Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES,	**G.R. No. 185092**
Petitioner,	Present:
- versus -	VELASCO, JR., *J., Chairperson*, PERALTA, VILLARAMA, JR.,* MENDOZA, and LEONEN *JJ.*
CORAZON C. SESE and FE C. SESE,	Promulgated:
Respondents.	**June 4, 2014**

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DECISION

MENDOZA, *J.*:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court filed by petitioner Republic of the Philippines, represented by the Office of the Solicitor General *(OSG)*, assailing the November 21, 2007 Decision[1] of the Court of Appeals *(CA)* in CA-G.R. CV No. 81439, which dismissed its appeal and affirmed the October 3, 2003 Decision[2] of the Municipal Trial Court of Pulilan, Bulacan *(MTC)*, in LRC Case No. 026.

Factual and Procedural Antecedents:

Records show that on September 17, 2002, Corazon C. Sese and Fe C. Sese *(respondents)* filed with the MTC an application for original registration of land over a parcel of land with an area of 10,792 square

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* Designated Acting Member in view of the vacancy in the Third Division, per Special Order No. 1691 dated May 22, 2014.

[1] *Rollo*, pp. 26-33, Penned by Associate Justice Hakim S. Abdulwahid and Associate Justice Rodrigo V. Cosico and Associate Justice Arturo G. Tayag, concurring

[2] Id. at 40-45. Penned by Hon. Horacio T. Viola, Jr.

meters, situated in Barangay Sto. Cristo, Municipality of Pulilan, Province of Bulacan, and more particularly described as Lot 11247, Cad. 345, Pulilan Cadastre, under Plan No. AP-03-004226.

Respondents alleged that on July 22, 1972, they acquired, through a donation *inter vivos* from their mother, Resurreccion L. Castro *(Resurreccion)*, the subject agricultural land; that they, through their predecessors-in-interest, had been in possession of the subject property; and that the property was not within a reservation.

In support of their application, respondents submitted the following documents, namely: (1) Tax Declaration No. 99-19015-01557 "in the name of Corazon Sese and Fe Sese, minor, representing their mother Resurreccion Castro, as her Natural Guardian"; (2) Certificate of Technical Description which was approved on December 10, 1998 by the Land Management Service, Region III, of the Department of Environment and Natural Resources *(DENR)*; (3) Certification in lieu of lost Surveyor's Certificate issued by the same authority; (4) Official Receipt of payment of real property tax over the subject property; (5) Certification from the Office of the Municipal Treasurer of Pulilan, stating that the registered owners of a property under Tax Declaration No. 99-19-015-01557 were Corazon Sese and others; and (6) Survey plan of Lot 11247, CAD 345, Pulilan Cadastre, approved by the Regional Technical Director of the Land Management Service, Region III, of the DENR, stating that the land subject of the survey was alienable and disposable land, and as certified to by the Bureau of Forestry on March 1, 1927, was outside of any civil or military reservation. On the lower portion of the plan, there was a note stating that a deed of absolute sale over the subject property was executed by a certain Luis Santos and Fermina Santos *(the Santoses)* in favor of Resurreccion on October 4, 1950.

On the lower portion of the survey plan, a note stated, among others, that: "This survey is inside the alienable and disposable area as per Project No. 20 LC Map No. 637 certified by the Bureau of Forestry on March 1, 1927. It is outside any civil or military reservation." The said plan was approved by the DENR, Land Management Services, Regional Office III, San Fernando, Pampanga, on December 3, 1998.

Finding the application sufficient in form and substance, the MTC issued the Order, dated October 10, 2002, setting the case for hearing with the corresponding publication. After compliance with all the requirements of the law regarding publication, mailing and posting, hearing on the merits of the application followed.

During the trial on June 4, 2003, respondent Corazon C. Sese *(Corazon)* testified on their claim over the subject lot. Thereafter, respondents submitted their formal offer of evidence, after which the evidence offered were admitted by the MTC in the Order, dated July 10, 2003, without objection from the public prosecutor.

The OSG did not present any evidence to oppose the application.

On October 3, 2003, the MTC rendered its Decision,[3] ordering the registration of the subject property in the name of respondents. The dispositive portion of the decision reads:

> WHEREFORE, finding the instant application to be sufficient in form and substance and the applicants having established their right of ownership over the subject parcel of land and are therefore entitled to registration thereof, the Court thereby grants the petition.
>
> Accordingly, the Court hereby orders the registration of the parcel of land subject matter of this petition which is more particularly described in Plan Ap-03-004226 Pulilan Cadastre and in their corresponding technical descriptions in the name of Resureccion Castro.
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> Upon this decision becoming final, let an Order for the decree be issued.
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> SO ORDERED.

The MTC reasoned out that there was evidence to show that the subject lots had been in open, continuous, adverse, and public possession, either by the applicants themselves or their predecessor-in-interest. Such possession since time immemorial conferred an effective title on the applicants, whereby the land ceased to be public and became private property. It had been the accepted norm that open, adverse and continuous possession for at least 30 years was sufficient. The MTC noted that evidence showed that the parcel of land involved was not covered by land patent or a public land application as certified to by the Community Environment and Natural Resources of Tabang, Guiguinto, Bulacan. Moreover, it added that the technical descriptions of Lot 11247 were prepared and secured from the Land Management Sector, DENR, Region III, San Fernando, Pampanga, and were verified and found to be correct by Eriberto Almazan, In-Charge of the Regional Survey Division.

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[3] Id. at 26-40.

On December 19, 2003, the OSG interposed an appeal with the CA, docketed as CA-GR. CV No. 81439. In its brief,[4] the OSG presented the following assignment of errors: a) only alienable lands of the public domain occupied and possessed in concept of owner for a period of at least thirty (30) years is entitled to confirmation of title; and b) respondents failed to prove specific acts of possession.

The OSG argued that there was no proof that the subject property was already segregated from inalienable lands of the public domain. Verily, it was only from the date of declaration of such lands as alienable and disposable that the period for counting the statutory requirement of possession would start.

Also, there was absolutely no proof of respondents' supposed possession of the subject property. Save for the testimony of Corazon that "at present, the worker of (her) mother is occupying the subject property," there was no evidence that respondents were actually occupying the subject tract of land or that they had introduced improvement thereon.

On November 21, 2007, the CA rendered a Decision[5] affirming the judgment of the MTC ordering the registration of the subject property in the name of respondents. The decretal portion of which reads:

> WHEREFORE, the appeal is ***DISMISSED***. The assailed decision dated October 3, 2003 of the MTC of Pulilan, Bulacan, in LRC Case No. 026 is ***AFFIRMED***.
>
> **SO ORDERED.**

The CA reasoned out, among others, that the approved survey plan of the subject property with an annotation, stating that the subject property was alienable and disposable land, was a public document, having been issued by the DENR, a competent authority. Its contents were prima facie evidence of the facts stated therein. Thus, the evidence was sufficient to establish that the subject property was indeed alienable and disposable.

With respect to the second issue, the CA was of the view that the doctrine of constructive possession was applicable. Respondents acquired the subject property through a donation *inter vivos* executed on July 22, 1972 from their mother. The latter acquired the said property from the Santoses on October 4, 1950 by virtue of a deed of absolute sale. Further, respondent

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[4] Id. at 50.
[5] Id. at 26-33.

Corazon testified that a small hut was built on the said land, which was occupied by the worker of her mother. Moreover, neither the public prosecutor nor any private individual appeared to oppose the application for registration of the subject property.

The CA also stated that respondents' claim of possession over the subject property was buttressed by the Tax Declaration No. 99-19015-01557 "in the name of Corazon Sese and Fe Sese, minor, representing their mother Resurreccion Castro, as her Natural Guardian"; the official receipt of payment of real property tax over the subject property; and the certificate from the Office of the Municipal Treasurer of Pulilan, stating that the registered owner of a property under Tax Declaration No. 99-19015-01557 were respondents.

The CA added that although tax declaration or realty tax payments of property were not conclusive evidence of ownership, nevertheless, they were good *indicia* of possession in the concept of owner.

Hence, the OSG filed this petition.

ISSUES

I

THE COURT OF APPEALS ERRED ON A QUESTION OF LAW IN RULING THAT THE APPROVED SURVEY PLAN IDENTIFIED BY ONE OF THE RESPONDENTS IS PROOF THAT THE SUBJECT LAND IS ALIENABLE AND DISPOSABLE.

II

THE COURT OF APPEALS ERRED ON A QUESTION OF LAW IN GRANTING THE APPLICATION FOR REGISTRATION.

The OSG argues that unless a piece of land is shown to have been classified as alienable and disposable, it remains part of the inalienable land of the public domain. In the present case, the CA relied on the approved survey indicating that the survey was inside alienable and disposable land. It is well-settled, however, that such notation does not suffice to prove that the land sought to be registered is alienable and disposable. What respondents should have done was to show 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 fell within the approved area per verification through survey by the PENRO

or CENRO. In addition, they should have adduced 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.

To bolster its argument, the OSG cites the case of *Republic of the Philippine v. T.A.N. Properties, Inc.*,[6] where the Court stated that 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. Such government certifications do not, by their mere issuance, prove the facts stated therein. 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.

With respect to the second assignment of error, the OSG argues that respondents failed to present specific acts of ownership to prove open, continuous, exclusive, notorious, and adverse possession in the concept of an owner. Facts constituting possession must be duly established by competent evidence. As to the tax declaration adduced by respondents, it cannot be said that it clearly manifested their adverse claim on the property. If respondents genuinely and consistently believed their claim of ownership, they should have regularly complied with their real estate obligations from the start of their supposed occupation.

Position of Respondents

On the other hand, respondents assert that the CA correctly found that the subject land was alienable and disposable. The approved survey plan of the subject property with an annotation, stating that the subject property is alienable and disposable land, is a public document, having been issued by the DENR, a competent authority. Its contents are prima facie evidence of the facts stated therein and are sufficient to establish that the subject property is indeed alienable and disposable.

Respondents cite the case of *Republic v. Serrano*,[7] where the Court stated that a DENR Regional Technical Director's certification, which was annotated on the subdivision plan submitted in evidence, constituted substantial compliance with the legal requirement. The DENR certification enjoyed the presumption of regularity absent any evidence to the contrary.

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[6] 578 Phil. 441 (2008).
[7] G.R. No. 183063, February 4, 2010.

Anent the second assignment of error, respondents contend that the CA correctly applied the doctrine of constructive possession because they acquired the subject land from their mother, Resurreccion, through a donation inter vivos, dated July 22, 1972. Their mother, in turn, acquired the subject land from the Santoses on October 4, 1950 by virtue of an absolute sale. They claim that a small hut was built in the said land and was occupied by a worker of her mother. They countered that although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of owner, for no one in his right mind would be paying taxes for a property which is not in his actual or constructive custody.

The Court's Ruling

The petition is meritorious.

The vital issue to be resolved by the Court is whether respondents are entitled to the registration of land title under Section 14(1) of Presidential Decree *(P.D.)* No. 1529, or pursuant to Section 14(2) of the same statute.

Section 14(1) of P.D. No. 1529 in relation to Section 48(b) of Commonwealth Act No. 141,[8] as amended by Section 4 of P.D. No. 1073,[9] provides:

> SECTION 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.
>
> x x x x
>
> Section 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First

[8] Public Land Act.

[9] Extending the Period of Filing Applications for Administrative Legalization (Free Patent) and Judicial Confirmation of Imperfect and Incomplete Titles to Alienable and Disposable Lands in the Public Domain under Chapter vii and Chapter viii of Commonwealth Act No. 141, As Amended, For Eleven (11) years commencing January 1, 1977.

> Instance now Regional Trial Court of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under 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 agricultural lands of the public domain, under a bona fide claim of acquisition of ownership, since June 12, 1945, or earlier, immediately preceding the filing of the application for confirmation of title except when prevented by war or force majeure. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.

Based on the above-quoted provisions, applicants for registration of land title must establish and prove: (1) that the subject land forms part of the disposable and alienable lands of the public domain; (2) that the applicant and his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the same; and (3) that it is under a bona fide claim of ownership since June 12, 1945, or earlier.[10]

Compliance with the foregoing requirements is indispensable for an application for registration of land title, under Section 14(1) of P.D. No. 1529, to validly prosper. The absence of any one requisite renders the application for registration substantially defective.

Anent the first requisite, respondents presented evidence to establish the disposable and alienable character of the subject land through a survey plan, where on its lower portion, a note stated, among others, as follows: "This survey is inside the alienable and disposable area as per Project No. 20 LC Map No. 637 certified by the Bureau of Forestry on March 1, 1927. It is outside any civil or military reservation." The said plan was approved by the DENR, Land Management Services, Regional Office III, San Fernando, Pampanga on December 3, 1998. The annotation in the survey plan, however, fell short of the requirement of the law in proving its disposable and alienable character.

In *Republic v. Espinosa*,[11] citing *Republic v. Sarmiento*[12] and *Menguito v. Republic*,[13] the Court reiterated the rule that that a notation made by a surveyor-geodetic engineer that the property surveyed was alienable

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[10] *Republic v. Aboitiz*, G.R. No. 174626, October 23, 2013.
[11] G.R. No. 171514, July 18, 2012, 677 SCRA 92, 108–109.
[12] 547 Phil. 157, 166–167 (2007).
[13] 401 Phil. 274, 287-288 (2000).

and disposable was not the positive government act that would remove the property from the inalienable domain and neither was it the evidence accepted as sufficient to controvert the presumption that the property was inalienable. Thus:

> To discharge the onus, respondent relies on the **blue print copy** of the conversion and subdivision plan approved by the DENR Center which bears the **notation** of the surveyor-geodetic engineer that "this survey is inside the alienable and disposable area, Project No. 27-B. L.C. Map No. 2623, certified on January 3, 1968 by the Bureau of Forestry."
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> Menguito v. Republic teaches, however, that **reliance on such annotation to prove that the lot is alienable is insufficient and does not constitute incontrovertible evidence to overcome the presumption that it remains part of the inalienable public domain**.
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> > "To prove that the land in question formed part of the alienable and disposable lands of the public domain, petitioners relied on the printed words which read: 'This survey plan is inside Alienable and Disposable Land Area, Project No. 27-B as per L.C. Map No. 2623, certified by the Bureau of Forestry on January 3, 1968,' appearing on Exhibit "E" (Survey Plan No. Swo-13-000227).
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> > This proof is not sufficient. Section 2, Article XII of the 1987 Constitution, provides: "All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State..."
> >
> > For the original registration of title, the applicant (petitioners in this case) must overcome the presumption that the land sought to be registered forms part of the public domain. Unless public land is shown to have been reclassified or alienated to a private person by the State, it remains part of the inalienable public domain. Indeed, "occupation thereof in the concept of owner, no matter how long, cannot ripen into ownership and be registered as a title." To overcome such presumption, incontrovertible evidence must be shown by the applicant. Absent such evidence, the land sought to be registered remains inalienable.
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> > In the present case, petitioners cite a surveyor geodetic engineer's notation in Exhibit "E" indicating that the survey was inside alienable and disposable land. **Such notation does not constitute a positive government act validly changing the classification of the**

> **land in question. Verily, a mere surveyor has no authority to reclassify lands of the public domain. By relying solely on the said surveyor's assertion, petitioners have not sufficiently proven that the land in question has been declared alienable."** (Citations omitted and emphases supplied)

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. 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; or 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.[14]

Republic v. T.A.N. Properties, Inc.[15] declared that a CENRO certification was insufficient to prove the alienable and disposable character of the land sought to be registered. The applicant must also show sufficient proof that the DENR Secretary approved the land classification and released the land in question as alienable and disposable.

Thus, the present rule is that an application for original registration must be accompanied by (1) a CENRO or PENRO Certification; and (2) 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.[16]

Here, the only evidence presented by respondents to prove the disposable and alienable character of the subject land was an annotation by a geodetic engineer in a survey plan. Although this was certified by the DENR, it clearly falls short of the requirements for original registration.

With regard to the third requisite, it must be shown that the possession and occupation of a parcel of land by the applicant, by himself or through his predecessors-in-interest, started on June 12, 1945 or earlier.[17] A mere

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[14] *Secretary of the Department of Environment and Natural Resources v. Yap*, 589 Phil. 156, 182–183 (2008).
[15] Supra note 6, at 451–452.
[16] *Republic v. Bantigue Point Development Corporation*, G. R. No. 162322, March 14, 2012, 668 SCRA 158, 171.
[17] *Malabanan v. Republic*, 605 Phil. 244, 279 (2009).

showing of possession and occupation for 30 years or more, by itself, is not sufficient.[18]

In this regard, respondents likewise failed. As the records and pleadings of this case will reveal, the earliest that respondents and their predecessor-in-interest can trace back possession and occupation of the subject land was only in the year 1950, when their mother, Resurreccion, acquired the subject land from the Santoses on October 4, 1950 by virtue of an absolute sale. Evidently, their possession of the subject property commenced roughly five (5) years beyond June 12, 1945, the reckoning date expressly provided under Section 14(1) of P.D. No. 1529. Thus, their application for registration of land title was legally infirm.

The respondents cannot invoke Section 14 (2) of P.D. No. 1529 which provides:

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

The case of *Malabanan v. Republic*[19] gives a definitive clarity to the applicability and scope of original registration proceedings under Section 14(2) of the Property Registration Decree. In the said case, the Court laid down the following rules:

> We synthesize the doctrines laid down in this case, as follows:
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> x x x x
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> (2) In complying with Section 14(2) of the Property Registration Decree, consider that under the Civil Code, prescription is recognized as a mode of acquiring ownership of patrimonial property. **However, public domain lands become only patrimonial property not only with a declaration that these are alienable or disposable. There must also be an express government**

[18] *Republic v. Tsai*, 608 Phil. 224, 234 (2009).
[19] Supra note 17, at 284–286.

> **manifestation that the property is already patrimonial or no longer retained for public service or the development of national wealth, under Article 422 of the Civil Code.** And only when the property has become patrimonial can the prescriptive period for the acquisition of property of the public dominion begin to run.
>
> (a) Patrimonial property is private property of the government. The person acquires ownership of patrimonial property by prescription under the Civil Code is entitled to secure registration thereof under Section 14(2) of the Property Registration Decree.
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> (b) There are two kinds of prescription by which patrimonial property may be acquired, one ordinary and other extraordinary. Under ordinary acquisitive prescription, a person acquires ownership of a patrimonial property through possession for at least ten (10) years, in good faith and with just title. Under extraordinary acquisitive prescription, a person's uninterrupted adverse possession of patrimonial property for at least thirty (30) years, regardless of good faith or just title, ripens into ownership. (Emphasis supplied)

Accordingly, there must be an express declaration by the State that the public dominion property is no longer intended for public service or the development of the national wealth or that the property has been converted into patrimonial. Without such express declaration, the property, even if classified as alienable or disposable, remains property of the public dominion, pursuant to Article 420(2), and, thus, incapable of acquisition by prescription. It is only when such alienable and disposable lands are expressly declared by the State to be no longer intended for public service or for the development of the national wealth that the period of acquisitive prescription can begin to run. Such declaration shall be in the form of a law duly enacted by Congress or a Presidential Proclamation in cases where the President is duly authorized by law.[20]

Thus, under Section 14(2) of P.D. No. 1529, for acquisitive prescription to commence and operate against the State, the classification of land as alienable and disposable alone is not sufficient. The applicant must be able to show that the State, in addition to the said classification, expressly declared through either a law enacted by Congress or a proclamation issued by the President that the subject land is no longer retained for public service or the development of the national wealth or that the property has been converted into patrimonial. Consequently, without an express declaration by the State, the land remains to be a property of public dominion and, hence,

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[20] Supra note 17.

not susceptible to acquisition by virtue of prescription.[21] The classification of the subject property as alienable and disposable land of the public domain does not change its status as property of the public dominion under Article 420(2) of the Civil Code. It is still insusceptible to acquisition by prescription.[22]

For the above reasons, the respondents cannot avail of either Section 14 (1) or 14 (2) of P.D. No. 1529. Under Section 14 (1), respondents failed to prove (a) that the property is alienable and disposable; and (b) that their possession of the property dated back to June 12, 1945 or earlier. Failing to prove the alienable and disposable nature of the subject land, respondents all the more cannot apply for registration by way of prescription pursuant to Section 14 (2) which requires possession for 30 years to acquire or take. Not only did respondents need to prove the classification of the subject land as alienable and disposable, but also to show that it has been converted into patrimonial. As to whether respondents were able to prove that their possession and occupation were of the character prescribed by law, the resolution of this issue has been rendered unnecessary by the foregoing considerations.

In fine, the Court holds that the ruling of the CA lacks sufficient factual or legal justification. Hence, the Court is constrained to reverse the assailed CA decision and resolution and deny the application for registration of land title of respondents.

WHEREFORE, the petition is **GRANTED.** The November 21, 2007 Decision and the October 8, 2008 Resolution of the Court of Appeals, in CA-G.R. CV No. 81439, are **REVERSED** and **SET ASIDE**. Accordingly, the Application for Registration of Title of Respondents Corazon C. Sese and Fe C. Sese in Land Registration Case No. 026 is **DENIED**.

SO ORDERED.

JOSE CATRAL MENDOZA
Associate Justice

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[21] *Republic v. Aboitiz*, supra note 10.
[22] *Malabanan v. Republic*, supra note 17 at 286.

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

Concur subject to my separate opinion in Heirs of Malabanan v. Republic, GR 179987 (2013)

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