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[G.R. No. 179987, September 03, 2013]

HEIRS OF MARIO MALABANAN, (REPRESENTED BY SALLY A. MALABANAN), PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

R E S O L U T I O N

BERSAMIN, J.:

For our consideration and resolution are the motions for reconsideration of the parties who both assail the decision promulgated on April 29, 2009, whereby we upheld the ruling of the Court of Appeals (CA) denying the application of the petitioners for the registration of a parcel of land situated in Barangay Tibig, Silang, Cavite on the ground that they had not established by sufficient evidence their right to the registration in accordance with either Section 14(1) or Section 14(2) of Presidential Decree No. 1529 (*Property Registration Decree*).

Antecedents

The property subject of the application for registration is a parcel of land situated in Barangay Tibig, Silang Cavite, more particularly identified as Lot 9864-A, Cad-452-D, with an area of 71,324-square meters. On February 20, 1998, applicant Mario Malabanan, who had purchased the property from Eduardo Velazco, filed an application for land registration covering the property in the Regional Trial Court (RTC) in Tagaytay City, Cavite, claiming that the property formed part of the alienable and disposable land of the public domain, and that he and his predecessors-in-interest had been in open, continuous, uninterrupted, public and adverse possession and occupation of the land for more than 30 years, thereby entitling him to the judicial confirmation of his title.[1]

To prove that the property was an alienable and disposable land of the public domain, Malabanan presented during trial a certification dated June 11, 2001 issued by the Community Environment and Natural Resources Office (CENRO) of the Department of Environment and Natural Resources (DENR), which reads:

This is to certify that the parcel of land designated as Lot No. 9864 Cad 452-D, Silang Cadastre as surveyed for Mr. Virgilio Velasco located at Barangay Tibig, Silang, Cavite containing an area of 249,734 sq. meters as shown and described on the Plan Ap-04-00952 is verified to be within the Alienable or Disposable land per Land Classification Map No. 3013 established under Project No. 20-A and approved as such under FAO 4-1656 on March 15, 1982.[2]

After trial, on December 3, 2002, the RTC rendered judgment granting Malabanan's application for land registration, disposing thusly:

> WHEREFORE, this Court hereby approves this application for registration and thus places under the operation of Act 141, Act 496 and/or P.D. 1529, otherwise known as Property Registration Law, the lands described in Plan Csd-04-0173123-D, Lot 9864-A and containing an area of Seventy One Thousand Three Hundred Twenty Four (71,324) Square Meters, as supported by its technical description now forming part of the record of this case, in addition to other proofs adduced in the name of MARIO MALABANAN, who is of legal age, Filipino, widower, and with residence at Munting Ilog, Silang, Cavite.
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> Once this Decision becomes final and executory, the corresponding decree of registration shall forthwith issue.
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> SO ORDERED.[3]

The Office of the Solicitor General (OSG) appealed the judgment to the CA, arguing that Malabanan had failed to prove that the property belonged to the alienable and disposable land of the public domain, and that the RTC erred in finding that he had been in possession of the property in the manner and for the length of time required by law for confirmation of imperfect title.

On February 23, 2007, the CA promulgated its decision reversing the RTC and dismissing the application for registration of Malabanan. Citing the ruling in *Republic v. Herbieto* (*Herbieto*),[4] the CA declared that under Section 14(1) of the *Property Registration Decree*, any period of possession prior to the classification of the land as alienable and disposable was inconsequential and should be excluded from the computation of the period of possession. Noting that the CENRO-DENR certification stated that the property had been declared alienable and disposable only on March 15, 1982, Velazco's possession prior to March 15, 1982 could not be tacked for purposes of computing Malabanan's period of possession.

Due to Malabanan's intervening demise during the appeal in the CA, his heirs elevated the CA's decision of February 23, 2007 to this Court through a petition for review on *certiorari*.

The petitioners assert that the ruling in *Republic v. Court of Appeals and Corazon Naguit*[5] (*Naguit*) remains the controlling doctrine especially if the property involved is agricultural land. In this regard, *Naguit* ruled that any possession of agricultural land prior to its declaration as alienable and disposable could be counted in the reckoning of the period of possession to perfect title under the *Public Land Act* (Commonwealth Act No. 141) and the *Property Registration Decree*. They point out that the ruling in *Herbieto*, to the effect that the declaration of the land subject of the application for registration as alienable and disposable should also date back to June 12, 1945 or earlier, was a mere *obiter dictum* considering that the land registration proceedings therein were in fact found and declared void ab initio for lack of publication of the notice of initial hearing.

The petitioners also rely on the ruling in *Republic v. T.A.N. Properties, Inc.*[6] to support their argument that the property had been ipso jure converted into private property by reason of the open, continuous, exclusive and notorious possession by their predecessors-in-interest of an alienable land of the public domain for more

than 30 years. According to them, what was essential was that the property had been "converted" into private property through prescription at the time of the application without regard to whether the property sought to be registered was previously classified as agricultural land of the public domain.

As earlier stated, we denied the petition for review on *certiorari* because Malabanan failed to establish by sufficient evidence possession and occupation of the property on his part and on the part of his predecessors-in interest since June 12, 1945, or earlier.

Petitioners' Motion for Reconsideration

In their motion for reconsideration, the petitioners submit that the mere classification of the land as alienable or disposable should be deemed sufficient to convert it into patrimonial property of the State. Relying on the rulings in *Spouses De Ocampo v. Arlos*,[7] *Menguito v. Republic*[8] and *Republic v. T.A.N. Properties, Inc.*,[9] they argue that the reclassification of the land as alienable or disposable opened it to acquisitive prescription under the *Civil Code*; that Malabanan had purchased the property from Eduardo Velazco believing in good faith that Velazco and his predecessors-in-interest had been the real owners of the land with the right to validly transmit title and ownership thereof; that consequently, the ten-year period prescribed by Article 1134 of the *Civil Code*, in relation to Section 14(2) of the *Property Registration Decree*, applied in their favor; and that when Malabanan filed the application for registration on February 20, 1998, he had already been in possession of the land for almost 16 years reckoned from 1982, the time when the land was declared alienable and disposable by the State.

The Republic's Motion for Partial Reconsideration

The Republic seeks the partial reconsideration in order to obtain a clarification with reference to the application of the rulings in *Naguit* and *Herbieto*.

Chiefly citing the dissents, the Republic contends that the decision has enlarged, by implication, the interpretation of Section 14(1) of the *Property Registration Decree* through judicial legislation. It reiterates its view that an applicant is entitled to registration only when the land subject of the application had been declared alienable and disposable since June 12, 1945 or earlier.

Ruling

We deny the motions for reconsideration.

In reviewing the assailed decision, we consider to be imperative to discuss the different classifications of land in relation to the existing applicable land registration laws of the Philippines.

Classifications of land according to ownership

Land, which is an immovable property,[10] may be classified as either of public dominion or of private ownership.[11] Land is considered of public dominion if it either: (*a*) is intended for public use; or (*b*) belongs to the State, without being for

public use, and is intended for some public service or for the development of the national wealth.[12] Land belonging to the State that is not of such character, or although of such character but no longer intended for public use or for public service forms part of the patrimonial property of the State.[13] Land that is other than part of the patrimonial property of the State, provinces, cities and municipalities is of private ownership if it belongs to a private individual.

Pursuant to the Regalian Doctrine (*Jura Regalia*), a legal concept first introduced into the country from the West by Spain through the Laws of the Indies and the *Royal Cedulas*,[14] all lands of the public domain belong to the State.[15] This means that the State is the source of any asserted right to ownership of land, and is charged with the conservation of such patrimony.[16] All lands not appearing to be clearly under private ownership are presumed to belong to the State. Also, public lands remain part of the inalienable land of the public domain unless the State is shown to have reclassified or alienated them to private persons.[17]

Classifications of public lands according to alienability

Whether or not land of the public domain is alienable and disposable primarily rests on the classification of public lands made under the Constitution. Under the 1935 Constitution,[18] lands of the public domain were classified into three, namely, agricultural, timber and mineral.[19] Section 10, Article XIV of the 1973 Constitution classified lands of the public domain into seven, specifically, agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest, and grazing land, with the reservation that the law might provide other classifications. The 1987 Constitution adopted the classification under the 1935 Constitution into agricultural, forest or timber, and mineral, but added national parks.[20] Agricultural lands may be further classified by law according to the uses to which they may be devoted.[21] The identification of lands according to their legal classification is done exclusively by and through a positive act of the Executive Department.[22]

Based on the foregoing, the Constitution places a limit on the type of public land that may be alienated. Under Section 2, Article XII of the 1987 Constitution, only agricultural lands of the public domain may be alienated; all other natural resources may not be.

Alienable and disposable lands of the State fall into two categories, to wit: (*a*) patrimonial lands of the State, or those classified as lands of private ownership under Article 425 of the *Civil Code*,[23] without limitation; and (*b*) lands of the public domain, or the public lands as provided by the Constitution, but with the limitation that the lands must only be agricultural. Consequently, lands classified as forest or timber, mineral, or national parks are not susceptible of alienation or disposition unless they are reclassified as agricultural.[24] A positive act of the Government is necessary to enable such reclassification,[25] and the exclusive prerogative to classify public lands under existing laws is vested in the Executive Department, not in the courts.[26] If, however, public land will be classified as neither agricultural, forest or timber, mineral or national park, or when public land is no longer intended for public service or for the development of the national wealth, thereby effectively removing the land from the ambit of public dominion, a declaration of such

conversion must be made in the form of a law duly enacted by Congress or by a Presidential proclamation in cases where the President is duly authorized by law to that effect.[27] Thus, until the Executive Department exercises its prerogative to classify or reclassify lands, or until Congress or the President declares that the State no longer intends the land to be used for public service or for the development of national wealth, the Regalian Doctrine is applicable.

Disposition of alienable public lands

Section 11 of the *Public Land Act* (CA No. 141) provides the manner by which alienable and disposable lands of the public domain, *i.e.*, agricultural lands, can be disposed of, to wit:

> Section 11. Public lands suitable for agricultural purposes **can be disposed of only as follows, and not otherwise**:
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> (1) For homestead settlement;
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> (2) By sale;
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> (3) By lease; and
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> (4) By confirmation of imperfect or incomplete titles;
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> (a) By judicial legalization; or
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> (b) By administrative legalization (free patent).

The core of the controversy herein lies in the proper interpretation of Section 11(4), in relation to Section 48(b) of the *Public Land Act*, which expressly requires possession by a Filipino citizen of the land since June 12, 1945, or earlier, *viz*:

> 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 thereafter, under the Land Registration Act, to wit:
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> x x x x
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> (b) Those who by themselves or through their predecessors-in-interest have been in 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 applications 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. (Bold emphasis supplied)