Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

REPUBLIC OF THE PHILIPPINES, Petitioner,

- versus -

EMMANUEL C. CORTEZ, Respondent.

G.R. No. 186639

Present:

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

Promulgated:

FEB 05 2014

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DECISION

REYES, *J.*:

Before this Court is a petition for review on *certiorari*[1] under Rule 45 of the Rules of Court seeking to annul and set aside the Decision[2] dated February 17, 2009 of the Court of Appeals (CA) in CA-G.R. CV No. 87505. The CA affirmed the Decision[3] dated February 7, 2006 of the Regional Trial Court (RTC) of Pasig City, Branch 68, in LRC Case No. N-11496.

The Facts

On February 28, 2003, respondent Emmanuel C. Cortez (Cortez) filed with the RTC an application[4] for judicial confirmation of title over a parcel of land located at *Barangay* (Poblacion) Aguho, P. Herrera Street, Pateros,

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1 *Rollo*, pp. 13-25.

2 Penned by Associate Justice Jose Catral Mendoza (now a member of this Court), with Associate Justices Portia Aliño-Hormachuelos and Ramon M. Bato, Jr., concurring; id. at 28-40.

3 Issued by Judge Santiago G. Estrella; id. at 55A-60.

4 Id. at 44-48.

Metro Manila. The said parcel of land has an area of 110 square meters and more particularly described as Lot No. 2697-B of the Pateros Cadastre. In support of his application, Cortez submitted, *inter alia*, the following documents: (1) tax declarations for various years from 1966 until 2005; (2) survey plan of the property, with the annotation that the property is classified as alienable and disposable; (3) technical description of the property, with a certification issued by a geodetic engineer; (4) tax clearance certificate; (5) extrajudicial settlement of estate dated March 21, 1998, conveying the subject property to Cortez; and (6) *escritura de particion extrajudicial* dated July 19, 1946, allocating the subject property to Felicisima Cotas – Cortez' mother.

As there was no opposition, the RTC issued an Order of General Default and Cortez was allowed to present his evidence *ex-parte*.

Cortez claimed that the subject parcel of land is a portion of Lot No. 2697, which was declared for taxation purposes in the name of his mother. He alleged that Lot No. 2697 was inherited by his mother from her parents in 1946; that, on March 21, 1998, after his parents died, he and his siblings executed an Extra-Judicial Settlement of Estate over the properties of their deceased parents and one of the properties allocated to him was the subject property. He alleged that the subject property had been in the possession of his family since time immemorial; that the subject parcel of land is not part of the reservation of the Department of Environment and Natural Resources (DENR) and is, in fact, classified as alienable and disposable by the Bureau of Forest Development (BFD).

Cortez likewise adduced in evidence the testimony of Ernesto Santos, who testified that he has known the family of Cortez for over sixty (60) years and that Cortez and his predecessors-in-interest have been in possession of the subject property since he came to know them.

On February 7, 2006, the RTC rendered a Decision,[5] which granted Cortez' application for registration, *viz*:

> WHEREFORE, finding the application meritorious, the Court DECLARES, CONFIRMS, and ORDERS the registration of the applicant's title thereto.
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> As soon as this Decision shall have become final and after payment of the required fees, let the corresponding Decrees be issued in the name of the applicant, Emmanuel C. Cortez.

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5 Id. at 55A-60.

> Let copies of this Decision be furnished the Office of the Solicitor General, Land Registration Authority, Land Management Bureau, and the Registry of Deeds of Rizal.
>
> SO ORDERED.[6]

In granting Cortez' application for registration of title to the subject property, the RTC made the following ratiocinations:

> From the foregoing, the Court finds that there is sufficient basis to grant the relief prayed for. It having been established by competent evidence that the possession of the land being applied for by the applicant and his predecessor-in-interest have been in open, actual, uninterrupted, and adverse possession, under claim of title and in the concept of owners, all within the time prescribed by law, the title of the applicant should be and must be AFFIRMED and CONFIRMED.[7]

The Republic of the Philippines (petitioner), represented by the Office of the Solicitor General, appealed to the CA, alleging that the RTC erred in granting the application for registration despite the failure of Cortez to comply with the requirements for original registration of title. The petitioner pointed out that, although Cortez declared that he and his predecessors-in-interest were in possession of the subject parcel of land since time immemorial, no document was ever presented that would establish his predecessors-in-interest's possession of the same during the period required by law. That petitioner claimed that Cortez' assertion that he and his predecessors-in-interest had been in open, adverse, and continuous possession of the subject property for more than thirty (30) years does not constitute well-neigh incontrovertible evidence required in land registration cases; that it is a mere claim, which should not have been given weight by the RTC.

Further, the petitioner alleged that there was no certification from any government agency that the subject property had already been declared alienable and disposable. As such, the petitioner claims, Cortez' possession of the subject property, no matter how long, cannot confer ownership or possessory rights.

On February 17, 2009, the CA, by way of the assailed Decision,[8] dismissed the petitioner's appeal and affirmed the RTC Decision dated February 7, 2006. The CA ruled that Cortez was able to prove that the subject property was indeed alienable and disposable, as evidenced by the declaration/notation from the BFD.

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6 Id. at 59-60.
7 Id. at 59.
8 Id. at 28-40.

Further, the CA found that Cortez and his predecessors-in-interest had been in open, continuous, and exclusive possession of the subject property for more than 30 years, which, under Section 14(2) of Presidential Decree (P.D.) No. 1529[9], sufficed to convert it to private property. Thus:

> It has been settled that properties classified as alienable and disposable land may be converted into private property by reason of *open*, *continuous* and *exclusive* possession of at least 30 years. Such property now falls within the contemplation of "private lands" under Section 14(2) of PD 1529, over which title by prescription can be acquired. Thus, under the second paragraph of Section 14 of PD 1529, those who are in possession of alienable and disposable land, and whose possession has been characterized as open, continuous and exclusive for 30 years or more, may have the right to register their title to such land despite the fact that their possession of the land commenced only after 12 June 1945. x x x
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> x x x x
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> While it is significant to note that applicant-appellee's possession of the subject property can be traced from his mother's possession of the same, the records, indeed, show that his possession of the subject property, following Section 14(2) [of PD 1529], is to be reckoned from January 3, 1968, when the subject property was declared alienable and disposable and not way back in 1946, the year when he inherited the same from his mother. At any rate, at the time the application for registration was filed in 2003, there was already sufficient compliance with the requirement of possession. His possession of the subject property has been characterized as open, continuous, exclusive and notorious possession and occupation in the concept of an owner.[10] (Citations omitted)

Hence, the instant petition.

The Issue

The sole issue to be resolved by the Court is whether the CA erred in affirming the RTC Decision dated February 7, 2006, which granted the application for registration filed by Cortez.

The Court's Ruling

The petition is meritorious.

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9 Property Registration Decree.

10 *Rollo*, pp. 35, 38.

At the outset, the Court notes that the RTC did not cite any specific provision of law under which authority Cortez' application for registration of title to the subject property was granted. In granting the application for registration, the RTC merely stated that "the possession of the land being applied for by [Cortez] and his predecessor-in-interest have been in open, actual, uninterrupted, and adverse possession, under claim of title and in the concept of owners, all within the time prescribed by law[.]"[11] On the other hand, the CA assumed that Cortez' application for registration was based on Section 14(2) of P.D. No. 1529. Nevertheless, Cortez, in the application for registration he filed with the RTC, proffered that should the subject property not be registrable under Section 14(2) of P.D. No. 1529, it could still be registered under Section 48(b) of Commonwealth Act No. 141 (C.A. No. 141), or the Public Land Act, as amended by P.D. No. 1073[12] in relation to Section 14(1) of P.D. No. 1529. Thus, the Court deems it proper to discuss Cortez' application for registration of title to the subject property *vis-à-vis* the provisions of Section 14(1) and (2) of P.D. No. 1529.

Applicants for original registration of title to land must establish compliance with the provisions of Section 14 of P.D. No. 1529, which pertinently provides that:

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

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11 Id. at 59.

12 Section 48(b) of the Public Land Act, as amended by P.D. No. 1073, provides that:

Section 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 open, continuous, exclusive, and notorious possession and occupation of alienable and disposable lands of the public domain, under a *bona fide* claim of acquisition or ownership, since June 12, 1945, or earlier, immediately preceding the filing of the 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.

After a careful scrutiny of the records of this case, the Court finds that Cortez failed to comply with the legal requirements for the registration of the subject property under Section 14(1) and (2) of P.D. No. 1529.

Section 14(1) of P.D. No. 1529 refers to the judicial confirmation of imperfect or incomplete titles to public land acquired under Section 48(b) of C.A. No. 141, as amended by P.D. No. 1073. "Under Section 14(1) [of P.D. No. 1529], applicants for registration of title must sufficiently establish *first*, that the subject land forms part of the disposable and alienable lands of the public domain; *second*, that the applicant and his predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the same; and *third*, that it is under a *bona fide* claim of ownership since June 12, 1945, or earlier."[13]

The first requirement was not satisfied in this case. To prove that the subject property forms part of the alienable and disposable lands of the public domain, Cortez adduced in evidence a survey plan Csd-00-000633[14] (conversion-subdivision plan of Lot 2697, MCadm 594-D, Pateros Cadastral Mapping) prepared by Geodetic Engineer Oscar B. Fernandez and certified by the Lands Management Bureau of the DENR. The said survey plan contained the following annotation:

> This survey is inside L.C. Map No. 2623, Project No. 29, classified as alienable & disposable by the Bureau of Forest Development on Jan. 3, 1968.

However, Cortez' reliance on the foregoing annotation in the survey plan is amiss; it does not constitute incontrovertible evidence to overcome the presumption that the subject property remains part of the inalienable public domain. In *Republic of the Philippines v. Tri-Plus Corporation*,[15] the Court clarified that, the applicant must at the very least submit a certification from the proper government agency stating that the parcel of land subject of the application for registration is indeed alienable and disposable, *viz*:

> It must be stressed that incontrovertible evidence must be presented to establish that the land subject of the application is alienable or disposable.
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> In the present case, the only evidence to prove the character of the subject lands as required by law is the notation appearing in the Advance Plan stating in effect that the said properties are alienable and disposable. However, this is hardly the kind of proof required by law. **To prove that the land subject of an application for registration is alienable, an**

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13 *See Republic v. Rizalvo, Jr.*, G.R. No. 172011, March 7, 2011, 644 SCRA 516, 523.
14 Records, p. 231.
15 534 Phil. 181 (2006).

> **applicant must establish the existence of a positive act of the government such as a presidential proclamation or an executive order, an administrative action, investigation reports of Bureau of Lands investigators, and a legislative act or statute. The applicant may also secure a certification from the Government that the lands applied for are alienable and disposable.** In the case at bar, while the Advance Plan bearing the notation was certified by the Lands Management Services of the DENR, **the certification refers only to the technical correctness of the survey plotted in the said plan and has nothing to do whatsoever with the nature and character of the property surveyed.** Respondents failed to submit a certification from the proper government agency to prove that the lands subject for registration are indeed alienable and disposable.[16] (Citations omitted and emphasis ours)

Similarly, in *Republic v. Roche*,[17] the Court declared that:

> Respecting the third requirement, the applicant bears the burden of proving the status of the land. **In this connection, the Court has held that he must present a certificate of land classification status issued by the Community Environment and Natural Resources Office (CENRO) or the Provincial Environment and Natural Resources Office (PENRO) of the DENR. He must also prove that the DENR Secretary had approved the land classification and released the land as alienable and disposable, and that it is within the approved area per verification through survey by the CENRO or PENRO. Further, the applicant must present a copy of the original classification approved by the DENR Secretary and certified as true copy by the legal custodian of the official records. These facts must be established by the applicant to prove that the land is alienable and disposable.**
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> Here, Roche did not present evidence that the land she applied for has been classified as alienable or disposable land of the public domain. She submitted only the survey map and technical description of the land which bears no information regarding the land's classification. She did not bother to establish the status of the land by any certification from the appropriate government agency. Thus, it cannot be said that she complied with all requisites for registration of title under Section 14(1) of P.D. 1529.[18] (Citations omitted and emphasis ours)

The annotation in the survey plan presented by Cortez is not the kind of evidence required by law as proof that the subject property forms part of the alienable and disposable land of the public domain. Cortez failed to present a certification from the proper government agency as to the classification of the subject property. Cortez likewise failed to present any evidence showing that the DENR Secretary had indeed classified the subject property as alienable and disposable. Having failed to present any

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16 Id. at 194-195.
17 G.R. No. 175846, July 6, 2010, 624 SCRA 116.
18 Id. at 121-122.

incontrovertible evidence, Cortez' claim that the subject property forms part of the alienable and disposable lands of the public domain must fail.

Anent the second and third requirements, the Court finds that Cortez likewise failed to establish the same. Cortez failed to present any evidence to prove that he and his predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the subject property since June 12, 1945, or earlier. Cortez was only able to present oral and documentary evidence of his and his mother's ownership and possession of the subject property since 1946, the year in which his mother supposedly inherited the same.

Other than his bare claim that his family possessed the subject property since time immemorial, Cortez failed to present any evidence to show that he and his predecessors-in-interest indeed possessed the subject property prior to 1946; it is a mere claim and not factual proof of possession. "It is a rule that general statements that are mere conclusions of law and not factual proof of possession are unavailing and cannot suffice. An applicant in a land registration case cannot just harp on mere conclusions of law to embellish the application but must impress thereto the facts and circumstances evidencing the alleged ownership and possession of the land."[19]

Further, the earliest tax declaration presented by Cortez was only in 1966. Cortez failed to explain why, despite his claim that he and his predecessors-in-interest have been in possession of the subject property since time immemorial, it was only in 1966 that his predecessors-in-interest started to declare the same for purposes of taxation.

That Cortez and his predecessors-in-interest have been in possession of the subject property for fifty-seven (57) years at the time he filed his application for registration in 2003 would likewise not entitle him to registration thereof under Section 14(2) of P.D. No. 1529.

Section 14(2) of P.D. No. 1529 sanctions the original registration of lands acquired by prescription under the provisions of existing laws. "As Section 14(2) [of P.D. No. 1529] 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."[20]

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[19] *Republic v. Dela Paz*, G.R. No. 171631, November 15, 2010, 634 SCRA 610, 622-623, citing *Mistica v. Republic*, G.R. No. 165141, September 11, 2009, 599 SCRA 401, 410-411 and *Lim v. Republic*, G.R. Nos. 158630 and 162047, September 4, 2009, 598 SCRA 247, 262.

[20] *Republic v. Espinosa*, G.R. No. 171514, July 18, 2012, 677 SCRA 92, 106.

In *Heirs of Mario Malabanan v. Republic*,[21] the Court however clarified that lands of the public domain that are patrimonial in character are susceptible to acquisitive prescription and, accordingly, eligible for registration under Section 14(2) of P.D. No. 1529, *viz*:

> The Civil Code makes it clear that patrimonial property of the State may be acquired by private persons through prescription. This is brought about by Article 1113, which states that "[a]ll things which are within the commerce of man are susceptible to prescription," and that [p]roperty of the State or any of its subdivisions not patrimonial in character shall not be the object of prescription."
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> There are two modes of prescription through which immovables may be acquired under the Civil Code. The first is ordinary acquisitive prescription, which, under Article 1117, requires possession in good faith and with just title; and, under Article 1134, is completed through possession of ten (10) years. **There is nothing in the Civil Code that bars a person from acquiring patrimonial property of the State through ordinary acquisitive prescription, nor is there any apparent reason to impose such a rule.** At the same time, there are indispensable requisites–good faith and just title. The ascertainment of good faith involves the application of Articles 526, 527, and 528, as well as Article 1127 of the Civil Code, provisions that more or less speak for themselves.[22] (Citation omitted and emphasis ours)

The Court nevertheless emphasized that there must be an official declaration by the State that the public dominion property is no longer intended for public use, public service, or for the development of national wealth before it can be acquired by prescription; that a mere declaration by government officials that a land of the public domain is already alienable and disposable would not suffice for purposes of registration under Section 14(2) of P.D. No. 1529. The Court further stressed that the period of acquisitive prescription would only begin to run from the time that the State officially declares that the public dominion property is no longer intended for public use, public service, or for the development of national wealth. Thus:

> Let us now explore the effects under the Civil Code of a declaration by the President or any duly authorized government officer of alienability and disposability of lands of the public domain. Would such lands so declared alienable and disposable be converted, under the Civil Code, from property of the public dominion into patrimonial property? After all, by connotative definition, alienable and disposable lands may be the object of the commerce of man; Article 1113 provides that all things within the commerce of man are susceptible to prescription; and the same

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21 G.R. No. 179987, April 29, 2009, 587 SCRA 172.

22 Id. at 207.

> provision further provides that patrimonial property of the State may be acquired by prescription.
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> 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 the public dominion if when it is "intended for some public service or for the development of the national wealth."
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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.**[23] (Emphasis supplied)

In *Republic v. Rizalvo*,[24] the Court deemed it appropriate to reiterate the ruling in *Malabanan*, *viz*:

> On this basis, respondent would have been eligible for application for registration because his claim of ownership and possession over the subject property even exceeds thirty (30) years. **However, it is jurisprudentially clear that the thirty (30)-year period of prescription for purposes of acquiring ownership and registration of public land under Section 14 (2) of P.D. No. 1529 only begins from the moment the State expressly declares 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.** x x x.[25] (Citation omitted and emphasis ours)

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23 Id. at 202-203.

24 G.R. No. 172011, March 7, 2011, 644 SCRA 516.

25 Id. at 526.

Accordingly, although lands of the public domain that are considered patrimonial may be acquired by prescription under Section 14(2) of P.D. No. 1529, before acquisitive prescription could commence, the property sought to be registered must not only be classified as alienable and disposable; it must also be declared by the State that it is no longer intended for public use, public service or the development of the national wealth. Thus, absent an express declaration by the State, the land remains to be property of public dominion.[26]

The Court finds no evidence of any official declaration from the state attesting to the patrimonial character of the subject property. Cortez failed to prove that acquisitive prescription has begun to run against the State, much less that he has acquired title to the subject property by virtue thereof. It is of no moment that Cortez and his predecessors-in-interest have been in possession of the subject property for 57 years at the time he applied for the registration of title thereto. "[I]t is not the notorious, exclusive and uninterrupted possession and occupation of an alienable and disposable public land for the mandated periods that converts it to patrimonial. The indispensability of an official declaration that the property is now held by the State in its private capacity or placed within the commerce of man for prescription to have any effect against the State cannot be overemphasized."[27]

WHEREFORE, in consideration of the foregoing disquisitions, the instant petition is **GRANTED**. The Decision dated February 17, 2009 of the Court of Appeals in CA-G.R. CV No. 87505, which affirmed the Decision dated February 7, 2006 of the Regional Trial Court of Pasig City, Branch 68, in LRC Case No. N-11496, is hereby **REVERSED** and **SET ASIDE**. The Application for Registration of Emmanuel C. Cortez in LRC Case No. N-11496 is **DENIED** for lack of merit.

SO ORDERED.

BIENVENIDO L. REYES
Associate Justice

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[26] *See Republic v. Ching*, G.R. No. 186166, October 20, 2010, 634 SCRA 415, 428.

[27] *See Republic v. Metro Index Realty and Development Corporation*, G.R. No. 198585, July 2, 2012, 675 SCRA 439, 446.

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
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