Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

REPUBLIC OF THE PHILIPPINES, Petitioner,	**G.R. No. 171136**
	Present:
- *versus* -	SERENO, *CJ.*, Chairperson, LEONARDO-DE CASTRO, BERSAMIN, VILLARAMA, JR., and REYES, *JJ.*
LYDIA CAPCO DE TENSUAN, represented by CLAUDIA C. ARUELO, Respondent.	Promulgated: OCT 23 2013

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DECISION

LEONARDO-DE CASTRO, *J.*:

Before Us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking the reversal and setting aside of the Decision[1] dated January 13, 2006 of the Court of Appeals in CA-G.R. CV No. 84125, which affirmed the Decision[2] dated October 18, 2004 of the Metropolitan Trial Court (MeTC) of Taguig City, Branch 74 in LRC Case No. 172 (LRA Rec. No. N-70108). The MeTC confirmed the title of herein respondent, Lydia Capco de Tensuan (Tensuan), to the parcel of agricultural land, designated as Lot 1109-A, located at Ibayo, Sta. Ana, Taguig City, with an area of 4,006 square meters (subject property), and ordered the registration of said property in her name.

The following facts are culled from the records:

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1 *Rollo*, pp. 27-36; penned by Associate Justice Vicente S.E. Veloso with Associate Justices Portia Aliño-Hormachuelos and Amelita G. Tolentino, concurring.

2 Id. at 72-74.

On August 11, 1998, Tensuan, represented by her sister, Claudia C. Aruelo (Aruelo), filed with the MeTC an Application for Registration[3] of Lot Nos. 1109-A and 1109-B, docketed as LRC Case No. 172. In her Application for Registration, Tensuan alleged that:

> 2. That Applicant is the absolute owner and possessor of those two (2) paraphernal parcels of land situated at Sta. Ana, Taguig, Metro Manila, within the jurisdiction of this Honorable Court, bounded and described as Lot 1109-A and 1109-B in Conversion Subdivision Plan Swo-00-001456 as follows:
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> (a) Lot 1109-A, Swo-00-001456
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> "A PARCEL OF LAND (Lot 1109-A of the Plan Swo-00-001456, being a conversion of Lot 1109, MCadm 590-D, Taguig, [Cadastral] Mapping, L.R.C. Record No.), situated in Brgy. Sta. Ana, Mun. of Taguig, Metro Manila, Island of Luzon.
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> x x x x"
>
> (b) Lot 1109-B, Swo-00-001456
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> "A PARCEL OF LAND (Lot 1109-B, of plan Swo-00-001456, being a conversion of Lot 1109, MCadm 590-D, Taguig Cadastral Mapping, L.R.C. Record No.), situated in Sta. Ana, Mun. of Taguig, Metro Manila, Island of Luzon.
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> x x x x"
>
> 3. That said two (2) parcels of land at the last assessment for taxation were assessed at Sixty Thousand Eight Hundred Twenty Pesos (₱60,820.00), Philippine currency, under Tax Declaration No. D-013-01563 in the name of the Applicant;
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> 4. That to the best of the knowledge and belief of Applicant, there is no mortgage, encumbrance or transaction affecting said two (2) parcels of land, nor is there any other person having any interest therein, legal or equitable, or in adverse possession thereof;
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> 5. That Applicant has acquired said parcels of land by inheritance from her deceased father, Felix Capco, by virtue of a "[*Kasulatan*] *ng Paghahati-hati at Pag-aayos ng Kabuhayan*" dated September 14, 1971, and Applicant specifically alleges that she and her deceased father, as well as the latter's predecessors-in-interest, have been in open, continuous, exclusive and notorious possession and occupation of the said lands under a bonafide claim of ownership since June 12, 1945, and many years earlier, as in fact since time immemorial, as provided under Section 14(1) of Presidential Decree No. 1529;
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> 6. That said parcels of land are and have been, since the inheritance thereof, occupied by Applicant herself;

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[3] Id. at 37-41.

x x x x

> WHEREFORE, it is respectfully prayed that after due notice, publication and hearing, the paraphernal parcels of land hereinabove described be brought under the operation of Presidential Decree No. 1529 and the same confirmed in the name of Applicant.[4] (Emphasis ours.)

On August 20, 1998, Tensuan filed an Urgent *Ex Parte* Motion to Withdraw Lot 1109-B from the Application for Registration and to Amend the Application.[5] According to Tensuan, she was withdrawing her Application for Registration of Lot 1109-B because a review of Plan Swo-00-001456 had revealed that said lot, with an area of 338 square meters, was a legal easement. The MeTC, in its Order[6] dated September 30, 1998, granted Tensuan's motion.

The Republic, through the Office of the Solicitor General (OSG), filed an Opposition to Tensuan's Application for Registration on December 28, 1998. The Republic argued that (1) neither Tensuan nor her predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the subject property since June 12, 1945 or prior thereto; (2) the muniment/s of title and/or tax declaration/s and tax payment receipt/s attached to the application do/es not constitute competent and sufficient evidence of a *bona fide* acquisition of the subject property or of Tensuan's open, continuous, exclusive, and notorious possession and occupation of the subject property in the concept of owner since June 12, 1945 or prior thereto; (3) the claim of ownership in fee simple on the basis of Spanish title or grant can no longer be availed of by Tensuan who failed to file an appropriate application for registration within the period of six months from February 16, 1976, as required by Presidential Decree No. 892; and (4) the subject property forms part of the public domain not subject of private appropriation.[7]

The Laguna Lake Development Authority (LLDA) also filed its own Opposition[8] dated February 12, 1999 to Tensuan's Application for Registration, averring as follows:

> 2. That projection of the subject lot in our topographic map based on the technical descriptions appearing in the Notice of the Initial Hearing indicated that the lot subject of this application for registration is located below the reglementary lake elevation of 12.50 meters referred to datum 10.00 meters below mean lower water. Site is, therefore, part of the bed of Laguna Lake considered as public land and is within the jurisdiction of Laguna Lake Development Authority pursuant to its mandate under R.A. 4850, as amended. x x x;

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4 Id.
5 Records, pp. 29-30.
6 Id. at 38.
7 Id. at 39-41.
8 Id. at 229-233.

> 3. That Section 41 of Republic Act No. 4850, states that, "whenever Laguna Lake or Lake is used in this Act, the same shall refer to Laguna de Bay which is that area covered by the lake water when it is at the average annual maximum lake level of elevation of 12.50 meters, as referred to a datum 10.0 meters below mean lower low water (MLLW). Lands located at and below such elevation are public lands which form part of the bed of said lake (Section 14, R.A. 4850, as amended, x x x);
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> 4. That on the strength of the oppositor's finding and applying the above-quoted provision of law, herein applicant's application for registration of the subject land has no leg to stand on, both in fact and in law;
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> 5. That unless the Honorable Court renders judgment to declare the land as part of the Laguna Lake or that of the public domain, the applicant will continue to unlawfully posses, occupy and claim the land as their own to the damage and prejudice of the Government in general and the Laguna Lake Development Authority in particular;
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> 6. That moreover, the land sought to be registered remains inalienable and indisposable in the absence of declaration by the Director of Lands as required by law[.][9]

During the initial hearing on February 18, 1999, Tensuan marked in evidence the exhibits proving her compliance with the jurisdictional requirements for LRC Case No. 172. There being no private oppositor, a general default against the whole world, except the government, was declared.[10]

To prove possession, Tensuan presented two witnesses, namely, her sister Aruelo and Remigio Marasigan (Marasigan).

Aruelo, who was then 68 years old, testified that Tensuan and her predecessors-in-interest have been in possession of the subject property even before the Second World War. The subject property was originally owned by Candida de Borja, who passed on the same to her only child, Socorro Reyes, and the latter's husband, Felix Capco (spouses Capco). The subject property became part of the spouses Capco's conjugal property. Aruelo and Tensuan are among the spouses Capco's children. During the settlement of Felix Capco's estate, the subject property was adjudicated to Tensuan, as evidenced by the *Kasulatan ng Paghahati at Pag-aayos ng Kabuhayan*[11] dated September 14, 1971.[12]

Marasigan claimed that he had been cultivating the subject property for the last 15 years, and he personally knew Tensuan to be the owner of said property.[13] Marasigan's father was the caretaker of the subject property for the Capcos for more than 50 years, and Marasigan used to help his father

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9 Id. at 229-230.
10 Id. at 223-224.
11 Id. at 16-22.
12 TSN, March 16, 1999, pp. 7-9.
13 Id. at 11-12.

till the same. Marasigan merely inherited the job as caretaker of the subject property from his father.

Among the evidence Tensuan presented during the trial were: (1) the *Kasulatan ng Paghahati-hati at Pagaayos ng Kabuhayan* dated September 14, 1971;[14] (2) Tax declarations, the earliest of which was for the year 1948, in the name of Candida de Borja, Tensuan's grandmother;[15] (3) Real property tax payment receipts issued to Tensuan for 1998;[16] (3) Blueprint copy of Plan Swo-00-001456 surveyed for Lydia Capco de Tensuan;[17] (4) Technical description of the subject property, duly prepared by a licensed Geodetic Engineer and approved by the Department of Environment and Natural Resources (DENR);[18] and (5) Certification dated July 29, 1999 from the Community Environment and Natural Resources Office of the DENR (CENRO-DENR) which states that "said land falls within alienable and disposable land under Project No. 27-B L.C. Map No. 2623 under Forestry Administrative Order No. 4-1141 dated January 3, 1968."[19]

Engineer Ramon Magalona (Magalona) took the witness stand for oppositor LLDA. He averred that based on the topographic map and technical description of the subject property, the said property is located below the prescribed lake elevation of 12.5 meters. Hence, the subject property forms part of the Laguna Lake bed and, as such, is public land. During cross-examination, Magalona admitted that the topographic map he was using as basis was made in the year 1967; that there had been changes in the contour of the lake; and that his findings would have been different if the topographic map was made at present time. He likewise acknowledged that the subject property is an agricultural lot. When Magalona conducted an ocular inspection of the subject property, said property and other properties in the area were submerged in water as the lake level was high following the recent heavy rains.[20]

On May 26, 2000, an Investigation Report was prepared, under oath, by Cristeta R. Garcia (Garcia), DENR Land Investigator, stating, among other things, that the subject property was covered by a duly approved survey plan; that the subject property is within the alienable and disposable zone classified under Project No. 27-B, L.C. Map No. 2623; that the subject property is not reserved for military or naval purposes; that the subject property was not covered by a previously issued patent; that the subject property was declared for the first time in 1948 under Tax Declaration No. 230 in the name of Candida de Borja;[21] that the subject property is now

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14 Records, pp. 16-22.
15 Id. at 235-256.
16 Id. at 257-258.
17 Id. at 25-27.
18 Id. at 6.
19 Id. at 270.
20 TSN, September 5, 2001, pp. 5-6, 12-14.
21 An actual perusal of Tax Declaration No. 230 reveals that the name appearing thereon is "Candida de Borja." (Records, p. 255.)

covered by Tax Declaration No. D-013-01408 in the name of Lydia Capco de Tensuan; that the subject property is agricultural in nature; and that the subject property is free from adverse claims and conflicts. Yet, Garcia noted in the same report that the "the applicant is not x x x in the actual occupation and possession of the land" and "LLDA rep. by Atty. Joaquin G. Mendoza possesses the legal right to file opposition against the application x x x."[22] The Investigation Report was submitted as evidence by the Republic.

In its Decision dated October 18, 2004, the MeTC granted Tensuan's Application for Registration, decreeing as follows:

> **WHEREFORE**, from the evidences adduced and testimonies presented by the parties, the Court is of the considered view that herein applicant has proven by preponderance of evidence the allegations in the application, hence, this Court hereby confirms the title of applicant **LYDIA CAPCO DE TENSUAN married to RODOLFO TENSUAN,** of legal age, Filipino and a resident of No. 43 Rizal Street, Poblacion, Muntinlupa City to the parcel of agricultural land (Lot 1109-A, Mcadm 590-D, Taguig Cadastral Mapping) located at Ibayo-Sta. Ana, Taguig, Metro Manila containing an area of Four Thousand Six (4,006) square meters; and order the registration thereof in her name.
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> After the finality of this decision and upon payment of the corresponding taxes due on said land subject matter of this application, let an order for issuance of decree be issued.[23]

The Republic appealed to the Court of Appeals, insisting that the MeTC should not have granted Tensuan's Application for Registration considering that the subject property is part of the Laguna Lake bed, hence, is not alienable and disposable. The appeal was docketed as CA-G.R. CV No. 84125.

In the herein assailed Decision of January 13, 2006, the Court of Appeals affirmed the MeTC Decision, thus:

> **WHEREFORE**, the instant appeal is **DISMISSED**. The assailed Decision dated October 18, 2004 is **AFFIRMED**.[24]

Hence, the Republic filed the present Petition with the following assignment of errors:

> I
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> THE COURT OF APPEALS GRAVELY ERRED ON A QUESTION OF LAW WHEN IT AFFIRMED THE TRIAL COURT'S GRANT OF THE APPLICATION FOR LAND REGISTRATION OF [TENSUAN] DESPITE HER FAILURE TO PROVE OPEN, ADVERSE, CONTINUOUS, EXCLUSIVE AND NOTORIOUS POSSESSION IN

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22 Records, p. 309.
23 *Rollo*, p. 74.
24 Id. at 36.

THE CONCEPT OF AN OWNER OF THE SUBJECT LAND FOR THIRTY YEARS.

II

THE COURT OF APPEALS GRAVELY ERRED ON A QUESTION OF LAW WHEN IT AFFIRMED THE TRIAL COURT'S GRANT OF THE APPLICATION FOR LAND REGISTRATION OF [TENSUAN] BECAUSE THE SUBJECT LAND BEING PART OF THE LAGUNA LAKE BED IS NOT ALIENABLE AND DISPOSABLE.[25]

The Republic contends that Tensuan failed to present incontrovertible evidence to warrant the registration of the property in the latter's name as owner. Aruelo's testimony that her father possessed the land even before the Second World War and Marasigan's claim that he and his father have been tilling the land for a total of more than 65 years are doubtful considering that the subject property is located below the reglementary lake elevation and is, thus, part of the Laguna Lake bed. Also, the CENRO Certification is not sufficient evidence to overcome the presumption that the subject property still forms part of the public domain, and is not alienable and disposable.

On the other hand, Tensuan asserts that the Petition should be dismissed outright for raising questions of fact. The findings of the MeTC and the Court of Appeals that the subject property is alienable and disposable, and that Tensuan and her predecessors-in-interest had been in open, adverse, continuous, exclusive, and notorious possession of the same for the period required by law, are supported by preponderance of evidence.

We find the instant Petition meritorious.

The Republic asserts that the assigned errors in its Petition are on questions of law, but in reality, these questions delve into the sufficiency of evidence relied upon by the MeTC and the Court of Appeals in granting Tensuan's Application for Registration of the subject property. It is basic that where it is the sufficiency of evidence that is being questioned, it is a question of fact.[26]

In petitions for review on *certiorari* under Rule 45 of the Rules of Court, this Court is limited to reviewing only errors of law, not of fact, unless the factual findings complained of are devoid of support by the evidence on record, or the assailed judgment is based on a misapprehension of facts.[27] In *Reyes v. Montemayor*,[28] we did not hesitate to apply the exception rather than the general rule, setting aside the findings of fact of the trial and appellate courts and looking into the evidence on record ourselves, in order to arrive at the proper and just resolution of the case, to wit:

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25 Id. at 18.

26 *Republic v. Javier*, G.R. No. 179905, August 19, 2009, 596 SCRA 481, 491.

27 *Republic v. De la Paz*, G.R. No. 171631, November 15, 2010, 634 SCRA 610, 618.

28 G.R. No. 166516, September 3, 2009, 598 SCRA 61, 74-75.

> Rule 45 of the Rules of Court provides that only questions of law shall be raised in a Petition for Review before this Court. This rule, however, admits of certain exceptions, namely, (1) when the findings are grounded entirely on speculations, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misappreciation of facts; (5) when the findings of fact are conflicting; (6) when, in making its findings, the same are contrary to the admissions of both appellant and appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.
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> While as a general rule appellate courts do not usually disturb the lower court's findings of fact, unless said findings are not supported by or are totally devoid of or inconsistent with the evidence on record, such finding must of necessity be modified to conform with the evidence if the reviewing tribunal were to arrive at the proper and just resolution of the controversy. Thus, although the findings of fact of the Court of Appeals are generally conclusive on this Court, which is not a trier of facts, if said factual findings do not conform to the evidence on record, this Court will not hesitate to review and reverse the factual findings of the lower courts. In the instant case, the Court finds sufficient basis to deviate from the rule since the extant evidence and prevailing law support a finding different from the conclusion of the Court of Appeals and the RTC. (Citations omitted.)

Tensuan anchors her right to registration of title on Section 14(1) of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, which reads:

> SEC. 14. *Who may apply*. – The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:
>
> (1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a *bona fide* claim of ownership since June 12, 1945, or earlier.

The aforequoted provision authorizes the registration of title acquired in accordance with Section 48(b) of Commonwealth Act No. 141, otherwise known as the Public Land Act, as amended by Presidential Decree No. 1073, which provides:

> SEC. 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title thereafter, under the Land Registration Act, to wit:

x x x x

> (b) Those who by themselves or through their predecessors-in-interest have been in the open, continuous, exclusive, and notorious possession and occupation of alienable and disposable lands of the public domain, under a *bona fide* claim of acquisition or ownership, since June 12, 1945, except when prevented by war or *force majeure*. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.

The requisites for the filing of an application for registration of title under Section 14(1) of the Property Registration Decree are: (1) that the property in question is alienable and disposable land of the public domain; and (2) that the applicants by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation; and that such possession is under a *bona fide* claim of ownership since June 12, 1945 or earlier.[29] In *Heirs of Mario Malabanan v. Republic*,[30] we affirmed our earlier ruling in *Republic v. Naguit*,[31] that Section 14(1) of the Property Registration Decree merely requires the property sought to be registered as already alienable and disposable at the time the application for registration of title is filed.

We proceed to determine first whether it has been satisfactorily proven herein that the subject property was already alienable and disposable land of the public domain at the time Tensuan filed her Application for Registration on August 11, 1998.

Under the Regalian doctrine, all lands of the public domain belong to the State, and that the State is the source of any asserted right to ownership of land and charged with the conservation of such patrimony. The same doctrine also states that all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State. Consequently, the burden of proof to overcome the presumption of ownership of lands of the public domain is on the person applying for registration. Unless public land is shown to have been reclassified and alienated by the State to a private person, it remains part of the inalienable public domain.[32]

As to what constitutes alienable and disposable land of the public domain, we turn to our pronouncements in *Secretary of the Department of Environment and Natural Resources v. Yap*[33]:

> The 1935 Constitution classified lands of the public domain into agricultural, forest or timber. Meanwhile, the 1973 Constitution provided

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29 *Lim v. Republic*, G.R. No. 158630, September 4, 2009, 598 SCRA 247, 257.
30 G.R. No. 179987, April 29, 2009, 587 SCRA 172, 203.
31 489 Phil. 405, 414 (2005).
32 *Zarate v. Director of Lands*, 478 Phil. 421, 433 (2004).
33 G.R. Nos. 167707 & 173775, October 8, 2008, 568 SCRA 164, 184-192.

> the following divisions: agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest and grazing lands, and such other classes as may be provided by law, giving the government great leeway for classification. Then the 1987 Constitution reverted to the 1935 Constitution classification with one addition: national parks. Of these, only agricultural lands may be alienated. x x x
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> x x x x
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> A positive act declaring land as alienable and disposable is required. In keeping with the presumption of State ownership, the Court has time and again emphasized that there must be a positive act of the government, such as an official proclamation, declassifying inalienable public land into disposable land for agricultural or other purposes. In fact, Section 8 of CA No. 141 limits alienable or disposable lands only to those lands which have been "officially delimited and classified."
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> The burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for registration (or claiming ownership), who must prove that the land subject of the application is alienable or disposable. To overcome this presumption, incontrovertible evidence must be established that the land subject of the application (or claim) is alienable or disposable. There must still be a positive act declaring land of the public domain as alienable and disposable. To prove that the land subject of an application for registration is alienable, the applicant must establish the existence of a positive act of the government such as a presidential proclamation or an executive order; an administrative action; investigation reports of Bureau of Lands investigators; and a legislative act or a statute. The applicant may also secure a certification from the government that the land claimed to have been possessed for the required number of years is alienable and disposable. (Citations and emphasis omitted.)

As proof that the subject property is alienable and disposable, Tensuan presented a Certification dated July 29, 1999 issued by the CENRO-DENR which verified that "said land falls within alienable and disposable land under Project No. 27-B L.C. Map No. 2623 under Forestry Administrative Order No. 4-1141 dated January 3, 1968." However, we have declared unequivocally that a CENRO Certification, by itself, is insufficient proof that a parcel of land is alienable and disposable. As we held in *Republic v. T.A.N. Properties, Inc.*[34]:

> [I]t is not enough for the PENRO or CENRO to certify that a land is alienable and disposable. **The applicant for land registration must prove that the DENR Secretary had approved the land classification and released the land of the public domain as alienable and disposable**, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO or CENRO. In addition**, the applicant for land registration must present a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records. These facts must be established to prove that the**

[34] G.R. No. 154953, June 26, 2008, 555 SCRA 477, 489-491.

land is alienable and disposable. Respondent failed to do so because the certifications presented by respondent do not, by themselves, prove that the land is alienable and disposable.

Only Torres, respondent's Operations Manager, identified the certifications submitted by respondent. The government officials who issued the certifications were not presented before the trial court to testify on their contents. The trial court should not have accepted the contents of the certifications as proof of the facts stated therein. Even if the certifications are presumed duly issued and admissible in evidence, they have no probative value in establishing that the land is alienable and disposable.

Public documents are defined under Section 19, Rule 132 of the Revised Rules on Evidence as follows:

> (a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
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> (b) Documents acknowledged before a notary public except last wills and testaments; and
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> (c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

Applying Section 24 of Rule 132, the record of public documents referred to in Section 19(a), when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record, or by his deputy x x x. **The CENRO is not the official repository or legal custodian of the issuances of the DENR Secretary declaring public lands as alienable and disposable. The CENRO should have attached an official publication of the DENR Secretary's issuance declaring the land alienable and disposable.**

Section 23, Rule 132 of the Revised Rules on Evidence provides:

> "Sec. 23. *Public documents as evidence.* — Documents consisting of entries in public records made in the performance of a duty by a public officer are *prima facie* evidence of the facts stated therein. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter."

The CENRO and Regional Technical Director, FMS-DENR, certifications do not fall within the class of public documents contemplated in the first sentence of Section 23 of Rule 132. The certifications do not reflect "entries in public records made in the performance of a duty by a public officer," such as entries made by the Civil Registrar in the books of registries, or by a ship captain in the ship's logbook. The certifications are not the certified copies or authenticated reproductions of original official records in the legal custody of a government office. The certifications are not even

> **records of public documents. The certifications are conclusions unsupported by adequate proof, and thus have no probative value. Certainly, the certifications cannot be considered *prima facie* evidence of the facts stated therein.**
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> The CENRO and Regional Technical Director, FMS-DENR, certifications do not prove that Lot 10705-B falls within the alienable and disposable land as proclaimed by the DENR Secretary. **Such government certifications do not, by their mere issuance, prove the facts stated therein. Such government certifications may fall under the class of documents contemplated in the second sentence of Section 23 of Rule 132. As such, the certifications are *prima facie* evidence of their due execution and date of issuance but they do not constitute *prima facie* evidence of the facts stated therein.**
>
> The Court has also ruled that a document or writing admitted as part of the testimony of a witness does not constitute proof of the facts stated therein. Here, Torres, a private individual and respondent's representative, identified the certifications but the government officials who issued the certifications did not testify on the contents of the certifications. As such, **the certifications cannot be given probative value. The contents of the certifications are hearsay because Torres was incompetent to testify on the veracity of the contents of the certifications. Torres did not prepare the certifications, he was not an officer of CENRO or FMS-DENR, and he did not conduct any verification survey whether the land falls within the area classified by the DENR Secretary as alienable and disposable.** (Emphases ours, citations omitted.)

While we may have been lenient in some cases[35] and accepted substantial compliance with the evidentiary requirements set forth in *T.A.N. Properties*, we cannot do the same for Tensuan in the case at bar. We cannot afford to be lenient in cases where the Land Registration Authority (LRA) or the DENR oppose the application for registration on the ground that the land subject thereof is inalienable. In the present case, the DENR recognized the right of the LLDA to oppose Tensuan's Application for Registration; and the LLDA, in its Opposition, precisely argued that the subject property is part of the Laguna Lake bed and, therefore, inalienable public land. We do not even have to evaluate the evidence presented by the LLDA given the Regalian Doctrine. Since Tensuan failed to present satisfactory proof that the subject property is alienable and disposable, the burden of evidence did not even shift to the LLDA to prove that the subject property is part of the Laguna Lake bed.

Given the lack of evidence that the subject property is alienable and disposable, it becomes unnecessary for us to determine the other issue in this case, *i.e.*, whether Tensuan has been in open, continuous, exclusive and notorious possession and occupation; and that such possession is under a *bona fide* claim of ownership since June 12, 1945 or earlier. Regardless of

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[35] *Republic v. Serrano*, G.R. No. 183063, February 24, 2010, 613 SCRA 537; *Republic v. Vega*, G.R. No. 177790, January 17, 2011, 639 SCRA 541.

the character and length of her possession of the subject property, Tensuan cannot acquire registerable title to inalienable public land.

WHEREFORE, the instant Petition is **GRANTED**. The Decision dated January 13, 2006 of the Court of Appeals in CA-G.R. CV No. 84125 and Decision dated October 18, 2004 of the Metropolitan Trial Court of Taguig City, Branch 74 in LRC Case No. 172 (LRA Rec. No. N-70108) are **SET ASIDE**. The Application for Registration of Lydia Capco de Tensuan is **DENIED.**

SO ORDERED.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice