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1. The provisions of RA No. 6657 apply in determining the just compensation due to respondents for the taking of their property. However, the value of ₱109,000.00, based on the property's market value and assigned by the CA as just compensation, is erroneous. The trial court is thus directed to receive evidence pertaining to the factors to be considered in determining just compensation, in accordance with DAR AO No. 6, Series of 1992, as amended by AO No. 11, Series of 1994.

2. For purposes of computing just compensation, the date of issuance of emancipations is deemed the date of taking, not October 21, 1972.

3. Respondents are entitled to payment of just compensation on their entire landholdings covered by Operation Land Transfer, except for the five hectares of retention area each of them are entitled to.

WHEREFORE, the petition is *DENIED*. The case is *REMANDED* to the court *a quo* for final determination of just compensation due to respondents.

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez, Chico-Nazario, and *Nachura, JJ.*, concur.

THIRD DIVISION

[G.R. No. 168819. November 27, 2008]

ALFREDO, PRECIOSA, ANGELITA and CRISOSTOMO, all surnamed BUENAVENTURA, *petitioners, vs.* **AMPARO PASCUAL and the REPUBLIC OF THE PHILIPPINES,** *respondents.*

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SYLLABUS

1. REMEDIAL LAW; APPEALS; APPEAL BY CERTIORARI TO THE SUPREME COURT; LIMITED TO REVIEWING ONLY ERRORS OF LAW, NOT OF FACT; EXCEPTIONS; RATIONALE.— [T]he Supreme Court is not a trier of facts. It is not our function to review, examine and evaluate or weigh the probative value of the evidence presented. A question of fact would arise in such event. Questions of fact cannot be raised in an appeal via *certiorari* before the Supreme Court and are not proper for its consideration. Time and again, this Court has stressed that its jurisdiction in a petition for review on *certiorari* under Rule 45 of the Rules of Court is limited to reviewing only errors of law, not of fact, unless the findings of fact complained of are devoid of support by the evidence on record, or the assailed judgment is based on the misapprehension of facts. The trial court, having heard the witnesses and observed their demeanor and manner of testifying, is in a better position to decide the question of their credibility. Hence, the findings of the trial court must be accorded the highest respect, even finality, by this Court. Likewise, the Court has ruled that, when supported by sufficient evidence, findings of fact by the Court of Appeals affirming those of the trial court are not to be disturbed on appeal. The rationale behind this doctrine is that review of the findings of fact by the Court of Appeals is not a function this Court normally undertakes. The Court will not weigh the evidence all over again unless there is a showing that the findings of the lower court are totally devoid of support or are clearly erroneous so as to constitute serious abuse of discretion.

2. CIVIL LAW; LAND REGISTRATION; PRESIDENTIAL DECREE NO. 1529; JUDICIAL CONFIRMATION OF IMPERFECT TITLE; WHO MAY APPLY; WHAT MUST BE PROVEN.— The requirements necessary for a judicial confirmation of imperfect title are laid down in Section 14, paragraph 1 of Presidential Decree No. 1529. In accordance therewith, any person 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 12 June 1945 or earlier, may file in

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the proper trial court an application for registration of title to land, whether personally or through their duly authorized representatives. Thus, any person seeking the confirmation and registration of his title under said statutory provision must specifically prove that: (1) the land forms part of the alienable and disposable land of the public domain, and (2) he has been in open, continuous, exclusive and notorious possession of the subject land under a *bona fide* claim of ownership from 12 June 1945 or earlier.

3. ID.; ID.; REGALIAN DOCTRINE; APPLIES EVEN TO PRIVATELY OWNED UNREGISTERED LANDS WHICH ARE PRESUMED TO BE PUBLIC LANDS, UNLESS THE CONTRARY IS SHOWN.— [T]he Regalian doctrine which states that all lands of whatever classification belong to the State. The rule applies even to privately owned unregistered lands which, unless the contrary is shown, are presumed to be public lands.

4. ID.; ID.; PRESIDENTIAL DECREE NO. 1529; JUDICIAL CONFIRMATION OF AN IMPERFECT TITLE; DEFINITIVE DATE WHEN THE SUBJECT LOT BECAME ALIENABLE AND DISPOSABLE IS NECESSARY IN THE COMPUTATION OF THE PERIOD OF POSSESSION.— [W]ithout a definitive date when the subject lot became alienable and disposable, the determination of whether petitioners possessed the subject lot for the time period required by law is rendered impossible, since any period of possession prior to the date when the subject lot was classified as alienable and disposable is inconsequential and should be excluded from the computation of the period of possession. Such possession can never ripen into ownership; and unless the land has been classified as alienable and disposable, the rules on confirmation of imperfect title shall not apply thereto.

5. ID.; ID.; ID.; ID.; APPLICANT FOR REGISTRATION MUST PROVE THAT THE LAND SUBJECT OF THE APPLICATION FOR REGISTRATION IS ALIENABLE AND DISPOSABLE BY A POSITIVE ACT OF THE GOVERNMENT.— To prove that the land subject of the 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

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administrative action; investigation reports of the Bureau of Lands investigators; and a legislative act or statute. No such evidence was offered by the petitioners in this case. Verily, the rules on the confirmation of imperfect title do not apply unless and until the land subject thereof is released in an official proclamation to that effect so that it may form part of the disposable agricultural lands of the public domain. Inasmuch as the petitioners failed to present any proof that the subject lot has indeed been classified as and forms part of the disposable land of the public domain, whatever possession they might have had, regardless of the length or nature thereof cannot ripen into private ownership.

APPEARANCES OF COUNSEL

Libra Law Libarios Jalandoni Dimayuga & Magtanong for petitioners.

Cesar T. Verano for private respondent.

D E C I S I O N

CHICO-NAZARIO, *J.*:

Before Us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, challenging the Decision[1] dated 31 August 2004 and Resolution[2] dated 30 June 2005 of the Court of Appeals in CA-G.R. CV No. 55454. In its assailed Decision, the Court of Appeals affirmed the Decision[3] dated 21 November 1996 of the Regional Trial Court (RTC) of Parañaque, Branch 257, in Land Registration Case (LRC) No. M-197, dismissing petitioners' claim of title to the subject property for which they sought judicial confirmation and registration. In its assailed Resolution, the appellate court denied petitioners' Urgent Motion for Partial Reconsideration.

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[1] Penned by Associate Justice Godardo A. Jacinto with Associate Justices Edgardo P. Cruz and Jose C. Mendoza, concurring; *rollo*, pp. 84-98.

[2] *Rollo*, pp. 100-106.

[3] Penned by Judge Agnes Reyes-Carpio; *rollo*, pp. 152-157.

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The factual and procedural antecedents of the instant Petition are as follows:

On 28 April 1993, private respondent Amparo Pascual filed with the RTC of Makati an application[4] for confirmation and registration of title, in accordance with the provisions of the Public Land Act,[5] as amended, to a parcel of land designated as **Lot No. 5001-A**, situated at San Dionisio, Parañaque, Metro Manila, with an area of 1,184.52 square meters (subject lot). Private respondent alleged, *inter alia*, that the subject lot was not within any reservation; that to the best of her knowledge and belief, there was no mortgage or encumbrance of any kind whatsoever affecting the said land, nor was there any person having any interest thereon; and that she was the occupant of the subject lot and had been in actual, open, continuous, adverse and exclusive possession thereof by herself and through her predecessor-in-interest since time immemorial. Attached to the application were the following documents: (1) the tracing cloth plan and duplicate blue print plan of the subject lot[6]; (2) the technical description of the subject lot [7]; and (3) Tax Declaration No. 016-10453 covering the subject lot for the year 1993.[8]

Upon private respondent's *ex-parte* motion,[9] the case was transferred to the RTC of Parañaque on 17 May 1993,[10] where the same was raffled to Branch 274, in the sala of Judge Octavio A. Astilla.[11]

The RTC thereafter ordered that the initial hearing of LRC Case No. M-197 be held on 27 September 1993.[12]

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[4] *Rollo*, pp. 333-334.

[5] Commonwealth Act No. 141.

[6] Records, pp. 13-32.

[7] *Rollo*, p. 335.

[8] *Id.* at 126-126(a).

[9] Records, p. 29.

[10] *Id.* at 24.

[11] *Id.* at 25.

[12] *Id.* at 25.

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On 27 September 1993, petitioners Alfredo, Preciosa, Angelita, and Crisostomo, all surnamed Buenaventura, filed an Opposition[13] to private respondent's application for confirmation and registration of title to the subject lot, contending that they and their predecessors-in-interest were the owners and possessors of a parcel of land known as Lot No. 5001, Cad-299, Parañaque Cadastre, of which the subject lot formed apart, since time immemorial. Not one of them gave consent to or authority for the issuance and approval of the subdivision plan where the subject lot was segregated from Lot No. 5001, and petitioner Preciosa never affixed her signature to such plan, thus, making the said subdivision plan falsified and illegal. Petitioners averred that they, instead of private respondent, were entitled to the confirmation of their title to the subject lot and to the registration of the same in their names.

The Republic of the Philippines, through the Office of the Solicitor General, likewise filed an Opposition[14] dated 10 February 1994 to private respondent's application in LRC Case No. M-197, on the grounds that: (1) neither private respondent nor her predecessors-in-interest had been in open, continuous, exclusive and notorious possession and occupation of the subject lot since 12 June 1945 or prior thereto; (2) the muniments of title and/or the tax declaration attached to private respondent's application did not constitute competent and sufficient evidence of a *bona fide* acquisition of the subject lot or her open, continuous, exclusive and notorious possession and occupation thereof in the concept of an owner, since 12 June 1945 or earlier; (3) the muniments of title did not appear to be genuine and the tax declaration appeared to be of recent vintage; (4) the claim of ownership in fee simple of the subject lot on the basis of a Spanish title or grant could no longer be availed of by private respondent who failed to file an appropriate application for registration of her title within the period of six months from the effectivity of Presidential Decree No. 892 on 16 February

[13] *Rollo*, pp. 336-338.

[14] Records, pp. 66-67.

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1976[15] inasmuch as the instant application was filed only on 28 April 1993; and (5) the subject lot applied for was a portion of the public domain belonging to the Republic of the Philippines, which was not subject to private appropriation.

Hearings on LRC Case No. M-197 were held where the parties presented their respective evidence.

According to private respondent's evidence, the subject lot was originally owned by her grandfather Mariano Pascual (Mariano).[16] Upon Mariano's death, he was succeeded by his two sons, Arcadio and Agripino.[17] As early as when she was 12 years old, private respondent was already aware that her father, Arcadio, owned the subject lot where she used to play, gather fish from a fishpond, and get fruits from the trees growing thereon.[18] Her brother Ruben, however, claimed to be already 40 years old when he first saw the subject lot.[19] Upon the death of Arcadio and his wife Josefa, the subject lot passed on to their three children: private respondent, Ruben, and Jose. Ruben and Jose executed on 8 March 1993 an Affidavit[20] whereby they waived and renounced all their rights, interests, and participation over the subject lot in favor of private respondent, who could now file a petition in court and have the subject lot registered solely in her name. Other than planting trees and vegetables on the subject lot, however, private respondent and her predecessors-in-interest did not reside on or build any other improvement thereon.[21] Private respondent could not definitively establish when her grandfather (Mariano), her father (Arcadio) and mother (Josefa) passed away, and the timeline when the

[15] DISCONTINUANCE OF THE SPANISH MORTGAGE SYSTEM OF REGISTRATION AND OF THE USE OF SPANISH TITLES AS EVIDENCE IN LAND REGISTRATION PROCEEDINGS.

[16] TSN, 20 December 1993, records, p. 310.

[17] *Id.*; *id.* at 312.

[18] *Id.*; *id.* at 316-317.

[19] TSN, 15 February 1994, *id.* at 339.

[20] *Rollo*, p. 120.

[21] TSN, 21 March 1994, records, p. 374.

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ownership and possession of the subject lot was passed on from one person to another.[22] Private respondent declared the subject lot in her name in 1993 and paid realty taxes for the same; but, aside from the said tax declaration covering the subject lot in her name, she was unable to present additional documentary evidence to prove her alleged ownership of the subject lot.[23]

On the other hand, petitioners presented evidence to support their claim that in 1941, brothers Arcadio and Agripino Pascual sold the subject lot to their parents Amado Buenaventura and Irene Flores. Agripino confirmed such a sale in his Affidavit executed on 22 December 1947, which states:

AFFIDAVIT

I, Agripino Pascual, of lawful age, married to Leonor de Leon, and resident of Parañaque, Rizal, after being duly sworn under oath, depose and say the following:

That on March 29, 1941, my brother Arcadio Pascual and myself *(sic)* sold to Amado Buenaventura, married to Irene Flores of Parañaque, Rizal, a parcel of land, declared under Tax No. (sic) 10706 in the name of our late father, Mariano Pascual.

That the said Mariano Pascual who was the previous absolute owner of the said parcel of land was our legitimate father and we two are the only legitimate and forced heirs to the said parcel of land. Hence, for taxation and assessment purposes I hereby testify that the said parcel of land should now be declared in the name of the said Amado Buenaventura and Irene Flores, for they are now the absolute owners of the said property.

In witness whereof, I hereby signed (sic) this affidavit in the City of Manila, this 22nd day of Dec., 1947.

(Sgd.)
Affiant[24]

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[22] *Id.*; *id.* at 368-370.

[23] *Id.*; *id.* at 376.

[24] Records, p. 139.

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The subject lot was declared in the name of petitioners' mother Irene in 1948, 1967, 1974 and 1984.[25] In 1978, petitioners became owners and possessors of the subject lot when their parents executed a deed of sale over the same in their favor.[26] The subject property was then declared in petitioners' names in 1979 and 1985. Petitioners and their parents had been religiously paying for the realty taxes on the subject lot from 1948 up to 1994, during which LRC Case No. M-197 was being heard. As of 1994, there were no improvements on the subject lot, as petitioners were filling it up so that they could sell it for a higher price. [27] The subject lot was not part of any forest, sea, military or naval reservation, or any land of the public domain; and it had been possessed by petitioners and their parents publicly, usefully, adversely, and continuously from 1941 to 1994.[28]

On 21 November 1996, the RTC promulgated its Decision in LRC Case No. M-197, finding the evidence of both private respondent and petitioners insufficient and far from credible, and dismissing their respective claims over the subject lot.

In refusing to give credence to private respondent's evidence, the RTC reasoned that:

> A perusal of the records of this case will reveal that [herein respondent's] claim of rightful ownership over the property in question is less than credible.
>
> Firstly, [respondent] claimed that the land applied for, consisting of 1,854.62 sq. meters, was first in the possession of her grandfather. Upon the death of the latter, which year she could not recall, the possession was then taken over by her father and her uncle. When the [respondent] was merely 12 years old, her father cultivated the land and planted the same with trees where she occasionally harvested fruits therefrom. A portion of the land was likewise covered by a fishpond where she used to catch fish at her father's invitation. But upon marrying the late Arcadio Nicolas, the [respondent], together

[25] TSN, 13 June 1994, records, p. 406.

[26] *Id.*; *id.* at 408.

[27] *Id.*; *id.* at 417-418.

[28] *Id.*; *id.* at 418.

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with her four children, was *(sic)* no longer in possession of the property as evidenced by her testimony that each time she and her children passed by the questioned property, she merely told her children that the same used to be owned by their family. Moreover, she further testified that "when I left the property, I didn't see anything anymore. If there is anybody who takes anything, I don't know about that" (TSN, Dec. 20, 1993, p. 24), which evidently proves that she was not in actual and continuous possession of the subject land. Ironically, it was only in the year 1993, when [respondent's] two brothers allegedly decided to renounce their rights over the said property in her favor that the latter filed the instant application.

Although the [respondent] may have proven her stay over the property dating back in her childhood days, such fact, however, failed to prove that her predecessors-in-interest were actually in possession of the property publicly, peacefully and openly for more than thirty (30) years. Moreover, the Pascual brothers, in their Affidavit of Renunciation, merely made allegations that they acquired the property in question from their grandfather, but failed to prove by concrete evidence how they came into possession of the parcel of land from which they based their claim or right (even granting that the same was indeed acquired by means of succession from their grandfather as rightful owner/possessor thereof). Neither did they make mention about the manner by which their predecessors-in-interest possessed the same land.

In the instant case, the [respondent] failed to present specific facts that would show the nature of such possession. xxx

Secondly, the Affidavit of Renunciation introduced in evidence by the [respondent] where her brothers renounced their rights over the subject property in her name merely evidenced the fact that the parcel of land applied for was an alienable and disposable land of the public domain but insufficient to clearly establish the length of time of the possession of their predecessors-in-interest.

Finally, even assuming arguendo that the [respondent] and her predecessors-in-interest were consistent in paying the corresponding taxes over the property starting in the year 1955, the same is of no moment, since the important thing to consider is the compliance of the thirty (30) year period of open and continuous possession of her predecessors-in-interest.[29]

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[29] *Rollo,* pp. 155-156.

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As to petitioners' evidence, the RTC made the following evaluation thereof:

> An evaluation of the evidence presented by the [herein petitioners] in support of their claim is likewise far from credible.
>
> The allegation of the [petitioners] that their parents already possessed the land as early as 1941 has not been duly proved nor documented. Granting that the subject lot was transferred to the parents of the [petitioners] sometime in 1947 by virtue of a sale, there was no showing that a notarized deed of sale was ever executed nor was the sale of the land entered in the Registry of Property. If indeed, a sale over the property took place, this Court cannot dismiss the fact that from 1947 until the present or approximately forty-six (46) years thereafter until the time of the filing of the land registration case, did the predecessors-in-interest of herein [petitioners] take the initiative of securing a title over the said property in their name.
>
> The contention that the subject lot has been owned by the Sps. Buenaventura by mere Affidavit of Confirmation of Sale (Exh. "1") cannot be taken lightly. Ordinarily, where the adverse party is deprived of the opportunity to cross-examine the affiants, affidavits are generally rejected for being hearsay, unless the affiants themselves are placed on the witness stand to testify thereon. xxx
>
> Lastly, [petitioners'] argument that [they] took over the possession of the property by the year 1978 or after the death of their parents is untenable. [They] failed to establish the nature of their possession of the land in question, whether the same may have been acquired by means of succession or donation or otherwise, since no documentary evidence had been presented to trace the acquisition of the property from the hands of the predecessors-in-interest of [petitioners] to them.[30]

In the end, the RTC held that:

> It having been insufficiently established that the lots (sic) in controversy have been under the continuous, open, meritorious, peaceful and adverse possession of [herein respondent's] and [herein petitioners'] predecessors-in-interest, in the concept of [an] owner, during the period required by law, this Court finds no legal basis to uphold their respective claims.

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[30] *Id.* at 156-157.

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WHEREFORE, premises considered, the application for registration of Lot No. 5001-A of Cad-299 in the name of the [petitioner] Pascual, is hereby dismissed for lack of merit.

The [petitioners'] claim is likewise, (sic) dismissed for being devoid of merit.[31]

Private respondent filed on 23 December 1996 a Notice of Appeal[32] of the foregoing RTC Decision, while petitioners filed on 3 January 1997 a Motion for Reconsideration[33] thereof. In an Order dated 5 February 1997, the RTC denied petitioners' motion for reconsideration for being a mere reiteration of the arguments it already considered and passed upon. Thereafter, on 27 February 1997, petitioners likewise filed their Notice of Appeal of the RTC Decision.[34] The appeals of private respondent and petitioners were docketed before the Court of Appeals as CA-G.R. CV No. 55454.

On 31 August 2004, the Court of Appeals rendered its assailed Decision, disposing thus:

WHEREFORE, under the premises, the decision appealed from is hereby **AFFIRMED**.[35]

The Court of Appeals declared that private respondent failed to discharge the burden of proving that the subject lot had been in the open, continuous, exclusive, and notorious possession by her and her predecessors-in-interest, in the concept of an owner, for the prescribed period prior to the filing of her application. Private respondent's brother, Ruben, acknowledged that neither private respondent nor her predecessors-in-interest ever resided on the subject lot. Even private respondent herself admitted during trial that she was not the actual occupant of the subject lot. The tax declaration and realty tax receipts presented

[31] *Id.* at 157.

[32] Records, p. 266.

[33] *Id.* at 268-275.

[34] *Id.* at 289-290.

[35] *Id.* at 98.

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by private respondent were inconclusive evidence of her ownership. And the Affidavit of Renunciation executed in 1993 by private respondent's brothers Ruben and Jose over their rights, interest, and participation over the subject lot in favor of private respondent did not state how long their predecessors-in-interest possessed the subject lot.

Similarly, the Court of Appeals pronounced that petitioners failed to prove that their possession of the subject property was adverse, open, continuous, exclusive, notorious, peaceful, and in the concept of owner. Petitioners were unable to present a notarized deed to evidence the alleged sale of the subject lot by the brothers Arcadio and Agripino to petitioners' parents. It further affirmed the ruling of the RTC that the Affidavit executed by Agripino, confirming the alleged sale of the subject lot by him and his brother Arcadio to petitioner's parents was hearsay evidence, because the adverse party was not given the opportunity to cross-examine the affiant Agripino. Moreover, petitioners — who not only opposed private respondent's application, but who also, in effect, presented their own application by praying that the RTC confirm their title over the subject property instead and order the registration of the same in their name — failed to comply with the requirement that an application must be accompanied by a tracing-cloth plan duly approved by the Director of Lands, as well as two blueprints or photographic copies thereof and copies of the surveyor's certificate. Additionally, the Notice of Hearing of LRC Case No. M-197 as published in the *Official Gazette* and posted in conspicuous places pertained only to private respondent's application. As such, the Court of Appeals ruled that petitioners could not thereby insist on the registration of the subject lot in their names.

Petitioners filed their Urgent Motion for Partial Reconsideration[36] of the Court of Appeals Decision on 27 September 2004, while private respondent filed her Motion for Reconsideration[37] of the same decision on 22 November 2004.

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[36] CA *rollo*, pp. 284-323.

[37] *Id.* at 328-340.

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In a Resolution[38] dated 30 June 2005, the Court of Appeals found no cogent reasons to disturb its earlier Decision, and decreed:

WHEREFORE, both Motions for Reconsideration are DENIED.

On 18 July 2005, private respondent filed before this Court a Motion for Extension of Time to file a Petition for Review on *Certiorari*,[39] docketed as G.R. No. 168701. However, she subsequently moved to withdraw the said Motion and informed the Court of her intention to pursue an administrative remedy instead.[40] The Court granted private respondent's motion to withdraw in a Resolution[41] dated 28 September 2005, and thereby declared G.R. No. 168701 terminated.

Petitioners, on the other hand, filed the instant Petition for Review, submitting the following issues for the resolution by this Court:

I.

WHETHER OR NOT THE COURT OF APPEALS ERRED GRAVELY IN UPHOLDING THE PREVIOUS FINDING OF THE TRIAL COURT THAT THE AFFIDAVIT OF CONFIRMATION OF SALE, EVEN IF EXECUTED ALMOST 50 YEARS AGO, IS HEARSAY AND, IN THE ABSENCE OF A DULY NOTARIZED DEED OF SALE, CANNOT SUSTAIN PETITIONERS *(sic)* CLAIM THAT THEIR PARENTS HAVE PREVIOUSLY ACQUIRED THE PROPERTY BY WAY OF PURCHASE FROM THE APPLICANT'S PREDECESSORS.

II.

WHETHER OR NOT THE COURT OF APPEALS ERRED GRAVELY IN DENYING PETITIONERS (sic) COUNTER-APPLICATION FOR TITLE BY USING THE SAME SET OF LEGAL CONCLUSIONS PREVIOUSLY APPLIED AGAINST AMPARO PASCUAL'S FAILED APPLICATION.

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[38] *Rollo*, pp. 100-106.

[39] *Id.* at 414-417.

[40] *Id.* at 418-423.

[41] *Id.* at 424.

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III.

WHETHER OR NOT THE COURT OF APPEALS ERRED GRAVELY IN HOLDING THAT PETITIONERS-PRIVATE OPPOSITORS, NOT HAVING INITIATED THE REGISTRATION PROCEEDINGS, CANNOT OBTAIN AN AFFIRMATIVE RELIEF OF REGISTRATION OF TITLE FOR NON-COMPLIANCE WITH THE FORMALITIES REQUIRED BY LAW.

Fundamentally, the sole issue to be resolved in this case is whether petitioners are entitled to the confirmation and registration of the title to the subject lot in their names.

Petitioners want this Court to reverse the decisions of the RTC and the Court of Appeals finding that petitioners failed to submit sufficient evidence to establish their title over the subject property and to merit its registration in their names. However, the Court cannot grant petitioners' prayer without reviewing the same evidence they presented and already considered by the trial and appellate courts. When a doubt or difference arises as to the truth or falsehood of alleged facts or when a query necessarily solicits calibration of the whole evidence, considering mostly the credibility of witnesses, existence and relevancy of specific surrounding circumstances, their relation to each other and to the whole and probabilities of the situation, questions or errors of fact are raised.[42]

The petitioners must be reminded that the Supreme Court is not a trier of facts. It is not our function to review, examine and evaluate or weigh the probative value of the evidence presented. A question of fact would arise in such event. Questions of fact cannot be raised in an appeal via *certiorari* before the Supreme Court and are not proper for its consideration.[43]

Time and again, this Court has stressed that its jurisdiction in a petition for review on *certiorari* under Rule 45 of the

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[42] See *Secretary of Education v. Heirs of Rufino Dulay, Sr.*, G.R. No. 164748, 27 January 2006, 480 SCRA 452, 460.

[43] *Heirs of Simeon Borlado v. Court of Appeals*, 416 Phil. 257, 262 (2001).

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Rules of Court is limited to reviewing only errors of law, not of fact, unless the findings of fact complained of are devoid of support by the evidence on record, or the assailed judgment is based on the misapprehension of facts. The trial court, having heard the witnesses and observed their demeanor and manner of testifying, is in a better position to decide the question of their credibility. Hence, the findings of the trial court must be accorded the highest respect, even finality, by this Court. Likewise, the Court has ruled that, when supported by sufficient evidence, findings of fact by the Court of Appeals affirming those of the trial court are not to be disturbed on appeal. The rationale behind this doctrine is that review of the findings of fact by the Court of Appeals is not a function this Court normally undertakes. The Court will not weigh the evidence all over again unless there is a showing that the findings of the lower court are totally devoid of support or are clearly erroneous so as to constitute serious abuse of discretion.[44]

Although there are exceptions[45] to the general rule that the Court is bound by the findings of fact of the trial court, as

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[44] *Pacific Airways Corporation v. Tonda*, 441 Phil. 156, 162 (2002).

[45] The following are the recognized exceptions to the general rule: (1) when the findings are grounded entirely on speculation, 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 misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to 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; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion. (*Sampayan v. Court of Appeals*, G.R. No. 156360, 14 January 2005, 448 SCRA 220, 229; citing *Insular Life Assurance Company, Ltd. v. Court of Appeals*, G.R. No. 126850, 28 April 2004, 428 SCRA 79, 86; citing *Langkaan Realty Development, Inc. v. United Coconut Planters Bank*, 400 Phil. 1349,

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affirmed by the Court of Appeals, it finds that none exists in this case to justify a departure therefrom.

Being the applicants for confirmation of imperfect title, petitioners bear the burden of proving that they meet the requirements for the same,[46] by no less than clear, positive and convincing evidence.[47]

The requirements necessary for a judicial confirmation of imperfect title are laid down in Section 14, paragraph 1 of Presidential Decree No. 1529.[48] In accordance therewith, any person 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 12 June 1945 or earlier, may file in the proper trial court an application for registration of title to land, whether personally or through their duly authorized representatives.

Thus, any person seeking the confirmation and registration of his title under said statutory provision must specifically prove that: (1) the land forms part of the alienable and disposable land of the public domain, and (2) he has been in open, continuous, exclusive and notorious possession of the subject land under a *bona fide* claim of ownership from 12 June 1945 or earlier.

1356 [2000]; *Nokom v. National Labor Relations Commission*, 390 Phil. 1228, 1242-1243 [2000]; *Sta. Maria v. Court of Appeals*, 349 Phil. 275, 282-283 [1998]).

[46] See *Collado v. Court of Appeals*, 439 Phil. 149, 173 (2002).

[47] See *Republic v. Enciso*, G.R. No. 160145, 11 November 2005, 474 SCRA 700, 713.

[48] 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.

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The RTC and the Court of Appeals dismissed petitioners' application for having failed to establish compliance with the second requirement, *i.e.*, possession of the subject property for the period and in the nature required by law. The RTC and the Court of Appeals have carefully and meticulously dissected each piece of evidence presented by both private respondent and petitioners, and have thoroughly explained in their respective decisions the reasons why these pieces of evidence cannot be given much weight and credence.

The Court is also appalled by the utter lack of evidence on record establishing the first requirement, *i.e.*, that the subject lot is alienable and disposable. The RTC and the Court of Appeals seemed to have merely presumed that the subject lot was already alienable and disposable.

This Court cannot countenance such a presumption for two reasons: *First*, it goes against the Regalian doctrine which states that all lands of whatever classification belong to the State. The rule applies even to privately owned unregistered lands which, unless the contrary is shown, are presumed to be public lands.[49] *Second*, without a definitive date when the subject lot became alienable and disposable, the determination of whether petitioners possessed the subject lot for the time period required by law is rendered impossible, since any period of possession prior to the date when the subject lot was classified as alienable and disposable is inconsequential and should be excluded from the computation of the period of possession. Such possession can never ripen into ownership; and unless the land has been classified as alienable and disposable, the rules on confirmation of imperfect title shall not apply thereto.[50]

Indeed, the only evidence presented by petitioners on this basic requirement is the testimony of petitioner Angelita before the RTC, to wit:

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[49] *Cacho v. Court of Appeals*, 336 Phil. 154, 165-166 (1997).

[50] *Republic v. Herbieto*, G.R. No. 156117, 26 May 2005, 459 SCRA 183, 201-202.

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Q: At present, will you please tell us who is in possession of the land applied for?

A: We the oppositors, sir.

Q: Will you please tell us if the parcel of land applied for is part of any forest, military, naval reservation and sea (sic) or land of public domain?

A: No, sir.[51]

The self-serving testimony of one of the petitioners is clearly not enough to overcome the presumption of State ownership of the subject lot and to establish that it is alienable or disposable.

To prove that the land subject of the 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 the Bureau of Lands investigators; and a legislative act or statute.[52] No such evidence was offered by the petitioners in this case.

Verily, the rules on the confirmation of imperfect title do not apply unless and until the land subject thereof is released in an official proclamation to that effect so that it may form part of the disposable agricultural lands of the public domain.[53] Inasmuch as the petitioners failed to present any proof that the subject lot has indeed been classified as and forms part of the disposable land of the public domain, whatever possession they might have had, regardless of the length or nature thereof cannot ripen into private ownership.

Even on this ground alone, petitioners' application for confirmation and registration of title can already be denied.

WHEREFORE, based on the foregoing, the instant Petition is hereby *DENIED*. Costs against petitioners.

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[51] TSN, 13 June 1994, p. 275.

[52] *Republic v. Court of Appeals*, 440 Phil. 697, 710-711 (2002).

[53] See *Bracewell v. Court of Appeals*, 380 Phil. 156, 162 (2000).

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SO ORDERED.

Ynares-Santiago (Chairperson), Carpio,[*] *Austria-Martinez* and *Reyes, JJ.*, concur.

THIRD DIVISION

[G.R. No. 175006. November 27, 2008]

BELEN A. SALVACION, *petitioner, vs.* **SANDIGANBAYAN (FIFTH DIVISION) AND LEO H. MANLAPAS,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; APPEALS ; APPEAL BY *CERTIORARI* TO THE SUPREME COURT; ONLY QUESTIONS OF LAW MAY BE RAISED; CASE AT BAR.— The Revised Rules of Court specifically provides that an appeal by *certiorari* from a judgment or final order or resolution of the Sandiganbayan is by verified petition for review on *certiorari* and shall raise only questions of law. Specifically, Section 1, Rule 45 of the Rules of Court dictates that: SECTION 1. *Filing of petition with Supreme Court*. – A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition shall raise only questions of law which must be distinctly set forth. Note that what is being assailed in this original action are the Resolutions of the Sandiganbayan dated 23 February 2006 and 4 August 2006 reversing the Ombudsman's finding

[*] Justice Antonio T. Carpio was designated to sit as additional member replacing Justice Antonio Eduardo B. Nachura per Raffle dated 5 November 2008.