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FIRST DIVISION

[G.R. No. L-40771. January 29, 1986]

ANGELINA SAMSON, *petitioner, vs.* **COURT OF APPEALS and HEIRS OF PRESBITERO VELASCO,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; PETITION FOR REVIEW BY CERTIORARI; NOT PROPER IF THE FACTUAL FINDING OF COURT OF APPEALS ARE BASED ON SUBSTANTIAL EVIDENCE.—** The appellate court's findings that the oppositors had a better right to the registration of the two subject parcels of land are based on substantial evidence. It is obvious that the appellate court's findings are based not only on the tax receipts submitted by the oppositors but the oral testimonies of the oppositors and their witnesses who testified on the open and continuous possession of the oppositors and their predecessor-in-interest beginning the year 1910 to the present. We see no compelling reason to deviate from the rule that factual findings of the Court of Appeals based on the substantial evidence cannot be reviewed in a petition for review on certiorari (*Montesa v. Court of Appeals,* 117 SCRA 700) and that the Court of Appeals, as the rule, is the final arbiter on questions of facts. (*Enriquez v. Court of Appeals,* 104 SCRA 658). The contention of the petitioner that the case at bar fails within the known and recognized exceptions to the general rule is not meritorious.

2. **ID.; ID.; NEW TRIAL; REQUISITES FOR GRANTING THEREOF.—** The newly discovered evidence sought to be presented by petitioner consist of two "ancient" documents and the testimonies of Rufino Tibayan, Petronillo Gulpo, Segunda Fabis and Demetrio Zapanta. The "ancient" documents are: (1) Receipt No. 01436276 dated August 9, 1910 in the name of Emiliana Villacarlos which shows that taxes were paid for 3 parcels of land in the amounts of ₱1.75, ₱4.00 and ₱1.66; and (2) Escritura de Particion de Fincas Rusticas executed on April 20, 1920 by descendants of Luis Villacarlos. By themselves, the supposed newly discovered evidence would not show that they refer to the land in question. Section 1, of Rule 53 of the Revised Rules of Court provides: "Section 1. Petition.- Before

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a final order or judgment rendered by the Court of Appeals becomes executory, a motion for new trial may be filed on the ground of newly discovered evidence prior to the trial in the court below by the exercisedf of due diligence and which is of such a character as would probably change the result. The motion shall be accompanied by affidavits showing the facts constituting the grounds therefore and the newly discovered evidence." In the instant case, there is no showing that Rufino Tibayan, Petronilo Gulpo, Segunda Fabis and Demetrio Zapanta could not have been discovered and produced during the trial. Hence, their testimonies would not constitute newly discovered evidence.

3. **CIVIL LAW; OWNERSHIP; MODES OF ACQUIRING; ACQUISITIVE PRESCRIPTION; MAY BE ESTABLISHED BY TAX DECLARATION ACCOMPANIED BY ACTUAL POSSESSION FOR MORE THAN THIRTY YEARS.**—The tax receipts accompanied by actual and continuous possession of the subject parcels of land by the respondents and their parents before them for more than thirty years qualify them to registrar title to the said subject parcels of land. We ruled in the case of *Republic v. Court of Appeals*, (131 SCRA 533) that: "While it is true that by themselves tax receipts and declarations of ownership for taxation purposes are not incontrovertible evidence of ownership they become strong evidence of ownership acquired by prescription when accompanied by proof of actual possession of the property."

APPEARANCES OF COUNSEL

Fidel Manalo for petitioner.
Presbitero J. Velasco, Jr. for respondents.

D E C I S I O N

GUTIERREZ, JR., *J.*:

This is a petition to review the decision of the Court of Appeals, now the Intermediate Appellate Court, which reversed and set aside the decision of the Court of First Instance of Cavite in Land Registration Case No. TM-35.

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Petitioner Angelina M. Samson filed an application for registration of title in the Court of First Instance of Cavite of three parcels of land all located in Ternate, Cavite. These were — (1) a parcel of land with an area of 605,936 square meters more or less located in Sitio Caynipa covered by Plan PSU-199064 (Exhibit "K"); (2) a parcel of land with an area of 199,120 square meters more or less located in Barrio Cayugno-Paniman covered by Plan PSU-202594 (Exhibit "G") and (3) a parcel of land with an area of 313,675 square meters more or less located in Barrio Cayladme covered by Plan PSU-200554 (Exhibit "A").

The application for registration was premised on Section 48 of the Public Land Law, Commonwealth Act No. 141 as amended by Republic Act 1942, which entitles a person to obtain a certificate of title if he and his predecessors-in-interest had been in open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain under a *bona fide* claim of acquisition or ownership for at least thirty (30) years immediately preceding the filing of the application for confirmation of title, except when prevented by war or force majeure.

The applicant alleged that she and her predecessors-in-interest had occupied and possessed the properties openly, continuously, and in the concept of the owner for more than 60 years prior to the filing of the application for registration.

With regard to the parcel of land covered by Plan PSU-200554 (Exhibit "A"), the petitioner stated that she bought the northern portion from Melanio Martinez through a deed of sale executed on February 12, 1963 (Exhibit "P-1"). She claimed to have purchased the southern portion from Hilarion Villacarlos and the latter's children as shown by a document entitled extrajudicial partition and sale executed on August 20, 1963 (Exhibit "P").

With regard to the parcel of land covered by Plan PSU-202594 (Exhibit "G"), the petitioner alleged that she bought the northern portion from Generoso Distor by virtue of a deed of absolute sale executed on February 25, 1963 (Exhibit "Q"), and the

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southern portion from Bonifacio Tampis by virtue of a deed of absolute sale executed on October 1, 1963 (Exhibit ("R").

No opposition was filed against the application for registration of the parcel of land covered by Plan PSU-199064 (Exhibit "K"). Hence, in a partial decision dated July 9, 1964, the trial court, ordered the registration of this parcel of land in favor of the applicant.

The application for the registration of the two parcels covered by Plan PSU-200554 (Exhibit "A") and Plan PSU-202594 (Exhibit "G") was opposed by the Director of Lands, Felicisima Rielo and Jaime T. Alberto. Of the three, only Rielo pursued her opposition. The Director of Lands withdrew his opposition while Alberto did not present evidence in his favor.

Rielo died during the pendency of the proceedings. She was substituted by her sons, oppositors Presbitero R. Velasco and Pedro R. Velasco, to whom the aforementioned parcels of land were adjudicated pursuant to an extra-judicial partition dated May 2, 1967 of the estate of their deceased parents Eustaquio Velasco and Felicisima Rielo.

The Velasco's claimed ownership over the two parcels of land on the basis of their alleged open and continuous possession in the concept of owner for more than thirty (30) years. The two parcels are alleged to form part of a large parcel of land covered by Plan PSU-217187 (Exhibit "I") consisting of six (6) lots with a combined area of 2,964,206 square meters located in the sitios of Paniman and Cayugno barrio of Sapang Ternate, Cavite owned by the heirs of Eustaquio Velasco. They alleged that Lots 2 and 4 of Plan PSU-217187 correspond to the parcels of land covered by Plan PSU-202594 (Exhibit "G") and Plan PSU-200554 (Exhibit "A") respectively.

After trial on the merits, the lower court ruled in favor of the applicant and the subject parcels of lands were ordered registered in her name.

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The oppositors appealed the decision to the Court of Appeals. As earlier stated, the appellate court reversed and set aside the decision. The dispositive portion of the decision reads:

"WHEREFORE, the judgment appealed from is hereby reversed. In its place, another one is hereby rendered dismissing the application for registration filed by applicant-appellee, and ordering the registration of the parcel of land known as Lot No. 4 in PSU-217187 in the name of Pedro R. Velasco, married, of legal age, a resident of Ternate, Cavite; and the parcel of land known as Lot No. 2 in the same Plan PSU-217187 in the name of Presbitero R. Velasco, married, of legal age, a resident of Ternate, Cavite, in accordance with the provisions of Section 48 of Commonwealth Act No. 141 as amended by Republic Act No. 1942. The applicant-appellee shall pay the costs."

A motion for reconsideration filed by the applicant-appellee was denied by the appellate court. After her second motion for reconsideration was denied, the applicant-appellee filed a motion for new trial based on newly discovered evidence. The motion was also denied for lack of merit.

Hence, this petition.

The issues raised by the petitioner are two-fold. The first issue is anchored on the appellate court's factual findings which the petitioner contends are not supported by the evidence on record. This issue is anchored on the appellate court's having allegedly erred when it denied the motion for new trial.

Considering that the factual findings of the appellate court are diametrically opposed to those of the trial court, we have scrutinized the bases of the respondent court's factual findings and given extra careful review to the parties' allegations on appeal to determine if there is any merit in the petitioner's contentions (Cruz v. Court of Appeals, 129 SCRA 222; Legaspi v. Court of Appeals, 69 SCRA 360; Tolentino v. De Jesus, 66 SCRA 167).

It is to be noted that the petitioner's alleged possession of the two subject parcels of land commenced only in 1963 and that she filed her application for registration of title over the same in 1964. Under these circumstances, her right to register

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the subject parcels of land depends on whether or not her predecessors-in-interest had occupied and possessed the same openly, continuously, and in the concept of owner within the required thirty-year period prior to the time she filed the application for registration pursuant to Section 48 of the Public Land Act.

We find the petitioner's contention as regards the factual findings of the appellate court unfounded.

We agree with the appellate court's factual findings to the effect that not one of the petitioner's predecessors-in-interest was able to submit convincing proof of actual, peaceful, and adverse possession in the concept of owner over the subject parcels of land sought to be registered within the period contemplated by law. As the appellate court said:

"Melanio Martinez declared that he possessed the land sold by him to the applicant only since 1936. When asked who was in possession prior to 1936, he answered 'I do not know' (TSN., p. 8 August 11, 1970). Even if his possession since 1936 were tacked to that of the applicant, it did not amount to thirty (30) years prior to the filing of the application for registration on May 7, 1964. Martinez even admitted that his possession was not continuous, he having left the property during the Japanese time and returned to the same only in 1946 after the war. Moreover, he only visited the land about three times a week in 1961 to 1964 to visit his cows, inasmuch as he was then the chief of police of Ternate, Cavite x x x Melanio Martinez stated that he used the land merely as a pasturage of his cows which numbered four at that time. He did not fence the land or construct an enclosure so as to indicate ownership of the portion claimed to be his own. He further admitted that aside from himself, there were several other people who had their huts in the same area which he was using as a grazing land for his cows (Tsn., p. 18, September 17, 1970). Although he claimed to be possessing the property since 1936, the earliest tax declaration that could be presented to show that it was declared for tax purposes in his name was only for the year 1961 (Exhibit P-2).

"The testimony of Hilarion Villacarlos is similarly sketchy and unreliable. He claimed that the property he sold to the applicant was inherited by him from his mother, but later declared that he

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bought the same (Tsn., p. 78, May 26, 1970). He admitted that he started possessing the property only since 1946 (Ibid, p. 3) which is only about 19 years prior to the filing of this application for registration. Although he claimed that he paid taxes on the land, he could not present any tax declaration in his name nor any receipt of his payment of taxes. He stated that he had tenants but did not know their names. x x x.

"The testimony of Generoso Distor as to his possession and ownership of the northern portion of the lot covered by PSU-202594 sold by him to the applicant also fails to inspire belief. He claim to have possessed the land from the time he bought it from a certain Rufino Tibayan in 1956 or 1957. He cannot remember the exact date of the sale nor produce the alleged document of sale. He could not remember the notary public who notarized the same, nor the price he paid. He does not know his immediate neighbors, except Tecla Tampis. He had not introduced any improvement on the land nor paid the taxes on the same. The first time he declared it for tax purposes in his name was on February 5, 1963 or 20 days before he sold the property to the applicant on February 25, 1963 pursuant to the deed of sale (Exhibit Q). While the property he supposedly bought from Tibayan was only 4 hectares in area, the parcel of land he sold to the applicant pursuant to Exhibit Q had an area of 14 hectares. x x x.

"The fourth predecessor-in-interest of the applicant, a certain Bonifacio Tampis, was not made to testify. According to the Court *a quo*, the failure of Bonifacio Tampis to testify in his stead was because he was insane at that time. x x x.

x x x x x x x x x

"x x x It is to be noted that the tax receipt, Exhibit S-4, in the name of Bonifacio Tampis shows that the tax was paid on June 25, 1962 not only for that particular year but for all the years starting 1953 to 1961. At the time the said taxes were paid, the applicant had already been laying claim over the property subject matter of the instant application for registration. It had been testified to by oppositors' witness Gorgonio Velasco that the applicant manifested a claim of ownership over the land in question since 1959. This assertion was not denied by the applicant, and is in fact sustained by the contents of Tax Declaration No. 369 which the applicant secured in her name on July 6, 1964, but which she made to retroact starting with the year 1961 (Exhibit S-1). On the face of the said tax declaration, it

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appears that the applicant declared in her name the area of the lot shown in PSU-202594 consisting of 199,120 square meters. If the applicant wanted to make it appear that she was already possessing the land shown in PSU-202594 since 1961, it is not understood why she had to purchase the same property from Generoso Distor and Bonifacio Tampis in 1963. By said act, applicant showed not only lack of sincerity of her claim of ownership over the property in question manifested since 1959, so much so she had to acknowledge her own lack of basis to acquire said land on the ground of possession by purchasing the lands from the supposed possessors of the same."

On the other hand, the factual findings of the appellate court that the respondents were able to submit competent evidence to show acts of possession over the subject parcels of land since 1910 are convincing. The court stated:

"Gorgonio Velasco, Benjamin Velasco and oppositor Pedro Velasco testified as to the possession by the Velascos of the parcel of land in question by their deceased father Eustaquio Velasco and, after the latter's death in 1922, by their mother Felicisima Rielo. They declared that since the time they came to the age of reason they knew that the lands shown in PSU-217187 had been occupied by Eustaquio Velasco who planted the same with mango trees and bamboos; that they had a Titulo de Possession Informatoria dated 1895 but said papers were burned during the war; that although the land was declared as part of the military reservation by the Americans for military practices, their mother continued cultivating and gathering fruits from the land with the consent of the military authorities; that nobody disturbed them in the possession of the land up to the year 1959, when they learned that an adverse claim over the land was being manifested by a certain Samson; that they have been paying the land taxes of the land in question; that the tax declarations corresponding to the period before the war were burned during the war; that Generoso Distor and Hilarion Villacarlos had no properties in the vicinity; that Rufino Tibayan from whom Generoso Distor allegedly purchased the land that he sold to the applicant did not own any property in that area and was merely a tenant of Gorgonio Velasco in Paniman; and that the overseer of the land was a certain Miguel Macaraig who was succeeded in said position by his nephew, oppositors' witness Emiliano Macaraig.

x x x x x x x x x

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"x x x Even disregarding the testimonial evidence coming from the months of oppositor Pedro R. Velasco, his brothers Gorgonio and Benjamin and their overseer Emiliano Macaraig, the documentary proofs presented by the oppositor show adequately the veracity of their claim of possession. They presented tax receipts showing that, as early as 1910, their father Eustaquio Velasco had been paying taxes for lands located in Sapang, Ternate (Exhibits 3, 3-A to 3-1). While the said tax receipts refer to lands located in Barrio Sapang, Ternate, it was explained that the properties in question are actually located in Barrio Sapang, and that Cayladme and Cayugno-Paniman where the lands shown in PSU-200554 and PSU-202594 are located according to the plans submitted by the applicant, are merely sitios of Barrio Sapang, as indicated in the oppositors' Plan PSU-217187, Exhibit 1. Applicant was not able to show that the said tax receipts refer to other parcels of land belonging to Eustaquio Velasco in Ternate, Cavite.

"The testimonies of the witnesses for the oppositor may not be disbelieved on the ground that they are more biased and interested, as compared with the witnesses of the applicant. While Gorgonio and Benjamin Velasco are brothers of oppositors Presbiterio and Pedro Velasco and are expected to testify favorably for the latter, the same thing may be said of applicant's witnesses Melanio Martinez, Hilarion Villacarlos and Generoso Distor whose interest may be said to be more direct and personal, inasmuch as they were the ones who sold the lands which the applicant is seeking to register in her name. The failure of the oppositors to reconstitute the tax declarations in their names until 1961 is similarly true with the applicant and her predecessors-in-interest none of whose tax declarations and tax receipts covering the lands in question date earlier than 1961. While Gorgonio Velasco might be unfamiliar with the land, he is not the oppositor herein, and the possession of the Velascos over the property was not claimed to be by Gorgonio Velasco alone. With respect to the relative credibility of the witnesses for the oppositors and the applicant based on their social standing and official positions, the witnesses of the oppositors do not suffer by the comparison. While it is true that Melanio Martinez was at one time chief of police of Ternate, Gorgonio Velasco is the internal auditor of UP-Los Baños, while Benjamin Velasco is a physician who was formerly the district health officer of Palawan. Oppositor Pedro R. Velasco himself is the chief of the Bureau of Internal Revenue office for the province of Cavite. Applicant's witness Generoso Distor, contrary to the finding of the

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trial Judge, was not the municipal treasurer of Ternate, (Cavite but only a son of Municipal Treasurer Alejandro Distor (Tsn., p. 13, July 7, 1970)."

It is not true that the testimony of respondent Pedro Velasco concerning the tax receipts is hearsay, hazy, vague and not worthy of evidence. It was clearly shown that the questioned tax receipts beginning the year 1910 were actually issued for the payment of taxes on the lands in question. Hence, on direct examination, Velasco stated.

x x x x x x x x x

"Q Do you know if the said properties has been declared for taxation purposes?

"A Well on my personal knowledge because my mother entrusted the bundles of document to me, there were land taxes paid sometimes in 1903 up to 1923.

"Q About the tax declaration, do you know if there is a tax declaration over the property in question?

"A Yes sir, there are.

"Q I am showing to you this declaration of Real Property No. 1608, will you please go over the same and tell us what relation has this with the tax declaration you have mentioned a while ago?

"A Yes, sir this is the Tax Declaration I was saying a while ago.

"Q Do you have any tax declaration over the said lot before the war?

"A Well I could not remember well because I was still a minor at that time. (Tsn., July 30, 1971, pp. 12-13).

x x x x x x x x x

"Q You made mention of the giving by your mother of the tax receipts regarding the payment of taxes over the lot in question. I am showing to you a bunch of tax receipts, will you please tell us what relation have these tax receipts over the property in question?

"A This Tax Receipt No. 4109383 is one of those given to me by my mother.

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"Q As well as these tax receipts Nos. 170413, 403389, 9406649, 7441543, 5047068, 3871908, 3133061, 1497755, 1436347, 3132598?

"A These are the receipts which my mother gave me.

"Q I observed in this receipt that there is mentioned of properties in Sapang Ternate, Cavite. Will you please tell us what barrio covers this property which you said was owned by your father?

"A All the properties are beyond the river except Barrio Bocana and Barrio Sapang up to the boundary line of Batuhan, Margondon, Cavite." (Tsn., July 30, 1971, pp. 17-18)

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"Q I have observed Mr. Velasco in this Tax Receipt which you have identified payment for the properties located in Sapang, Ternate Cavite. Will you please tell what relation has this payment for the Sabang in relation to this property which you said is also in the jurisdiction of Sapang, Ternate, Cavite?

"A According to my mother those are the payments made on this property located at Cayugno, Ternate, Cavite.

"Q Aside from this property in Cayugno, and Paniman which you said is in the jurisdiction of Barrio Sapang, there are no other properties or do you know if your parents have another property in Barrio Sapang?

"A There are no other property." (Tsn., July 30, 1971, pp. 24-26)

On cross-examination, Velasco reiterated his earlier testimony that the tax payment receipts pertain to the two subject parcels of land.

The appellate court's findings that the oppositors had a better right to the registration of the two subject parcels of land are based on substantial evidence. It is obvious that the appellate court's findings are based not only on the tax receipts submitted by the oppositors but the oral testimonies of the oppositors and their witnesses who testified on the open and continuous possession of the oppositors and their predecessor-in-interest beginning the year 1910 to the present. We see no compelling

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reason to deviate from the rule that factual findings of the Court of Appeals based on substantial evidence cannot be reviewed in a petition for review on certiorari (Montesa v. Court of Appeals, 117 SCRA 700) and that the Court of Appeals, as a rule, is the final arbiter on questions of facts. (Enriquez v. Court of Appeals, 104 SCRA 658). The contention of the petitioner that the case at bar falls within the known and recognized exceptions to the general rule is not meritorious.

The tax receipts accompanied by actual and continuous possession of the subject parcels of land by the respondents and their parents before them for more than thirty years qualify them to register title to the said subject parcels of land, We ruled in the case of *Republic v. Court of Appeals*, (131 SCRA 533) that.

"While it is true that by themselves tax receipts and declarations of ownership for taxation purposes are not incontrovertible evidence of ownership they become strong evidence of ownership acquired by prescription when accompanied by proof of actual possession of the property."

With regard to the petitioner's contention that the oppositors did not present documentary proof of ownership sufficient to warrant registration of the subject parcels of land in their favor, we restate our ruling in the case of *Zuñiga v. Court of Appeals* (95 SCRA 740) to wit:

"The purpose of the applicant is to prove that he has an absolute or simple title over the property sought to be registered, otherwise his application will be denied. An absolute oppositor claims a dominical right totally adverse to that of the applicant. If successful registration will be decreed in favor of the oppositor. As to whether or not private respondents have absolute or fee simple title over the property sought to be registered necessarily requires a resolution of the question as to whether or not the oppositors had a dominical right totally adverse to that of the applicants.

The respondents' documents were not only deemed sufficient by the appellate court for registration of title in their names

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but they are more convincing proof than the exhibits adduced for the petitioner.

We also find no error in the appellate court's denying the petitioner's motion for new trial based on newly discovered evidence.

The newly discovered evidence sought to be presented by petitioner consist of two "ancient" documents and the testimonies of Rufino Tibayan, Petronilo Gulpo, Segunda Fabis and Demetrio Zapanta. The "ancient" documents are: (1) Receipt No. 01436276 dated August 9, 1910 in the name of Emiliana Villacarlos which shows that taxes were paid for 3 parcels of land in the amounts of P1.75, P4.00 and P1.66; and (2) Escritura de Particion de Fincas Rusticas executed on April 20, 1920 by descendants of Luis Villacarlos. By themselves, the supposed newly discovered evidence would not show that they refer to the land in question.

Section 1, Rule 53 of the Revised Rules of Court provides:

"Section 1. *Petition.* — Before a final order or judgment rendered by the Court of Appeals becomes executory, a motion for new trial may be filed on the ground of newly discovered evidence which could not have been discovered prior to the trial in the court below by the exercise of due diligence and which is of such a character as would probably change the result. The motion shall be accompanied by affidavits showing the facts constituting the grounds therefore and the newly discovered evidence."

In the instant case, there is no showing that Rufino Tibayan, Petronilo Gulpo, Segunda Fabis and Demetrio Zapanta could not have been discovered and produced during the trial. Hence their testimonies would not constitute newly discovered evidence.

The sincerity of the petitioner in producing the two documents after so long a time is doubtful. The case was filed on May 7, 1964 and had been pending in court for 11 years before the petitioner discovered the said documents and filed the motion for new trial. In fact, it was only after the denial of her second motion for reconsideration and the oral arguments held in

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the appellate court that she filed the said motion. The records do not show that the petitioner could not have discovered the two documents prior to the trial by use of due diligence. Moreover, granting that the two documents can be considered as newly discovered evidence, a new trial would only be useless and ineffective. There is no showing that these documents would be sufficient proof to overthrow the appellate court's findings that Hilarion Villacarlos and his predecessors-in-interest did not possess the disputed parcel of land for the required number of years to qualify the petitioner for a certificate of title pursuant to Section 48 of the Public Land Law as amended. Mere tax declarations do not vest ownership of the property in the declarant (*Province of Camarines Sur v. Director of Lands*, 64 Phil. 600, citing the earlier cases of *Evangelista v. Tabayuyong*, 7 Phil. 607; *Casimiro v. Fernandez*, 9 Phil. 567; *Elumbaring v. Elumbaring*, 12 Phil. 384).

WHEREFORE, the instant petition is hereby DISMISSED for lack of merit. The appellate court's questioned decision is AFFIRMED.

SO ORDERED.

Teehankee, Melencio-Herrera Plana, and Patajo, JJ., concur.

De la Fuente, J., took no part.