Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES,
Petitioner,

- *versus* -

FRANCISCA, GERONIMO and CRISPIN, all surnamed SANTOS,
Respondents.

G.R. No. 191516

Present:

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

Promulgated:

June 4, 2014

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D E C I S I O N

PERALTA, *J.*:

This deals with the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court praying that the Decision[1] of the Court of Appeals (*CA*), dated July 15, 2009, and the CA Resolution[2] dated March 8, 2010, denying herein petitioner's motion for reconsideration of the Decision, be reversed and set aside.

The antecedent facts, as set forth in the CA Decision, are undisputed, to wit:

> The [respondents] Francisca, Geronimo and [Crispin], all surnamed Santos, filed an Application for Registration of title for four parcels of land described as Lot Nos. 536, 1101, 1214, 1215, all Mcadm 590-D of the

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* Designated Acting Member, per Special Order No. 1691 dated May 22, 2014.

1 Penned by Associate Justice Jose L. Sabio, Jr., with Associate Justices Vicente S. E. Veloso and Ricardo R. Rosario, concurring; *rollo*, pp 26-34.

2 Penned by Associate Justice Ricardo R. Rosario, with Associate Justices Vicente S. E. Veloso and Florito S. Macalino, concurring; *id.* at 44-45.

Taguig Cadastre, covering areas of 12,221, 4,218, 9,237 and 1,000 square meters, respectively. Lot No. 536, described in SWO-13-000480, is situated in Barrio Wawa, Taguig, while Lot Nos. 1101, 1214 and 1215, described in SWO-13-000464, are located in Barrio Sta. Ana, Taguig.

The Application of the [respondents] [was] accompanied by the following required documents:

1. Original or tracing cloth of Survey plan SWO-13-000464 and SWO-13-000480, with four blue print copies thereof;
2. Technical Description of SWO-13-000464 and SWO-13-000480;
3. Surveyor's Certificate;
4. Tax Declaration; [and]
5. Deed of Extrajudicial Settlement.

After the submission of the jurisdictional requirements, trial on the merits followed.

On December 9, 1996, Eusebio M. Santos, brother of the [respondents], filed a Motion to Intervene stating that he has a legal interest in the case being one of the co-owners of the lots sought to be registered.

On April 28, 1997, [respondents] and Eusebio Santos filed a Joint Motion-Manifestation praying that the latter be included as one of the applicants. Accordingly, on September 8, 1997, the Court *a quo* ordered the inclusion of Eusebio Santos as one of the applicants for the land registration.

On January 23, 2004, the applicants filed a Motion for Partial Dropping of Application re: the application for the Wawa property [Lot No. 536]. On March 9, 2004, the court *a quo* granted said motion and ordered the withdrawal of the Wawa property from the application.

On March 16, 2004, the applicants presented their evidence *ex-parte*.

On March 28, 2006, applicant Francisca Santos was presented as a witness on behalf of all the applicants.

The court *a quo*, based on the above-mentioned oral and documentary evidence submitted, was satisfied that the [respondents] have discharged their burden of proving their registrable right over the said properties. Accordingly, on April 19, 2006, the court *a quo* ordered the registration of the said properties in the names of the [respondents].

The Solicitor General did not agree with the foregong Decision of the court *a quo*. Hence, on July 3, 2008, the Solicitor General filed its Appellants' Brief before this Court [the CA]. The [respondents], however, failed to submit a corresponding Appellees' Brief. Due to the failure of the

> [respondents] to submit the Appellees' Brief, despite notice from the Court [the CA], the Appeal was considered submitted for decision.[3]

On July 15, 2009, the CA promulgated its Decision affirming *in toto* the Decision of the RTC. Petitioner's motion for reconsideration was denied *per* Resolution dated March 8, 2010.

Hence, the present petition.

The issues raised by petitioner are whether the trial court and the CA were correct in finding that respondents had sufficient evidence showing that (1) the subject lots had been declared alienable and disposable lands of the public domain at the time the application was filed; and (2) that respondents had been in open, continuous, exclusive, and notorious possession of the land for the time required by the law when they filed their application for registration.

The petition is impressed with merit.

Petitioner maintains that there is no proof that the subject lots had been classified as alienable and disposable, because a mere notation in the Conversion Plan, even if it had been formally offered in evidence, is not the required proof of a positive government act validly changing the classification of the land in question. Respondents counter that they presented Exhibit "X," a Certification from the Department of Environment and Natural Resources (DENR) dated March 9, 2006 stating that the subject lots were "verified to be within Alienable and Disposable Land, under Project No. 27-B of Taguig as per Land Classification Map No. 2623, approved on January 3, 1968."[4]

The Court agrees with petitioner's stance. In *Republic v. Medida*,[5] the Court emphasized that "**anyone who applies for registration of ownership over a parcel of land has the burden of overcoming the presumption that the land sought to be registered forms part of the public domain**."[6] Expounding on the kind of evidence required to overcome said presumption, the Court stated, thus:

> As the rule now stands, an applicant must prove that the land subject of an application for registration is alienable and disposable by establishing the existence of a positive act of the government such as a

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3 *Rollo*, pp. 27-29.
4 Records, p. 260.
5 G.R. No. 195097; August 14, 2012, 678 SCRA 317.
6 *Id.* at 330-331.

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. **In a line of cases, we have ruled that mere notations appearing in survey plans are inadequate proof of the covered properties' alienable and disposable character.** Our ruling in *Republic of the Philippines v. Tri-Plus Corporation* is particularly instructive:

> It must be stressed that incontrovertible evidence must be presented to establish that the land subject of the application is alienable or disposable.
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> x x x x
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> x x x **To prove that the land subject of an application for registration is alienable, an 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 statute. The applicant may also secure a certification from the Government that the lands applied for are alienable and disposable.** x x x
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> x x x x

In *Republic v. T.A.N. Properties, Inc*., this Court explained that a Provincial Environment and Natural Resources Office (PENRO) or CENRO certification, by itself, fails to prove the alienable and disposable character of a parcel of land. We ruled:

> **[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 land is alienable and disposable. Respondents failed to do so because the certifications presented by respondent do not, by themselves, prove that the land is alienable and disposable. (Emphasis ours)
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> x x x x

> **The present rule on the matter then requires that an application for original registration be accompanied by: (1) 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.** x x x
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> x x x x
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> In view of the failure of the respondent to establish by sufficient proof that the subject parcels of land had been classified as part of the alienable and disposable land of the public domain, his application for registration of title should be denied.
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> x x x x
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> x x x Our Constitution, no less, embodies the Regalian doctrine that all lands of the public domain belong to the State, which is the source of any asserted right to ownership of land. The courts are then empowered, as we are duty-bound, to ensure that such ownership of the State is duly protected by the proper observance by parties of the rules and requirements on land registration.[7]

To reiterate, the evidence required to establish that land subject of an application for registration is alienable and disposable are: **(1) 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.** In the present case, the foregoing documents had not been submitted in evidence. There is no copy of the original classification approved by the DENR Secretary. As ruled by this Court, a mere certification issued by the Forest Utilization & Law Enforcement Division of the DENR is not enough. Petitioner is then correct that evidence on record is not sufficient to prove that subject lots had been declared alienable and disposable lands.

In view of the foregoing, the Court must abide by its constitutional duty to protect the State's ownership of the lands of the public domain by ensuring that applicants are able to discharge the burden of proof required to overcome the presumption that the land sought to be registered is part of the public domain.

WHEREFORE, the petition is **GRANTED.** The Decision dated July 15, 2009 of the Court of Appeals in CA-G.R. CV No. 90135 is hereby **SET ASIDE**. The application for registration filed by respondents Francisca, Geronimo and Crispin, all surnamed Santos, is **DENIED**.

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[7] *Id*. at 326-331. (Emphasis and underscoring ours)

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE CATRAL MENDOZA
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