

PEDRO DE LEON, PETITIONER, VS. NENITA DE LEON-REYES, JESUS REYES, MYETH REYES AND JENNETH REYES, RESPONDENTS.

G.R. No. 205711. May 30, 2016

Ponente: BRION, J.

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BRION, J.:

This is a petition for review on certiorari filed by Pedro de Leon from the May 31, 2012 decision[1] and January 16, 2013 resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 90307.[3] The CA reversed the Regional Trial Court's (RTC) finding of laches in Civil Case Nos. 02-08 and 02-20.[4]

Antecedents

Petitioner Pedro de Leon (Pedro) and respondent Nenita de Leon-Reyes (Nenita) are the legitimate children of Alejandro de Leon (Alejandro).

Nenita is married to respondent Jesus Reyes with whom she has two children: respondents Myeth and Jenneth, both surnamed Reyes.

During his lifetime, Alejandro possessed two parcels of public land (subject lots) in Brgy. Burgos, San Jose, Tarlac. The lots, designated as Lot No. 6952 and Lot No. 6521, have a combined area of 171,939 square meters.

Sometime between 1995 and 1996, the government granted free patents covering the subject lots in favor of Nenita and her family. Consequently, the Register of Deeds issued the following Original Certificates of Title (OCT):

- OCT No. 16757[5] covering Lot No. 6521 (39,270 square meters) issued on July 13, 1995, in the name of Nenita de Leon-Reyes;
- OCT No. 17580[6] covering Lot No. 6952-G (32,934 square meters) issued on March 8, 1996, in the name of Nenita de Leon-Reyes;
- OCT No. 17581[7] covering Lot No. 6952-A (14,098 square meters) issued on March 8, 1996, in the name of Myeth L. Reyes; and
- OCT No. 17582[8] covering Lot No. 6952-B (10,000 square meters) issued on March 8, 1996, in the name of Jenneth Reyes.

Sometime after the issuance of the titles, Pedro filed a Protest with the Department of Environment and Natural Resources (DENR) on the grounds of fraud and misrepresentation of facts in the acquisition of title.[9]

In a complaint dated May 22, 1997, Nenita's family filed an unlawful detainer case against Pedro before the 1st Municipal Circuit Trial Court (MCTC), Sta. Ignacia, Tarlac. The complaint was docketed as Civil Case No. 319-SJ (97).

On May 19, 1998, the MCTC dismissed the ejectment case without prejudice due to the pendency of Pedro's protest before the Bureau of Lands/DENR.[10]

Nenita's family appealed the dismissal to the Regional Trial Court, Branch 68, Camiling, Tarlac, where it was docketed as Civil Case No. 98-33.

On July 21, 1999, the RTC affirmed the MCTC's dismissal of the complaint without prejudice to the filing of the proper action with the proper forum.[11]

Soon after, the DENR dismissed Pedro's Protest after finding that Nenita (and her family) had met all the requisites for a public land grant.[12] The DENR upheld the validity of the grant of patents to Nenita's family.[13] Pedro did not appeal the DENR's dismissal of his protest.[14]

On February 5, 2002, Nenita and her family filed a complaint against Pedro for Recovery of Possession and Damages. The case was docketed as Civil Case No. 02-08.

On April 16, 2002, Pedro likewise filed a complaint against Nenita's family for Reconveyance of Title and Damages. His complaint was docketed as Civil Case No. 02-20.

Nenita claimed that Alejandro transferred his possessory rights over the property to her in a document dated May 5, 1970.[15] The document became the basis for her free patent application with the DENR. She also denied that any fraud or wrongdoing attended her application and invoked the DENR's dismissal of Pedro's protest for his failure to rebut the presumption of regularity in the issuance of the patent.[16]

Pedro claimed that Alejandro transferred possession over the subject lots to him in 1971 and that he had been in possession of it ever since.[17] He claimed that he asked Nenita for assistance to cause the titling of the properties in his name but the latter took advantage of his lack of education and fraudulently acquired a free patent in her name instead. Pedro further contested the May 5, 1970 Transfer of Rights in favor of Nenita as a forgery.[18]

The RTC consolidated and jointly heard the two cases. After the presentation of testimonial evidence, Pedro was given several opportunities to make a Formal Offer of his documentary evidence. However, he failed to do so and the consolidated case was submitted for decision without his documentary evidence.[19]

Ruling of the RTC

The RTC divided the issues in two: first, whether the Transfer of Rights and the subsequent grant of free patents to Nenita's family were valid; and second, whether Nenita's family were entitled to possession of the subject lots.

On the first issue, the court found the transfer of rights, as well as the subsequent issuance of free patents, valid. Pedro, the RTC reasoned, failed to adduce sufficient evidence to invalidate the deed of transfer and the issuance of the patents. The RTC added that there were no clear and convincing evidence to substantiate his allegations of forgery; in fact, Pedro did not even make a formal offer of his documentary evidence.[20]

However, on the second issue, the RTC held that Nenita's family was no longer entitled to recover possession of the subject lots due to the principle of laches. It held that Nenita failed to raise a restraining arm against Pedro's introduction of several improvements on the subject lots, such as the construction of his house, the planting of several fruit-bearing and several teak trees, and his sole appropriation of the entirety of the harvests; Nenita's inaction for over 32 years (since the execution of the Transfer of Rights); and her undeniable knowledge of Pedro's adverse possession extinguished her right to recover the properties due to her own inexcusable negligence.[21]

The RTC then declared Nenita and her family's titles as null and void and ordered them to pay Pedro damages.

Ruling of the CA

On May 31, 2012, the CA reversed the RTC's ruling, validated the OCTs in the name of Nenita's family, and ordered Pedro to surrender possession of the subject lot.

As the RTC did, the CA validated Nenita's ownership of the disputed lots. The CA found that despite Pedro's denomination of his complaint as one for "Reconveyance of Titles and Damages," it was, in fact, one for reversion which he had no legal personality to file. The CA reasoned that Pedro's failure to allege that the subject lots were private lands, or even just alienable and disposable lands of the public domain, and his admission of State ownership over the subject lots were fatal to his complaint for reconveyance.[22]

Citing *Banguilan v. Court of Appeals*,[23] the CA explained that when the complaint admits State ownership of the land or admits it to be public land, then the case is one for reversion, not reconveyance.[24] If the grantees' patents were cancelled, as Pedro prayed for, the result would have been the return of ownership over the lots to the State, not to a contending claimant like Pedro who had no legal interest over them.

The CA emphasized that Pedro failed to prove, or even allege, the private or alienable character of the subject lots. Thus, he had no personality to ask for their reconveyance because that right belongs to the State, the previous owner of the subject lots.

The CA further pointed out that Pedro failed to appeal the DENR's dismissal of his Protest case against the grant of the patents to Nenita's family.[25] Thus, the DENR's findings that (1) the free patents and OCTs granted to Nenita's family were valid and that (2) Pedro and his family already owned a total of 30 hectares of land - and therefore, no longer entitled to a grant of any more alienable and disposable public lands - had attained finality.

On the issue of laches, the CA held that the length of time between the formal grant of the patents and the issuance of the OCTs in 1995-1996, and the filing of the complaint for Recovery of Possession in 2002 was insufficient to constitute laches. As Nenita alleged in her complaint in Civil Case No. 02-08, Pedro's occupation of a portion of the properties was out of mere tolerance, without any contract and without paying any rentals; her generosity to her estranged brother should not be used against her.[26]

Pedro moved for reconsideration but the CA denied the motion on January 16, 2013. The denial paved the way for the present petition.

The Parties' Arguments

Pedro insists that he is the rightful owner of the property. He argues that the CA erred in not finding the existence of fraud and/or forgery and that a title emanating from a fraudulently secured free patent does not become indefeasible.

Citing *Lorzano v. Tabayag*,[27] Pedro concedes that a fraudulently secured patent can only be assailed by the government in an action for reversion, but emphasizes that direct reconveyance is available when public land was fraudulently and in breach of trust titled in the name of the defendant. Reconveyance exists as an enforcement of a constructive trust.[28]

Moreover, Pedro claims that as of the date of the grant of the free patent to Nenita's family, the properties had already ceased to be part of the public domain on account of his continued occupation and possession for the period required by law. Thus, the lots were beyond the DENR's jurisdiction to dispose of.[29]

He also argues that the MCTC's dismissal of the ejectment case [Civil Case No. 319-SJ (97)][30] that Nenita filed against him in 1997, which was subsequently affirmed by the RTC in Civil Case No. 98-33, conclusively proves

that he had possessed the subject lots since 1971.

Nenita counters that: (1) Pedro raises questions of fact that are improper in a petition for review on certiorari; (2) despite the denomination of Pedro's original complaint before the RTC, it was, in fact, an action for reversion; (3) as established during the trial, Pedro had already received 211,846 square meters of property as his share in the inheritance of their father; and (4) the subject lots were her rightful share from the estate of their father.

Our Ruling

We DENY the petition for lack of merit.

First, we emphasize that this Court is not a trier of facts. An appeal by certiorari to this Court under Rule 45 of the Rules of Court is limited to questions of law. Save for a few judicially carved exceptions,[31] this Court will not disturb the factual findings of trial courts.

Pedro unjustifiably faults the CA for not finding the existence of fraud and forgery. However, the RTC already passed upon this question and found no basis to conclude that the grant of the patent to Nenita was accompanied by fraud or forgery.

Other than his self-serving testimony, Pedro failed to substantiate his allegation of forgery with clear and convincing evidence. Pedro has nobody to blame but himself for his failure to formally offer any documentary evidence that could have supported his claim.[32]

As the rules clearly state, courts will not consider evidence unless it has been formally offered.[33] A litigant's failure to make a formal offer of evidence within a considerable period of time is considered a waiver of its submission; evidence that has not been offered shall be excluded and rejected.

Notably, both the RTC and the CA agree that Nenita with her family are the true owners of the subject lots and that the free patents and the OCTs issued to them are valid. We find no reason to revisit this factual finding of the lower courts.

Second, Pedro's contention that the judgment in the ejectment case conclusively proves his prior possession since 1971 - and therefore proves fraud - is unwarranted.

The dispositive portion of the MCTC's decision reads:

WHEREFORE, in the meantime that the Protest is pending with the Bureau of Land[s], this case is dismissed without prejudice.

The Counterclaims are likewise dismissed.

SO ORDERED, (emphasis supplied)

While the fallo of the RTC's decision reads:

WHEREFORE, in view of the foregoing, the Decision appealed [sic] from is hereby AFFIRMED and this case be [sic] DISMISSED without prejudice to the filing of the proper action in a proper forum.

SO ORDERED, [emphases supplied, underscoring retained]

As Pedro himself admits, the MCTC's dismissal of Nenita's ejectment case was based on the pendency of his protest before the Bureau of Lands. While the Courts may appear to have passed upon the issue of prior physical possession, the fallo clearly shows that the dismissal was not made based on the merits of the case. When a conflict exists between the dispositive portion (or the fallo) and the opinion of the court in the body of the decision, the former must prevail.[34]

Ultimately, the MCTC's dismissal cannot produce the effect of conclusiveness of judgment. In *Spouses Antonio v. Sayman*[35] we clearly explained the concept of *res judicata* by conclusiveness of judgment.

The principle of *res judicata* is applicable by way of (1) "bar by prior judgment" and (2) "conclusiveness of judgment." This Court had occasion to explain the difference between these two aspects of *res judicata* as follows:

There is "bar by prior judgment" when, as between the first case where the judgment was rendered and the second case that is sought to be barred, there is identity of parties, subject matter, and causes of action. In this instance, the judgment in the first case constitutes an absolute bar to the second action. Otherwise put, the judgment or decree of the court of competent jurisdiction on the merits concludes the litigation between the parties, as well as their privies, and constitutes a bar to a new action or suit involving the same cause of action before the same or other tribunal.

But where there is identity of parties in the first and second cases, but no identity of causes of action, the first judgment is conclusive only as to those matters actually and directly controverted and determined and not as to matters merely involved therein. This is the concept of *res judicata* known as "conclusiveness of judgment." Stated differently, any right, fact or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies whether or not the claim, demand, purpose, or subject matter of the two actions is the same.

Stated differently, conclusiveness of judgment finds application when a fact or question has been squarely put in issue, judicially passed upon, and adjudged in a former suit by a court of competent jurisdiction. The fact or question settled by final judgment or order binds the parties to that action (and persons in privity [sic] with them or their successors-in-interest), and continues to bind them while the judgment or order remains standing and unreversed by proper authority on a timely motion or petition; the conclusively settled fact or question cannot again be litigated in any future or other action between the same parties or their privies and successors-in-interest, in the same or in any other court of concurrent jurisdiction, either for the same or for a different cause of action. Thus, only the identities of parties and issues are required for the operation of the principle of conclusiveness of judgment, [emphases supplied]

Evidently, the MCTC's dismissal of Nenita's ejectment complaint, as affirmed by the RTC, produced no such effect because the dismissal was not on the merits and was without prejudice to the re-filing of the case. Any pronouncements made with respect to the issue of possession were merely obiter dicta.

Third, the public character of the subject lands precludes the RTC from resolving the conflicting claims of "ownership" between Pedro and Nenita.

Under Section 11 of the Public Land Act (PLA),[36] there are two modes of disposing public lands through confirmation of imperfect or incomplete titles: (1) by judicial confirmation; and (2) by administrative legalization, otherwise known as the grant of free patents.[37]

The substantive provisions governing the first mode are found in Chapter VIII (Sections 47-57) of the PLA while its procedural aspect is governed by Chapter III (Sections 14-38) of the Property Registration Decree.[38]

Section 48 of the PLA particularly specifies who are entitled to judicial confirmation or completion of imperfect titles:

(b) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and, occupation of agricultural lands of the public domain, under a bona fide claim of acquisition or ownership, since June 12, 1945, immediately preceding the filing of the application for confirmation of title, except when prevented by war or force majeure. Those 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.[39] [emphasis supplied]

Upon compliance with the conditions of Sec. 48 (b) of the PLA, the possessor is deemed to have acquired, by operation of law, right to a grant over the land. For all legal intents and purposes, the land is segregated from the public domain, because the beneficiary is conclusively presumed to have performed all the conditions essential to a Government grant.[40] The land becomes private in character and is now beyond the authority of the director of lands to dispose of.[41]

At that point, original registration of the title, via judicial proceedings, takes place as a matter of course; the registration court does not grant the applicant title over the property but merely recognizes the applicant's existing title which had already vested upon the applicant's compliance with the requirement of open, continuous, exclusive, and notorious possession and occupation of the land since June 12, 1945.

On the other hand, Chapter VII (Sections 44-46) of the PLA substantively governs administrative legalization through the grant of free patents. Section 44 particularly identifies who are entitled to a grant of a free patent:

Sec. 44. Any natural-born citizen of the Philippines who is not the owner of more than twelve (12) hectares and who, for at least thirty (30) years prior to the effectivity of this 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, who shall have paid the real estate tax thereon while the same has not been occupied by any person shall be entitled, under the provisions of this Chapter, to have a free patent issued to him for such tract or tracts of such land not to exceed twelve (12) hectares x x x. [42] [emphasis supplied]

Unlike an applicant in judicial confirmation of title who claims ownership over the land, the applicant for a free patent recognizes that the land applied for belongs to the government. A patent, by its very definition, is a governmental grant of a right, a privilege, or authority.[43] A free patent, like the one issued to Nenita, is an instrument by which the government conveys a grant of public land to a private person.[44]

Pursuant to the Administrative Code[45] and the PLA,[46] the DENR has exclusive jurisdiction over the management and disposition of public lands. In the exercise of this jurisdiction, the DENR has the power to resolve conflicting claims over public lands and determine an applicant's entitlement to the grant of a free patent.[47]

Unless it can be shown that the land subject of a free patent had previously acquired a private character, regular courts would have no power to conclusively resolve conflicting claims of ownership or possession de jure owing to the public character of the land.[48] The Director of Lands (ultimately, the DENR Secretary), not the court, has jurisdiction to determine, as between two or more applicants for a free patent, who has satisfactorily met the requirements of the law for the issuance of a free patent.[49] The court has no jurisdiction over that matter.

In this case, Pedro failed to prove that the subject land had attained a private character; as the CA observed, Pedro's complaint in Civil Case No. 02-20 failed to even allege that the subject lands were private lands or alienable and disposable lands of the public domain.[50] What Pedro alleged was that the subject lands were public land which he had possessed since 1971, "thereby (he) had acquired a right to a grant, a government grant, without the formality of application for confirmation of title thereto"[51]

Under the PLA, for public land to attain a private character by operation of law, the applicant must have openly, continuously, exclusively, and notoriously possessed and occupied alienable agricultural land of the public domain, in the concept of an owner, since June 12, 1945.[52] Pedro's failure to prove the private character of the subject lands divests the regular courts of jurisdiction to resolve his claim of ownership thereon. The courts may not usurp the authority of the Director of Lands and of the DENR to dispose of lands of the public domain

through administrative proceedings under the PLA.[53]

Pedro had the opportunity to assert his claim over the subject lands before the DENR when he filed his Protest. However, he did not appeal the dismissal of his claim. The PLA[54] and the doctrine of primary jurisdiction render the DENR's factual findings conclusive on the courts in the absence of grave abuse of discretion; the doctrine of res judicata bars Pedro from re-litigating his claim before a different tribunal.

Fourth, the remedy of reconveyance is only available to a landowner whose private property was erroneously or fraudulently registered in the name of another. It is not available when the subject property is public land because a private person, who is evidently not the landowner, would have no right to recover the property. It would simply revert to the public domain.

Thus, reconveyance cannot be resorted to by a rival applicant to question the State's grant of a free patent.[55] The exception to this rule is when a free patent was issued over private lands that are beyond the jurisdiction of the Director of Lands/DENR to dispose of.[56]

Lastly, we agree with the CA that Nenita's right to recover possession of the property had not been barred by laches. As the registered owners of the subject properties, Nenita and her family have the imprescriptible right to recover possession thereof from any person illegally occupying it.

As we held in *Spouses Ocampo v. Heirs of Dionisio*,[57] prescription and laches cannot apply to land registered under the Torrens system.[58] No title to registered land, in derogation of that of the registered owner, shall be acquired by prescription or adverse possession.[59]

WHEREFORE, in the light of these considerations, we hereby DENY the petition for lack of merit. Accordingly, we AFFIRM the May 31, 2012 decision and the January 16, 2013 resolution of the Court of Appeals in CA-G.R. CV No. 90307.

SO ORDERED.

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

[1] Rollo, p. 38.

[2] Id. at 62.

[3] Both penned by Associate Justice Rebecca de Guia-Salvador and concurred in by Associate Justices Normandie B. Pizarro and Rodil V. Zalameda.

[4] RTC, Camiling, Tarlac, Branch 68, through Presiding Judge Jose S. Vallo; rollo, pp. 90-100.

[5] Rollo, p. 63.

[6] Id. at 70.

[7] Id. at 72.

[8] Id. at 74.

[9] Id. at 43.

[10] Id. at 78.

[11] Id. at 84.

[12] Id at 48.

[13] Id. at 43.

[14] Id. at 57.

[15] Id at 45.

[16] Id at 43, 93.

[17] Id at 41.

[18] Id. at 47

[19] Id at 50.

[20] Id. at 98.

[21] Id. at 99.

[22] Id. at 54.

[23] 550 Phil. 739 (2007).

[24] Rollo, pp. 54-55.

[25] Id. at 57.

[26] Id. at 59.

[27] 681 Phil. 39(2012).

[28] Rollo, pp. 20-25.

[29] Id. at 17.

[30] Id. at 76.

[31] (1) When the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made 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 facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of 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 respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

[32] Rollo, p. 50.

[33] Rule 132, Sec. 34, Rules of Court.

[34] 697 Phil. 619, 630(2012).

[35] 646 Phil. 90, 99-100(2010).

[36] Commonwealth Act No. 141 [PUBLIC Land Act] (1936), as amended.

[37] Sec. 11. Public lands suitable for agricultural purposes can be disposed of only as follows:

1. For homestead settlement;
2. By sale;
3. By lease; and
4. By confirmation of imperfect or incomplete titles:
 - (a) By judicial legalization
 - (b) By administrative legalization (free patent), [emphases supplied]

[38] Presidential Decree No. 1529 (1978).

[39] Sec. 44, PUBLIC LAND ACT, as amended by P.D. 1073 (1977).

[40] *Martinez v. Court of Appeals*, 566 Phil. 590, 600 (2008).

[41] *Id.*

[42] Sec. 44, PUBLIC LAND Act, as amended by Republic Act No. 6940 (1990).

[43] *Black's Law Dictionary* (8[th] ed. 2004), p. 3554.

[44] *Id.* at 3555.

[45] Book IV, Title XIV, Chap. 1, Sec. 4, Executive Order No. 292 [Administrative Code] (1987):

Section 4. Powers and Functions. - The Department of Environment and Natural Resources shall:

(4) Exercise supervision and control over forest lands, alienable and disposable public lands, mineral resources and, in the process of exercising such control, impose appropriate taxes, fees, charges, rentals and any such form of levy and collect such revenues for the exploration, development, utilization or gathering of such resources; x xx

(15) Exercise exclusive jurisdiction on the management and disposition of all lands of the public domain and serve as the sole agency responsible for classification, sub-classification, surveying and titling of lands in consultation with appropriate agencies[.] (Underscoring supplied.

[46] PUBLIC LAND ACT. as amended:

Section 3. The Secretary of [Environment and Natural Resources] shall be the executive officer charged with carrying out the provisions of this Act through the Director of Lands, who shall act under his immediate control.

[47] *Bagunu v. Sps. Aggabao*, 671 Phil. 183, 196-198 (2011).

[48] *Id.* at 199-200.

[49] *Maximo v. CFI of Capiz*, 261 Phil. 534, 539 (1990).

[50] *Rollo*, p. 54.

[51] *Id.*

[52] In *Heirs of Malaban v. Republic*, G.R. No. 179987, September 3, 2013, 704 SCRA 561, the majority of the Court ruled:

- (1) In connection with Section 14(1) of the Property Registration Decree, Section 48(b) of the Public Land Act

recognizes and confirms that "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 of ownership, since June 12, 1945" have acquired ownership of, and registrable title to, such lands based on the length and quality of their possession.

(a) Since Section 48(b) merely requires possession since 12 June 1945 and does not require that the lands should have been alienable and disposable during the entire period of possession, the possessor is entitled to secure judicial confirmation of his title thereto as soon as it is declared alienable and disposable, subject to the timeframe imposed by Section 47 of the Public Land Act.

(b) The right to register granted under Section 48(b) of the Public Land Act is further confirmed by Section 14 (1) of the Property Registration Decree.

(2) In complying with Section 14(2) of the Property Registration Decree, consider that under the Civil Code, prescription is recognized as a mode of acquiring ownership of patrimonial property. However, public domain lands become only patrimonial property not only with a declaration that these are alienable or disposable. There must also be an express government manifestation that the property is already patrimonial or no longer retained for public service or the development of national wealth, under Article 422 of the Civil Code. And only when the property has become patrimonial can the prescriptive period for the acquisition of property of the public dominion begin to run.

(a) Patrimonial property is private property of the government. The person acquires ownership of patrimonial property by prescription under the Civil Code is entitled to secure registration thereof under Section 14(2) of the Property Registration Decree.

(b) There are two kinds of prescription by which patrimonial property may be acquired, one ordinary and other extraordinary. Under ordinary acquisitive prescription, a person acquires ownership of a patrimonial property through possession for at least ten (10) years, in good faith and with just title. Under extraordinary acquisitive prescription, a person's uninterrupted adverse possession of patrimonial property for at least thirty (30) years, regardless of good faith or just title, ripens into ownership.

[emphasis supplied]

In his Concurring and Dissenting Opinion, J. Brion, on the other hand, discussed:

The ponencia assumes, based on its statutory construction reasoning and its reading of Section 48(b) of the PLA, 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 heretofore discussed, this cut-off date was painstakingly set by law and should be given full significance. Under its formulation, it appears clear that 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). But under the PD 1073 formulation, the intent to count the alienability to June 12, 1945 appears 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. This intent seen in 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 is clear and should be respected.

XXXX

To summarize, I submit in this Concurring and Dissenting Opinion that:

1. The hierarchy of laws on public domain must be given full application in considering lands of the public domain. Top consideration should be accorded to the Philippine Constitution, particularly its Article XII, followed by the consideration of applicable special laws the PLA and the PRD, insofar as this Decree applies to lands of the

public domain. The Civil Code and other general laws apply to the extent expressly called for by the primary laws or to supply any of the latter's deficiencies.

2. The ruling in this ponencia and in *Naguit* that the classification of public lands as alienable and disposable does not need to date back to June 12, 1945 at the latest, is wrong because:

a. Under the Constitution's regalian doctrine, classification is a required step whose full import should be given full effect and recognition; giving legal effect to possession prior to classification runs counter to the regalian doctrine.

b. The Public Land Act applies only from the time a public land is classified as alienable and disposable; thus, Section 48(b) of this law and the possession it requires cannot be recognized prior to any classification.

c. Under the Civil Code, [O]nly things and rights which are susceptible of being appropriated may be the object of possession. Prior to the classification of a public land as alienable and disposable, a land of the public domain cannot be appropriated; hence, any claimed possession cannot have legal effects.

d. There are other modes of acquiring alienable and disposable lands of the public domain under the Public Land Act; this legal reality renders the ponencia's absurdity argument misplaced.

e. The alleged absurdity of the law addresses the wisdom of the law and is a matter for the Legislature, not for this Court, to address.

Consequently, *Naguit* must be abandoned and rejected for being based on legally-flawed premises and for being an aberration in land registration jurisprudence. At the very least, the present ponencia cannot be viewed as an authority on the effective possession prior to classification since this ruling, by the ponencia's own admission, is not necessary for the resolution of the present case, [emphasis supplied]

[53] *Maximo v. CFI of Capiz*, supra note 49, at 539.

[54] Public LAND Act, Section 4. Subject to said control, the Director of Lands shall have direct executive control of the survey, classification, lease, sale or any other form of concession or disposition and management of the lands of the public domain, and his decisions as to questions of fact shall be conclusive when approved by the Secretary of Environment and Natural Resources.

[55] *Maximo v. CFI of Capiz*, supra note 49, at 540;

[56] See the cases of *Hortizuela v. Tagufa*, G.R. No. 205867, February 23, 2015 and *Lorzano v. Tabayag*, supra note 27.

[57] G.R. No. 191101, October 1, 2014, 737 SCRA 381.

[58] *Id.* at 381, 394.

[59] Section 47, P.D. 1529.

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