Supreme Court E-Library

THIRD DIVISION

[G.R. No. 173808. September 17, 2008]

FERNANDA ARBIAS, *petitioner, vs.* **THE REPUBLIC OF THE PHILIPPINES,** *respondent.*

SYLLABUS

1. CIVIL LAW; LAND REGISTRATION; REGALIAN DOCTRINE; BURDEN OF PROOF IN OVERCOMING THE PRESUMPTION OF STATE OWNERSHIP OF LANDS OF THE PUBLIC DOMAIN IS ON THE PERSON APPLYING FOR REGISTRATION. — Under the Regalian doctrine, all lands of the public domain belong to the State, and the State is the source of any asserted right to ownership of land and charged with the conservation of such patrimony. This same doctrine also states that all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State. Hence, the burden of proof in overcoming the presumption of State ownership of lands of the public domain is on the person applying for registration. The applicant must show that the land subject of the application is alienable or disposable.

2. ID.; ID.; PROPERTY REGISTRATION DECREE; REQUIREMENTS NECESSARY FOR JUDICIAL CONFIRMATION OF IMPERFECT TITLE; POSSESSION OF SUBJECT LAND UNDER A *BONA FIDE* CLAIM OF OWNERSHIP FROM 12 JUNE 1945 OR EARLIER AND FACT THAT THE LAND IS CLASSIFIED AS ALIENABLE AND DISPOSABLE LAND OF THE PUBLIC DOMAIN MUST BE ESTABLISHED. — Section 14, paragraph 1 of Presidential Decree No. 1529 states the requirements necessary for a judicial confirmation of imperfect title to be issued. In accordance with said provision, persons 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. Hence, the applicant for registration under said statutory provision must

Supreme Court E-Library

specifically prove: 1) possession of the subject land under a *bona fide* claim of ownership from 12 June 1945 or earlier; and 2) the classification of the land as an alienable and disposable land of the public domain.

3. ID.; ID.; ID.; PETITIONER MISERABLY FAILED TO DISCHARGE THE BURDEN OF PROOF IMPOSED ON HER BY LAW; TAX DECLARATIONS ARE NOT CONCLUSIVE EVIDENCE OF OWNERSHIP OR OF THE RIGHT TO POSSESS LAND WHEN NOT SUPPORTED BY ANY OTHER EVIDENCE; THE SURVEY PLAN AND TECHNICAL DESCRIPTION ARE COMPLETELY INEFFECTUAL IN PROVING ACTUAL POSSESSION OF THE SUBJECT PROPERTY IN THE CONCEPT OF AN OWNER FOR THE NECESSARY PERIOD. — In the case at bar, petitioner miserably failed to discharge the burden of proof imposed on her by the law. *First*, the documentary evidence that petitioner presented before the RTC did not in any way prove the length and character of her possession and those of her predecessor-in-interest relative to the subject property. The Deed of Sale merely stated that the vendor of the subject property, Jardeleza, was the true and lawful owner of the subject property, and that she sold the same to petitioner on 12 March 1993. The Deed did not state the duration of time during which the vendor (or her predecessors-in-interest) possessed the subject property in the concept of an owner. Petitioner's presentation of tax declarations of the subject property for the years 1983, 1989, 1991 and 1994, as well as tax receipts of payment of the realty tax due thereon, are of little evidentiary weight. Well-settled is the rule that tax declarations and receipts are not conclusive evidence of ownership or of the right to possess land when not supported by any other evidence. The fact that the disputed property may have been declared for taxation purposes in the names of the applicants for registration or of their predecessors-in-interest does not necessarily prove ownership. They are merely *indicia* of a claim of ownership. The Survey Plan and Technical Description of the subject property submitted by petitioner merely plot the location, area and boundaries thereof. Although they help in establishing the identity of the property sought to be registered, they are completely ineffectual in proving that petitioner and her predecessors-in-interest actually possessed the subject property in the concept of an owner for the necessary period.

Supreme Court E-Library

4. ID.; ID.; ID.; THE BARE CLAIM OF PETITIONER THAT THE LAND APPLIED FOR HAD BEEN IN THE POSSESSION OF HER PREDECESSOR-IN-INTEREST FOR 30 YEARS DOES NOT CONSTITUTE THE "WELL-NIGH INCONTROVERTIBLE" AND "CONCLUSIVE" EVIDENCE REQUIRED IN LAND REGISTRATION. — The testimonial evidence adduced by petitioner likewise fails to persuade us. The statements made by petitioner during her testimony, by themselves, are nothing more than self-serving, bereft of any independent and objective substantiation. As correctly found by the Court of Appeals, petitioner cannot thereby rely on her assertions to prove her claim of possession in the concept of an owner for the period required by law. Petitioner herself admitted that she only possessed the property for six years. The bare claim of petitioner that the land applied for had been in the possession of her predecessor-in-interest, Jardeleza, for 30 years, does not constitute the "well-nigh inconvertible" and "conclusive" evidence required in land registration.

5. ID.; ID.; ID.; NO EVIDENCE ON RECORD TO ESTABLISH THAT THE SUBJECT PROPERTY HAS BEEN CLASSIFIED AS ALIENABLE AND DISPOSABLE LAND; AN APPLICANT CANNOT RELY ON THE NOTATION IN THE BLUEPRINT MADE BY A SURVEYOR-GEODETIC ENGINEER INDICATING THAT THE PROPERTY INVOLVED IS ALIENABLE AND DISPOSABLE. — Neither does the evidence on record establish to our satisfaction that the subject property has been classified as alienable and disposable. To prove this requirement, petitioner merely points to an annotation in the lower left portion of the blueprint of the subject property, which recites: ALL CORNERS ARE OLD POINTS. **ALIENABLE AND DISPOSABLE** PROJ. 44 BLK-1 PER LC MAP. 1020 APPROVED BY THE DIRECTOR OF FORESTRY ON JULY 26, 1933. COORDINATES OF BLLM#1 N=1266998.39, E=516077.19 LAT 11° 27' 27.4" N, LONG 123° 08' 9.9" E. Petitioner's reliance on the above inscription is misguided. In *Menguito v. Republic*, we held that an applicant cannot rely on the notation in the blueprint made by a surveyor-geodetic engineer indicating that the property involved is alienable and disposable land. We emphasized therein that — For the original registration of title, the applicant must overcome the presumption that the land sought to be registered forms part of the public domain. Unless public land is shown to have

Supreme Court E-Library

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. In the present case, petitioners cite a surveyor-geodetic engineer's notation x x x 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. In the absence of incontrovertible evidence to prove that the subject property is already classified as alienable and disposable, we must consider the same as still inalienable public domain.

6. ID.; ID.; ID.; FACT THAT NO THIRD PERSON APPEARED BEFORE THE TRIAL COURT TO OPPOSE PETITIONER'S APPLICATION FOR REGISTRATION IS IRRELEVANT; THE BURDEN OF PROOF IMPOSED BY LAW ON PETITIONER DOES NOT SHIFT. — The fact that no third person appeared before the RTC to oppose the petitioner's application for registration is also irrelevant. The burden of proof imposed by law on petitioner does not shift. Indeed, a person who seeks the registration of title to a piece of land on the basis of possession by himself and his predecessors-in-interest must prove his claim by clear and convincing evidence, *i.e.*, he must prove his title and should not rely on the absence or weakness of the evidence of the oppositors. Furthermore, the court has the bounden duty, even in the absence of any opposition, to require the petitioner to show, by a preponderance of evidence and by positive and absolute proof, so far as possible, that he is the owner in fee simple of the lands which he is attempting to register.

7. ID.; ID.; ID.; ESTOPPEL DOES NOT OPERATE AGAINST THE STATE OR ITS AGENTS. — Petitioner cannot also invoke estoppel on the part of the OSG as to bar the latter from challenging the decision of the RTC. In land registration cases, the Solicitor General is not merely the principal, but the only

Supreme Court E-Library

legal counsel of the government. The City Prosecutor appeared as counsel for the respondent before the RTC only after being deputized by the OSG. Being the representative of the Republic of the Philippines, the OSG, thus, falls within the purview of the doctrine which provides that estoppel does not operate against the state or its agents. Although exceptions from this rule are allowed, as when there is a need to uphold a policy adopted to protect the public or to protect the citizens from dishonorable, capricious and ignoble acts by the government, the same are not present in the instant case. In fact, public policy demands that the respondent, through the OSG, must deter dubious applications for registration of real property and protect within all legal means the inalienable public domain which rightfully belongs only to the State.

8. ID.; ID.; ID.; NO COMPELLING REASON TO GRANT PETITIONER A SECOND CHANCE BY REMANDING THE CASE TO THE TRIAL COURT FOR FURTHER RECEPTION OF EVIDENCE. — This Court cannot subscribe to the submission of the petitioner that the Court of Appeals erred in dismissing the petitioner's appeal outright instead of remanding the same to the RTC for further proceedings. The cases cited by petitioner, namely *Abaoag v. Director of Lands* and *Republic v. Sayo*, are not on all fours with the instant case. In *Abaoag*, we remanded the case notwithstanding the failure of the applicants to prove their entitlement to the registration of their property because the public land laws prevailing at that time granted a presumption of ownership in favor of the actual occupants of the particular property and against the State; while in *Sayo*, the case was ordered remanded for further proceedings since it was proven that an invalid compromise agreement was entered into between parties and non-parties to the land registration case, without the participation of the Solicitor General, and that some of the parties therein failed to adduce evidence to prove their land ownership. None of the above circumstances appear to be present in the case presently before us. Simply, petitioner failed to prove that she had an imperfect title to the subject property, which could be confirmed by registration. She had every opportunity before the RTC to present all the evidence in support of her application for registration, and neither the Court of Appeals nor this Court has the duty, absent any compelling reason, to grant her a

Supreme Court E-Library

second chance by remanding the case to the RTC for further reception of evidence.

APPEARANCES OF COUNSEL

Real Brotarlo & Real Law Offices for petitioner.
The Solicitor General for respondent.

D E C I S I O N

CHICO-NAZARIO, *J.*:

This is a Petition for Review on *Certiorari*[1] filed by Fernanda Arbias seeking to annul and set aside the Decision[2] and Resolution[3] of the Court of Appeals dated 2 September 2005 and 19 July 2006, respectively, in CA-G.R. CV No. 72120. The appellate court, in its assailed Decision, reversed the Decision[4] dated 26 June 2000 of the Regional Trial Court (RTC) of Iloilo City, Branch 34, in Land Registration Case (LRC) No. N-1025, which granted the application of petitioner Fernanda Arbias to register the subject property under the provisions of Presidential Decree No. 1529 (Property Registration Decree); and in its assailed Resolution, denied petitioner's Motion for Reconsideration.

The factual antecedents of the case are as follows:

On 12 March 1993, Lourdes T. Jardeleza (Jardeleza) executed a Deed of Absolute Sale[5] selling to petitioner, married to Jimmy Arbias (Jimmy), a parcel of unregistered land situated at Poblacion, Estancia, Iloilo, and identified as Cadastral Lot No. 287 of the

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[1] *Rollo*, pp. 8-23.

[2] Penned by Associate Justice Enrico A. Lanzanas with Associate Justices Arsenio J. Magpale and Sesinando E. Villon, concurring; *rollo*, pp. 24-33.

[3] *Rollo*, pp. 34-35.

[4] Penned by Judge Julio L. Villanueva; *rollo*, pp. 80-82.

[5] *Rollo*, pp. 36-37.

Supreme Court E-Library

Estancia Cadastre (subject property), for the sum of ₱33,000.00. According to the Deed, the subject property was residential and consisted of 600 square meters, more or less.

Three years thereafter, on 17 June 1996, petitioner filed with the RTC a verified Application for Registration of Title[6] over the subject property, docketed as LRC Case No. N-1025. She attached to her application the Tracing Cloth with Blue Print copies, the Deed of Absolute Sale involving the subject property, the Surveyor's Certification, the Technical Description of the land, and Declaration of Real Property in the name of petitioner and her spouse Jimmy.[7]

On 3 September 1996, the RTC transmitted the application with all the attached documents and evidences to the Land Registration Authority (LRA),[8] pursuant to the latter's function as the central repository of records relative to original registration of lands.[9] On 13 April 1998, the LRA submitted its report to the RTC that petitioner had already complied with all the requirements precedent to the publication.[10]

Subsequently, the RTC ordered that its initial hearing of LRC Case No. N-1025 be held on 17 February 1999.[11]

On 6 January 1999, the respondent Republic of the Philippines, through the Office of the Solicitor General (OSG), filed its Notice of Appearance and deputized the City Prosecutor of Iloilo City to appear on its behalf before the RTC in LRC Case No. N-1025. Thereafter, the respondent filed an Opposition to petitioner's application for registration of the subject property.[12]

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[6] *Id.* at 38-41.

[7] *Id.* at 41.

[8] *Id.* at 157.

[9] See Section 6, paragraph 2(c) of Presidential Decree No. 1529.

[10] *Rollo*, p. 157.

[11] *Id.* at 157.

[12] *Id.* at 25.

Supreme Court E-Library

The RTC then ordered that its initial hearing of LRC Case No. N-1025 be re-set on 23 July 1999.[13] The LRA, thus, issued on 16 March 1999 a Notice of Initial Hearing.[14] The Notice of Initial Hearing was accordingly posted and published.[15]

At the hearing on 23 July 1999 before the RTC, petitioner took the witness stand where she identified documentary exhibits and testified as to her purchase of the subject property, as well as her acts of ownership and possession over the same. The owners of the lots adjoining the subject property who attended the hearing were Hector Tiples, who opposed the supposed area of the subject property; and Pablo Garin, who declared that he had no objection thereto.[16]

When its turn to present evidence came, respondent, represented by the City Prosecutor, manifested that it had no evidence to contradict petitioner's application for registration. It merely reiterated its objection that the area of the subject property, as stated in the Deed of Sale in favor of petitioner

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[13] *Id.* at 158.

[14] *Id*.

[15] The Office of the Provincial Sheriff certified the posting of the Notice of Initial Hearing of LRC Case No. N-1025 in a conspicuous place on the subject property and on the bulletin board of the Municipal Building of the Municipality of Estancia, Iloilo, where the subject property is situated. (*Rollo*, p. 158.) The National Printing Office issued a Certificate of Publication dated 29 June 1999, which stated that the Notice of Initial Hearing relative to LRC No. N-1025 was published in the Official Gazette issued on 21 June 1999 and the last issue had been officially released on 29 June 1999. (*Rollo*, p. 159.) The LRA itself issued a certification dated July 1999 on sending copies of the Notice of Initial Hearing by registered mail on 21 May 1999 to all adjoining owners and to every person named in the Notice whose address is known and to all government agencies and offices concerned. (*Rollo*, p. 158.) An Affidavit of Publication from *Balita*, a newspaper of general circulation in the Philippines, through its Advertising Manager Ponciano C. Sillano, was also submitted to the RTC attesting that a Notice of Initial Hearing of LRC No. N-1025 was published in said newspaper on 29 May 1999 (*Rollo*, pp. 158-159), with the attached newspaper clippings of the Notice as published in the said newspaper (*Rollo*, p. 142).

[16] *Rollo*, p. 25.

Supreme Court E-Library

and the Tax Declarations covering the property, was only 600 square meters, while the area stated in the Cadastral Survey was 717 square meters.[17] The case was then submitted for decision.

On 26 June 2000, the RTC ruled on petitioner's application for registration in this wise:

> As to the issue that muniments of title and/or tax declarations and tax receipts/payments do not constitute competent and sufficient evidence of ownership, the same cannot hold through (sic) anymore it appearing from the records that the muniments of titles as presented by the herein applicant are coupled with open, adverse and continuous possession in the concept of an owner, hence, it can be given greater weight in support of the claim for ownership. The [herein petitioner] is a private individual who is qualified under the law being a purchaser in good faith and for value. The adverse, open, continuous and exclusive possession of the land in the concept of owner of the [petitioner] started as early as in 1992 when their predecessors in interest from Lourdes Jardeleza then to the herein [petitioner] without any disturbance of their possession as well as claim of ownership. Hence, uninterrupted possession and claim of ownership has ripen (sic) into an incontrovertible proof in favor of the [petitioner].
>
> Premises considered, the Application of Petitioner Fernanda Arbias to bring Lot 287 under the operation of the Property Registration Decree is GRANTED.
>
> Let therefore a DECREE be issued in favor of the [petitioner] Fernanda Arbias, of legal age, married to Jimmy Arbias and a resident of Golingan St. Poblacion, Estancia, Iloilo and after the Decree shall have been issued, the corresponding Certificate of Title over the said parcel of land (Lot 287) shall likewise be issued in favor of the petitioner Fernanda Arbias after the parties shall have paid all legal fees due thereon.[18]

Respondent, through the OSG, filed with the RTC a Notice of Appeal[19] of the above Decision. In its Brief[20] before the Court of Appeals, respondent questioned the granting by the RTC of the application, notwithstanding the alleged non-approval

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[17] *Id.* at 26.

[18] *Id.* at 81-82.

[19] *Id.* at 56-57.

[20] *Id.* at 58-78.

Supreme Court E-Library

of the survey plan by the Director of the Land Management Bureau (LMB); the defective publication of the notice of initial hearing; and the failure of petitioner to prove the continuous, open, exclusive and notorious possession by their predecessor-in-interest.

On 2 September 2005, the Court of Appeals rendered the assailed Decision in which it decreed, thus:

> WHEREFORE, the Decision of the trial court dated June 26, 2000 is hereby REVERSED and SET ASIDE. Accordingly, the application for original registration of title is hereby DISMISSED.[21]

The appellate court declared that the Certification of the blueprint of the subject lot's survey plan issued by the Regional Technical Director of the Lands Management Services (LMS) of the Department of Environment and Natural Resources (DENR) was equivalent to the approval by the Director of the LMB, inasmuch as the functions of the latter agency was already delegated to the former. The blueprint copy of said plan was also certified[22] as a duly authentic, true and correct copy of the original plan, thus, admissible for the purpose for which it was offered.

The Court of Appeals likewise brushed aside the allegation that the Notice of Initial Hearing posted and published was defective for having indicated therein a much bigger area than that described in the tax declaration for the subject property. The appellate court ruled that the property is defined by its boundaries and not its calculated area, and measurements contained in tax declarations are merely based on approximation, rather than computation. At any rate, the Court of Appeals reasoned further that the discrepancy in its land area did not cast doubt on the identity of the subject property.

It was on the issue of possession, however, that the Court of Appeals digressed from the ruling of the RTC. The appellate

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[21] *Id.* at 31.

[22] By Fabiola C. Cabarot, Chief of the Records Section of the Surveys Division, LMS, DENR in Iloilo City (*Rollo*, p. 27).

Supreme Court E-Library

court found that other than petitioner's own general statements and tax declarations, no other evidence was presented to prove her possession of the subject property for the period required by law. Likewise, petitioner failed to establish the classification of the subject property as an alienable and disposable land of the public domain.

Petitioner sought reconsideration[23] of the afore-mentioned Decision, but the Court of Appeals denied the same in a Resolution[24] dated 19 July 2006.

Petitioner now comes to us *via* the instant Petition, raising the following issues:

I.

WHETHER OR NOT THE PUBLIC RESPONDENT COURT OF APPEALS ERRED IN NOT HOLDING THAT THE OFFICE OF THE SOLICITOR GENERAL IS ESTOPPED FROM ASSAILING THE DECISION OF THE COURT *A QUO* AS IT DID NOT OBJECT TO PETITIONER'S EVIDENCE AND PRESENT PROOF TO REFUTE THE SAME.

II.

WHETHER OR NOT THE PUBLIC RESPONDENT COURT OF APPEALS ERRED IN DEPARTING FROM THE WELL SETTLED RULE THAT THE CONCLUSIONS OF THE COURT *A QUO*, WHICH IS IN BEST POSITION TO OBSERVE THE DEMEANOR, CONDUCT AND ATTITUDE OF THE WITNESS AT THE TRIAL, ARE GIVEN MORE WEIGHT AND MUCH MORE THAT THE OFFICE OF THE SOLICITOR GENERAL DID NOT PRESENT EVIDENCE FOR THE REPUBLIC IN THE COURT BELOW.

III.

WHETHER OR NOT THE PUBLIC RESPONDENT COURT OF APPEALS ERRED IN NOT HOLDING THAT THE LOT IN QUESTION CEASES (sic) TO BE PUBLIC LAND IN VIEW OF PETITIONER'S AND THAT OF HER PREDECESSOR'S-IN-INTEREST POSSESSION *EN CONCEPTO DE DUENO* FOR MORE THAN THIRTY (30) YEARS.

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[23] *Rollo*, pp. 98-105.

[24] *Id.* at 34-35.

Supreme Court E-Library

IV.

WHETHER OR NOT THE PUBLIC RESPONDENT COURT OF APPEALS ERRED IN DISMISSING OUTRIGHT PETITIONER'S APPLICATION FOR TITLING WITHOUT REMANDING THE INSTANT CASE FIRST TO THE COURT *A QUO* FOR FURTHER PROCEEDINGS PURSUANT TO THE RULINGS OF THIS HONORABLE COURT IN THE CASES OF *VICENTE ABAOAG VS. DIRECTOR OF LANDS*, 045 Phil. 518 AND *REPUBLIC OF THE PHILIPPINES VS. HON. SOFRONIO G. SAYO ET. AL.*, G.R. NO. 60413, OCTOBER 31, 1990.

Petitioner ascribes error on the part of the Court of Appeals for failing to conclude that she and her predecessor-in-interest possessed the subject property in the concept of an owner for more than 30 years and that the said property had already been classified as an alienable and disposable land of the public domain. Petitioner contends that her documentary and testimonial evidence were sufficient to substantiate the said allegations, as correctly and conclusively pronounced by the RTC. Petitioner likewise points out that no third party appeared before the RTC to oppose her application and possession other than respondent. Respondent, then represented by the City Prosecutor, did not even adduce any evidence before the RTC to rebut petitioner's claims; thus, respondent, presently represented by the OSG, is now estopped from assailing the RTC Decision. Petitioner finally maintains that assuming her possession was indeed not proven under the circumstances, the Court of Appeals should have remanded the case to the trial court for further proceedings, instead of dismissing it outright.

This Court finds the petition plainly without merit.

Under the Regalian doctrine, all lands of the public domain belong to the State, and the State is the source of any asserted right to ownership of land and charged with the conservation of such patrimony. This same doctrine also states that all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State.[25] Hence, the burden of

[25] *Spouses Reyes v. Court of Appeals*, 356 Phil. 606, 622 (1998).

Supreme Court E-Library

proof in overcoming the presumption of State ownership of lands of the public domain is on the person applying for registration. The applicant must show that the land subject of the application is alienable or disposable.[26]

Section 14, paragraph 1 of Presidential Decree No. 1529[27] states the requirements necessary for a judicial confirmation of imperfect title to be issued. In accordance with said provision, persons 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.

Hence, the applicant for registration under said statutory provision must specifically prove: 1) possession of the subject land under a *bona fide* claim of ownership from 12 June 1945 or earlier; and 2) the classification of the land as an alienable and disposable land of the public domain.

In the case at bar, petitioner miserably failed to discharge the burden of proof imposed on her by the law.

First, the documentary evidence that petitioner presented before the RTC did not in any way prove the length and character of her possession and those of her predecessor-in-interest relative to the subject property.

The Deed of Sale[28] merely stated that the vendor of the subject property, Jardeleza, was the true and lawful owner of

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[26] *Id*.

[27] 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.

[28] Exhibit "M" for Petitioner, *rollo*, pp. 36-37.

Supreme Court E-Library

the subject property, and that she sold the same to petitioner on 12 March 1993. The Deed did not state the duration of time during which the vendor (or her predecessors-in-interest) possessed the subject property in the concept of an owner.

Petitioner's presentation of tax declarations of the subject property for the years 1983, 1989, 1991 and 1994, as well as tax receipts of payment of the realty tax due thereon, are of little evidentiary weight. Well-settled is the rule that tax declarations and receipts are not conclusive evidence of ownership or of the right to possess land when not supported by any other evidence. The fact that the disputed property may have been declared for taxation purposes in the names of the applicants for registration or of their predecessors-in-interest does not necessarily prove ownership. They are merely *indicia* of a claim of ownership.[29]

The Survey Plan[30] and Technical Description[31] of the subject property submitted by petitioner merely plot the location, area and boundaries thereof. Although they help in establishing the identity of the property sought to be registered, they are completely ineffectual in proving that petitioner and her predecessors-in-interest actually possessed the subject property in the concept of an owner for the necessary period.

The following testimonial evidence adduced by petitioner likewise fails to persuade us:

> Direct Examination of Fernanda Arbias:
> Atty. Rey Padilla:
>
> Q: You said you bought this property from the Spouses Jardeleza. Can you tell us how long did they possess the subject property?
>
> A: 30 years.

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[29] *Director of Lands v. Intermediate Appellate Court*, G.R. No. 73246, 2 March 1993, 219 SCRA 339, 347-348.

[30] Exhibit "E" for Petitioner, *rollo*, pp. 42-43.

[31] Exhibit "F" for Petitioner, *rollo*, p. 44.

Supreme Court E-Library

Q: And you said you bought this property sometime in the year 1993. After 1993, do you know if anybody filed claim or ownership of the subject property?

A: No, Sir.

Q: Can you tell us if anybody disturbed your possession in the subject property?

A: No, Sir.

Q: Are you possessing the subject property in concept of the owner open and continuous?

A: Yes, Sir.

Q: What are the improvements you introduced in the subject property?

A: I have the intention to put up my house.[32]

Cross Examination of Fernanda Arbias:
Prosecutor Nelson Geduspan:

Q: How long have you been in open, continuous, exclusive possession of this property?

A: Almost six (6) years.

Q: And before that it is Lourdes Jardeleza who is in open, continuous and in actual possession of the property?

A: Yes, Sir.

Q: Of your own knowledge, aside from this predecessor Lourdes Jardeleza, has anybody had any claim of the property?

A: No, Sir.[33]

Quite obviously, the above-quoted statements made by petitioner during her testimony, by themselves, are nothing more than self-serving, bereft of any independent and objective substantiation. As correctly found by the Court of Appeals, petitioner cannot thereby rely on her assertions to prove her

[32] *Rollo,* p. 29.

[33] *Id.* at 29-30.

Supreme Court E-Library

claim of possession in the concept of an owner for the period required by law. Petitioner herself admitted that she only possessed the property for six years. The bare claim of petitioner that the land applied for had been in the possession of her predecessor-in-interest, Jardeleza, for 30 years, does not constitute the "well-nigh inconvertible" and "conclusive" evidence required in land registration.[34]

Second, neither does the evidence on record establish to our satisfaction that the subject property has been classified as alienable and disposable. To prove this requirement, petitioner merely points to an annotation in the lower left portion of the blueprint of the subject property, which recites:

ALL CORNERS ARE OLD POINTS.

ALIENABLE AND DISPOSABLE PROJ. 44 BLK-1 PER LC MAP. 1020 APPROVED BY THE DIRECTOR OF FORESTRY ON JULY 26, 1933. COORDINATES OF BLLM#1 N=1266998.39, E=516077.19 LAT 11°27' 27.4" N, LONG 123°08' 9.9" E.[35] (Emphasis supplied.)

Petitioner's reliance on the above inscription is misguided. In *Menguito v. Republic*,[36] we held that an applicant cannot rely on the notation in the blueprint made by a surveyor-geodetic engineer indicating that the property involved is alienable and disposable land. We emphasized therein that –

> For the original registration of title, the applicant 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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[34] *Republic v. Lee*, 274 Phil. 284, 291 (1991), cited in *Turquesa v. Valera*, 379 Phil. 618, 631 (2000).

[35] *Rollo*, p. 31.

[36] 401 Phil. 274 (2000).

Supreme Court E-Library

In the present case, petitioners cite a surveyor-geodetic engineer's notation x x x 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.[37]

In the absence of incontrovertible evidence to prove that the subject property is already classified as alienable and disposable, we must consider the same as still inalienable public domain.

The fact that no third person appeared before the RTC to oppose the petitioner's application for registration is also irrelevant. The burden of proof imposed by law on petitioner does not shift. Indeed, a person who seeks the registration of title to a piece of land on the basis of possession by himself and his predecessors-in-interest must prove his claim by clear and convincing evidence, *i.e.*, he must prove his title and should not rely on the absence or weakness of the evidence of the oppositors.[38] Furthermore, the court has the bounden duty, even in the absence of any opposition, to require the petitioner to show, by a preponderance of evidence and by positive and absolute proof, so far as possible, that he is the owner in fee simple of the lands which he is attempting to register.[39]

Petitioner cannot also invoke estoppel on the part of the OSG as to bar the latter from challenging the decision of the RTC. In land registration cases, the Solicitor General is not merely the principal, but the only legal counsel of the government.[40] The City Prosecutor appeared as counsel for the respondent before the RTC only after being deputized by the OSG. Being the representative of the Republic of the Philippines, the OSG, thus, falls within the purview of the

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[37] *Id.* at 287-288.

[38] *Republic of the Philippines v. Intermediate Appellate Court*, 317 Phil. 374, 376 (1984), cited in *Edaño v. Court of Appeals*, G.R. No. 83995, 4 September 1992, 213 SCRA 585, 593.

[39] *Maloles v. Director of Lands*, 25 Phil. 548, 552-553 (1913), cited in *Edaño v. Court of Appeals*, *id.*

[40] *Republic v. Sayo*, G.R. No. 60413, 31 October 1990, 191 SCRA 71, 76.

Supreme Court E-Library

doctrine which provides that estoppel does not operate against the state or its agents.[41] Although exceptions from this rule are allowed, as when there is a need to uphold a policy adopted to protect the public or to protect the citizens from dishonorable, capricious and ignoble acts by the government,[42] the same are not present in the instant case. In fact, public policy demands that the respondent, through the OSG, must deter dubious applications for registration of real property and protect within all legal means the inalienable public domain which rightfully belongs only to the State.

Finally, this Court cannot subscribe to the submission of the petitioner that the Court of Appeals erred in dismissing the petitioner's appeal outright instead of remanding the same to the RTC for further proceedings. The cases cited by petitioner, namely *Abaoag v. Director of Lands*[43] and *Republic v. Sayo*,[44] are not on all fours with the instant case.

In *Abaoag*, we remanded the case notwithstanding the failure of the applicants to prove their entitlement to the registration of their property because the public land laws[45] prevailing at that

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[41] See *Estate of the late Jesus S. Yujuico v. Republic*, G.R. No. 168661, 26 October 2007, 537 SCRA 513, 529-530.

[42] Estoppels against the public are little favored. They should not be invoked except in rare and unusual circumstances, and may not be invoked when they would operate to defeat the effective operation of a policy adopted to protect the public. They must be applied with circumspection and should be applied only in those special cases in which the interests of justice clearly require it. Nevertheless, the government must not be allowed to deal dishonorably or capriciously with its citizens, and must not play an ignoble part or do a shabby thing; and subject to limitations x x x. The doctrine of equitable estoppel may be invoked against public authorities as well as against private individuals. *(Republic v. Court of Appeal*s, 361 Phil. 319, 329 [1999].)

[43] 45 Phil. 518 (1923).

[44] *Supra* note 40.

[45] The Court stated in the above case that, upon a review of the Royal Decrees of Spain, it reached the conclusion that:

Spain did not assume to convert all the native inhabitants of the Philippines into trespassers of the land which they occupied, or even tenants at will. (Book 4, Title 12, Law 14 of the *Recopilación de Leyes de las Indias.*) In the Royal

Supreme Court E-Library

time granted a presumption of ownership in favor of the actual occupants of the particular property and against the State; while in *Sayo*, the case was ordered remanded for further proceedings since it was proven that an invalid compromise agreement was entered into between parties and non-parties to the land registration case, without the participation of the Solicitor General, and that some of the parties therein failed to adduce evidence to prove their land ownership.

None of the above circumstances appear to be present in the case presently before us. Simply, petitioner failed to prove that she had an imperfect title to the subject property, which could be confirmed by registration. She had every opportunity before the RTC to present all the evidence in support of her application for registration, and neither the Court of Appeals nor this Court has the duty, absent any compelling reason, to grant her a second chance by remanding the case to the RTC for further reception of evidence.

WHEREFORE, premises considered, the Petition is *DENIED*. The Decision of the Court of Appeals dated 2 September 2005 in CA-G.R. CV No. 72120 is hereby *AFFIRMED*. Costs against the petitioner.

SO ORDERED.

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

Cédula of October 15, 1754, we find the following: "Where such possessors shall not be able to produce title deeds, it shall be sufficient if they shall show that (sic) ancient possession as a valid title by prescription." We may add that every presumption of ownership under the public land laws of the Philippine Islands is in favor of the one actually occupying the land for many years, and against the Government which seeks to deprive him of it, for failure to comply with provisions of subsequently enacted registration land [acts]. (*Abaoag v. Director of Lands, supra* note 43 at 521-522.)

[*] Justice Presbitero J. Velasco, Jr. was designated to sit as additional member replacing Justice Antonio Eduardo B. Nachura per Raffle dated 3 October 2007.