Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES,
Petitioner,

- versus -

ANTONIO, FELIZA, NEMESIO, ALBERTO, FELICIDAD, RICARDO, MILAGROS AND CIPRIANO, ALL SURNAMED BACAS; EMILIANA CHABON, SATURNINO ABDON, ESTELA CHABON, LACSASA DEMON, PEDRITA CHABON, FORTUNATA EMBALSADO, MINDA J. CASTILLO, PABLO CASTILLO, ARTURO P. LEGASPI, and JESSIE I. LEGASPI,
Respondents.

G.R. No. 182913

Present:

VELASCO, JR., *J., Chairperson*,
PERALTA,
ABAD,
MENDOZA, and
LEONEN, *JJ.*

Promulgated:

November 20, 2013

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DECISION

MENDOZA, *J.*:

This petition for review on *certiorari* under Rule 45 of the Rules of Court seeks to review, reverse and set aside the November 12, 2007

Decision[1] and the May 15, 2008 Resolution[2] of the Court of Appeals *(CA)* in CA-G.R. CV No. 64142, upholding the decision of the Regional Trial Court, Branch 17, Cagayan de Oro City *(RTC)*, which dismissed the consolidated cases of Civil Case No. 3494, entitled *Republic of the Philippines v. Antonio, et al.* and Civil Case No. 5918, entitled *Republic of the Philippines v. Emiliana Chabon, et al.* Said civil cases were filed by the Republic of the Philippines *(Republic)* for the cancellation and annulment of Original Certificate of Title *(OCT*) No. 0-358 and OCT No. O-669, covering certain parcels of land occupied and utilized as part of the Camp Evangelista Military Reservation, Misamis Oriental, presently the home of the 4th Infantry Division of the Philippine Army.

The Antecedents:

In 1938, Commonwealth President Manuel Luis Quezon *(Pres. Quezon)* issued Presidential Proclamation No. 265, which took effect on March 31, 1938, reserving for the use of the Philippine Army three (3) parcels of the public domain situated in the barrios of Bulua and Carmen, then Municipality of Cagayan, Misamis Oriental. The parcels of land were withdrawn from sale or settlement and reserved for military purposes, "subject to private rights, if any there be."

Land Registration Case No. N-275
[Antonio, Feliza, Nemesio, Roberto, and Felicidad, all surnamed Bacas, and the Heirs of Jesus Bacas, Applicants *(The Bacases)*]

The Bacases filed their Application for Registration[3] on November 12, 1964 covering a parcel of land, together with all the improvements found thereon, located in Patag, Cagayan de Oro City, more particularly described and bounded as follows:

> A parcel of land, **Lot No. 4354** of the Cadastral Survey of Cagayan, L.R.C. Record No. 1612, situated at Barrio Carmen, Municipality of Cagayan, Province of Misamis Oriental. Bounded on the SE., along lines 1-2-3-4, by Lot 4357; and alongline 4-5, by Lot 3862; on the S., along line 5-6, by Lot 3892; on the W. and NW., along lines 6-7-8, by Lot 4318; on the NE., along line 8-9, by Lot 4319, along line 9-10, by Lot 4353 and long line 10-11, by Lot 4359;

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[1] *Rollo*, pp. 45-60. Penned by Associate Justice Rodrigo F. Lim, Jr., with Associate Justices Teresita Dy-Liacco Flores and Michael P. Elbinias, concurring.
[2] Id. at 61-62. Penned by Associate Justice Rodrigo F. Lim, Jr., with Associate Justices Michael P. Elbinias and Mario V. Lopez, concurring.
[3] RTC records, Vol. I, pp. 453-455.

> and on the SE., along line 11-1, by Lot 4356, all of Cagayan Cadastre; containing an area of THREE HUNDRED FIFTY FOUR THOUSAND THREE HUNDRED SEVENTY SEVEN (354,377) square meters, more or less, under Tax Declaration No. 35436 and assessed at ₱3,540.00.[4]

They alleged ownership in fee simple of the property and indicated in their application the names and addresses of the adjoining owners, as well as a statement that the Philippine Army (Fourth Military Area) recently occupied a portion of the land by their mere tolerance.[5]

The Director of the Bureau of Lands, thru its Special Counsel, Benito S. Urcia *(Urcia)*, registered its written Opposition[6] against the application. Later, Urcia, assisted by the District Land Officer of Cagayan de Oro City, thru the Third Assistant Provincial Fiscal of Misamis Oriental, Pedro R. Luspo *(Luspo)*, filed an Amended Opposition.[7]

On April 10, 1968, based on the evidence presented by the Bacases, the Land Registration Court *(LRC)* rendered a decision[8] holding that the applicants had conclusively established their ownership in fee simple over the subject land and that their possession, including that of their predecessor-in-interest, had been open, adverse, peaceful, uninterrupted, and in concept of owners for more than forty (40) years.

No appeal was interposed by the Republic from the decision of the LRC. Thus, the decision became final and executory, resulting in the issuance of a decree and the corresponding certificate of title over the subject property.

Land Registration Case No. N-521 [Emiliana Chabon, Estela Chabon and Pedrita Chabon, Applicants *(The Chabons)*]

The Chabons filed their Application for Registration[9] on May 8, 1974 covering a parcel of land located in Carmen-District, Cagayan de Oro City, known as Lot 4357, Cagayan Cadastre, bounded and described as:

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[4] Id. at 453-455.
[5] Id. at 458.
[6] Id. at 458-459.
[7] Id. at 460-462.
[8] Id. at 463-466.
[9] RTC records, Vol. II, pp. 782-783.

> A parcel of land (**Lot 4357**, Cagayan Cadastre, plan Ap-12445), situated in the District of Carmen, City of Cagayan de Oro. Bounded on the NE. by property of Potenciano Abrogan vs. Republic of the Philippines (Public Land); on the SE. by properties of Geronimo Wabe and Teofilo Batifona or Batipura; on the SW. by property of Teofilo Batifona or Batipura; and on the NW. by property of Felipe Bacao or Bacas vs. Republic of the Philippines (Public Land). Point "1" is N. 10 deg. 39'W., 379.88 M. from B.L.L.M. 14, Cagayan Cadastre. Area SIXTY NINE THOUSAND SIX HUNDRED THIRTY TWO (69,632) SQUARE METERS, more or less.[10]

They alleged ownership in fee simple over the property and indicated therein the names and addresses of the adjoining owners, but no mention was made with respect to the occupation, if any, by the Philippine Army. The Chabons likewise alleged that, to the best of their knowledge, no mortgage or encumbrance of any kind affecting said land with the exception of 18,957 square meters sold to Minda J. Castillo and 1,000 square meters sold and conveyed to Atty. Arturo R. Legaspi.[11]

On February 18, 1976, there being no opposition made, even from the government, hearing on the application ensued. The LRC then rendered a decision[12] holding that Chabons' evidence established their ownership in fee simple over the subject property and that their possession, including that of their predecessor-in-interest, had been actual, open, public, peaceful, adverse, continuous, and in concept of owners for more than thirty (30) years.

The decision then became final and executory. Thus, an order[13] for the issuance of a decree and the corresponding certificate of title was issued.

The present cases

As a consequence of the LRC decisions in both applications for registration, the Republic filed a complaint for annulment of titles against the Bacases and the Chabons before the RTC. More specifically, on September 7, 1970 or one (1) year and ten (10) months from the issuance of OCT No. 0-358, a civil case for annulment, cancellation of original certificate of title, reconveyance of lot or damages was filed by the Republic

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[10] Id. at 786.
[11] Id. at 782-782A.
[12] Id. at 788-790.
[13] Id. at 791.

against the Bacases, which was docketed as Civil Case No. 3494. On the other hand, on April 21, 1978 or two (2) years and seven (7) months after issuance of OCT No. 0-669, the Republic filed a civil case for annulment of title and reversion against the Chabons, docketed as Civil Case No. 5918.

Civil Case No. 3494 against the Bacases

The Republic claimed in its petition for annulment before the RTC[14] that the certificate of title issued in favor of the Bacases was null and void because they fraudulently omitted to name the military camp as the actual occupant in their application for registration. Specifically, the Republic, through the Fourth Military Area, was the actual occupant of **Lot No. 4354** and also the owner and possessor of the adjoining Lots Nos. 4318[15] and 4357. Further, the Bacases failed to likewise state that Lot No. 4354 was part of Camp Evangelista. These omissions constituted fraud which vitiated the decree and certificate of title issued.

Also, the Republic averred that the subject land had long been reserved in 1938 for military purposes at the time it was applied for and, so, it was no longer disposable and subject to registration.[16]

Civil Case No. 5918 against the Chabons

In this case, the Republic claimed that it was the absolute owner and possessor of **Lot No. 4357**. The said lot, together with Lots 4318[17] and 4354, formed part of the military reservation known as Camp Evangelista in Cagayan de Oro City, which was set aside and reserved under Presidential Proclamation No. 265 issued by President Quezon on March 31, 1938.[18]

In its petition for annulment before the RTC,[19] the Republic alleged that OCT No. 0-669 issued in favor of the Chabons and all transfer certificates of titles, if any, proceeding therefrom, were null and void for having been vitiated by fraud and/or lack of jurisdiction.[20] The Chabons concealed that the fact that Lot 4357 was part of Camp Evangelista and that the Republic, through the Armed Forces of the Philippines, was its actual occupant and possessor.[21] Further, Lot 4357 was a military reservation, established as such as early as March 31, 1938 and, thus, could not be the

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[14] RTC records, Vol. I, pp. 1-9.
[15] Adjudged as part of Camp Evangelista in *Republic v. Estonilo*, 512 Phil. 644 (2005).
[16] RTC records, Vol. I, p. 4.
[17] Adjudged as part of Camp Evangelista in *Republic v. Estonilo*, supra note 15.
[18] RTC records, Vol. II, p. 4.
[19] Id. at 2-12.
[20] Id. at 6.
[21] Id. at 7.

subject of registration or private appropriation.[22] As a military reservation, it was beyond the commerce of man and the registration court did not have any jurisdiction to adjudicate the same as private property.[23]

Decision of the Regional Trial Court

As the facts and issues in both cases were substantially the same and identical, and the pieces of evidence adduced were applicable to both, the cases were consolidated and jointly tried. Thereafter, a joint decision *dismissing* the two complaints of the Republic was rendered.

In dismissing the complaints, the RTC explained that the stated fact of occupancy by Camp Evangelista over certain portions of the subject lands in the applications for registration by the respondents was a substantial compliance with the requirements of the law.[24] It would have been absurd to state Camp Evangelista as an adjoining owner when it was alleged that it was an occupant of the land.[25] Thus, the RTC ruled that the respondents did not commit fraud in filing their applications for registration.

Moreover, the RTC was of the view that the Republic was then given all the opportunity to be heard as it filed its opposition to the applications, appeared and participated in the proceedings. It was, thus, estopped from contesting the proceedings.

The RTC further reasoned out that assuming *arguendo* that respondents were guilty of fraud, the Republic lost its right to a relief for its failure to file a petition for review on the ground of fraud within one (1) year after the date of entry of the decree of registration.[26] Consequently, it would now be barred by prior judgment to contest the findings of the LRC.[27]

Finally, the RTC agreed with the respondents that the subject parcels of land were exempted from the operation and effect of the Presidential Proclamation No. 265 pursuant to a proviso therein that the same would not apply to lands with existing "private rights." The presidential proclamation did not, and should not, apply to the respondents because they did not apply to acquire the parcels of land in question from the government, but simply for confirmation and affirmation of their rights to the properties so that the

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[22] Id. at 6.
[23] Id. at 7.
[24] *Rollo*, p. 71.
[25] Id.
[26] Id.; Sec. 38, Act 495, The Land Registration Act.
[27] *Rollo*, p. 73.

titles over them could be issued in their favor.[28] What the proclamation prohibited was the sale or disposal of the parcels of land involved to private persons as a means of acquiring ownership of the same, through the modes provided by law for the acquisition of disposable public lands.[29]

The Republic filed its Notice of Appeal before the RTC on July 5, 1991. On the other hand, the Bacases and the Chabons filed an *Ex-Parte* Motion for the Issuance of the Writ of Execution and Possession on July 16, 1991. An amended motion was filed on July 31, 1991. The RTC then issued the Order,[30] dated February 24, 1992, disapproving the Republic's appeal for failure to perfect it as it failed to notify the Bacases and granting the writ of execution.

Action of the Court of Appeals and the Court regarding the Republic's Appeal

The Republic filed a Notice of Appeal on April 1, 1992 from the February 24, 1992 of the RTC. The same was denied in the RTC Order,[31] dated April 23, 1992. The Republic moved for its reconsideration but the RTC was still denied it on July 8, 1992.[32]

Not satisfied, the Republic filed a petition before the CA, docketed as CA-G.R. SP No. 28647, entitled *Republic vs. Hon. Cesar M. Ybañez,*[33] questioning the February 24, 1992 Order of the RTC denying its appeal in Civil Case No. 3494. The CA sustained the government and, accordingly, annulled the said RTC order.

The respondents appealed to the Court, which later found no commission of a reversible error on the part of the CA. Accordingly, the Court dismissed the appeal as well as the subsequent motions for reconsideration. An entry of judgment was then issued on February 16, 1995.[34]

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[28] Id. at 74-75.
[29] Id. at 74.
[30] RTC records, Vol. I, pp. 620-625.
[31] Id. at 645-647.
[32] Id. at 680.
[33] CA *rollo*, p. 00184.
[34] Id.

Ruling of the Court of Appeals

The appeal allowed, the CA docketed the case as CA G.R. CV No. 64142.

On November 12, 2007, the CA affirmed the ruling of the RTC. It explained that once a decree of registration was issued under the Torrens system and the reglementary period had passed within which the decree may be questioned, the title was perfected and could not be collaterally questioned later on.[35] Even assuming that an action for the nullification of the original certificate of title may still be instituted, the review of a decree of registration under Section 38 of Act No. 496 [Section 32 of Presidential Decree (P.D.) No. 1529] would only prosper upon proof that the registration was procured through actual fraud,[36] which proceeded from an intentional deception perpetrated through the misrepresentation or the concealment of a material fact.[37] The CA stressed that "[t]he fraud must be actual and extrinsic, not merely constructive or intrinsic; the evidence thereof must be clear, convincing and more than merely preponderant, because the proceedings which are assailed as having been fraudulent are judicial proceedings which by law, are presumed to have been fair and regular."[38]

Citing the rule that "[t]he fraud is extrinsic if it is employed to deprive parties of their day in court and, thus, prevent them from asserting their right to the property registered in the name of the applicant,"[39] the CA found that there was none. The CA agreed with the RTC that there was substantial compliance with the requirement of the law. The allegation of the respondent that Camp Evangelista occupied portions of their property negated the complaint that they committed misrepresentation or concealment amounting to fraud.[40]

As regards the issue of exemption from the proclamation, the CA deemed that a discussion was unnecessary because the LRC already resolved it. The CA stressed that the proceeding was one *in rem*, thereby binding everyone to the legal effects of the same and that a decree of registration that had become final should be deemed conclusive not only on the questions actually contested and determined, but also upon all matters that might be litigated or decided in the land registration proceeding.[41]

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[35] *Rollo*, p. 50.
[36] Id. at 51.
[37] Id.
[38] Id.
[39] Id.
[40] Id. at 55.
[41] Id. at 59.

Not in conformity, the Republic filed a motion for reconsideration which was denied on May 15, 2008 for lack of merit.

Hence, this petition.

GROUNDS RELIED UPON WARRANTING REVIEW OF THE PETITION

1. **THE COURT OF APPEALS COMMITTED SERIOUS ERROR IN HOLDING THAT THE LAND REGISTRATION COURT HAD JURISDICTION OVER THE APPLICATION FOR REGISTRATION FILED BY RESPONDENTS DESPITE THE LATTER'S FAILURE TO COMPLY WITH THE MANDATORY REQUIREMENT OF INDICATING ALL THE ADJOINING OWNERS OF THE PARCELS OF LAND SUBJECT OF THE APPLICATION.**

2. **THE COURT OF APPEALS COMMITTED SERIOUS ERROR IN HOLDING THAT RESPONDENTS HAVE A REGISTRABLE RIGHT OVER THE SUBJECT PARCELS OF LAND WHICH ARE WITHIN THE CAMP EVANGELISTA MILITARY RESERVATION.**

3. **IN G.R. NO. 157306 ENTITLED *"REPUBLIC OF THE PHILIPPINES VS. ANATALIA ACTUB TIU ESTONILO, ET AL.,"* WHICH INVOLVES PRIVATE INDIVIDUALS CLAIMING RIGHTS OVER PORTIONS OF THE CAMP EVANGELISTA MILITARY RESERVATION, THIS HONORABLE COURT HELD THAT THESE INDIVIDUALS COULD NOT HAVE VALIDLY OCCUPIED THEIR CLAIMED LOTS BECAUSE THE SAME WERE CONSIDERED INALIENABLE FROM THE TIME OF THEIR RESERVATION IN 1938. HERE, THE CERTIFICATES OF TITLE BEING SUSTAINED BY THE COURT OF APPEALS WERE ISSUED PURSUANT TO THE DECISIONS OF THE LAND REGISTRATION COURT IN APPLICATIONS FOR REGISTRATION FILED IN 1964 AND 1974. VERILY, THE COURT OF APPEALS, IN ISSUING THE HEREIN ASSAILED DECISION DATED NOVEMBER 15, 2007 AND RESOLUTION DATED MAY 15, 2008, HAS DECIDED THAT INSTANT CONTROVERSY IN A MANNER THAT IS CONTRARY TO LAW AND JURISPRUDENCE.[42]**

[42] Id. at 16-17.

Position of the Republic

In advocacy of its position, the Republic principally argues that (1) the CA erred in holding that the LRC acquired jurisdiction over the applications for registration of the reserved public lands filed by the respondents; and (2) the respondents do not have a registrable right over the subject parcels of land which are within the Camp Evangelista Military Reservation.

With respect to the first argument, the Republic cites Section 15 of P.D. No. 1529, which requires that applicants for land registration must disclose the names of the occupants of the land and the names and addresses of the owners of the adjoining properties. The respondents did not comply with that requirement which was mandatory and jurisdictional. Citing *Pinza v. Aldovino*,[43] it asserts that the LRC had no jurisdiction to take cognizance of the case. Moreover, such omission constituted fraud or willful misrepresentation. The respondents cannot invoke the indefeasibility of the titles issued since a "grant tainted with fraud and secured through misrepresentation is null and void and of no effect whatsoever."[44]

On the second argument, the Republic points out that Presidential Proclamation No. 265 reserved for the use of the Philippine Army certain parcels of land which included Lot No. 4354 and Lot No. 4357. Both lots were, however, allowed to be registered. Lot No. 4354 was registered as OCT No. 0-0358 and Lot No. 4357 as OCT No. O-669.

The Republic asserts that being part of the military reservation, these lots are inalienable and cannot be the subject of private ownership. Being so, the respondents do not have registrable rights over them. Their possession of the land, however long, could not ripen into ownership, and they have not shown proof that they were entitled to the land before the proclamation or that the said lots were segregated and withdrawn as part thereof.

Position of the Respondents

The Bacases

The Bacases anchor their opposition to the postures of the Republic on three principal arguments:

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[43] 134 Phil. 217 (1968).
[44] Citing *Director of Lands v. Abanilla*, 209 Phil. 294, 304 (1983).

> *First*, there was no extrinsic fraud committed by the Bacases in their failure to indicate Camp Evangelista as an adjoining lot owner as their application for registration substantially complied with the legal requirements. More importantly, the Republic was not prejudiced and deprived of its day in court.
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> *Second*, the LRC had jurisdiction to adjudicate whether the Bacases had "private rights" over Lot No. 4354 in accordance with, and therefore exempt from the coverage of, Presidential Proclamation No. 265, as well as to determine whether such private rights constituted registrable title under the land registration law.
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> *Third*, the issue of the registrability of the title of the Bacases over Lot No. 4354 is *res judicata* and cannot now be subject to a re-litigation or reopening in the annulment proceedings.[45]

Regarding the first ground, the Bacases stress that there was no extrinsic fraud because their application substantially complied with the requirements when they indicated that Camp Evangelista was an occupant by mere tolerance of Lot No. 4354. Also, the Republic filed its opposition to the respondents' application and actively participated in the land registration proceedings by presenting evidence, through the Director of Lands, who was represented by the Solicitor General. The Republic, therefore, was not deprived of its day in court or prevented from presenting its case. Its insistence that the non-compliance with the requirements of Section 15 of P.D. No. 1529 is an argument that is at once both empty and dangerous.[46]

On jurisdiction, the Bacases assert that even in the case of *Republic v. Estonilo*,[47] it was recognized in Presidential Proclamation No. 265 that the reservation was subject to private rights. In other words, the LRC had authority to hear and adjudicate their application for registration of title over Lot No. 4354 if they would be able to prove that their private rights under the presidential proclamation constituted registrable title over the said lot. They claim that there is completely no basis for the Republic to argue that the LRC had no jurisdiction to hear and adjudicate their application for registration of their title to Lot No. 4354 just because the proclamation withdrew the subject land from sale and settlement and reserved the same for military purposes. They cited the RTC statement that "the parcels of

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[45] *Rollo*, pp. 254-266.
[46] Id.
[47] 512 Phil. 694 (2005) (where Lot 4318 was adjudged as part of Camp Evangelista).

land they applied for in those registration proceedings and for which certificates of title were issued in their favor are precisely exempted from the operation and effect of said presidential proclamation when the very same proclamation in itself made a proviso that the same will not apply to lands with existing 'private rights' therein."[48]

The Bacases claim that the issue of registrability is no longer an issue as what is only to be resolved is the question on whether there was extrinsic or collateral fraud during the land registration proceedings. There would be no end to litigation on the registrability of their title if questions of facts or law, such as, whether or not Lot No. 4354 was alienable and disposable land of the public domain prior to its withdrawal from sale and settlement and reservation for military purposes under Presidential Proclamation No. 265; whether or not their predecessors-in-interest had prior possession of the lot long before the issuance of the proclamation or the establishment of Camp Evangelista in the late 1930's; whether or not such possession was held in the concept of an owner to constitute recognizable "private rights" under the presidential proclamation; and whether or not such private rights constitute registrable title to the lot in accordance with the land registration law, which had all been settled and duly adjudicated by the LRC in favor of the Bacases, would be re-examined under this annulment case.[49]

The issue of registrability of the Bacases' title had long been settled by the LRC and is *res judicata* between the Republic and the respondents. The findings of the LRC became final when the Republic did not appeal its decision within the period to appeal or file a petition to reopen or review the decree of registration within one year from entry thereof.[50]

To question the findings of the court regarding the registrability of then title over the land would be an attempt to reopen issues already barred by *res judicata.* As correctly held by the RTC, it is estopped and barred by prior judgment to contest the findings of the LRC.[51]

The Chabons

In traversing the position of the Republic, the Chabons insist that the CA was correct when it stated that there was substantial compliance[52] with the requirements of the P.D. No. 1529 because they expressly stated in their application that Camp Evangelista was occupying a portion of it. It is

[48] *Rollo*, p. 261.
[49] Id. at 254-266.
[50] Id.
[51] Id.
[52] Id. at 240 to 251.

contrary to reason or common sense to state that Camp Evangelista is an adjoining owner when it is occupying a portion thereof.

And as to the decision, it was a consequence of a proceeding in rem and, therefore, the decree of registration is binding and conclusive against all persons including the Republic who did not appeal the same. It is now barred forever to question the validity of the title issued. Besides, *res judicata* has set in because there is identity of parties, subject matter and cause of action.[53]

The Chabons also assailed the proclamation because when it was issued, they were already the private owners of the subject parcels of land and entitled to protection under the Constitution. The taking of their property in the guise of a presidential proclamation is not only oppressive and arbitrary but downright confiscatory.[54]

The Issues

The ultimate issues to be resolved are: 1) whether or not the decisions of the LRC over the subject lands can still be questioned; and 2) whether or not the applications for registration of the subject parcels of land should be allowed.

The Court's Ruling

The Republic can question even final and executory judgment when there was fraud.

The governing rule in the application for registration of lands at that time was Section 21 of Act 496[55] which provided for the form and content of an application for registration, and it reads:

> **Section 21.** The application shall be in writing, signed and sworn to by applicant, or by some person duly authorized in his behalf. x x x It shall also state the name in full and the address of the applicant, and also the names and addresses of **all adjoining owners and occupants, if known**; and, if not known, it shall state what search has been made to find them. x x x

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[53] Id. at 240 to 251.
[54] Id.
[55] An act to provide for the adjudication and registration of titles to lands in the Philippine Islands (The Land Registration Act).

The reason behind the law was explained in the case of *Fewkes vs. Vasquez,*[56] where it was written:

> Under Section 21 of the Land Registration Act an application for registration of land is required to contain, among others, a description of the land subject of the proceeding, the name, status and address of the applicant, as well as the names and addresses of all occupants of the land and of all adjoining owners, if known, or if unknown, of the steps taken to locate them. When the application is set by the court for initial hearing, it is then that **notice (of the hearing), addressed to all persons appearing to have an interest in the lot being registered and the adjoining owners,** and indicating the location, boundaries and technical description of the land being registered, shall be published in the Official Gazette for two consecutive times. It is this publication of the notice of hearing that is considered one of the essential bases of the jurisdiction of the court in land registration cases, for the proceedings being in rem, it is only when there is constructive seizure of the land, effected by the publication and notice, that jurisdiction over the *res* is vested on the court. Furthermore, it is such notice and publication of the hearing that **would enable all persons concerned, who may have any rights or interests in the property, to come forward and show to the court why the application for registration thereof is not to be granted.**

Here, the Chabons did not make any mention of the ownership or occupancy by the Philippine Army. They also did not indicate any efforts or searches they had exerted in determining other occupants of the land. Such omission constituted fraud and deprived the Republic of its day in court. Not being notified, the Republic was not able to file its opposition to the application and, naturally, it was not able to file an appeal either.

The Republic can also question a final and executory judgment when the LRC had no jurisdiction over the land in question

With respect to the Bacases, although the lower courts might have been correct in ruling that there was substantial compliance with the requirements of law when they alleged that Camp Evangelista was an occupant, the Republic is not precluded and estopped from questioning the validity of the title.

The success of the annulment of title does not solely depend on the existence of actual and extrinsic fraud, but also on the fact that a judgment

[56]148-A Phil. 448, 452-453 (1971).

decreeing registration is null and void. In *Collado v. Court of Appeals and the Republic,*[57] the Court declared that any title to an inalienable public land is void ab initio. Any procedural infirmities attending the filing of the petition for annulment of judgment are immaterial since the LRC never acquired jurisdiction over the property. All proceedings of the LRC involving the property are null and void and, hence, did not create any legal effect. A judgment by a court without jurisdiction can never attain finality.[58] In *Collado,* the Court made the following citation:

> The **Land Registration Court has no jurisdiction over non-registrable properties**, such as public navigable rivers which are parts of the public domain, and cannot validly adjudge the registration of title in favor of private applicant. Hence, the judgment of the Court of First Instance of Pampanga as regards the Lot No. 2 of certificate of Title No. 15856 in the name of petitioners **may be attacked at any time**, either **directly or collaterally**, by the State which is **not bound by any prescriptive period** provided for by the Statute of Limitations.[59]

Prescription or estoppel cannot lie against the government

In denying the petition of the Republic, the CA reasoned out that 1) once a decree of registration is issued under the Torrens system and the reglementary period has passed within which the decree may be questioned, the title is perfected and cannot be collaterally questioned later on;[60] 2) there was no commission of extrinsic fraud because the Bacases' allegation of Camp Evangelista's occupancy of their property negated the argument that they committed misrepresentation or concealment amounting to fraud;[61] and 3) the Republic did not appeal the decision and because the proceeding was one *in rem*, it was bound to the legal effects of the decision.

Granting that the persons representing the government was negligent, the doctrine of estoppel cannot be taken against the Republic. It is a well-settled rule that the Republic or its government is not estopped by mistake or error on the part of its officials or agents. In *Republic v. Court of Appeals,*[62] it was written:

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[57] 439 Phil. 149 (2002), citing *Martinez vs. Court of Appeals,* 155 Phil. 591 (1974).
[58] *Padre v. Badillo, et al.*, G.R. No. 165423, January 19, 2011, 640 SCRA 50, 66.
[59] *Martinez v. Court of Appeals*, 155 Phil. 591 (1974).
[60] *Rollo*, p. 50.
[61] Id. at 55.
[62] 188 Phil. 142 (1980).

> In any case, even granting that the said official was negligent, the **doctrine of estoppel cannot operate against the State**. "It is a well-settled rule in our jurisdiction that the Republic or its government is usually **not estopped by mistake or error on the part of its officials or agents** (Manila Lodge No. 761 vs. CA, 73 SCRA 166, 186; Republic vs. Marcos, 52 SCRA 238, 244; Luciano vs. Estrella, 34 SCRA 769).
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> Consequently, **the State may still seek the cancellation of the title** issued to Perpetuo Alpuerto and his successors-interest pursuant to Section 101 of the Public Land Act. Such title has not become indefeasible, for prescription cannot be invoked against the State (Republic vs. Animas, supra).

The subject lands, being part of a military reservation, are inalienable and cannot be the subjects of land registration proceedings

The application of the Bacases and the Chabons were filed on **November 12, 1964** and **May 8, 1974**, respectively. Accordingly, the law governing the applications was Commonwealth Act *(C.A.)* No. 141,[63] as amended by RA 1942,[64] particularly Sec. 48(b) which provided that:

> Those who by themselves or through their predecessors in interest have been in open, continuous, exclusive and notorious possession and occupation of **agricultural lands of the public domain**, **under a *bona fide* claim of acquisition of ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title** except when prevented by war or *force majeure*. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.

As can be gleaned therefrom, the necessary requirements for the grant of an application for land registration are the following:

1. The applicant must, by himself or through his predecessors-in-interest, have been in possession and occupation of the subject land;

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[63] Public Land Act (1936).

[64] An act to amend subsection (b) of section forty-eight of commonwealth act numbered one hundred forty-one, otherwise known as the Public Land Act (1957).

2. The possession and occupation must be open, continuous, exclusive and notorious;

3. The possession and occupation must be under a *bona fide* claim of ownership for at least thirty years immediately preceding the filing of the application; and

4. The subject land must be an agricultural land of the public domain.

As earlier stated, in 1938, President Quezon issued Presidential Proclamation No. 265, which took effect on March 31, 1938, reserving for the use of the Philippine Army parcels of the public domain situated in the barrios of Bulua and Carmen, then Municipality of Cagayan, Misamis Oriental. The subject parcels of land were withdrawn from sale or settlement or reserved for military purposes, "subject to private rights, if any there be."[65]

Such power of the President to segregate lands was provided for in Section 64(e) of the old Revised Administrative Code and C.A. No. 141 or the Public Land Act. Later, the power of the President was restated in Section 14, Chapter 4, Book III of the 1987 Administrative Code. When a property is officially declared a military reservation, it becomes inalienable and outside the commerce of man.[66] It may not be the subject of a contract or of a compromise agreement.[67] A property continues to be part of the public domain, not available for private appropriation or ownership, until there is a formal declaration on the part of the government to withdraw it from being such.[68] In the case of *Republic v. Court of Appeals and De Jesus,*[69] it was even stated that

> Lands covered by reservation are not subject to entry, and no lawful settlement on them can be acquired. The claims 0f persons who have settled on, occupied, and improved a parcel of public land which is later included in a reservation are considered worthy of protection and are usually respected, but where the President, as authorized by law, issues a proclamation reserving certain lands and warning all persons to depart therefrom, this terminates any rights previously acquired in such lands by a person who was settled thereon in order to obtain a preferential right of purchase. **And patents for lands which have been previously granted, reserved from sale, or appropriate, are void**.

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[65] *Republic v. Estonilo*, 512 Phil. 644 (2005).
[66] *Republic v. Southside Homeowners Association*, 534 Phil. 8 (2006).
[67] Id.
[68] *Laurel v. Garcia*, G.R. No. 92013, July 25, 1990, 187 SCRA 797, 808.
[69] 165 Phil. 142 (1976).

Regarding the subject lots, there was a reservation respecting "private rights." In *Republic v. Estonilo,*[70] where the Court earlier declared that Lot No. 4318 was part of the Camp Evangelista Military Reservation and, therefore, not registrable, it noted the proviso in Presidential Proclamation No. 265 requiring the reservation to be subject to private rights as meaning that persons claiming rights over the reserved land were not precluded from proving their claims. Stated differently, the said proviso did not preclude the LRC from determining whether or not the respondents indeed had registrable rights over the property.

As there has been no showing that the subject parcels of land had been segregated from the military reservation, the respondents had to prove that the subject properties were alienable and disposable land of the public domain *prior* to its withdrawal from sale and settlement and reservation for military purposes under Presidential Proclamation No. 265. The question is of primordial importance because it is determinative if the land can in fact be subject to acquisitive prescription and, thus, registrable under the Torrens system. Without first determining the nature and character of the land, all the other requirements such as the length and nature of possession and occupation over such land do not come into play. The required length of possession does not operate when the land is part of the public domain.

In this case, however, the respondents miserably failed to prove that, before the proclamation, the subject lands were already private lands. They merely relied on such "recognition" of possible private rights. In their application, they alleged that at the time of their application,[71] they had been in open, continuous, exclusive, and notorious possession of the subject parcels of land for at least thirty (30) years and became its owners by prescription. There was, however, no allegation or showing that the government had earlier declared it open for sale or settlement, or that it was already pronounced as inalienable and disposable.

It is well-settled that land of the public domain is not *ipso facto* converted into a patrimonial or private property by the mere possession and occupation by an individual over a long period of time. In the case of *Diaz v. Republic,*[72] it was written:

> But **even assuming that the land in question was alienable land before it was established as a military reservation**, there was nevertheless still a dearth of evidence with respect to its occupation

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[70] Supra note 65.
[71] On November 12, 1964, in the case of the Bacases and May 8, 1974, in the case of the Chabons.
[72] G.R. No. 181502, February 2, 2010, 611 SCRA 403, 419.

> by petitioner and her predecessors-in-interest for more than 30 years. x x x.
>
> x x x.
>
> A mere casual cultivation of portions of the land by the claimant, and the raising thereon of cattle, do not constitute possession under claim of ownership. In that sense, possession is not exclusive and notorious as to give rise to a presumptive grant from the State. While grazing livestock over land is of course to be considered with other acts of dominion to show possession, the mere occupancy of land by grazing livestock upon it, without substantial enclosures, or other permanent improvements, is not sufficient to support a claim of title thru acquisitive prescription. The possession of public land, however long the period may have extended, never confers title thereto upon the possessor because the statute of limitations with regard to public land does not operate against the State unless the occupant can prove possession and occupation of the same under claim of ownership for the required number of years to constitute a grant from the State. [Emphases supplied]

In the recent case of *Heirs of Mario Malabanan vs. Republic of the Philippines*,[73] the Court emphasized that fundamental is the rule that lands of the public domain, unless declared otherwise by virtue of a statute or law, are inalienable and can never be acquired by prescription. No amount of time of possession or occupation can ripen into ownership over lands of the public domain. All lands of the public domain presumably belong to the State and are inalienable. Lands that are not clearly under private ownership are also presumed to belong to the State and, therefore, may not be alienated or disposed.[74]

Another recent case, *Diaz v. Republic*,[75] also held that possession even for more than 30 years cannot ripen into ownership.[76] Possession is of no moment if applicants fail to sufficiently and satisfactorily show that the subject lands over which an application was applied for was indeed an alienable and disposable agricultural land of the public domain. It would not matter even if they declared it for tax purposes. In *Republic v. Heirs of Juan Fabio*,[77] the rule was reiterated. Thus:

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[73] G.R. No. 179987, September 3, 2013 (Resolution denying Motion for Reconsideration).
[74] *Heirs of Mario Malabanan v. Republic*, G.R. No. 179987, September 3, 2013.
[75] G.R. No. 181502, February 2, 2010, 611 SCRA 403.
[76] Id.
[77] G.R. No. 159589, December 23, 2008, 575 SCRA 51.

> Well-entrenched is the rule that **unless a land is reclassified and declared alienable and disposable, occupation in the concept of an owner, no matter how long, cannot ripen into ownership and be registered as a title.** Consequently, respondents could not have occupied the Lot in the concept of an owner in 1947 and subsequent years when respondents declared the Lot for **taxation purposes**, or even earlier when respondents' predecessors-in-interest possessed the Lot, because the Lot was considered inalienable from the time of its declaration as a military reservation in 1904. Therefore, respondents failed to prove, by clear and convincing evidence, that the Lot is alienable and disposable.
>
> Public lands not shown to have been classified as alienable and disposable land remain part of the inalienable public domain. In view of the lack of sufficient evidence showing that the Lot was already classified as alienable and disposable, the Lot applied for by respondents is inalienable land of the public domain, not subject to registration under Section 14(1) of PD 1529 and Section 48(b) of CA 141, as amended by PD 1073. Hence, there is no need to discuss the other requisites dealing with respondents' occupation and possession of the Lot in the concept of an owner.
>
> While it is an acknowledged policy of the State to promote the distribution of alienable public lands to spur economic growth and in line with the ideal of social justice, 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. We must not, therefore, relax the stringent safeguards relative to the registration of imperfect titles. [Emphases Supplied]

In *Estonilo,*[78] where the Court ruled that persons claiming the protection of "private rights" in order to exclude their lands from military reservations must show by clear and convincing evidence that the properties in question had been acquired by a legal method of acquiring public lands, the respondents therein failed to clearly prove that the lands over which they lay a claim were alienable and disposable so that the same belonged and continued to belong to the State and could not be subject to the commerce of man or registration. Specifically, the Court wrote:

> **Land that has not been acquired from the government, either by purchase or by grant, belongs to the State as part of the public domain.** For this reason, imperfect titles to agricultural lands are subjected to rigorous scrutiny before judicial confirmation is granted. In the same manner, **persons claiming the protection of "private rights" in order to exclude their lands from military reservations must show by clear and convincing evidence that the**

[78] *Republic v. Estonilo*, supra note 65, [where the Court adjudged Lot 4318 as part of Camp Evangelista].

pieces of property in question have been acquired by a legal method of acquiring public lands.

In granting respondents judicial confirmation of their imperfect title, the trial and the appellate courts gave much weight to the tax declarations presented by the former. However, while the tax declarations were issued under the names of respondents' predecessors-in-interest, the earliest one presented was issued only in 1954.[19] *The Director, Lands Management Bureau v. CA*[20] held thus:

"x x x. **Tax receipts and tax declarations are not incontrovertible evidence of ownership. They are mere *indicia* of [a] claim of ownership.** In *Director of Lands vs. Santiago*:

> 'x x x [I]f it is true that the original owner and possessor, Generosa Santiago, had been in possession since 1925, why were the subject lands declared for taxation purposes for the first time only in 1968, and in the names of Garcia and Obdin? For although tax receipts and declarations of ownership for taxation purposes are not incontrovertible evidence of ownership, they constitute at least proof that the holder had a claim of title over the property.'"

In addition, the lower courts credited the alleged prior possession by *Calixto and Rosendo Bacas,* from whom respondents' predecessors had purportedly bought the property. This alleged prior possession, though, was totally devoid of any supporting evidence on record. Respondents' evidence hardly supported the conclusion that their predecessors-in-interest had been in possession of the land since "time immemorial."

Moreover, as correctly observed by the Office of the Solicitor General, the evidence on record merely established the transfer of the property from *Calixto Bacas to Nazaria Bombeo*. The evidence did not show the nature and the period of the alleged possession by *Calixto and Rosendo Bacas.* It is important that **applicants for judicial confirmation of imperfect titles must present specific acts of ownership to substantiate their claims; they cannot simply offer general statements that are mere conclusions of law rather than factual evidence of possession.**

It must be stressed that respondents, as applicants, have the burden of proving that they have an imperfect title to Lot 4318. **Even the absence of opposition from the government does not relieve them of this burden**. Thus, it was erroneous for the trial and the appellate courts to hold that the failure of the government to dislodge respondents, judicially or extrajudicially, from the subject land since 1954 already amounted to a title. [Emphases supplied]

The ruling reiterated the long standing rule in the case of *Director, Lands Management Bureau v. Court of Appeals*,[79]

> x x x. The petitioner is not necessarily entitled to have the land registered under the Torrens system simply because no one appears to oppose his title and to oppose the registration of his land. He must show, **even though there is no opposition**, to the satisfaction of the court, that he is the absolute owner, in fee simple. Courts are not justified in registering property under the Torrens system, simply because there is no opposition offered. Courts may, even in the absence of any opposition, deny the registration of the land under the Torrens system, upon the ground that the facts presented did not show that the petitioner is the owner, in fee simple, of the land which he is attempting to have registered.

The Court is not unmindful of the principle of immutability of judgments, that nothing is more settled in law than that once a judgment attains finality it thereby becomes immutable and unalterable.[80] Such principle, however, must yield to the basic rule that a decision which is null and void for want of jurisdiction of the trial court is not a decision in contemplation of law and can never become final and executory.[81]

Had the LRC given primary importance on the status of the land and not merely relied on the testimonial evidence of the respondents without other proof of the alienability of the land, the litigation would have already been ended and finally settled in accordance with law and jurisprudence a long time ago.

WHEREFORE, the petition is **GRANTED.** The November 12, 2007 Decision and the May 15, 2008 Resolution of the Court of Appeals in CA-G.R. CV No. 64142 are hereby **REVERSED** and **SET ASIDE**. Judgment is rendered declaring the proceedings in the Land Registration Court as **NULL and VOID** for lack of jurisdiction. Accordingly, Original Certificate of Title Nos. 0-358 and 0-669 issued by the Registry of Deeds of Cagayan de Oro City are **CANCELLED**. Lot No. 4354 and Lot No. 4357 are ordered reverted to the public domain.

SO ORDERED.

JOSE CATRAL MENDOZA
Associate Justice

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[79] 381 Phil. 761(2000), citing *Director of Lands v. Agustin*, 42 Phil. 227, 229 (1921).
[80] *Serrano v. Ambassador Hotel, Inc.*, G.R. No. 197003, February 11, 2013, 690 SCRA 226.
[81] *Lagunilla v. Velasco*, G.R. No. 169276, June 16, 2009, 589 SCRA 224, 231.

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

ROBERTO A. ABAD
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

I attest 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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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