutoff date for the declaration of alienability will not render the grant of alienable lands out of reach as it may still be obtained by other modes under the PLA, i.e., free patents under Republic Act No. 6940, and homestead settlement and sales under Section II of the PLA.

I reiterate, as well, that "the use of June 12, 1945, as cutoff date for the declaration of alienability will not render the grant of alienable public lands out of reach."

Contrary to what the majority ominously portrayed in *Heirs of Mario Malabanan*, the acquisition of ownership and title may, in fact, still be obtained by other modes under the PLA.

Among other laws, RA No. 6940[14] allows the issuance of free patents for lands not in excess of twelve (12) hectares to any natural-born citizen of the Philippines who is not the owner of more than 12 hectares and who, for at least thirty (30) years prior to effectivity of the amendatory act, has continuously occupied and cultivated, either

by himself or through his predecessors-in-interest, a tract or tracts of agricultural public lands subject to disposition.[15] "RA No. 6940 was approved on March 28, 1990; thus, counting 30 years backwards, possession since April 1960 or thereabouts may qualify a possessor to apply for a free patent." Additionally, the administrative modes under Section 11 of the PLA, particularly, homestead settlement and sales are available for acquisition of ownership and title.

- The ponencia's interpretation of the June 12, 1945 reckoning period, as it echoes Heirs of Mario Malabanan, goes beyond the plain wording of Section 48 (b), as amended by PD 1073

By following Heirs of Mario Malabanan, the ponencia effectively (and similarly) acts beyond the limits of the constitutionally mandated separation of powers as it gives Section 48 (b), as amended by PD 1073, an interpretation beyond its plain wording. As I pointedly declared in my Malabanan Opinion, "[e]ven this Court cannot read into the law an intent that is not there even [if the] purpose is to avoid an absurd situation. If we feel that a law already has absurd effects because of the passage of time, our role under the principle of separation of powers is not to give the law an interpretation that is not there in order to avoid the perceived absurdity." [16]

By unquestioningly adopting Heirs of Mario Malabanan, the ponencia effectively dips into the realm of policy determination and policy formulation - a role which the Constitution specifically delegated to the Legislature. If only for this reason, the Court should avoid expanding - through Naguit, Heirs of Mario Malabanan, and the present ponencia- the plain meaning of Section 48(b) of the PLA, as amended by PD 1073.

I maintain in this respect that that there is more to Republic v. Herbieto[17] than the Naguit ruling that the majority in Heirs of Mario Malabanan passed off as the established and definitive rule on possession under Section 14 (1) PRD.

In sum, I vote to deny the petition, subject to the above objections on the reckoning period for the classification, as alienable and disposable, of lands of the public domain.

[1] "Amending and Codifying the Laws Relative to Registration of Property and For Other Purposes," approved on June 11, 1978.

[2] "The Public Land Act," approved on November 7, 1936.

[3] "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.

[4] 605 Phil. 244 (2009).

[5] Id. at 300-326.

[6] Id. at 244.

[7] Id. at 268.

[8] GR No. 144507, January 17, 2005, 442 SCRA 445.

[9] Section 2 of Article XII reads in full:

SECTION 2. All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all

forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant.

The State shall protect the nation's marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.

The Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming, with priority to subsistence fishermen and fishworkers in rivers, lakes, bays, and lagoons.

The President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country. In such agreements, the State shall promote the development and use of local scientific and technical resources.

The President shall notify the Congress of every contract entered into in accordance with this provision, within thirty days from its execution.

[10] 605 Phil. 244, 315 (2009).

[11] *Id.* at 315-316.

Sections 6 to 10 of CA No. 141 provides:

SECTION 6. The President, upon the recommendation of the Secretary of Agriculture and Commerce, shall from time to time classify the 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.

SECTION 7. For the purposes of the administration and disposition of alienable or disposable public lands, the President, upon recommendation by the Secretary of Agriculture and Commerce, shall from time to time declare what lands are open to disposition or concession under this Act.

SECTION 8. Only those lands shall be declared open to disposition or concession which have been officially delimited and classified and, when practicable, surveyed, and which have not been reserved for public or quasi-public uses, nor appropriated by the Government, nor in any manner become private property, nor those on which a private right authorized and recognized by this Act or any other valid law may be claimed, or which, having been reserved or appropriated, have ceased to be so. However, the President may, for reasons of public interest, declare lands of the public domain open to disposition before the same have had their boundaries

established or been surveyed, or may, for the same reason, 'suspend their concession or disposition until they are again declared open to concession or disposition by proclamation duly published or by Act of the National Assembly.

SECTION 9. For the purpose of their administration and disposition, the lands of the public domain alienable or open to disposition shall be classified, according to the use or purposes to which such lands are destined, as follows:

- (a) Agricultural;
- (b) Residential, commercial, industrial, or for similar productive purposes;
- (c) Educational, charitable, or other similar purposes;
- (d) Reservations for town sites and for public and quasi public uses.

The President, upon recommendation by the Secretary of Agriculture and Commerce, shall from time to time make the classifications provided for in this section, and may, at any time and in a similar manner, transfer lands from one class to another.

SECTION 10. The words "alienation," "disposition," or "concession" as used in this Act, shall mean any of the methods authorized by this Act for the acquisition, lease, use, or benefit of the lands of the public domain other than timber or mineral lands.

[12] 605 Phil. 244, 316 (2009).

[13] Id. at 317.

[14] "An Act Granting A Period ending on December 31, 2000, for Filing Applications for Free Patent and Judicial Confirmation of Imperfect Title to Alienable and Disposable Lands of the Public Domain under Chapters VII and VIII of the Public Land Act, as amended," enacted on March 28, 1990.

[15] Note also that under RA No. 6940, the Congress recently extended the period for filing applications for judicial confirmation of imperfect and incomplete titles to alienable and disposable lands of the public domain under RA No. 9176 from December 31, 2000 to December 31, 2020.

[16] 605 Phil. 244, 318 (2009).

[17] GR No. 156117, May 26, 2005, 459 SCRA 183.

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