



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

**REPUBLIC OF THE G.R. No. 175177
PHILIPPINES,**

Petitioner,

Present:

- versus -

SERENO, *CJ.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

**GLORIA JARALVE substituted
by ALAN JESS JARALVE
DOCUMENTO, JR., EDGARDO
JARALVE, SERAFIN UY, JR.,
SHELLA UY, NIMFA
LAGNADA, PANTALEON
SAYA-ANG, STARGLAD
INTERNATIONAL AND
DEVELOPMENT
CORPORATION, ANNIE TAN,
TEOTIMO CABARRUBIAS,
JESSICA DACLAN, MA. EMMA
RAMAS, DANILO DEEN, and
ERIC ANTHONY DEEN.**

Respondents.

Promulgated:

24 OCT 2012

X ----- X

DECISION

LEONARDO-DE CASTRO, J.:

This is a Petition for Review on *Certiorari*¹ assailing the June 28, 2006 Decision² and October 27, 2006 Resolution³ of the Court of Appeals in

¹ Rule 45, 1997 Rules of Court.

² *Rollo*, pp. 35-61; penned by Executive Justice Arsenio J. Magpale with Associate Justices Vicente L. Yap and Romeo F. Barza, concurring.

³ *Id.* at 68-69.

CA-G.R. CV No. 78633, which affirmed the November 15, 2002 Decision⁴ of the Regional Trial Court (RTC), Branch 20, Cebu City, in Land Registration Case No. 1421-N/LRA Rec. No. N-67272.

On October 22, 1996, Gloria Jaralve,⁵ Edgardo Jaralve, Serafin Uy, Jr., Shella Uy, Nimfa Lagnada, Pantaleon Saya-Ang, Starglad International and Development Corporation, Annie Tan, Teotimo Cabarrubias, Jessica Daclan, and Ma. Emma Ramas filed an Application⁶ with Branch 20 of the RTC of Cebu City, for the registration in their names of Lot Sgs-07-000307 (subject property), under Presidential Decree No. 1529. On November 29, 1996 and November 7, 1997, they filed their Amended⁷ and Second Amended⁸ Applications, respectively, to conform to the procedural requirements of the law, as per Order⁹ of the RTC, and to join Danilo Deen and Eric Anthony Deen as applicants¹⁰ (for brevity, we will refer to all the foregoing applicants as *respondents*). This was docketed as LRC Case No. 1421-N/LRA Rec. No. N-67272.

In their original and amended applications, respondents declared that they were the co-owners in fee simple of the subject property, a parcel of land with an area of 731,380 square meters, belonging to Cadastral Lot 18590, and situated in Barangay Quiot, City of Cebu, and all the improvements thereon. They alleged that they occupied the subject property and to the best of their knowledge, there was no mortgage or encumbrance affecting it, and no one was in possession thereof.¹¹ Respondents further averred that the subject property was not covered by any certificate of title or

⁴ Id. at 87-112.

⁵ Due to her death on August 5, 2009 (*Rollo*, p. 379), she was substituted by her surviving son, Alan Jess Jaralve Documento, Jr., as per this Court's Resolution dated October 6, 2010 (*Rollo*, p. 384).

⁶ Records, Volume I, pp. 1-7.

⁷ Id. at 85-92.

⁸ Id. at 359-368.

⁹ Id. at 82.

¹⁰ Id. at 352.

¹¹ Id. at 1-2 and 85-87.

any pending case before the RTC of Cebu City.¹² Respondents also identified the names and complete postal addresses of the owners of the adjoining lots.¹³

The respondents claimed that they had acquired ownership over the subject property by way of purchase from predecessors-in-interest who had been in continuous, open, adverse, public, uninterrupted, exclusive, and notorious possession thereof for more than thirty (30) years, or from June 12, 1945.¹⁴

In support of their application, respondents submitted the following:

1. Sepia Plan;¹⁵
2. Blue Print Copy of Survey Plan;¹⁶
3. Technical Description of SGS-07-000307;¹⁷
4. Geodetic Engineer's Certificate (of the survey of the subject property);¹⁸
5. Certificate of Community Environment and Natural Resources Office (CENRO) dated March 20, 1996, signed by CENR and Provincial Environmental and Natural Resources [PENR] Officers (CENRO Certificate) that the subject property is within the alienable and disposable portion of Lot 18590;¹⁹
6. Deeds of Sale;²⁰
7. Tax Clearances;²¹ and

¹² Id. at 27-28.

¹³ Id. at 83-84.

¹⁴ Id. at 3 and 87.

¹⁵ Id. at 351.

¹⁶ Id. at 8.

¹⁷ Id. at 9-12.

¹⁸ Id. at 64-66.

¹⁹ Id. at 343-a.

²⁰ Id. at 29-56.

²¹ Id. at 67-78.

8. Department of Environment and Natural Resources (DENR), Region 7 Certification that subject property is not covered by any subsisting land application.²²

The respondents' application was opposed by the following parties:

1. Gertrudes N. Tabanas-Singson, Lourdes N. Tabanas, Francisco N. Tabanas, Vicente N. Tabanas, Heirs of Enrique N. Tabanas, Heirs of Mercedes N. Tabanas-Raganas, and Heirs of Primitiva N. Tabanas-Nadera, who claimed that they owned portions of the subject property, containing an area of 406,810 square meters, as described and bounded under Tax Declaration No. 97GR-11-075-00581, issued in the name of their father Agaton Tabanas; and that they and their predecessors-in-interest had been in peaceful, open, continuous, exclusive, and notorious possession and occupation of their alleged property since time immemorial. They prayed that the respondents' application be dismissed with respect to the portion they were claiming, and that their title be confirmed (Opposition was filed on March 3, 1997).²³
2. Petitioner Republic of the Philippines, represented by the Director of Lands, who argued that: a) neither the respondents nor their predecessors-in-interest had been in open, continuous, exclusive, and notorious possession and occupation of the subject property since June 12, 1945 or prior thereto; b) that the muniments of title and/or the tax declarations and tax payment receipts submitted in evidence appeared to be of recent vintage and did not constitute competent and sufficient proof of a bona fide acquisition of the

²² Id. at 63.

²³ Id. at 94-96.

subject property; c) that the period for an application based on a Spanish title or grant had already lapsed; and d) that the subject property was part of the public domain, which belonged to the State and not subject to private appropriation (Opposition was filed on March 4, 1997).²⁴

3. The Aznar Brothers Realty Co. and Aznar Enterprises, Inc., that opposed the application insofar as it might affect the fifteen-hectare portion they claimed and owned (Opposition was filed on March 7, 1997).²⁵
4. Ponciano Tabanas Ybiernas, for himself and for the other heirs of Esteban Tabanas and Ciriaca Gabuya, who alleged that he, his co-owners, and their predecessors-in-interest, had been occupying portions of the subject property in the concept of owners, exclusively, openly, continuously, and peacefully for many years. He prayed that the respondents' application for registration be denied with respect to the portions he and his co-owners claimed (Opposition was filed on March 10, 1997).²⁶
5. Rufina and Julia Ragasajo, who contended that the respondents' application was without legal basis as the respondents were not the true owners of the subject property, which also encroached on their own land (Opposition was filed on March 10, 1997).²⁷
6. The National Power Corporation (NPC), that opposed the respondents' application with respect to a six-hectare portion of the

²⁴ Id. at 99-101.

²⁵ Id. at 172-173.

²⁶ Id. at 195-196.

²⁷ Id. at 199-201.

subject property. NPC alleged that it was in the process of finalizing with DENR its permit/grant to occupy as a substation office, six hectares of the subject property, which was a public forest land in Antuanga Hills, Quiot, Pardo, Cebu City. NPC added that the grant of respondents' application would cause the government great prejudice (Opposition was filed on March 11, 1997).²⁸

7. Amelia and Delia Dionaldo, who opposed the respondents' application on the ground that they had interests in the subject property (Opposition was filed on March 11, 1997).²⁹
8. Jeremias L. Dolino, in his official capacity as Regional Executive Director of the DENR, Region VII, Banilad, Mandaue City, who averred that the subject property fell within Timberland Block 3-C and was within the Cebu City Reforestation project, formerly known as the Osmeña Reforestation Project.³⁰ Dolino said that there was an implied admission on the part of the respondents of this assertion as their predecessors-in-interest had previously filed a Petition for Reclassification of Land³¹ of the subject property before the DENR. Dolino added that the CENRO Certificate relied on by the respondents was discovered to have been inadvertently and erroneously issued as it was based on a mistaken projection (Opposition was filed on April 10, 1997).³² The CENRO Certificate was subsequently recalled, cancelled, and

²⁸ Id. at 132-136.

²⁹ Id. at 250.

³⁰ Id. at 263-264.

³¹ Id. at 267-269.

³² Id. at 261-266.

revoked by the Regional Executive Director of DENR *via* a Memorandum dated March 12, 1998.³³

During the trial, respondents presented the testimony of the following witnesses in support of their application: Estanislao Nacorda, Leoncio Llamedo, Rodolfo Amancia, Melecio Joboneita, Regino Gabuya, Constancio Llamedo, Teotimo Cabarrubias, Andres Alfanta, Efren Binolirao, Sergio Paran, Gloria Jaralve, Ma. Emma Ramas, Shella Uy Coca, Danilo Deen, and Edgardo Jaralve.³⁴

The foregoing witnesses testified on how the respondents acquired their respective portions of the subject property and how they and their predecessors-in-interest had been in actual, open, continuous, exclusive, peaceful, and notorious possession and occupation of the subject property in the concept of owners since before the war and for more than 30 years.³⁵

The respondents also presented Forester III Anastacio Cabalejo, a duly licensed and registered forester connected with the CENRO, and Geodetic Engineer Celso P. Mayol, the CENRO-DENR Chief of Survey Unit to testify that upon the request of Carmelina Cuizon, one of the predecessors-in-interest of the respondents, they, with other members of the Land Evaluation Party of the Bureau of Forestry, using Administrative Order No. 4-642 and the Bureau of Forestry Land Classification Map No. 2124 as references, conducted an actual survey of Cadastral Lot 18590 on November 4, 1995, and found that the subject property was within its alienable and disposable portion.³⁶

³³ *Rollo*, p. 26.

³⁴ *Id.* at 13-18.

³⁵ *Id.* at 99-106.

³⁶ *Id.* at 95.

Engineer Mayol further testified that in connection with the foregoing survey, he had prepared a plan,³⁷ which was the subject of the CENRO Certificate made at its dorsal side.

Forestry Administrative Order No. 4-642 dated July 31, 1957 declared certain portions of the public domain situated in Cebu City under Project No. 3-C as alienable and disposable lands. The Bureau of Forestry Land Classification Map No. 2124³⁸ contains the bearings and distances of the areas in Cebu City declared as alienable and disposable lands.³⁹

Finding the testimonial and documentary evidence of the respondents sufficient to show that they had acquired ownership over the subject property, the RTC ruled in their favor in its Decision dated November 15, 2002. The dispositive portion reads:

WHEREFORE, from all the foregoing undisputed facts supported by oral and documentary evidence, the Court finds and so holds that the applicants have a registerable title to the parcel of land herein applied for original registration of title, and thereby confirming the same and ordering its registration under CA 141, as amended by Presidential Decree No. 1529 over the land, denominated as SGS-07-000307, in accordance with the respective technical descriptions of herein applicants.

Once this decision becomes final, let the decree and original certificate of title be issued in the names of the applicants as follows:

Names [addresses deleted]	Extent of Interest in Lot Sgs-07-000307
1. <u>GLORIA JARALVE</u>	..... 74,940 square meters;
2. <u>EDGARDO JARALVE</u>	..... 44,700 square meters;
3. <u>SERAFIN UY, JR.</u>	..... 61,210 square meters;
4. <u>SHELLA UY</u>	..... 62,632 square meters;
5. <u>NIMFA LAGNADA</u>	..... 26,972 square meters;
6. <u>PANTALEON SAYA-ANG</u>	..... 44,700 square meters;
7. <u>ATTY. DANILO DEEN AND ZENALDA DEEN</u>	.....106,903 square meters;

³⁷ Records, Volume I, p. 343.
³⁸ Id. at 274-a.
³⁹ *Rollo*, p. 54.

8. <u>ERIC ANTHONY DEEN</u>	.....110,660 square meters;
9. <u>MA. EMMA RAMAS</u>	..... 23,060 square meters;
10. <u>STARGLAD</u> <u>INTERNATIONAL AND</u> <u>DEVELOPMENT</u> <u>CORPORATION</u>	..... 82,023 square meters;
11. <u>ANNIE TAN</u>	..... 10,000 square meters;
12. <u>TEOTIMO CABARRUBIAS</u>	..... 5,000 square meters;
13. <u>MA. EMMA RAMAS</u>	..... 68,580 square meters;
14. <u>JESSICA DACLAN</u>	..... 10,000 square meters[.] ⁴⁰

The RTC held that according to jurisprudence and under Section 48(b) of Commonwealth Act No. 141 or the Public Land Act, as amended by Republic Act No. 1942⁴¹ and Republic Act No. 3872,⁴² “alienable public land held by a possessor personally or through his predecessors-in-interest, openly, continuously, and exclusively for the prescribed period of 30 years x x x is converted to private property by mere lapse or completion of said period *ipso jure*, and without need of judicial or other sanction, ceases to be public land and becomes private property.”⁴³

The RTC also granted Starglad International and Development Corporation’s application despite the constitutional prohibition on acquisition of public lands of private corporations or associations, explaining that such prohibition does not apply when the corporation’s predecessors-in-interest had satisfied the requirements in acquiring ownership over public lands before such land was transferred to the corporation.⁴⁴

The RTC stated that the private oppositors were not able to present any convincing evidence and/or approved survey plan that clearly identified

⁴⁰ Id. at 110-112.
⁴¹ An Act to Amend Subsection (b) of Section Forty-Eight of Commonwealth Act Numbered One Hundred Forty-One, Otherwise Known as the Public Land Act.
⁴² An Act to Amend Sections Forty-Four, Forty-Eight and One Hundred Twenty of Commonwealth Act Numbered One Hundred Forty-One, As Amended, Otherwise Known as the “Public Land Act,” and For Other Purposes.
⁴³ *Rollo*, pp. 106-107.
⁴⁴ Id. at 107.

the portions of the subject property they were claiming.⁴⁵ Likewise, the RTC held that the DENR Region VII failed to controvert the fact that the subject property was within the alienable and disposable portion of the public domain. The RTC added that its witnesses did not even conduct an actual relocation or verification survey of the subject property to determine its relative position to the timberland area. Thus, the RTC stated, the DENR Region VII's conclusion with respect to the subject property's position was inaccurate and unreliable.⁴⁶ In giving more credit to respondents' evidence, particularly the CENRO Certificate, the RTC explained:

As against the approved plan of [the subject property] which has been thoroughly verified under the Land Classification Map No. 2124 (Exhibit J-NAMRIA) and which merely conformed to the actual verification/relocation surveys (Exhibits K, K-1) of the Land Evaluation Party of CENRO and PENRO, specifically conducted by CENRO Chief of Survey Unit Engr. Celso Mayol and the Chief of the Land Evaluation Party Anastacio Cabalejo and Forester Justicio Nahid (Exhibits L, L-1), the relocation survey and map prepared by Engineer Icoy are simply undeserving of any weight. DENR-7 Regional Executive Director Jeremias Dolino and Director Estanislao Galano of the Regional Management Services of DENR-7, themselves, admitted that the task of determining whether a parcel of land is within the alienable and disposable area of the public domain falls within the Land Evaluation Party of the Forest Management Services of CENRO and PENRO of the DENR. In this case, the CENRO/PENRO Land Evaluation Party headed by Forester Anastacio Cabalejo, together with the Chief of the Survey Unit of CENRO, Engr. Celso Mayol, actually conducted a segregation survey of Cadastral Lot 18590 on November 4, 1995 to determine the alienable and disposable portion of Cadastral Lot 18590 and on the ground that they located three (3) Forest Reserve (FR) monuments marked as FR 67, FR 69 and FR 70. Thus, after the said verification survey, a survey plan was prepared by Engr. Celso Mayol and at the back portion thereof, he certified to the following, x x x.

x x x x

The [CENRO Certificate], having been issued by the proper government officers tasked with the duty of certifying as to land classifications in the region, the same should be given weight and believed, especially so that the results of the actual ground survey of November 4, 1996 were re-verified and re-checked upon the order of PENRO Isabelo Montejo.⁴⁷

⁴⁵ Id.

⁴⁶ Id. at 95-96.

⁴⁷ Id. at 96-98.

The CENRO Certificate relied on by the respondents and given much weight by the RTC reads as follows:

Republic of the Philippines
Department of Environment and Natural Resources
COMMUNITY ENVIRONMENT AND NATURAL RESOURCES
OFFICE
Cebu City

CENRO, Cebu City/Lands Verification
CARMELINA CUIZON, et al. (Cebu City)

March 20, 1996

C E R T I F I C A T I O N

TO WHOM IT MAY CONCERN:

This is to certify that per projection and verification conducted by Forester Anastacio C. Cabalejo, a tract of land lot No. 18590, Cebu Cadastre 12 Extension, situated at Quiot, Pardo, Cebu City. As shown and described in the Plan at the back hereof, as surveyed by Geodetic Engineer Celso P. Mayol for Carmelina Cuizon, et al. The same was found as hereunder indicated:

Lot A – containing an area of SEVEN HUNDRED THIRTY[-] SEVEN THOUSAND THREE HUNDRED FIVE (737,305) square meters, more or less, is within the Alienable and Disposable, block-1, land classification project 3-C, per Map 2124 of Cebu City. Certified under Forestry Administrative Order No. 4-642 dated July 31, 1957.

Lot B – containing an area of TWO HUNDRED SIX THOUSAND FIVE HUNDRED FIFTY[-]TWO (206,552) square meters, more or less, is within the Timberland block-C, land classification project 3-C, per Map 2124 of Cebu City. Certified under Forestry Administrative Order No. 4-642 dated July 31, 1957.

This certification is issued upon the request of the interested party for the purpose of ascertaining the land classification status only and does not [entitle] him/her preferential priority rights of possession until determine[d] by competent authorities.

[signed]
ILUMINADO C. LUCAS
Community Environment and
Natural Resources Officer

[signed]
ISABELO R. MONTEJO
Provincial Environment and
Natural Resources Officer

S W O R N S T A T E M E N T

I, Anastacio C. Cabalejo, forest officer, after having been duly sworn to under oath according to the law do hereby depose and say that I personally projected and verified the area and the result is the basis of the aforementioned certification.

[signed]
ANASTACIO C. CABALEJO
FORESTER III

SUBSCRIBED AND SWORN to before me this 12[th] day of April 1996, at Cebu City, Philippines.

[signed]
ILUMINADO C. LUCAS
Community Environment and
Natural Resources Officer⁴⁸

Aggrieved, the petitioner and three of the private oppositors appealed the decision of the RTC to the Court of Appeals in CA-G.R. CV No. 78633, positing the following assignment of errors:

1. Raised by private oppositors Gertrudes N. Tabanas-Singson, Lourdes N. Tabanas, Francisco N. Tabanas, and Vicente N. Tabanas (Heirs of Agaton Tabanas):

I.

THE LOWER COURT ERRED IN HOLDING THAT APPLICANTS HAVE A REGISTERABLE TITLE TO THE PARCEL OF LAND HEREIN APPLIED FOR ORIGINAL REGISTRATION OF TITLE AND CONFIRMING THE SAME AND ORDERING ITS REGISTRATION UNDER CA 141, AS AMENDED BY P.D. 1529 OVER THE LAND DENOMINATED AS SGS-07-000307, IN ACCORDANCE WITH THE RESPECTIVE TECHNICAL DESCRIPTIONS.

II.

THE LOWER COURT ERRED IN ORDERING THAT ONCE THE DECISION BECOMES FINAL, THE DECREE AND ORIGINAL

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Records, Volume I, p. 343-a.

CERTIFICATE OF TITLE BE ISSUED IN THE NAME OF THE APPLICANTS x x x.⁴⁹

2. Raised by petitioner Republic of the Philippines:

THE COURT A QUO ERRED IN GRANTING [RESPONDENTS'] APPLICATION FOR REGISTRATION DESPITE THE FACT THAT THE AREA COVERED BY THE APPLICATION IS CLASSIFIED AS TIMBERLAND AND THEREFORE UNALIENABLE.⁵⁰

3. Raised by private oppositors Heirs of Ponciano Ybiernas:

Error No. 1 – That the trial court erred in disposing all the area of Lot 18590 to the [respondents], but none to the oppositors-applicants, contrary to the Magsaysay Credo: THAT THOSE WHO HAVE LESS IN LIFE SHOULD HAVE MORE IN LAW;

Error No. 2 – That under Art. 24 of the Civil Code, judges are enjoined by law to protect the underdog, which provides as follows:

“Art. 24. In all contractual, property or other relations, when one of the parties is at a disadvantage on account of his moral dependence, ignorance, indigence, mental weakness, tender age or other handicap, the courts must be vigilant for his protection.”

Error No. 3 – That none of the [respondents] have complied with the requirement as alluded to in Error No. 1, which is the procurement of a permit from the government agency in charge of issuance of such permit, to occupy a public land, duly endorsed by the DENR official, but PONCIANO YBIERNAS has duly complied with all the requirements, plus possession of more than 30 years of the land applied for by him, and yet PONCIANO YBIERNAS, the poorest among all the oppositors-applicants, was not given a single square meter by the trial court. Hence this shows that money talks.⁵¹

4. Raised by private oppositors Aznar Enterprises, Inc. and Aznar Brothers Realty Co.:

⁴⁹ CA *rollo*, p. 59.

⁵⁰ Id. at 263.

⁵¹ Id. at 367-368.

I.

THE HONORABLE LOWER COURT HAS ERRED IN HOLDING THAT [RESPONDENTS] HAVE REGISTRABLE TITLE OVER THE SUBJECT PARCEL OF LAND DESCRIBED AS LOT SGS-07-000307, PORTION OF LOT 18590 AND ORDERING ITS REGISTRATION IN THE NAMES OF THE APPLICANTS UNDER ***COMMONWEALTH ACT NO. 141 AS AMENDED BY PRESIDENTIAL DECREE NO. 1529.***

II.

THE LOWER COURT HAS GRAVELY ERRED IN INCLUDING THE PORTIONS OF 41.2092 HECTARES OF THE LOT WHICH BELONGS TO THE APPELLANTS AZNAR ENTERPRISES, INC. AND AZNAR BROTHERS REALTY CO., IN ITS DECISION AND ORDERING ITS REGISTRATION IN THE NAMES OF THE [RESPONDENTS].

III.

THE LOWER COURT HAS GRAVELY ERRED IN DENYING THE MOTION FILED BY [THE] AZNARS DATED MARCH 31, 1998, TO ALLOW THEM TO RELOCATE THE PORTION THEY CLAIMED OUT OF THE AREA APPLIED FOR BY THE [RESPONDENTS].⁵²

Finding for the respondents, the Court of Appeals affirmed the RTC in its Decision dated June 28, 2006.

The Court of Appeals stated that the private oppositors failed to prove that the parcels of land they were claiming were identical to the respective portions of the subject property the respondents sought to register.⁵³

As for the petitioner's appeal, the Court of Appeals agreed with the RTC's findings that the petitioner failed to controvert the fact that the subject property was within the alienable and disposable portion of the public domain. It added that it was a great blunder that petitioner's own witness, for his failure to conduct an actual relocation or verification survey,

⁵² Id. at 520.

⁵³ *Rollo*, p. 58.

could not even categorically identify the relative position of the subject property to the timberland area.⁵⁴

Undaunted, the Heirs of Agaton Tabanas,⁵⁵ Aznar Enterprises, Inc. and Aznar Brothers Realty Co.,⁵⁶ and the petitioner⁵⁷ each moved to have the Court of Appeals reconsider its Decision.

The Court of Appeals, however, denied these motions on October 27, 2006 for lack of merit.⁵⁸

The same oppositors filed their separate Petitions for Review on *Certiorari* before this Court, *to wit*:

1. Private oppositors Aznar Enterprises, Inc. and Aznar Brothers Realty Co.'s Petition for Review on *Certiorari* was docketed as G.R. No. 175568 and was denied by this Court in its February 26, 2007 Resolution⁵⁹ for the following reasons:

- a. as the petition was filed beyond the extended period pursuant to Section 5[a], Rule 56;
- b. for failure to accompany the petition with a clearly legible duplicate original, or a certified true copy of the assailed resolution in violation of Section[s] 4[d] and 5, Rule 45 in relation to Section 5[d], Rule 56; and
- c. for insufficient or defective verification, the same being based "on knowledge and belief" in violation of Section 4, Rule 7, as amended by Administrative Matter No. 00-2-10-SC.

In any event, the petition failed to sufficiently show that the appellate court committed any reversible error in the challenged

⁵⁴ Id. at 60.

⁵⁵ CA *rollo*, pp. 674-700.

⁵⁶ Id. at 728-740.

⁵⁷ Id. at 773-779.

⁵⁸ *Rollo*, pp. 68-69.

⁵⁹ Id. at 215-216.

decision and resolution as to warrant the exercise by this Court of its discretionary appellate jurisdiction and the issues raised therein are factual in nature.

This Court likewise denied with finality the Motion for Reconsideration⁶⁰ of Aznar Enterprises, Inc. and Aznar Brothers Realty Co. in a Resolution⁶¹ dated July 2, 2007.

2. Private oppositors Heirs of Agaton Tabanas's Petition for Review on *Certiorari*⁶² was docketed as G.R. No. 175397 and in a Resolution⁶³ dated March 14, 2007, was denied by this Court "for [the Heirs'] failure to sufficiently show that the Court of Appeals committed any reversible error in the challenged decision and resolution as to warrant the exercise of this Court's discretionary appellate jurisdiction[.]" and for raising issues, which were factual in nature.

This Court similarly denied with finality the Heirs of Agaton Tabanas's Motion for Reconsideration⁶⁴ in a Resolution dated June 18, 2007.⁶⁵

On October 1, 2007, this Court denied for lack of merit the Heirs of Agaton Tabanas's motion to file a second motion for reconsideration, and added that no further pleadings would be entertained.⁶⁶

⁶⁰ CA *rollo*, pp. 1065-1075.

⁶¹ *Rollo*, p. 352.

⁶² CA *rollo*, pp. 858-913.

⁶³ *Rollo*, pp. 353-354.

⁶⁴ CA *rollo*, pp. 1076-1092.

⁶⁵ *Rollo*, p. 355.

⁶⁶ *Id.* at 357-358.

The Petition for Review on *Certiorari*⁶⁷ now before us is the one filed by the petitioner Republic of the Philippines, which presented the following ground:

THE COURT OF APPEALS ERRED ON A QUESTION OF LAW WHEN IT AFFIRMED THE JUDGMENT OF THE TRIAL COURT THAT THE SUBJECT LOTS ARE ALIENABLE LAND DESPITE THE CLEAR EVIDENCE TO THE CONTRARY.⁶⁸

The petitioner avers that the Court of Appeals ignored the long-standing rule that in land registration proceedings, the applicants have the burden of overcoming the presumption that the land sought to be registered is inalienable land of the public domain when it affirmed the RTC's decision to grant the respondents' application for original registration over the subject property despite their failure to prove that it was alienable and disposable.⁶⁹

The petitioner argues that the CENRO Certificate the respondents relied on was erroneously issued; thus, it did not afford them any vested right. The petitioner adds: "[a]t any rate, being the government department charged with the duty to conduct survey and classification of lands, the DENR's recall of the certification that the subject [property] is alienable and disposable should have been accorded respect."⁷⁰

The respondents, in their Comment,⁷¹ contend that the findings of the RTC, as affirmed by the Court of Appeals, that the subject property falls within the alienable and disposable portion of the public domain, is duly supported by substantial evidence. Moreover, they asseverate, that the issue

⁶⁷ Id. at 8-34.

⁶⁸ Id. at 24.

⁶⁹ Id. at 8-9.

⁷⁰ Id. at 28.

⁷¹ Id. at 147-214.

posed by the petitioner is a factual issue, which had been thoroughly discussed and resolved by the lower courts.

Issue

The crux of the controversy in the case at bar boils down to whether the grant of respondents' application for registration of title to the subject property was proper under the law and jurisprudence.

This Court's Ruling

This Court finds the petition to be meritorious.

Procedural Issue: Nature of Issue

At the outset, this Court would like to address respondents' concern that the petition involves an issue purely factual in nature; thus, it cannot be subject of a petition for review under Rule 45.

This Court, in *New Rural Bank of Guimba (N.E.), Inc. v. Abad*,⁷² reiterated the distinction between a question of law and a question of fact, *viz.*:

We reiterate the distinction between a question of law and a question of fact. A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted. A question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific surrounding circumstances, as well as

⁷²

G.R. No. 161818, August 20, 2008, 562 SCRA 503, 509-510.

their relation to each other and to the whole, and the probability of the situation. (Citation omitted.)

The petitioner herein is not calling for an examination of the probative value or truthfulness of the evidence presented.⁷³ What it wants to know is whether the lower courts correctly applied the law and jurisprudence when they granted the respondents' application for registration of title to the subject property.

***Main Issue: Nature and Character
of Subject Property***

Going to the merits of the case, this Court agrees with the petitioner that the respondents failed to prove in accordance with law that the subject property is within the alienable and disposable portion of the public domain.

The Public Land Act or Commonwealth Act No. 141, until this day, is the existing general law governing the classification and disposition of lands of the public domain, except for timber and mineral lands. "Under the *Regalian* doctrine embodied in our Constitution, land that has not been acquired from the government, either by purchase, grant, or any other mode recognized by law, belongs to the State as part of the public domain."⁷⁴ Thus, it is indispensable for a person claiming title to a public land to show that his title was acquired through such means.⁷⁵

Section 48(b) of Commonwealth Act No. 141, as amended by Presidential Decree No. 1073,⁷⁶ provides:

⁷³ *Jarantilla, Jr. v. Jarantilla*, G.R. No. 154486, December 1, 2010, 636 SCRA 299, 308.

⁷⁴ *Republic v. Heirs of Juan Fabio*, G.R. No. 159589, December 23, 2008, 575 SCRA 51, 73.

⁷⁵ *Id.*

⁷⁶ Extending the Period of Filing Applications for Administrative Legalization (Free Patent) and Judicial Confirmation of Imperfect and Incomplete Titles to Alienable and Disposable Lands of

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:

x x x x

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

Section 14(1) of Presidential Decree No. 1529 or the Property Registration Decree, likewise provides:

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.

Based on the foregoing parameters, applicants for registration under Section 14(1) of Presidential Decree No. 1529 must sufficiently establish the following:

1. that the subject land forms part of the disposable and alienable lands of the public domain;

2. that the applicant and his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the same; and
3. that it is under a *bona fide* claim of ownership since June 12, 1945, or earlier.⁷⁷

Land classification or reclassification cannot be assumed. It must be proved.⁷⁸ To prove that the subject property is alienable and disposable land of the public domain, respondents presented the CENRO Certificate dated March 20, 1996 signed by CENR Officer Iluminado C. Lucas and PENR Officer Isabelo R. Montejo, and verified by Forester Anastacio C. Cabalejo.

However, this Court, in *Republic v. T.A.N. Properties, Inc.*,⁷⁹ ruled that a CENRO or PENRO Certification is not enough to certify that a land is alienable and disposable:

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

Although the survey and certification were done in accordance with Forestry Administrative Order No. 4-642, issued by the then Secretary of

⁷⁷ *Republic v. Manimtim*, G.R. No. 169599, March 16, 2011, 645 SCRA 520, 532-533.

⁷⁸ *Mercado v. Valley Mountain Mines Exploration, Inc.*, G.R. No. 141019, November 23, 2011, 661 SCRA 13, 45.

⁷⁹ G.R. No. 154953, June 26, 2008, 555 SCRA 477, 489.

Agriculture and Natural Resources declaring certain portions of the public domain situated in Cebu City as alienable and disposable, an actual copy of such classification, certified as true by the legal custodian of the official records, was not presented in evidence. This was a crucial mistake. What was presented was the certification⁸⁰ of Nicomedes R. Armilla, the Land Evaluation Party Coordinator, that the Cebu CENRO had on file a certified photocopy of the administrative order. In fact, one of the private oppositors objected to its submission in evidence for violating the best evidence rule.⁸¹

Moreover, DENR Administrative Order (DAO) No. 20 dated May 30, 1988,⁸² delineated the functions and authorities of the offices within the DENR. Under Section G(1) of the above DAO, **CENROs** issue certificates of land classification status for areas **below 50 hectares**. For those falling **above 50 hectares**, the issuance of such certificates is within the function of the **PENROs**, as per Section F(1) of the same DAO. This delineation, with regard to the offices authorized to issue certificates of land classification status, was retained in DAO No. 38⁸³ dated April 19, 1990.⁸⁴

In the case at bar, the subject property has an area of 731,380 square meters or 73.138 hectares. Clearly, under DAO No. 38, series of 1990, the subject property is **beyond** the authority of the CENRO to certify as alienable and disposable.⁸⁵

It is undisputed that while PENR Officer Montejo's signature appears on the CENRO Certificate, it was under the CENRO that the survey of the subject property was conducted. The certificate was likewise issued under

⁸⁰ Records, Volume I, p. 277.

⁸¹ Id. at 441.

⁸² Delineation of Regulatory Functions and Authorities.

⁸³ Revised Regulations on the Delineation of Functions and Delineation of Authorities.

⁸⁴ *Republic v. T.A.N. Properties, Inc.*, supra note 78 at 487.

⁸⁵ Id. at 488.

the CENRO, and not the PENRO. The respondents admit and even emphasize that it was the CENRO that was involved in the conduct of the survey and issuance of the certification with respect to the land classification status of the subject property.

In *Republic v. Medida*,⁸⁶ this Court said:

This Court x x x holds that the alienability and disposability of land are not among the matters that can be established by mere admissions, or even the agreement of parties. The law and jurisprudence provide stringent requirements to prove such fact. Our Constitution, no less, embodies the Regalian doctrine that all lands of the public domain belong to the State, which is the source of any asserted right to ownership of land. The courts are then empowered, as we are duty-bound, to ensure that such ownership of the State is duly protected by the proper observance by parties of the rules and requirements on land registration.

Unfortunately, respondents were not able to discharge the burden of overcoming the presumption that the land they sought to be registered forms part of the public domain.

WHEREFORE, the petition is hereby **GRANTED**. The June 28, 2006 Decision and October 27, 2006 Resolution of the Court of Appeals in CA-G.R. CV No. 78633, are **REVERSED** and **SET ASIDE**. The respondents' application for registration and issuance of title to Lot SGS-07-000307, Cebu Cad. 12 Extension, Barangay Quiot, Cebu City, in Land Registration Case No. 1421-N/LRA Rec. No. N-67272 filed with the Regional Trial Court of Cebu City, Branch 20 is accordingly **DISMISSED**.


⁸⁶

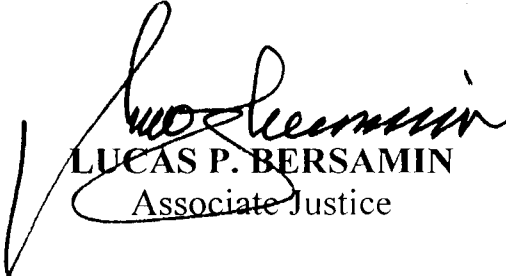
G.R. No. 195097, August 13, 2012.

SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

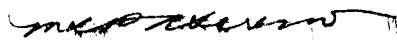

LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


MARIA LOURDES P. A. SERENO
Chief Justice