Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

REPUBLIC OF THE PHILIPPINES,
Petitioner,

- versus -

DOMINGO ESPINOSA,
Respondent.

G.R. No. 171514

Present:

CARPIO, *J.*,
Chairperson,
BRION,
PEREZ,
SERENO, and
REYES, *JJ.*

Promulgated:

JUL 18 2012

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DECISION

REYES, *J.*:

This is a petition for review on *certiorari* from the Decision[1] dated November 11, 2004 and Resolution[2] dated February 13, 2006 of the Court of Appeals in CA-G.R. CV No. 72456.

On March 3, 1999, respondent Domingo Espinosa (Espinosa) filed with the Municipal Trial Court (MTC) of Consolacion, Cebu an application[3] for land registration covering a parcel of land with an area of 5,525 square

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1 Penned by Associate Justice Isaias P. Dicdican, with Associate Justices Sesinando E. Villon and Ramon M. Bato, Jr., concurring; *rollo*, pp. 32-39.

2 Associate Justice Enrico A. Lanzanas replaced Associate Justice Sesinando E. Villon; id. at 40-41.

3 Id. at 42-44.

meters and situated in *Barangay* Cabangahan, Consolacion, Cebu. In support of his application, which was docketed as LRC Case No. N-81, Espinosa alleged that: (a) the property, which is more particularly known as Lot No. 8499 of Cad. 545-D (New), is alienable and disposable; (b) he purchased the property from his mother, Isabel Espinosa (Isabel), on July 4, 1970 and the latter's other heirs had waived their rights thereto; and (c) he and his predecessor-in-interest had been in possession of the property in the concept of an owner for more than thirty (30) years.

Espinosa submitted the blueprint of Advanced Survey Plan 07-000893[4] to prove the identity of the land. As proof that the property is alienable and disposable, he marked as evidence the annotation on the advance survey plan made by Cynthia L. Ibañez, Chief of the Map Projection Section, stating that "CONFORMED PER L.C. MAP NOTATION L.C. Map No. 2545 Project No. 28 certified on June 25, 1963, verified to be within Alienable & Disposable Area".[5] Espinosa also presented two (2) tax declarations for the years 1965 and 1974 in Isabel's name – Tax Declaration Nos. 013516 and 06137 – to prove that she had been in possession of the property since 1965. To support his claim that he had been religiously paying the taxes due on the property, Espinosa presented a Certification[6] dated December 1, 1998 issued by the Office of the Treasurer of Consolacion, Cebu and three (3) tax declarations for the years 1978, 1980 and 1985 – Tax Declaration Nos. 14010, 17681 and 01071[7].[8]

Petitioner opposed Espinosa's application, claiming that: (a) Section 48(b) of Commonwealth Act No. 141 otherwise known as the "Public Land Act" (PLA) had not been complied with as Espinosa's predecessor-in-interest possessed the property only after June 12, 1945; and (b) the tax

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4 Id. at 45.
5 Id.
6 Id. at 52.
7 Id. at 47.
8 Id. at 68.

declarations do not prove that his possession and that of his predecessor-in-interest are in the character and for the length of time required by law.

On August 18, 2000, the MTC rendered a Judgment[9] granting Espinosa's petition for registration, the dispositive portion of which states:

> WHEREFORE, and in view of all the foregoing, judgment is hereby rendered ordering for the registration and the confirmation of title of [Espinosa] over Lot No. 8499, Cad 545-D (New), situated at [B]arangay Cabangahan, Consolacion, Cebu, Philippines, containing an area of 5,525 square meters and that upon the finality of this decision, let a corresponding decree of registration be issued in favor of the herein applicant in accordance with Section 39, P.D. 1529.
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> SO ORDERED.[10]

According to the MTC, Espinosa was able to prove that the property is alienable and disposable and that he complied with the requirements of Section 14(1) of Presidential Decree (P.D.) No. 1529. Specifically:

> After a careful consideration of the evidence presented in the above-entitled case, the Court is convinced, and so holds, that [Espinosa] was able to establish his ownership and possession over the subject lot which is within the area considered by the Department of Environment and Natural Resources (DENR) as alienable and disposable land of the public domain.
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> The Court is likewise convinced that the applicant and that of [predecessor]-in-interest have been in open, actual, public, continuous, adverse and under claim of title thereto within the time prescribed by law (Sec. 14, sub-par. 1, P.D. 1529) and/or in accordance with the Land Registration Act.[11]

Petitioner appealed to the CA and pointed Espinosa's failure to prove that his possession and that of his predecessor-in-interest were for the period required by law. As shown by Tax Declaration No. 013516, Isabel's possession commenced only in 1965 and not on June 12, 1945 or earlier as required by Section 48(b) of the PLA. On the other hand, Espinosa came into possession of the property only in 1970 following the sale that

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9 Under the sala of Pairing Judge Wilfredo A. Dagatan; id. at 81-86.
10 Id. at 86.
11 Id. at 85.

transpired between him and his mother and the earliest tax declaration in his name was for the year 1978. According to petitioner, that Espinosa and his predecessor-in-interest were supposedly in possession for more than thirty (30) years is inconsequential absent proof that such possession began on June 12, 1945 or earlier.[12]

Petitioner also claimed that Espinosa's failure to present the original tracing cloth of the survey plan or a sepia copy thereof is fatal to his application. Citing *Del Rosario v. Republic of the Philippines*[13] and *Director of Lands v. Judge Reyes*,[14] petitioner argued that the submission of the original tracing cloth is mandatory in establishing the identity of the land subject of the application.[15]

Further, petitioner claimed that the annotation on the advance survey plan is not the evidence admissible to prove that the subject land is alienable and disposable.[16]

By way of the assailed decision, the CA dismissed petitioner's appeal and affirmed the MTC Decision dated August 18, 2000. The CA ruled that possession for at least thirty (30) years, despite the fact that it commenced after June 12, 1945, sufficed to convert the property to private. Thus:

> The contention of [petitioner] is not meritorious on the following grounds:
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> > a) The record of the case will show that [Espinosa] has successfully established valid title over the subject land and that he and his predecessor-in-interest have been in continuous, adverse, public and undisturbed possession of said land in the concept of an owner for more than 30 years before the filing of the application. Established jurisprudence has consistently pronounced that "open, continuous and exclusive possession for at least 30 years of alienable public land *ipso jure* converts the same into private property (*Director of Lands vs. Intermediate*

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12 Id. at 69-75.
13 432 Phil. 824 (2002).
14 160-A Phil. 832 (1975).
15 *Rollo*, pp. 75-77.
16 Id. at 77-78.

> *Appellate Court, 214 SCRA 604).* This means that occupation and cultivation for more than 30 years by applicant and his predecessor-in-interest vests title on such applicant so as to segregate the land from the mass of public land (*National Power Corporation vs. Court of Appeals, 218 SCRA 41)*; and
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> b) It is true that the requirement of possession since June 12, 1945 is the latest amendment of Section 48(b) of the Public Land Act (C.A. No. 141), but a strict implementation of the law would in certain cases result in inequity and unfairness to [Espinosa]. As wisely stated by the Supreme Court in the case of Republic vs. Court of Appeals, 235 SCRA 567:
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> > "Following the logic of the petitioner, any transferee is thus foreclosed to apply for registration of title over a parcel of land notwithstanding the fact that the transferor, or his predecessor-in-interest has been in open, notorious and exclusive possession thereof for thirty (30) years or more."[17]

The CA also ruled that registration can be based on other documentary evidence, not necessarily the original tracing cloth plan, as the identity and location of the property can be established by other competent evidence.

> Again, the aforesaid contention of [the petitioner] is without merit. While the best evidence to identify a piece of land for registration purposes may be the original tracing cloth plan from the Land Registration Commission, the court may sufficiently order the issuance of a decree of registration on the basis of the blue print copies and other evidence (*Republic of the Philippines vs. Intermediate Appellate Court, G.R. No. L-70594, October 10, 1986).* The said case provides further:
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> > "The fact that the lower court finds the evidence of the applicant sufficient to justify the registration and confirmation of her titles and did not find it necessary to avail of the original tracing cloth plan from the Land Registration Commission for purposes of comparison, should not militate against the rights of the applicant. Such is especially true in this case where no clear, strong, convincing and more preponderant proof has been shown by the oppositor to overcome the correctness of said plans which were found both by the lower court and the Court of Appeals as conclusive proofs of the description and identities of the parcels of land contained therein."

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[17] Id. at 35-36.

> There is no dispute that, in case of *Del Rosario vs. Republic, supra*¸ the Supreme Court pronounced that the submission in evidence of the original tracing cloth plan, duly approved by the Bureau of Lands, in cases for application of original registration of land is a mandatory requirement, and that failure to comply with such requirement is fatal to one's application for registration. However, such pronouncement need not be taken as an iron clad rule nor to be applied strictly in all cases without due regard to the rationale behind the submission of the tracing cloth plan. x x x:
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> x x x x
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> As long as the identity of and location of the lot can be established by other competent evidence like a duly approved blueprint copy of the advance survey plan of Lot 8499 and technical description of Lot 8499, containing and identifying the boundaries, actual area and location of the lot, the presentation of the original tracing cloth plan may be excused.[18]

Moreover, the CA ruled that Espinosa had duly proven that the property is alienable and disposable:

> [Espinosa] has established that Lot 8499 is alienable and disposable. In the duly approved Advance Survey Plan As-07-0000893 (sic) duly approved by the Land Management Services, DENR, Region 7, Cebu City, it is certified/verified that the subject lot is inside the alienable and disposable area of the disposable and alienable land of the public domain.[19]

Petitioner moved for reconsideration but this was denied by the CA in its Resolution[20] dated February 13, 2006.

Petitioner's Case

Petitioner entreats this Court to reverse and set aside the CA's assailed decision and attributes the following errors: (a) Espinosa failed to prove by competent evidence that the subject property is alienable and disposable; (b) jurisprudence dictates that a survey plan identifies the property in preparation for a judicial proceeding but does not convert the property into alienable, much less, private; (c) under Section 17 of P.D. No. 1529, the submission of the original tracing cloth plan is mandatory to determine the

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18 Id. at 36-37.
19 Id. at 38.
20 Supra note 2.

exact metes and bounds of the property; and (d) a blueprint copy of the survey plan may be admitted as evidence of the identity and location of the property only if it bears the approval of the Director of Lands.

Issues

The resolution of the primordial question of whether Espinosa has acquired an imperfect title over the subject property that is worthy of confirmation and registration is hinged on the determination of the following issues:

a. whether the blueprint of the advanced survey plan substantially complies with Section 17 of P.D. No. 1529; and

b. whether the notation on the blueprint copy of the plan made by the geodetic engineer who conducted the survey sufficed to prove that the land applied for is alienable and disposable.

Our Ruling

The lower courts were unanimous in holding that Espinosa's application is anchored on Section 14(1) of P.D. No. 1529 in relation to Section 48(b) of the PLA and the grant thereof is warranted in view of evidence supposedly showing his compliance with the requirements thereof.

This Court is of a different view.

Based on Espinosa's allegations and his supporting documents, it is patent that his claim of an imperfect title over the property in question is based on Section 14(2) and not Section 14(1) of P.D. No. 1529 in relation to Section 48(b) of the PLA. Espinosa did not allege that his possession and that of his predecessor-in-interest commenced on June 12, 1945 or earlier as

prescribed under the two (2) latter provisions. On the contrary, Espinosa repeatedly alleged that he acquired title thru his possession and that of his predecessor-in-interest, Isabel, of the subject property for thirty (30) years, or through prescription. Therefore, the rule that should have been applied is Section 14(2) of P.D. No. 1529, which states:

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

Obviously, the confusion that attended the lower courts' disposition of this case stemmed from their failure to apprise themselves of the changes that Section 48(b) of the PLA underwent over the years. Section 48(b) of the PLA originally states:

> 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:
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> x x x x
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> (b) Those who by themselves or through their predecessors-in-interest have been in the open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition or ownership, except as against the Government, since July twenty-sixth, eighteen hundred and ninety-four, 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.

Thus, the required possession and occupation for judicial confirmation of imperfect title was since July 26, 1894 or earlier.

On June 22, 1957, Republic Act (R.A.) No. 1942 amended Section 48(b) of the PLA by providing a thirty (30)-year prescriptive period for judicial confirmation of imperfect title. Thus:

> (b) Those who by themselves or through their predecessors-in-interest have been in the open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition or ownership, for at least thirty years immediately preceding the filing of the application 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.

On January 25, 1977, P.D. No. 1073 was issued, changing the requirement for possession and occupation for a period of thirty (30) years to possession and occupation since June 12, 1945 or earlier. Section 4 of P.D. No. 1073 states:

> Sec. 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.

On June 11, 1978, P.D. No. 1529 was enacted. Notably, the requirement for possession and occupation since June 12, 1945 or earlier was adopted under Section 14(1) thereof.

P.D. No. 1073, in effect, repealed R.A. No. 1942 such that applications under Section 48(b) of the PLA filed after the promulgation of P.D. No. 1073 should allege and prove possession and occupation that dated back to June 12, 1945 or earlier. However, vested rights may have been acquired under Section 48(b) prior to its amendment by P.D. No. 1073. That is, should petitions for registration filed by those who had already been in possession of alienable and disposable lands of the public domain for thirty

(30) years at the time P.D. No. 1073 was promulgated be denied because their possession commenced after June 12, 1945? In *Abejaron v. Nabasa*,[21] this Court resolved this legal predicament as follows:

> However, as petitioner Abejaron's 30-year period of possession and occupation required by the Public Land Act, as amended by R.A. 1942 ran from 1945 to 1975, prior to the effectivity of P.D. No. 1073 in 1977, the requirement of said P.D. that occupation and possession should have started on June 12, 1945 or earlier, does not apply to him. As the *Susi* doctrine holds that the grant of title by virtue of Sec. 48(b) takes place by operation of law, then upon Abejaron's satisfaction of the requirements of this law, he would have already gained title over the disputed land in 1975. This follows the doctrine laid down in *Director of Lands v. Intermediate Appellate Court, et al*., that the law cannot impair vested rights such as a land grant. More clearly stated, "Filipino citizens who by themselves or their predecessors-in-interest have been, prior to the effectivity of P.D. 1073 on January 25, 1977, in open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition of ownership, for at least 30 years, or at least since January 24, 1947" may apply for judicial confirmation of their imperfect or incomplete title under Sec. 48(b) of the Public Land Act.[22] (Citations omitted)

Consequently, for one to invoke Section 48(b) and claim an imperfect title over an alienable and disposable land of the public domain on the basis of a thirty (30)-year possession and occupation, it must be demonstrated that such possession and occupation commenced on January 24, 1947 and the thirty (30)-year period was completed prior to the effectivity of P.D. No. 1073.

There is nothing in Section 48(b) that would suggest that it provides for two (2) modes of acquisition. It is not the case that there is an option between possession and occupation for thirty (30) years and possession and occupation since June 12, 1945 or earlier. It is neither contemplated under Section 48(b) that if possession and occupation of an alienable and disposable public land started after June 12, 1945, it is still possible to acquire an imperfect title if such possession and occupation spanned for thirty (30) years at the time of the filing of the application.

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21 411 Phil. 552 (2001).

22 Id. at 570.

In this case, the lower courts concluded that Espinosa complied with the requirements of Section 48(b) of the PLA in relation to Section 14(1) of P.D. No. 1529 based on supposed evidence that he and his predecessor-in-interest had been in possession of the property for at least thirty (30) years prior to the time he filed his application. However, there is nothing on record showing that as of January 25, 1977 or prior to the effectivity of P.D. No. 1073, he or Isabel had already acquired title by means of possession and occupation of the property for thirty (30) years. On the contrary, the earliest tax declaration in Isabel's name was for the year 1965 indicating that as of January 25, 1977, only twelve (12) years had lapsed from the time she first came supposedly into possession.

The CA's reliance on *Director of Lands v. Intermediate Appellate Court*[23] is misplaced considering that the application therein was filed on October 20, 1975 or before the effectivity of P.D. No. 1073. The same can be said with respect to *National Power Corporation v. Court of Appeals.*[24] The petition for registration therein was filed on August 21, 1968 and at that time, the prevailing rule was that provided under Section 48(b) as amended by R.A. No. 1942.

In *Republic v. Court of Appeals*,[25] the applicants therein entered into possession of the property on June 17, 1978 and filed their application on February 5, 1987. Nonetheless, there is evidence that the individuals from whom the applicant purchased the property, or their predecessors-in-interest, had been in possession since 1937. Thus, during the effectivity of Section 48(b) as amended by R.A. No. 1942, or while the prevailing rule was possession and occupation for thirty (30) years, or prior to the issuance of P.D. No. 1073, the thirty (30)-year prescriptive period was already completed.

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23 G.R. No. 65663, October 16, 1992, 214 SCRA 604.
24 G.R. No. 45664, January 29, 1993, 218 SCRA 41.
25 G.R. No. 108998, August 24, 1994, 235 SCRA 567.

Thus, assuming that it is Section 48(b) of the PLA in relation to Section 14(1) of P.D. No. 1529 that should apply in this case, as the lower courts held, it was incumbent upon Espinosa to prove, among other things, that Isabel's possession of the property dated back at least to June 12, 1945. That in view of the established fact that Isabel's alleged possession and occupation started much later, the lower courts should have dismissed Espinosa's application outright.

In sum, the CA, as well as the MTC, erred in not applying the present text of Section 48(b) of the PLA. That there were instances wherein applications were granted on the basis of possession and occupation for thirty (30) years was for the sole reason discussed above. Regrettably, such reason does not obtain in this case.

Being clear that it is Section 14(2) of P.D. No. 1529 that should apply, it follows that the subject property being supposedly alienable and disposable will not suffice. As Section 14(2) categorically provides, only private properties may be acquired thru prescription and under Articles 420 and 421 of the Civil Code, only those properties, which are not for public use, public service or intended for the development of national wealth, are considered private. In *Heirs of Mario Malabanan v. Republic*,[26] this Court held that there must be an official declaration to that effect before the property may be rendered susceptible to prescription:

> Nonetheless, Article 422 of the Civil Code states that "[p]roperty of public dominion, when no longer intended for public use or for public service, shall form part of the patrimonial property of the State." It is this provision that controls how public dominion property may be converted into patrimonial property susceptible to acquisition by prescription. After all, Article 420(2) makes clear that those property "which belong to the State, without being for public use, and are intended for some public service or for the development of the national wealth" are public dominion property. **For as long as the property belongs to the State, although already classified as alienable or disposable, it remains property of**

[26] G.R. No. 179987, April 29, 2009, 587 SCRA 172.

> **the public dominion if when it is "intended for some public service or for the development of the national wealth."** (Emphasis supplied)
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> **Accordingly, there must be an express declaration by the State that the public dominion property is no longer intended for public service or the development of the national wealth or that the property has been converted into patrimonial. Without such express declaration, the property, even if classified as alienable or disposable, remains property of the public dominion, pursuant to Article 420(2), and thus incapable of acquisition by prescription. It is only when such alienable and disposable lands are expressly declared by the State to be no longer intended for public service or for the development of the national wealth that the period of acquisitive prescription can begin to run. Such declaration shall be in the form of a law duly enacted by Congress or a Presidential Proclamation in cases where the President is duly authorized by law.**[27]

Thus, granting that Isabel and, later, Espinosa possessed and occupied the property for an aggregate period of thirty (30) years, this does not operate to divest the State of its ownership. The property, albeit allegedly alienable and disposable, is not patrimonial. As the property is not held by the State in its private capacity, acquisition of title thereto necessitates observance of the provisions of Section 48(b) of the PLA in relation to Section 14(1) of P.D. No. 1529 or possession and occupation since June 12, 1945. For prescription to run against the State, there must be proof that there was an official declaration that the subject property is no longer earmarked for public service or the development of national wealth. Moreover, such official declaration should have been issued at least ten (10) or thirty (30) years, as the case may be, prior to the filing of the application for registration. The period of possession and occupation prior to the conversion of the property to private or patrimonial shall not be considered in determining completion of the prescriptive period. Indeed, while a piece of land is still reserved for public service or the development of national wealth, even if the same is alienable and disposable, possession and occupation no matter how lengthy will not ripen to ownership or give rise to any title that would defeat that of the State's if such did not commence on June 12, 1945 or earlier.

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[27] Id. at 203.

At any rate, as petitioner correctly pointed out, the notation on the survey plan does not constitute incontrovertible evidence that would overcome the presumption that the property belongs to the inalienable public domain.

All lands of the public domain belong to the State, which is the source of any asserted right to any ownership of land. All lands not appearing to be clearly within private ownership are presumed to belong to the State. Accordingly, public lands not shown to have been reclassified or released as alienable agricultural land, or alienated to a private person by the State, remain part of the inalienable public domain. The burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for registration (or claiming ownership), who must prove that the land subject of the application is alienable or disposable. To overcome this presumption, incontrovertible evidence must be established that the land subject of the application (or claim) is alienable or disposable.[28]

In *Republic v. Sarmiento*,[29] this Court reiterated the earlier ruling in *Menguito v. Republic*[30] that the notation made by a surveyor-geodetic engineer that the property surveyed is alienable and disposable is not the positive government act that would remove the property from the inalienable domain. Neither it is the evidence accepted as sufficient to controvert the presumption that the property is inalienable:

> To discharge the *onus*, respondent relies on the blue print copy of the conversion and subdivision plan approved by the DENR Center which bears the notation of the surveyor-geodetic engineer that "this survey is inside the alienable and disposable area, Project No. 27-B. L.C. Map No. 2623, certified on January 3, 1968 by the Bureau of Forestry."
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> *Menguito v. Republic* teaches, however, that reliance on such a notation to prove that the lot is alienable is insufficient and does not

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28 See *Republic v. Dela Paz*, G.R. No. 171631, November 15, 2010, 634 SCRA 610, 620.
29 G.R. No. 169397, March 13, 2007, 518 SCRA 250.
30 401 Phil. 274 (2000).

constitute incontrovertible evidence to overcome the presumption that it remains part of the inalienable public domain.

> "To prove that the land in question formed part of the alienable and disposable lands of the public domain, petitioners relied on the printed words which read: "This survey plan is inside Alienable and Disposable Land Area, Project No. 27-B as per L.C. Map No. 2623, certified by the Bureau of Forestry on January 3, 1968," appearing on Exhibit "E" (Survey Plan No. Swo-13-000227).
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> This proof is not sufficient. Section 2, Article XII of the 1987 Constitution, provides: "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. . . ."
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> For the original registration of title, the applicant (petitioners in this case) must overcome the presumption that the land sought to be registered forms part of the public domain. Unless public land is shown to have been reclassified or alienated to a private person by the State, it remains part of the inalienable public domain. Indeed, "occupation thereof in the concept of owner, no matter how long, cannot ripen into ownership and be registered as a title." To overcome such presumption, incontrovertible evidence must be shown by the applicant. Absent such evidence, the land sought to be registered remains inalienable.
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> In the present case, petitioners cite a surveyor geodetic engineer's notation in Exhibit "E" indicating that the survey was inside alienable and disposable land. *Such notation does not constitute a positive government act validly changing the classification of the land in question. Verily,* ***a mere surveyor has no authority to reclassify lands of the public domain****. By relying solely on the said surveyor's assertion, petitioners have not sufficiently proven that the land in question has been declared alienable*."[31] (Citations omitted and underscoring supplied)

Therefore, even if Espinosa's application may not be dismissed due to his failure to present the original tracing cloth of the survey plan, there are numerous grounds for its denial. The blueprint copy of the advanced survey plan may be admitted as evidence of the identity and location of the subject property if: (a) it was duly executed by a licensed geodetic engineer; (b) it proceeded officially from the Land Management Services (LMS) of the DENR; and (c) it is accompanied by a technical description of the property

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[31] Supra note 29, at 259-260.

which is certified as correct by the geodetic surveyor who conducted the survey and the LMS of the DENR. As ruled in *Republic v. Guinto-Aldana*,[32] the identity of the land, its boundaries and location can be established by other competent evidence apart from the original tracing cloth such as a duly executed blueprint of the survey plan and technical description:

> Yet if the reason for requiring an applicant to adduce in evidence the original tracing cloth plan is merely to provide a convenient and necessary means to afford certainty as to the exact identity of the property applied for registration and to ensure that the same does not overlap with the boundaries of the adjoining lots, there stands to be no reason why a registration application must be denied for failure to present the original tracing cloth plan, especially where it is accompanied by pieces of evidence—such as a duly executed blueprint of the survey plan and a duly executed technical description of the property—which may likewise substantially and with as much certainty prove the limits and extent of the property sought to be registered.[33]

However, while such blueprint copy of the survey plan may be offered as evidence of the identity, location and the boundaries of the property applied for, the notation therein may not be admitted as evidence of alienability and disposability. In *Republic v. Heirs of Juan Fabio*,[34] this Court enumerated the documents that are deemed relevant and sufficient to prove that the property is already outside the inalienable public domain as follows:

> In *Republic v. T.A.N. Properties, Inc.*, we ruled that it is not enough for the Provincial Environment and Natural Resources Office (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 must present a copy of the original classification of the land into alienable and disposable, as declared by the DENR Secretary, or as proclaimed by the President. Such copy of the DENR Secretary's declaration or the President's proclamation must be certified as a true copy by the legal custodian of such official record. These facts must be established to prove that the land is alienable and disposable.[35] (Citation omitted)

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32 G.R. No. 175578, August 11, 2010, 628 SCRA 210.
33 Id. at 220.
34 G.R. No. 159589, December 23, 2008, 575 SCRA 51.
35 Id. at 77.

Based on the foregoing, it appears that Espinosa cannot avail the benefits of either Section 14(1) of P.D. No. 1529 in relation to Section 48(b) of the PLA or Section 14(2) of P.D. No. 1529. Applying Section 14(1) of P.D. No. 1529 and Section 48(b) of the PLA, albeit improper, Espinosa failed to prove that: (a) Isabel's possession of the property dated back to June 12, 1945 or earlier; and (b) the property is alienable and disposable. On the other hand, applying Section 14(2) of P.D. No. 1529, Espinosa failed to prove that the property is patrimonial. As to whether Espinosa was able to prove that his possession and occupation and that of Isabel were of the character prescribed by law, the resolution of this issue has been rendered unnecessary by the foregoing considerations.

WHEREFORE, premises considered, the petition is **GIVEN DUE COURSE** and **GRANTED**. The Decision dated November 11, 2004 and Resolution dated February 13, 2006 of the Court of Appeals in CA-G.R. CV No. 72456 are **REVERSED** and **SET ASIDE** and Domingo Espinosa's application for registration of title over Lot No. 8499 of Cad. 545-D (New) located at *Barangay* Cabangahan, Consolacion, Cebu is hereby **DENIED** for lack of merit. No pronouncement as to costs.

SO ORDERED.

BIENVENIDO L. REYES
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

ARTURO D. BRION
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

MARIA LOURDES P. A. SERENO
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296
The Judiciary Act of 1948, as amended)