



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE
RECEIVED
 JAN 18 2018
 BY: Loa
 TIME: 3:02

FIRST DIVISION

TOMAS R. LEONIDAS,
Petitioner,

G.R. No. 201031

Present:

- versus -

SERENO, C. J., *Chairperson,*
 LEONARDO-DE CASTRO,
 PERALTA,*
 DEL CASTILLO, *and*
 TIJAM, JJ.

TANCREDO VARGAS and
REPUBLIC OF THE PHILIPPINES,
Respondents.

Promulgated:
DEC 14 2017

X ----- X

DECISION

DEL CASTILLO, J.:

Assailed in this Petition for Review on *Certiorari*¹ are the August 13, 2009 Decision² and February 22, 2012 Resolution³ of the Court of Appeals (CA) in CA-G.R. CV No. 02296, which affirmed with modification the March 19, 2007 Decision⁴ of the Regional Trial Court (RTC) of Barotac Viejo, Iloilo, Branch 66, in LRC Case No. 02-195.

Factual Antecedents

On February 2, 2002, Tomas R. Leonidas (herein petitioner) filed an application for land registration⁵ (Application) covering Lot 566 and Lot 1677 which are both situated in Concepcion, Iloilo (collectively, subject lots).

* Per raffle dated October 18, 2017 vice Justice Francis H. Jardeleza who recused due to prior participation as Solicitor General.

¹ *Rollo*, pp. 7-13.

² *Id.* at 14-31; penned by Associate Justice Amy C. Lazaro-Javier and concurred in by Associate Justices Francisco P. Acosta and Rodil V. Zalameda.

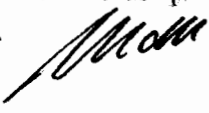
³ *Id.* at 69-70; penned by Associate Justice Ramon Paul L. Hernando and concurred in by Associate Justices Edgardo L. Delos Santos and Victoria Isabel A. Paredes.

⁴ *Records*, pp. 207-215; penned by Judge Rogelio J. Amador.

⁵ *Id.* at 2-4.

Petitioner alleged that he inherited the subject lots from his parents, Ponciano Leonidas, Jr. (Ponciano) and Asuncion Roxas de Leonidas (Asuncion); that as evidenced by the May 17, 1937 Certificate of Sale issued by the Provincial Treasurer of Iloilo, the subject lots, then covered by Tax Declaration (TD) No. 722, were purchased by Asuncion when auctioned due to delinquency in the payment of real property taxes by the original owners, the heirs of Inis Luching; that Asuncion immediately took possession of the subject lots and exercised dominical rights thereover notoriously, continuously, and exclusively; that upon Asuncion's death in 1986, Ponciano succeeded to the ownership and possession of the subject lots; that after Ponciano's death in 1991, the subject lots became his (petitioner's) own exclusive property; that he permitted and tolerated the occupation of some portions of the subject lots by Juanito Tisolan, Pancing Guevarra, Carmencita Guevarra, Delia Aspera-Ecleo, Victorino Mosqueda, Nora Biñas, Crisanto Amangas (Amangas),⁶ Rosana Vasquez, Henry Asturias, Ronnie Asturias, Antonio Asturias, and Jacob Narciso; that as far as known to him (petitioner), the following are the owners of all adjoining properties, *i.e.* the owners of Lot 564, Lot 565, Lot 1578, and Lot 1677, Mansueto Sicad, Francisco Aspero, Brigido Celestial, and Eugenio Bondoc, Jr. who are all from Poblacion, Concepcion, Iloilo, and Carmen Paoli of unknown address; that Lot 566 is bounded on the west by the provincial road and he (petitioner) does not claim any portion thereof; that the latest assessed value of the subject lots is ₱51,660.00 as certified by the Provincial Treasurer of Iloilo; that to the best of his knowledge and belief, there is no mortgage or encumbrance of any kind whatsoever affecting the subject lots except for taxes due thereon; that a certain Tomas Vargas (Tomas), however, had declared a portion of the subject lots in his name for taxation purposes; but that Tomas died shortly after the end of the Second World War, and the whereabouts of his heirs, if any, are unknown, despite his diligent search to locate them in Concepcion, Iloilo, and elsewhere.

Petitioner also alleged that he was 77 years old, Filipino, a resident of No. 55 Chestnut St., West Fairview, Quezon City, and married to Ofelia Gustilo Leonidas (Ofelia); that attached to his Application were the original Survey Plans with two photographic copies each, the Tracing Cloth Plan (Sepia), a certificate of unavailability issued by the Chief, Records Section, Land Management Services, Department of Environment and Natural Resources (DENR), Region VI, Iloilo City, in lieu of the surveyor's certificate, Technical Descriptions with three photographic copies, the Certificate in quadruplicate of the Provincial Treasurer showing the latest assessed value of the subject lots, and a copy of the muniment of title to prove ownership of the subject lots, with the original to be presented at the trial.


⁶ Also referred to as Crisanto Mangas in some parts of the records.

Petitioner thus prayed that the subject lots be brought under the operation of the Property Registration Decree⁷ (PD 1529) and that the titles thereto be registered and confirmed in his name.

The Republic of the Philippines (Republic), represented by the Office of the Solicitor General (OSG), opposed the said Application. The Republic claimed that neither the petitioner nor his predecessors-in-interest had been in continuous, exclusive, and notorious possession and occupation of the subject lots since June 12, 1945, or prior thereto, as required by Section 48 of Commonwealth Act (CA) No. 141, as amended by PD 1073; that the petitioner's muniment/s of title, tax declarations, and tax payment receipts did not constitute competent and sufficient evidence of either a *bona fide* acquisition of the subject lots, and neither did the petitioner's bare claim of open, continuous, exclusive, and notorious possession and occupation thereof in the concept of owner since June 12, 1945, or prior thereto, amount to convincing proof of his claim of possession and ownership over the subject lots; that, although the petitioner's muniments of title might appear genuine, the tax declarations and/or tax payments showing the pretended possession were, in fact, of recent vintage; that the claim of ownership in fee simple on the basis of a Spanish title or grant could no longer be availed of by petitioner who had failed to file an appropriate application therefor within the period of six months from February 16, 1976, as required by PD 892; and that the subject lots are portions of the public domain belonging to the Republic which are not subject to private appropriation. Thus, the Republic prayed that the petitioner's Application be denied and that the subject lots be declared part of the public domain.

On March 11, 2003, Tancredo Vargas (Tancredo) also filed an Opposition⁸ to the Application. Tancredo averred that he is Tomas' legitimate son and compulsory heir; that during Tomas's lifetime, the latter was the absolute and exclusive owner of a certain parcel of land located at Loong, Concepcion, Iloilo, which parcel of land is bounded on the north by the seashore, on the south by Severino Asturias (Asturias),⁹ on the east by the seashore, and on the west by Asturias and Braulio Celestial; that this parcel of land had an area of 36,237 square meters and was covered by TD No. 3549 in Tomas's name; that the petitioner does not exclusively own Lot 1677 since it had been split into two, *viz.* Lot 1677-A and Lot 1677-B; that he (Tancredo) is the owner of Lot 1677-A; that Lot 566 was also not exclusively owned by the petitioner, as this Lot 566 had also been divided into two lots, *viz.* Lot 566-A and Lot 566-B; that he (Tancredo) is the owner of Lot 566-A as shown in the RPTA Tax Mapping project in the Municipality

⁷ Also known as Presidential Decree No. 1529.

⁸ Records, pp. 73-76.

⁹ Also referred to as Severino Asturias or Severini Asturias or Severino Estorias or Severino Isturias in some parts of the records.

of Concepcion, Iloilo; that the petitioner's allegation that the owners of the property covered by TD 772 became delinquent in the payment of the tax due thereon, for which reason the Provincial Treasurer of Iloilo allegedly sold the same to Asuncion, was not at all true; that the property covered by TD 772 was not sold at public auction because the forfeiture was lifted prior to the public auction sale; and that the fact that the Office of the Provincial Treasurer of Iloilo did not have a copy of the Certificate of Sale dated May 17, 1937 bolstered the argument that petitioner's allegation is questionable. Tancredo thus prayed that the petitioner's Application be denied insofar as the portions covered by the TDs in the name of Tomas (disputed portions) are concerned.

On March 21, 2003, another Opposition¹⁰ to the Application was filed by Moncerat A. Sicad-De Julian, Gil A. Sicad, represented by his wife, Elizabeth Sicad, Teresita A. Sicad-Bayuran, Villaluz Sicad-Zarriz, Eden A. Sicad, and Melchor Sicad, represented by his wife, Elena D. Sicad, (Elena; collectively, the Sicads) all represented by their attorney-in-fact, Elena.¹¹ These oppositors claimed that they are the heirs of the late Mansueto Sicad (Mansueto) who was the owner of a portion of the subject lots (Sicads's contested portion); that the Sicads's contested portion was bought by Mansueto from Asturias as evidenced by the Deed of Definite Sale of a Parcel of Land described as Doc. No. 75, Page No. 35, Book No. 1, Series of 1950 of the notarial register of notary public Crespo Celestial; that the Sicads's contested portion had been in the possession of Mansueto during the latter's lifetime; that they had been in possession of the Sicads's contested portion since Mansueto's death; that part of the Sicads's contested portion had already been registered under Original Certificate of Title (OCT) No. F-36795; and that the petitioner had never been in possession of the lots subject of his Application. The Sicads thus prayed that the petitioner's Application be dismissed, insofar as it concerned the Sicads's contested portion as set forth in the aforesaid Deed of Definite Sale; and that the Sicads's contested portion be registered instead in their names.

At the trial, the petitioner presented himself and Geronimo C. Peñaflorida (Peñaflorida), Land Management Inspector, DENR, Community Environment and Natural Resources Office (CENRO), at Sara, Iloilo as witnesses.¹² On the other hand, Catalino Guinez, Emeliana Isturias Matulac, and Elena testified for the Sicads.¹³ For his part, Tancredo presented himself and a former overseer or tenant of the Vargas family,¹⁴ Jose Etchona (Etchona).¹⁵ Then on August 8, 2003, the petitioner filed his Formal Offer

¹⁰ Records, pp. 83-85.

¹¹ Also referred to as Elene Sicad in some parts of the records.

¹² TSN, June 2, 2003, August 18, 2003, and December 5, 2005.

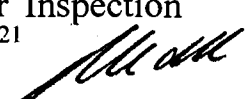
¹³ TSN, August 18, 2003 and August 19, 2003.

¹⁴ TSN, October 20, 2003.

¹⁵ Also referred to as Jose Echonas or Jose Echona in some parts of the records.

of Evidence¹⁶ wherein he submitted the Certificate of Sale dated May 17, 1937, TD 014134 for the year 1976 in Asuncion's name and covering Cadastral Lot Nos. 1, 2, and 3 PSU-216090, TD 0037 for the year 1994 in the names of Asuncion and Ponciano and covering Cadastral Lot No. 1677, TD 0036 for the year 1994 in the names of Asuncion and Ponciano and covering Cadastral Lot No. 566, TD 0114 for the year 2003 in the names of Asuncion and Ponciano and covering Cadastral Lot No. 1677-A, TD 0118 for the year 2003 in the names of Asuncion and Ponciano and covering Cadastral Lot No. 1677-B, TD 0116 for the year 2003 in the names of Asuncion and Ponciano and covering Cadastral Lot No. 566-A; and TD 0117 for the year 2003 in the names of Asuncion and Ponciano and covering Cadastral Lot No. 566-B,¹⁷ tax receipts for the years 1986, 1987, 1988, 1989, 1990, 1991, 1994, 2002 and 2003, statement of the assessed value issued by the Provincial Assessor of Iloilo on March 26, 1996, Lot No. 566's Blue Print Survey Plan with technical description, Lot 1677's Blue Print Survey Plan with technical description, Certificate of Unavailability of Surveyor's Certificate of Survey for Lots 566 and 1677, and Survey Inspection Report dated August 28, 1997 for Lot Nos. 566 and 1677 issued by Peñaflorida,¹⁸ *i.e.* CENRO Report dated August 28, 1997, to the effect that the subject lots are free from liens and encumbrances, and are moreover within the alienable and disposable area. Pursuant to the RTC's directive, petitioner also offered as additional evidence the originally-approved subdivision plan covering Lot No. 1677, Csd-06-008798 to prove the identity and location of the easement for public use;¹⁹ and a certification by Joel B. Diaz, CENRO at Sara, Iloilo, to the effect that Lot No. 1677, Pls 1099, situated in Brgy. Loong, Concepcion, Iloilo, with an area of 8,062 square meters was issued Patent No. 063015-92-846 dated May 28, 1992 in the name of Flordeluz Sedigo, but that Lot No. 1677 has doubled with the lot situated at Poblacion, Concepcion, Iloilo in the name of the Heirs of Ponciano and that this latter lot is not covered by any public land application filed with the CENRO in Sara, Iloilo, which explained why no patent has been issued therefor, hence indicating that this other Lot No. 1677, Pls 1099, which is situated in Brgy. Aglusong, Concepcion, Iloilo is entirely different from Lot No. 1677, which is situated in Sitio Loong, Poblacion, Concepcion, Iloilo.²⁰

The petitioner likewise submitted in evidence an Ocular Inspection Report covering an ocular inspection earlier ordered by the RTC.²¹



¹⁶ Records, pp. 111-134.

¹⁷ Identified therein as Lot No. 566-A but probably referring to Lot No. 566-B since Lot No. 566-A is indicated therein as the North boundary.

¹⁸ Records, p. 134.

¹⁹ Exhibit "W," *id.* at 150 and 190-191.

²⁰ Exhibit "Y," *id.* at 149 and 190-191.

²¹ *Id.* at 164-167.

Ruling of the Regional Trial Court

In its Decision dated March 19, 2007, the RTC disposed of this case in this wise:

WHEREFORE, general default having been declared and the [A]pplication supported by evidence, the adjudication and registration of portion of Lot No. 566 with an area of 3.1161 hectares and portion of Lot 1677 with an area of 3.7255 hectares, all of Concepcion Cadastre, together with all the improvements thereon are hereby ordered in favor of applicant [petitioner], of legal age, married to [Ofelia], Filipino, and resident of Fairview, Quezon City, Philippines. Portions of Lot [No.] 1677 with an area of 2.3642 hectares and portion of Lot [No.] 566 with an area of 1.1782 hectares are hereby adjudicated in favor of [Tancredo], of legal age, single, Filipino, and resident of Lawa-an Village, Balantang, Jaro, Iloilo City, Philippines which portions shall be segregated in a proper subdivision survey and to follow the description of the plan of Municipal Assessor of Concepcion, Iloilo commensurate to Lot 1677-A under [T.D.] No. 0548²² and 566-A under [T.D.] No. 0550.

The easement of right of way of the lots, highways, streets, alleys, shorelines and other portion[s] of land not specified as lots located within the borders of the land covered by this case are declared to be the properties of the [Republic].

The Clerk of Court is directed to forward copies of this decision to all government agencies concerned.

And finally, the Administrator, Land Registration Authority, is hereby directed, after this decision shall have become final for which he shall be duly advised by specific order of this Court, to issue [a] decree of registration and title in accordance with the amended plan on file in the record.

SO ORDERED.²³

The RTC held that petitioner had sufficiently established that his predecessors-in-interest had possessed and owned a parcel of land in *Barangay Loong*, Concepcion, Iloilo to the extent not covered by Tancredo's Opposition; that while petitioner and his predecessors-in-interest might not have been in actual possession of the subject lots at all time, they nonetheless had been consistently visiting the same; and that petitioner's claim of possession and ownership is supported by documents consisting of the Certificate of Sale issued by the Provincial Treasurer of Iloilo on May 17, 1937, the tax declarations in Asuncion's name for the years 1976, 1994, and 2003, the official receipts showing payments of real estate taxes thereon,

²² Should be T.D. No. 0549 per id. at 79.

²³ Id. at 215.



and the statement of the assessed value issued by the Provincial Assessor of Iloilo on May 26, 1996. The RTC stressed that the period of possession by petitioner and his predecessors-in-interest sufficed to confer a registrable title upon petitioner.

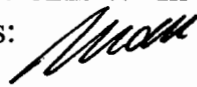
The RTC likewise ruled that Tancredo was also able to establish a superior claim with respect to his disputed portions; that all of the tax declarations in Asuncion's name continuously bore the annotation acknowledging Tomas's adverse claim relative to Tancredo's disputed portions; that Tomas's open and continuous possession for more than the required number of years was sufficiently shown by a tax declaration issued as early as the year 1945; that the overseers and other persons authorized to manage Tancredo's disputed portions were never driven out by petitioner; and that Tancredo had visited the disputed portions more frequently than petitioner who, as the evidence shows, has his permanent residence in Quezon City, Metro Manila.

With regard to the claim of the Sicads, the RTC held that Mansueto and his successors-in-interest had no more interest in the Sicads' contested portion because what was shown to have been sold by Asturias to Mansueto pertained to a lot measuring only two hectares, 52 acres, and 92 ares, a parcel of land at par with the land covered by the aforementioned free patent issued to Mansueto.

The RTC emphasized that it is well-entrenched in jurisprudence that alienable public land openly, continuously, and exclusively possessed by a person personally or through his predecessors-in-interest for at least 30 years becomes *ipso jure* private property by mere lapse of time, or by completion of said period pursuant to Section 48(b) of CA 141, as amended by RA 1942 and RA 3872.

Ruling of the Court of Appeals

Only the petitioner and the Republic filed their respective Notices of Appeal²⁴ which were given due course by the RTC in its Order of May 25, 2007.²⁵ These notices of appeal were consolidated and docketed as CA-G.R. CV No. 02296. In a Decision dated August 13, 2009, the CA disposed as follows:



²⁴ Id. at 218-220 and 221-222.

²⁵ Id. at 223.

WHEREFORE, the Decision dated March 19, 2007 is modified, as follows: 1.) the portion pertaining to the award of [Lot No.] 566 with an area of 3.1161 hectares and [Lot No.] 1677 with an area of 3.7255 hectares to [petitioner], is REVERSED and SET ASIDE; and 2.) the portion pertaining to the award of [Lot No.] 1677 with an area of 2.3642 hectares and [Lot No.] 566 with an area of 1.1782 hectares in favor of [Tancredo] is AFFIRMED.

SO ORDERED.²⁶

The CA held that, contrary to the Republic's stance, the records showed that there had been compliance with the jurisdictional requirements of publication, posting, and notice; that petitioner had properly identified the subject lots; that the subject lots had already been classified as alienable and disposable at the time that petitioner filed the Application in 2002, pursuant to the CENRO Report dated August 28, 1997 issued by Peñaflorida; that it has been held that "[a] certification by the CENRO of the DENR stating that the subject lots are found to be within the alienable and disposable site per land classification project map is sufficient evidence to show the real character of the land subject of the application;"²⁷ that these **notwithstanding**, petitioner **failed** to prove with the requisite evidence the kind of possession and the length of time required by law for the registration of the subject lots in his name, because his lone testimony did not suffice to establish his and his predecessors-in-interest's alleged open, continuous, exclusive, and notorious possession over the subject lots since June 12, 1945, or earlier; that petitioner's alleged acts of swimming in, and planting trees on the subject lots, his having finished high school at the Victorino Salcedo High School in the neighboring town of Sara, Iloilo, and his having left the subject lots when he attended college — all these neither added up nor supported his assertion of dominion or ownership over the subject lots; that his allegation that his childhood memories regarding the subject lots all came back to him after the death of his father Ponciano was indicative of the fact that he was really unaware of the existence of the subject lots; that his Application was even opposed by Tancredo and by the Sicads who claimed exclusive possession over certain portions of the subject lots; that petitioner's failure to explain why he or his predecessors-in-interest declared the subject lots for taxation purposes only in 1976, was inconsistent with his claim of possession thereover since 1937; and that it is an axiom of the law that the burden of proof in a land registration case rests upon the applicant who must present clear, positive, and convincing evidence establishing the alleged possession and occupation in good faith, and for the period required by law.



²⁶ *Rollo*, p. 30.

²⁷ *Id.* at 22; citation omitted.

On the other hand, the CA ruled that Tancredo had sufficiently proven his open, continuous, exclusive, and notorious possession and occupation for the period required by law, over the portions of the subject lots he was claiming in the concept of an owner; that Tomas's adverse claims were annotated on the TDs issued in Asuncion's name covering the disputed portions, *i.e.* TD 014134, 0114, and 0117;²⁸ that Tomas declared the disputed portions for taxation purposes in his name as early as 1945; that Tancredo himself testified that Tomas first used the disputed portions as rice land and converted the same into coconut land in the 1960s; that Tancredo's witness, Etchona, likewise testified that Tomas employed him and Domingo Celestial not only to cultivate, but also to guard the disputed portions, and that Tomas himself appropriated the harvest from the disputed portions and introduced improvements thereon; and that even petitioner himself admitted in his Application that Tomas had declared the disputed portions in his (Tomas') name for taxation purposes.

Petitioner moved for reconsideration²⁹ but was denied by the CA in its Resolution of February 22, 2012.³⁰

Issue

Before this Court, petitioner now raises the following issue:

[Whether] the [CA] gravely abused its discretion in denying the registration of [his] already vested title [over] Lot [Nos.] 566 and 1677 of the Concepcion, Iloilo Cadastre as his private property, and in awarding some portions thereof in favor of [Tancredo] in this land registration proceeding.³¹

Petitioner's arguments

Petitioner insists in his Petition,³² Consolidated Reply,³³ and Memorandum³⁴ that the CA erred in finding that he failed to prove that he and his predecessors-in-interest had been in open, continuous, exclusive, and notorious possession and occupation of the subject lots since June 12, 1945, or earlier, and that there is indubitable evidence that the subject lots were in fact sold in a tax sale on May 17, 1937 by the government through the Provincial Treasurer of Iloilo; that he filed the present Application so that an

²⁸ Tax Declaration No. 0117 should instead be Tax Declaration No. 0116 per records, p. 121.

²⁹ CA rollo, pp. 97-102.

³⁰ Rollo, pp. 69-70.

³¹ Id. at 7.

³² Id. at 7-13.

³³ Id. at 127-129.

³⁴ Id. at 154-157.

OCT can be issued in his name as evidence of his vested title over the subject lots; that assuming that the subject lots are still part of the public domain, he is nevertheless still entitled to have the subject lots registered in his name by reason of his and his predecessors-in-interest's exclusive possession and occupation thereof for more than 30 years, as compared to Tancredo's possession which supposedly began only in 1945; that under the Land Registration Act, as amended, the possessor is deemed to have acquired by operation of law the right to a government grant upon compliance with the conditions therefor, which was just what he did in this case; that the confirmation proceeding is a mere formality and the registration thereunder does not confer title but merely recognizes a title that is already vested; that rejection of his vested title to the questioned lots will occasion loss of confidence in the government's sales of forfeited property by reason of tax delinquency; that the CA erred in finding that the TDs in Asuncion's name carried Tomas's adverse claim, as the attached copies thereof did not bear any such annotations; that the CA also erred in stating that petitioner did not present any TDs to support his claim of ownership over the subject lots for the reason that the CA Decision itself mentioned that he submitted a TD for the year 1976; that contrary to the CA's findings, he did testify that he had visited the subject lots every so often to plant trees after he and his parents left Concepcion in 1945, and that such improvements were reflected in his exhibits; that the CA likewise erred in holding that he only came to know about the subject lots after the death of his father, Ponciano, for the fact is that he did testify that he and his cousins used to swim in the sea near the subject lots, as early as when he was 12 years old; that the CA moreover erred in concluding that Tancredo had successfully established his claims over the disputed portions of the subject lots because the TDs in Asuncion's name are all annotated with Tomas's adverse claim, and that Tomas had declared said disputed portions in his name as early as 1945; that the tax declarations supposedly in Tomas's name were neither presented nor offered in evidence; that Tancredo admitted during his cross-examination that Tomas's 1945 tax declaration was procured notwithstanding the fact that the subject lots had already been declared in Asuncion's name; that Tancredo did not comply with the pertinent provisions of the Land Registration Act, as amended, because he did not present evidence to prove the specific date in 1945 when Tomas acquired the disputed portions, or how Tomas in fact acquired the same; that besides these, Tancredo could not identify the disputed portions that he was claiming; that if Tancredo wanted to vindicate his claims of ownership over the disputed portions, then Tancredo should institute the proper action before a court of general jurisdiction, and not in the land registration court, as the subject lots were no longer part of the public domain; that the issue of whether the sale by the government to Asuncion on May 17, 1937 changed the classification of the subject lots from public to private is of first impression and should be resolved by the Supreme Court *En Banc*; and that the circumstances obtaining in this case are exceptions to the rule that only questions of law are allowed in a petition filed pursuant to Rule 45 of the



Revised Rules of Court; and that to deny his Application, or to render judgment ordering the reversion to public ownership of the subject lots would amount to grave abuse on the part of the judiciary.

The Republic's Arguments

In its Comment³⁵ and Memorandum,³⁶ the Republic counters that the instant Petition merely raises questions of fact which are proscribed under Rule 45 of the Revised Rules of Court; that this Court is not a trier of facts; that petitioner's case does not fall under any of the exceptions to the rule that factual findings of the CA are invariably binding upon the Supreme Court; and that the assailed CA Decision should not be disturbed because the CA had amply justified the reversal of the RTC Decision which was erected upon the petitioner's failure to substantiate his claim of ownership over the subject lots.

Tancredo's Arguments

In his Comment³⁷ and Memorandum,³⁸ Tancredo maintains that the disputed portions had been in the absolute possession and dominion of Tomas; that the findings of the RTC and the CA regarding petitioner's ineligibility to obtain title to the disputed portions due to non-compliance with the requirements of the law, and for insufficiency of evidence, should not be disturbed; that the CA's finding that petitioner's TDs bore the annotated claims of Tomas on the subject lots is a factual finding and should not be disturbed; that petitioner's possession is not the possession required by law for purposes of land registration because petitioner failed to present evidence that would prove actual, notorious, continuous, and exclusive possession and occupation of the subject lots; that the evidence adduced by petitioner is self-serving, hence undeserving of any weight; that the origin of the disputed portions as pointed out by the RTC is Assessor's Lot No. 337, which is individually identified after the Cadastral Survey as Lot Nos. 1676-A, 1677-A, and 566-A, all of the Concepcion (Iloilo) Cadastre; that petitioner is barred or estopped from questioning the identity of the disputed portions that had been adjudicated to him (Tancredo), as the lack of sufficient identification pertained to the subject lots that petitioner himself was trying to register; and that the issues raised by petitioner were factual in nature, and the same is proscribed under Rule 45 of the Revised Rules of Court.

³⁵ Id. at 73-91.

³⁶ Id. at 134-152.

³⁷ Id. at 49-59.

³⁸ Id. at 175-191.

The fundamental issues to be resolved in this case are: (1) Whether the petitioner is entitled to obtain a title over the subject lots; and (2) Whether Tancredo has established, by his own evidence, that he was qualified to acquire title over the disputed portions claimed by him.

The Court's Ruling

The Petition is denied.

Requisites for the confirmation and registration of an imperfect and incomplete title under CA 141 and PD 1529

“The Regalian doctrine, embodied in Section 2, Article XII of the 1987 Constitution, provides that all lands of the public domain belong to the State, which is the source of any asserted right to ownership of land.”³⁹ “[Commonwealth Act No. 141, in turn,] governs the classification and disposition of lands of the public domain. Section 11 [thereof] provides, as one of the modes of disposing public lands that are suitable for agriculture, the ‘confirmation of imperfect or incomplete titles.’ Section 48 [thereof], on the other hand, enumerates those who are considered to have acquired an imperfect or incomplete title over public lands and, therefore, entitled to confirmation and registration under the Land Registration Act [now PD 1529].”⁴⁰ The latter law then “specifies who are qualified to apply for registration of land.”⁴¹ Taken together, all the foregoing provide for the requisites for the confirmation and registration of an imperfect and incomplete title, thus —

x x x In particular, Section 14 (1) [of PD 1529] in relation to Section 48 (b) of [CA] 141, as amended by Section 4 of P.D. No. 1073, states:

SEC. 14. *Who may apply.* — The following persons may file in the proper Court of First Instance [now *Regional Trial Court*] 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

³⁹ *Republic v. Raneses*, 735 Phil. 581, 591 (2014).

⁴⁰ *Roman Catholic Archbishop of Manila v. Ramos*, 721 Phil. 305, 316 (2013).

⁴¹ *Republic v. Belmonte*, 719 Phil. 393, 401 (2013).

bona fide claim of ownership since June 12, 1945, or earlier.

x x x

x x x

x x x

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 [now Regional Trial Court] of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under [PD 1529], to wit:

x x x

x x 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 of 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.

Based on these legal parameters, applicants for registration of title under Section 14 (1) must sufficiently establish: (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 his possession has been under a *bona fide* claim of ownership since June 12, 1945, or earlier.

These triple requirements of alienability and possession and occupation since June 12, 1945 or earlier under Section 14 (1) are indispensable prerequisites to a favorable registration of title to the property. Each element must necessarily be proven by no less than clear, positive and convincing evidence; otherwise, the application for registration should be denied.⁴²

Petitioner did not cite the specific provision of CA 141 upon which he based his Application. Nevertheless, the allegations therein seem to establish the fact that his claim is one of imperfect title under the above-quoted Section 48(b) of CA 141 in relation to Section 14(1) of PD 1529.

⁴² Id. at 401-402; citations omitted; emphases in the original.

The subject lots are considered alienable and disposable lands of the public domain

The first requirement is complied with in the case at bench. Notwithstanding that only a CENRO certification covering the subject lots was presented in the instant case, the subject lots are considered alienable and disposable lands of the public domain because of this Court's ruling that an application for land registration may be granted despite the absence of the DENR Secretary's certification, provided that the same was pending at the time *Republic v. Vega*⁴³ was promulgated on January 17, 2011. In *Republic v. Alora*,⁴⁴ this Court expressly clarified this matter in this wise:

x x x [I]n *Republic v. T.A.N. Properties, Inc.*, which was promulgated on 26 June 2008 x x x we held that applicants for land registration 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. x x x

x x x In *Republic v. Serrano* [(decided on 24 February 2010)], we allowed the approval of a land registration application even without the submission of the certification from the DENR Secretary. As this ruling presented an apparent contradiction with our earlier pronouncement in *Republic v. T.A.N. Properties, Inc.*, we sought to harmonize our previous rulings in *Republic v. Vega* [(decided on 17 January 2011)]. We then said that the applications for land registration may be granted even without the DENR Secretary's certification provided that the application was currently pending at the time *Republic v. Vega* was promulgated. x x x⁴⁵

It is worth stressing, however, that the foregoing ruling is the exception, not the rule. As explicitly elucidated in *Republic v. Vega*:⁴⁶

It must be emphasized that the present ruling on substantial compliance applies *pro hac vice*. It does not in any way detract from our rulings in *Republic v. T.A.N. Properties, Inc.*, and similar cases which impose a strict requirement to prove that the public land is alienable and disposable, especially in this case when the Decisions of the lower court and the [CA] were rendered prior to these rulings. To establish that the land subject of the application is alienable and disposable public land, the general rule remains: all applications for original registration under [PD 1529] must include **both** (1) a CENRO or PENRO certification **and** (2) a certified true copy of the original classification made by the DENR Secretary.

⁴³ 654 Phil. 511 (2011).

⁴⁴ 762 Phil. 695 (2015).

⁴⁵ Id. at 704-705.

⁴⁶ Supra.

As an exception, however, the courts — in their sound discretion and based solely on the evidence presented on record — may approve the application, *pro hac vice*, on the ground of substantial compliance showing that there has been a positive act of government to show the nature and character of the land and an absence of effective opposition from the government. This exception shall only apply to applications for registration **currently pending** before the trial court prior to this Decision and shall be inapplicable to all future applications. (Underscoring and emphases in the original)⁴⁷

That said, we hold that both the petitioner and Tancredo failed to establish clearly and convincingly their respective rights to registration of imperfect titles under CA 141 and PD 1529, as will be discussed below.

Petitioner failed to prove possession of the subject lots in the manner and for the period required by law

First off, petitioner failed to establish *bona fide* possession and ownership over the subject lots since June 12, 1945 or earlier. His contention that his predecessors-in-interest became the owners of the subject lots pursuant to the May 17, 1937 Certificate of Sale⁴⁸ of the Forfeited Real Property issued by the Provincial Treasurer of Iloilo appears to be consistent with the fact that TD 3549 in Tomas's name which was found by the CA as issued in 1945 bears an annotation stating that such is "[c]ontested by [Asuncion]".⁴⁹ **Even then, the Certificate of Public Sale indicated that the balance of the purchase price in the amount of ₱29.44, was yet to be paid on or before December 31, 1937.**⁵⁰

No incontrovertible proof was, however, presented to establish the fact that this balance of the purchase price in the said amount of ₱29.44 had indeed been paid on or before December 31, 1937. In addition, the CA also correctly pointed out that even as petitioner was able to submit TDs and evidence of tax payments only for a few years, he nevertheless failed to explain why he or his predecessors-in-interest declared the subject lots for taxation purposes only in 1976, this despite his claim that his predecessors-in-interest had been in possession and occupation of the subject lots since 1937, as allegedly shown in the Provincial Treasurer's Certificate of Sale. It is settled that intermittent and irregular tax payments run counter to a claim of ownership or possession.⁵¹

⁴⁷ Id. at 527.

⁴⁸ *Rollo*, p. 32.

⁴⁹ Records, p. 77.

⁵⁰ *Rollo*, p. 32.

⁵¹ *Republic v. Belmonte*, supra note 41 at 404; *La Tondeña, Inc. v. Republic*, 765 Phil. 795, 817 (2015).

Second, even assuming for argument's sake that petitioner's predecessors-in-interest had paid the balance of the delinquent tax payment, petitioner nonetheless failed to prove his and his predecessors-in-interests actual, notorious, exclusive and continuous possession of the subject lots for the length of time required by law.

To be sure, petitioner's failure to explain what happened after his family supposedly left the subject lots in 1941, when the war broke out, *vis-à-vis* his failure to prove that he had indeed introduced valuable improvements in the subject lots during the time that he and his parents had been allegedly in actual possession and occupation thereof, cast doubts upon his claim of actual possession and occupation thereof. Withal, petitioner's testimony of having swum near the subject lots, of having planted trees thereon, and his having finished high school at the Victorino Salcedo High School in the neighboring town of Sara can hardly be considered as acts of dominion or ownership over the subject lots. Besides, petitioner did not present clear and convincing evidence that the subject lots had indeed been cultivated by him or by his predecessors-in-interest for the period of time required by law. Needless to say, all these failings weaken his claim that he has been a *bona fide* possessor and occupant of the subject lots in the manner and for the period prescribed by law, to wit:

The possession contemplated by Section 48 (b) of [CA] 141 is actual, not fictional or constructive. In *Carlos v. Republic of the Philippines*, the Court explained the character of the required possession, as follows:

The law speaks of possession and occupation. Since these words are separated by the conjunction and, the clear intention of the law is not to make one synonymous with the other. Possession is broader than occupation because it includes constructive possession. When, therefore, the law adds the word occupation, it seeks to delimit the all-encompassing effect of constructive possession. **Taken together with the words open, continuous, exclusive and notorious, the word occupation serves to highlight the fact that for an applicant to qualify, his possession must not be a mere fiction. Actual possession of a land consists in the manifestation of acts of dominion over it of such a nature as a party would naturally exercise over his own property.**⁵² (Emphases in the original)

Oddly enough, while in its Decision, the RTC appeared to have granted petitioner's Application, said Decision seemed to have indulged in a bit of non-sequitur when it said that "[petitioner] and his predecessors were **not** in actual possession of the [subject lots] all the time" x x x.⁵³ Simply said, the CA effectively ruled that since petitioner **failed** to prove that he or

⁵² *Roman Catholic Archbishop of Manila v. Ramos*, supra note 40 at 319-320.

⁵³ Records, p. 212; emphases supplied.

his predecessors-in-interest had indeed performed the required acts of possession and occupation, or specific acts of dominion over the subject lots, it stands to reason that registration thereof in his name **cannot** be allowed.

Tancredo also failed to establish possession and occupation over the disputed portions in the manner and for the period required by law

At this juncture, we shall revisit the uniform finding by both the RTC and the CA, which in effect upheld Tancredo's right to register the disputed portions in his name (as an exception to the settled rule that questions of fact are proscribed in a Rule 45 petition since a correct evaluation of the facts will yield a different conclusion).⁵⁴

First off, Tancredo failed to show that his or his predecessor-in-interest's possession and occupation over the disputed portions had been under a *bona fide* claim of ownership since June 12, 1945, or earlier. We are inclined to agree with petitioner's posture that Tancredo failed to adduce clear and convincing evidence which established the origin or antecedents of Tomas's straightforward possession and occupation, or claim of ownership, over the disputed portions. Consider the following exchange/s between/among Tancredo, the petitioner, and the Court —

[Petitioner]: (to the witness[, Tancredo])

Q: When did your father acquire this property?

A: In 1945.

Q: From whom?

A: I have no idea.

x x x x

Q: Did you not ask your father from whom he acquired this property?

A: No, I did not.

Q: As a matter of fact[,] until the death of your father[,] you have not ask[ed] him from whom did he acquire the property?

A: No, Sir.

x x x x

COURT: (to the witness[, Tancredo])



⁵⁴ *Roman Catholic Archbishop of Manila v. Ramos*, supra note 40 at 315-316.

Q: Your father died in 1995[,] why did you not [cause] the transfer of tax declaration in your name or to the heirs?

A: Because the plan of the heirs is, if the property [is registered] in my father[']s name [then] the title should be transferred in my name.

x x x x

Q: Your tax receipts correspond only [to] the year 2003, how about other tax receipts?

A: I [will just [try] to find out if the Provincial Treasurer's Office still has the copy.

Q: Even just a certification stating that you [continued] in paying realty tax from 1946 up to 2003?

A: Yes, I can ask the provincial treasurer for that matter.

Q: When you secure[d] the tax declaration[,] you [knew] that the lot was also declared in the name of [Asuncion], is it not?

A: Yes, Your Honor.

Q: That was in the office of the Municipal Assessor?

A: Yes, Your Honor.

Q: Did you verify if they were paying taxes also?

A: No, Your Honor.

Q: You did not?

A: I [did] not[,] Your Honor.

Q: If that is the case[,] why did you [say] a while ago that you [knew] only [about] the case of [petitioner] when this case was filed because the tax declaration itself [stated] that the lot was also declared in the name of [Asuncion]?

A: Although I have already seen the notation on the tax declaration that they also [secured a] tax declaration [over] the [disputed portions]. I did not mind it Your Honor because they did not openly claim ownership over the [disputed portions]. And in the same manner[,] Your Honor[,] in their tax declaration it is also indicated that the [disputed portions] is also declare[d] in the name of [Tomas].⁵⁵

More than this, Tancredo did not present clear, convincing evidence to support his claim that the disputed portions were in fact transferred to him by his father, Tomas. Tancredo merely testified that the disputed portions were given to him solely by Tomas, an act that was allegedly consented to by his siblings. Thus —

[Petitioner]: (to the witness, Tancredo)

Q: You have siblings, meaning brothers and sisters?

⁵⁵ TSN, October 20, 2003, pp. 18-19 and 36-37; underscoring supplied.

A: Yes, Sir.

Q: You said a while ago that you succeeded to the ownership of the [subject lots] when your father died in 1985, how about your siblings[?] [Did they] not succeed to the [ownership of the subject lots?]

A: They sign[ed] a deed of adjudication in favor of me[.] I have a copy and it was notarized.

x x x x

Q: In your [O]pposition you said that you were authorized?

A: Yes, Sir.

Q: By whom?

A: By my brothers and sisters.

Q: Where is your authority?

A: I can produce it. I can pass [sic] it anytime.

Q: You did not [s]tate in your [O]pposition that you have your siblings with you?

A: Because the property was given to me by my father.⁵⁶

Nonetheless, there is nothing in the records to support or confirm Tancredo's claim that the property was in fact deeded over to him by his father, Tomas.

In *Buenaventura v. Pascual*,⁵⁷ this Court affirmed the lower courts' dismissal of the claims for registration of imperfect titles because, among others, both the applicant and oppositors failed to adduce evidence as to how they acquired the subject property from their respective predecessors-in-interest, *i.e.*, whether by succession or by donation or by some other mode. Furthermore, we stressed therein that the applicant failed to prove the manner by which her predecessors-in-interest possessed the subject property.

Then, again, Tancredo also failed to establish that he and his predecessors-in-interest had/have been in open, continuous, exclusive and notorious possession and occupation of the disputed portions since June 12, 1945, or prior thereto.

If anything, the records showed that Tancredo merely submitted photocopies of four tax declarations which were attached as annexes to his Opposition. These included the 1945 TD 3549 as adverted to by the CA in the records⁵⁸ pertaining to a 3.6237-hectare lot in an unstated cadastral lot,

⁵⁶ TSN, October 20, 2003, pp. 16-17; underscoring supplied.

⁵⁷ 592 Phil. 517 (2008).

⁵⁸ Records, p. 77.

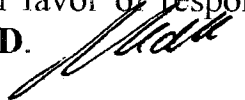
TD 0548 covering an 813-hectare lot in Cadastral Lot No. 1676-A,⁵⁹ TD 0549 for a 2.3642-hectare lot in Cadastral Lot No. 1677-A,⁶⁰ and TD 0550 concerning a 1.1782-hectare lot in Cadastral Lot No. 566-A.⁶¹ All four TDs are in Tomas's name, without copies of the dorsal portions thereof, and bearing annotations stating either "[c]ontested by [Asuncion]" or "[a]lso declared in the name of [Asuncion] or [Ponciano]".

It would thus appear that Tancredo had erected his opposition/claim to the lots in question upon the said photocopies of four tax declarations whose authenticity or genuineness is open to the most serious doubts. And, even on the assumption that the said tax declarations are in fact authentic and genuine, still it is settled that tax declarations are not conclusive proof of ownership. If anything, tax declarations are merely corroborative of a person's claim of possession. More than that, as elsewhere indicated, intermittent and irregular tax payments, as in this case, do not really provide strong support for a claim of ownership or possession.⁶²

It is axiomatic of course that "[i]t is the policy of the State to encourage and promote the distribution of alienable public lands as a spur to economic growth and in line with the social justice ideal enshrined in the Constitution. **At the same time, the law imposes stringent safeguards upon the grant of such resources lest they fall into the wrong hands to the prejudice of the national patrimony.**"⁶³ This ruling controls the present case.

As a final note: All of the foregoing discussion showed that the issues raised in this case have all been previously resolved and determined by settled jurisprudence; hence, there is no reason to grant petitioner's prayer for this case to be referred to or heard by the Court *En Banc*, as this is not a case of first impression at all.

WHEREFORE, the Petition is hereby **DENIED**. We **AFFIRM with MODIFICATION** the August 13, 2009 Decision and the February 22, 2012 Resolution of the Court of Appeals in CA-G.R. CV No. 02296 in that the award by the Regional Trial Court of Barotac Viejo, Iloilo, Branch 66 in LRC Case No. 02-195 of Lot No. 1677 with an area of 2.3642 hectares and Lot No. 566 with an area of 1.1782 hectares, both in favor of respondent Tancredo Vargas, is **OVERTURNED and NULLIFIED**.



⁵⁹ Id. at 78.

⁶⁰ Id. at 79.

⁶¹ Id. at 80.


⁶² See *Republic v. Belmonte*, supra note 41 at 404; *La Tondeña, Inc. v. Republic*, supra note 51 at 817.

⁶³ *Republic v. Court of Appeals*, 249 Phil. 148, 149-150 (1988); emphases supplied.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


NOEL GIMENEZ TIJAM
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