

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. SPOUSES GUILLERMO ALONSO AND INOCENCIA BRITANICO-ALONSO, RESPONDENTS.

G.R. No. 210738. August 14, 2019

Ponente: REYES, J. JR., J.

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REYES, J. JR., J.:

This is a Petition for Review on Certiorari filed by the Republic of the Philippines (Republic), represented by the Office of the Solicitor General (OSG) assailing the Decision[1] dated May 31, 2013, and Resolution[2] dated December 12, 2013, of the Court of Appeals-Cebu City (CA) in CA-G.R. CV No. 03510 which ordered the registration of Lot 2209, Cad. 24, Iloilo Cadastre, AP-06-005399.

The Relevant Antecedents

A petition for registration of Lot 2209 (subject land), Cad. 24, Iloilo Cadastre, AP-06-005399, situated in Poblacion, Oton, Iloilo, with an area of approximately 724 square meters, was filed by spouses Guillermo Alonso and Inocencia Britanico-Alonso (spouses Alonso).[3]

In their petition, spouses Alonso claimed that the subject land being an alienable and disposable land of public domain, was previously owned and possessed by spouses Rafael C. Montalvo and Manuel a Garnica (spouses Montalvo) way back in 1945. After the latter's death, their heirs executed an Extradjudicial Settlement Among Heirs with Waiver of Hereditary Shares[4] and sold the subject land in their favor evidenced by a Deed of Sale[5] dated January 27, 1998. As such, spouses Alonso asserted that tacking their possession with that of their predecessors-in-interest, they have been in open, continuous, exclusive, and notorious possession of the subject land under a bona fide claim of ownership since time immemorial, thereby warranting the registration of the property in their names.[6]

In an Order[7] dated December 29, 2009, the Regional Trial Court of Iloilo City, Branch 22 (RTC), dismissed the petition. The RTC ruled that spouses Alonso failed to prove that their and their predecessors-in-interest's possession has been open, continuous, exclusive, and notorious since time immemorial or earlier than 1945, thus:

All told, the instant petition for registration is hereby dismissed for failure of the petitioners to substantiate their claim by preponderance of evidence.

SO ORDERED.

Aggrieved, spouses Alonso filed a Motion for Reconsideration, which was denied in an Order[8] dated April 26, 2010.

Spouses Alonso elevated the matter before the CA via appeal. In sum, they insisted that their and their predecessors-in-interest's possession of the subject lot since time immemorial has been proven.[9]

Disputing the allegations of spouses Alonso, the Republic, through the OSG, countered that spouses Alonso's bare

assertion of their ownership over the property does not suffice as it was not proven that they exercised acts of possession over the same.[10]

In the assailed Decision[11] dated May 31, 2013, the CA granted the appeal and approved the registration of the subject land. The CA found that the open, continuous, exclusive, and notorious possession requirement was met for the registration of the subject land, thus:

WHEREFORE, premises considered, the appeal is GRANTED. The assailed Order dated 29 December 2009 of the Regional Trial Court, Branch 22, Iloilo City, in Cadastral Case No. 19 is REVERSED and SET ASIDE. A new judgment is hereby rendered granting and approving the registration of Lot 2209, Cad. 24, Iloilo Cadastre, AP-06-005399, situated in Poblacion, Oton, Iloilo, in the names of spouses Guillermo Alonso and Inocencia Britanico-Alonso. Upon finality of this decision, let a corresponding decree of registration be issued in petitioners-appellants' favor.

SO ORDERED.[12]

Similarly, the Resolution[13] dated December 12, 2013, denied the assertions of the Republic in their Motion for Reconsideration.

Seeking recourse to this Court, the Republic, through the OSG, filed this instant petition, contending that aside from their failure to prove the possession requirement, spouses Alonso likewise failed to prove that the subject land is alienable and disposable.[14]

The Issue

Whether or not the registration of the subject land is proper.

The Court's Ruling

Presidential Decree No. 1529[15] explicitly provides for the requirements in an application for registration of land, to wit:

Section 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:

(1) 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. (Emphasis supplied)

(2) Those who have acquired ownership of private lands by prescription under the provision of existing laws.

(3) Those who have acquired ownership of private lands or abandoned river beds by right of accession or accretion under the existing laws.

(4) Those who have acquired ownership of land in any other manner provided for by law.

Under Section 14 (1), it is necessary that: (a) the land or property forms part of the alienable and disposable lands of the public domain; (b) the applicant and his predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the same; and (c) it is under a bona fide claim of ownership since June 12, 1945, or earlier.[16]

Anent the first element, jurisprudence is replete with cases which emphasize that a positive act of the Executive Department, specifically certifications from the Community Environment and Natural Resources (CENRO) or Provincial Environment and Natural Resources Office (PENRO), and the Department of Environment and Natural Resources (DENR) Secretary, is indispensable for the determination of the nature of land as alienable and

disposable, to wit:

To prove that the property subject of an application for original registration is part of the alienable and disposable lands of the public domain, applicants must identify a positive act of the government, such as an official proclamation, declassifying inalienable public land into disposable land for agricultural or other purposes. To sufficiently establish this positive act, they must submit (1) a certification from the CENRO or the Provincial Environment and Natural Resources Office (PENRO); and (2) 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.[17] (Citations omitted)

The import of the concurrence of these requirements was belabored in the case of *Republic of the Philippines v. Spouses Go*,[18] citing, *Republic of the Philippines v. T.A.N. Properties, Inc.*,[19] to wit:

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.

In this case, it must be noted that the RTC and the CA did not exhaustively discuss whether the subject property is classified as alienable and disposable as the focal point of their rulings was the determination of spouses Alonso's compliance with the occupation and possession requirement.

On this note, this Court accentuates that in an application for registration, the foremost consideration is the nature and classification of the land in question. This is based on the presumption that all lands of the public domain belong to the State or the Regalian doctrine. Thus, without the determination of which, all other requirements necessary for registration are purposeless and futile.

Thus, in a land registration proceeding, the applicant bears the burden of overcoming the presumption of State ownership.

The records of the case reveal that the only basis for the RTC in considering the subject lot as alienable and disposable is the testimony of Henry Belmones as the Chief of Land Evaluation Party of the DENR, who merely relied on Control Map No. 18, which was not offered and presented in evidence and a survey plan. Notably, the pieces of evidence are deficient to prove the nature of the property as alienable and disposable. Spouses Alonso failed to submit a CENRO or PENRO certification and an issuance by the DENR Secretary signifying his approval for the release of the subject land of the public domain as alienable and disposable. Ergo, spouses Alonso fail to discharge the burden of proof.

As the first element is clearly lacking, the occupation and possession of the subject land by spouses Alonso, no matter how long, cannot ripen into ownership. Consequently, a title cannot be issued in their favor.[20]

WHEREFORE, premises considered, the petition is hereby GRANTED. Accordingly, the Decision dated May 31, 2013, and the Resolution dated December 12, 2013 of the Court of Appeals-Cebu City in CA-G.R. CV No. 03510 are REVERSED and SET ASIDE. The petition for registration of Lot 2209, Cadastral No. 24, Iloilo Cadastre, AP-06-005399 filed by respondents spouses Guillermo Alonso and Inocencia Britanico-Alonso is hereby DENIED.

SO ORDERED.

Lazaro-Javier, and Zalameda, JJ., concur.

Carpio, Senior Associate Justice, (Chairperson), J., on official leave.

Caguioa, (Acting Chairperson), J., See Separate Opinion.

[*] "Alonzo" in some parts of the rollo.

[1] Penned by Executive Justice Pampio A. Abarintos, with Associate Justices Gabriel T. Ingles and Marilyn B. Lagura-Yap, concurring; rollo, pp. 59-66.

[2] Id. at 68-69.

[3] Id. at 60.

[4] Id. at 90-94.

[5] Id. at 97-99.

[6] Id. at 60-61.

[7] Penned by Judge Guilljie D. Delfin-Lim; id. at 308-320.

[8] Id. at 331-332.

[9] Id. at 346.

[10] Id. at 367.

[11] Supra note 1.

[12] Id. at 65.

[13] Supra note 2.

[14] Id. at 42-43.

[15] AMENDING AND CODIFYING THE LAWS RELATIVE TO REGISTRATION OF PROPERTY AND FOR OTHER PURPOSES. Approved June 11, 1978.

[16] Dumo v. Republic of the Philippines, G.R. No. 218269, June 6, 2018.

[17] Republic v. Nicolas, G.R. No. 181435, October 2, 2017, 841 SCRA 328, 345.

[18] 815 Phil. 306, 325 (2017).

[19] 578 Phil. 441, 452-453 (2008).

[20] Republic v. Heirs of Maxima Lachica, 730 Phil. 414, 423 (2014).

SEPARATE OPINION

CAGUIOA, J.:

On the basis of *Republic v. T.A.N. Properties*[1] (T.A.N.), which requires the presentation of (i) a certificate of land classification status issued by the Community Environment and Natural Resources Office (CENRO) or Provincial Environment and Natural Resources Office (PENRO) of the Department of Environment and Natural Resources (DENR); and (ii) 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,[2] the ponencia holds that respondents failed to prove that the subject property was part of the alienable and disposable lands of the public domain.

I concur with the ponencia that the present petition should be granted because respondents here failed to submit a CENRO or PENRO certification, i.e., the first requirement of T.A.N.

For clarification, however, I submit, as I did in my Concurring and Dissenting Opinion in *Dumo v. Republic of the Philippines*[3] (Dumo), that the second requirement established in T.A.N. has been rendered superfluous and unnecessary after the issuance of DENR Administrative Order No. (AO) 2012-9 on November 14, 2012, which delegated unto the CENRO, PENRO and the National Capital Region (NCR) Regional Executive Director (RED-NCR) the authority to issue not only certifications on land classification status, but also certified true copies of approved land classification (LC) maps[4] with respect to lands falling within their respective jurisdictions.

DENR AO 2012-9 pertinently provides:

In view of the thrust of the government to [make] public service more accessible to the public, the authority to sign and/or issue the following documents is hereby delegated to the [CENROs], except in the National Capital Region (NCR) where the same shall be vested upon the [RED-NCR]:

- Certification on land classification status regardless of area based on existing approved [LC maps]; and
- Certified true copy of the approved [LC maps] used as basis in the issuance of the certification on the land classification status of a particular parcel of land. (Emphasis supplied.)

Since the certification in question in T.A.N. was issued prior to DENR AO 2012-9, i.e., in 1997, the Court's decision therein was correctly premised upon the lack of authority on the part of CENRO to issue certified true copies of approved LC maps or to serve as repository for said copies. The same may be said of the CENRO certifications presented in *Republic v. Lualhati*[5] (Lualhati) and *Republic v. Nicolas*,[6] (Nicolas) which correctly applied T.A.N.

Notably however, this lack of authority no longer holds true under the regime of DENR AO 2012-9. On this score, it is my view that pursuant to DENR AO 2012-9, certifications of land classification status issued by the CENRO, PENRO and the RED-NCR should be deemed sufficient for purposes of proving the alienable and disposable character of property subject of land registration proceedings, provided only that these certifications expressly bear references to: (i) the LC map; and (ii) the document through which the original classification had been effected, such as a Bureau of Forest Development Administrative Order[7] (BFDAO) issued and signed by the DENR Secretary.[8]

To note, CENRO, PENRO or RED-NCR certificates do not fall within the class of public documents which, under Section 23, Rule 132,[9] of the Rules of Court constitute prima facie evidence of their contents. Like private documents, the authenticity of these certificates and the veracity of their contents remain subject to proof in the manner set forth under Section 20, Rule 132:

Section 20. Proof of private document. — Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:

(a)

By anyone who saw the document executed or written; or

(b)

By evidence of the genuineness of the signature or handwriting of the maker.

Any other private document need only be identified as that which it is claimed to be.

Necessarily, the submission of a CENRO, PENRO or RED-NCR certificate as evidence of registrability entails the presentation of the testimony of the proper issuing officer before the trial court for the purpose of authentication and verification. This exercise renders the presentation of the original classification and LC map in addition to the CENRO, PENRO or RED-NCR certificate redundant, inasmuch as the matters to which the original classification and LC map pertain may already be threshed out during the direct and cross-examination of the CENRO, PENRO or RED-NCR officer concerned. Once the certification in question is authenticated and verified by the proper officer, I submit that the burden of proof to establish that the land subject of the proceeding is unregistrable then shifts, as it should, to the State.

I am of the belief that the observance of the proper authentication and verification procedures and the State's participation (through the Office of the Solicitor General [OSG]) in the trial process are sufficient safeguards against the grant of registration on the basis of falsified or inaccurate certifications.[10]

To allow the applicant to still carry the burden of proof to establish registrability despite presentation of duly authenticated and verified documents showing the same unduly tips the scale in favor of the State, and compromises the efficiency and accessibility of public service.

It bears noting that under Executive Order No. 192,[11] series of 1987 (EO 192), the DENR is mandated to exercise supervision and control over forest lands and alienable and disposable lands.[12] To carry out this mandate, EO 192 vests the DENR Secretary with the power to "[e]stablish policies and standards for the efficient and effective operations of the [DENR] in accordance with the programs of the government;"[13] [p]romulgate rules, regulations and other issuances necessary in carrying out the [DENR]'s mandate, objectives, policies, plans, programs and projects;[14] and "[d]elegate authority for the performance of any administrative or substantive function to subordinate officials of the [DENR]."[15] One such policy is DENR AO 2012-9.

Contrary to the majority opinion in *Dumo*, I maintain that the simplification of the requirements set forth in T.A.N. neither sanctions the amendment of judicial precedent, nor does it place primacy on administrative issuances. This simplification merely aligns with the specific thrust of government underlying the issuance of DENR AO 2012-9, that is, to make public service more accessible to the public. It is but a recognition of the DENR Secretary's powers under EO 192 to promulgate rules, regulations and other issuances necessary in carrying out the DENR's mandate, objectives, policies, plans, programs and projects; and delegate authority for the performance of any administrative or substantive function to subordinate officials of the DENR, which issuances, in turn, carry the same force and effect of law.[16]

In this regard, I maintain that the scope and application of T.A.N should now be limited to CENRO certifications issued prior to the effectivity of DENR AO 2012-9.

[1] 578 Phil. 441 (2008).

[2] *Id.* at 452-453.

[3] G.R. No. 218269, June 6, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64234>>.

[4] Under the Guidelines for the Assessment and Delineation of Boundaries Between Forestlands, National Parks and Agricultural Lands [DENR AO 2008-24, December 8, 2008], land classification maps are defined as those which show "the classification of lands of the public domain based on the land classification system undertaken by the then Department of Agriculture and Natural Resources, through the Bureau of Forestry, the Ministry of Natural Resources, through the Bureau of Forest Development, and the [DENR]."

[5] 757 Phil. 119 (2015). While the date of the CENRO certificate considered in Lualhati cannot be ascertained from the Court's decision, the fact that the same had been issued prior to the effectivity of DENR AO 2012-9 can be inferred from the date of the RTC and CA rulings assailed therein, that is, October 4, 2005 and March 31, 2008, respectively.

[6] G.R. No. 181435, October 2, 2017, 841 SCRA 328. While the date of the CENRO certificate considered in Nicolas cannot be ascertained from the Court's decision, the fact that the same had been issued prior to the effectivity of DENR AO 2012-9 can be inferred from the date of the RTC and CA rulings assailed therein, that is, July 31, 2002 and August 23, 2007, respectively.

[7] BFDAOs declaring portions of the public forest as alienable and disposable are issued under the signature of the Secretary of Natural Resources upon the recommendation of the Director of the Bureau of Forest.

[8] The BFDAO usually contains the following language:

x x x Pursuant to Section 13 of PD 705, otherwise known as the Revised Forestry Code of the Philippines, as amended, I hereby declare an aggregate area of [x x x] hectares, more or less, as alienable or disposable for cropland and other purposes and place the same under the control and management of the Bureau of Lands, for disposition pursuant to the provisions the Public Land Act, located in [x x x], shown and described in BFD Map [x x x], which is attached hereto and forms an integral part of this Order x x x[.]

[9] RULES OF COURT, Rule 132, Sec. 23 states:

Section 23. Public documents as evidence. — Documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie evidence of the facts stated therein. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.

[10] In fact, in *Victoria v. Republic*, 666 Phil. 519 (2011), the Court ordered the OSG to directly undertake the verification and authentication of documentary evidence belatedly presented by the petitioner in the interest of justice. In *Victoria*, a certain Natividad Sta. Ana Victoria (Natividad) applied for the original registration of a 1,729-square meter lot in Bambang, Taguig City before the Metropolitan Trial Court (MeTC). The MeTC granted Natividad's application, prompting the Republic to file an appeal. When Natividad filed her Appellee's Brief, she attached thereto a Certification dated November 6, 2006 issued by the DENR certifying that the Bambang lot formed part of the alienable and disposable land of the public domain.

The CA held that Natividad failed to prove that the Bambang lot was alienable and disposable, and thus, granted the Republic's appeal. The CA held that it could not take cognizance of the DENR Certification since Natividad failed to offer it in evidence during the hearing before the MeTC.

Aggrieved, Natividad filed a petition for review before the Court. Resolving Natividad's petition, the Court observed that "the only reason the CA gave in reversing the decision of the MeTC is that [Natividad] failed to

submit the [DENR Certification] x x x during the hearing x x x." Accordingly, the Court issued a resolution "requiring the OSG to verify from the DENR whether the Senior Forest Management Specialist of its National Capital Region, Office of the Regional Technical Director for Forest Management Services, who issued the [DENR Certification], is authorized to issue certifications on the status of public lands as alienable and disposable, and to submit a copy of the administrative order or proclamation that declares as alienable and disposable the area where the property involved in this case is located, if any there be."

In compliance, the OSG submitted: (i) a certification confirming the Senior Forest Management Specialist's authority to issue said DENR Certification; and (ii) a certified true copy of Forestry Administrative Order 4-1141 dated January 3, 1968, signed by then Secretary of Agriculture and Natural Resources Arturo R. Tanco, Jr., which declared portions of the public domain covered by Bureau of Forestry Map LC-2623, as alienable and disposable. Considering that LC-2623 covered the Bambang lot, the Court granted the petition for review, and in turn, granted Natividad's application for registration.

[11] Providing for the Reorganization of the Department of Environment, Energy and Natural Resources, Renaming It as the Department of Environment and Natural Resources, and For Other Purposes, dated June 10, 1987.

[12] See *id.* at Sec. 5 (d).

[13] See *id.* at Sec. 7 (b).

[14] See *id.* at Sec. 7 (c).

[15] See *id.* at Sec. 7 (e).

[16] EO 192 was issued by then President Corazon Aquino pursuant to her law-making powers prior to the convention of Congress on July 27, 1987. See generally *Philippine Association of Service Exporters, Inc. v. Torres*, 296-A Phil. 427 (1993).

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