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WHEREFORE, premises considered, the Order dated December 1, 1977 and the Order, dated March 8, 1978 of the lower court are hereby SET ASIDE, and the case is hereby REMANDED to the lower court for proper trial on the merits.

SO ORDERED.

Feria (Chairman), Fernan, Alampay, and *Gutierrez, Jr., JJ.*, concur.

SECOND DIVISION

[G.R. No. 55912. November 26, 1986]

HEIRS OF DOMINGO P. BALOY, represented by RICARDO BALOY, ET AL., *respondents, vs.* **COURT OF APPEALS, DIRECTOR OF LANDS and PHILIPPINE NAVY,** *respondents.*

SYLLABUS

CIVIL LAW; PROPERTY; PUBLIC LAND; STEPS TO BE FOLLOWED BEFORE ANY AFFECTED LAND CAN BE CONCLUSIVELY ADJUDGED TO BE PUBLIC LANDS. — One of the vital issues is whether or not the property became public lands pursuant to Act 627 for failure of Domingo Baloy to claim the same in accordance with the said Act. In the sister case, We affirmed the judgment of the Court of Appeals resolving the question in the negative pointing out that the property could not have been adjudged to be public land pursuant to Act 627 for the reason that since there has not been presented a formal order or decision of the Land Registration Court declaring the land public due to the failure of Domingo Baloy to file his application within the prescribed period. Quoted hereunder is the pertinent portion of Our ruling in the sister case: "A cursory reading of Sec. 3, Act 627 reveals that several steps are to be followed before any affected land can "*be conclusively adjudged to be public lands.*" Sec. 3, Act 627 reads as follows: "SEC. 3. Immediately upon receipt of the notice from the Civil

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Governor in the proceeding section mentioned it shall be the duty of the judge of the Court of Land Registration to issue a notice, stating that the lands within the limits aforesaid have been reserved for military purposes, and announced and declared to be military reservations, and that claims for all private lands, buildings, and interests therein, within the limits aforesaid, must be presented for registration under the Land Registration Act within six calendar months from the date of issuing the notice, and that all lands, buildings, and interests therein within the limits aforesaid not so presented within the time therein limited will be conclusively adjudged to be public lands, and all claims on the part of private individuals for such lands, buildings, or an interest therein not so presented will be forever barred. The clerk of the Court of Land Registration shall immediately upon the issuing of such notice by the judge cause the same to be published once a week for three successive weeks in two newspapers, one of which newspapers shall be in the English language, and one in the Spanish language in the city or province where the land lies, if there be no such Spanish or English newspapers having a general circulation in the city or province wherein the land lies, then it shall be a sufficient compliance with this section if the notice be published as herein provided, in a daily newspaper in the Spanish language and one in the English language, in the City of Manila, having a general circulation. The clerk shall also cause a duly attested copy of the notice in the Spanish language upon every person living upon or in visible possession of any part of the military reservation. If the person in possession is the head of the family living upon the land, it shall be sufficient to serve the notice upon him, and if he is absent it shall be sufficient to leave a copy of his usual place of residence. The clerk shall certify the manner in which the notices have been published, posted, and served, and his certificate shall be conclusive proof of such publication, posting, and service, but the court shall have power to cause such further notice to be even as in its opinion may be necessary.

DECISION

PARAS, *J.*:

Petitioners seek herein the review on *certiorari* of the judgment of the Court of Appeals in CA-G.R. No. 54050-R.

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The record shows that petitioners applied with the Court of First Instance of Zambales for the registration of 2 parcels of land located in Bo. Barretto, Olongapo City formerly Bo. Batain, Subic, Zambales described as Lot 1 containing an area of 223,874 square meters and Lot 3 containing an area of 8,082 in Psu-214162 marked as Exhibit R, in technical descriptions marked as Exhibits S and S-1, and in the surveyors certificate marked as Exhibit T alleging that these are part of petitioners' ancestral estate and covered by possessory information title in the name of Domingo Baloy y Petijono, petitioners' predecessor-in-interest duly inscribed on pages 80 and 81 of the Judicial Branch of Subic, Property No. 321, Record 1 (Exh. "D").

Oppositors-appellees, (respondents Director of Lands and Philippine Navy) maintain that the property used to be part of the U.S. Naval Reservation by virtue of an Executive Order of Pres. Theodore Roosevelt dated November 26, 1902; that for failure of Domingo Baloy to file his claim in accordance with Act No. 627, such claim is now forever barred; that the possession of Baloy and his heirs was merely tolerated by the U.S. Government; that when the U.S. Government relinquished to the Philippine Government all its rights to the use of the property known as Manga and Makinaya Beach in Zambales, the President of the Philippines issued Proclamation No. 320 declaring certain tracts of land of the public domain in Olongapo City and Subic in Zambales as a naval reservation subject however to the limitation that existing rights shall be respected; and that the lands in dispute are within such reservation and may not, therefore, be subject of registration.

On October 4, 1971, the trial court rendered a decision adjudicating in favor of applicants (petitioners herein) the two parcels of land. Applicants immediately moved to amend the decision for the reasons that:

"A cursory reading of the dispositive part of the decision which adjudicated the parcels of land to the applicants shows that their citizenship, legal capacities, and other personal circumstances were not stated and reflected which omission will hinder the issuance of a decree by the Land Registration Commission under Act 496, hence, it is imperative that the citizenship capacities, status and other personal circumstances of the

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applicants with their respective addresses be reflected therein. (Sec. 21 of Act 496 as amended).

Likewise, the opposition interposed by the Director of Lands as well as the Philippine Navy has not been ordered dismissed despite the decision which held that applicants have a registerable right on the property and the omission may cause a possible technical error which oppositors may assign should they choose to file an appeal. (Record on Appeal, pp. 155-156)"

On August 22, 1972, the trial court rendered an Amended Decision denying the application for registration of applicants (heirs of Domingo Baloy) in complete reversal of its former judgment. Applicants appealed to the Court of Appeals with several.

"ASSIGNMENT OF ERRORS

"I

"THE LOWER COURT, AFTER RENDERING A DECISION ADJUDGING APPLICANTS, THE OWNERS OF THE LOTS SOUGHT TO BE REGISTERED, AND SUBSEQUENTLY CONDUCTING A PROCEEDING CONFINED TO THE MATTER OF APPLICANTS' PERSONAL CIRCUMSTANCES, ERRED IN RENDERING A SECOND DECISION REVERSING THE ORIGINAL ONE, AND IN NOT INSTEAD MERELY HANDING OUT A SUPPLEMENT TO THE ORIGINAL DECISION SETTING FORTH THE DATA BROUGHT OUT IN THE SAID PROCEEDING.

"II

"THE LOWER COURT ERRED IN FAILING TO CONSIDER THAT AT THE TIME IT RENDERED ITS SECOND DECISION, THE FIRST HAS ALREADY BECOME FINAL AND COULD NO LONGER BE DISTURBED FOR FAILURE OF OPPOSITORS EITHER TO MOVE FOR THE RECONSIDERATION THEREOF OR PERFECT AN APPEAL THEREFROM, AND THAT, THEREFORE, THE SECOND DECISION IS VOID.

"III

"ASSUMING, *ARGUENDO,* ITS SECOND DECISION TO HAVE BEEN VALIDLY RENDERED, THE LOWER COURT ERRED IN HOLDING THAT THE LOTS SOUGHT TO BE REGISTERED USED TO BE PART OF THE LANDS SET APART FOR USE AS U.S. NAVAL

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RESERVATION BY THE U.S. PRESIDENT'S EXECUTIVE ORDER DATED NOVEMBER 26, 1902.

"IV

"ON THE SAME ASSUMPTION, AND ON THE FURTHER ASSUMPTION THAT THE AFORESAID U.S. PRESIDENT'S EXECUTIVE ORDER PURPORTED TO MAKE THE LOTS SOUGHT TO BE REGISTERED A PART OF A U.S. NAVAL RESERVATION, THE LOWER COURT ERRED IN NOT HOLDING THAT THE SAID ORDER WAS IN THAT RESPECT VOID AND INEFFECTIVE, BY VIRTUE OF THE TREATY OF PARIS, SINCE THE SAID LOTS WERE THEN ALREADY PRIVATE LANDS IN THE POSSESSION OF APPLICANTS' COMMON PREDECESSOR IN INTEREST UNDER A POSSESSORY INFORMATION TITLE.

"V

"ON THE SAME ASSUMPTIONS, THE LOWER COURT ERRED IN CONSIDERING THE LOTS SOUGHT TO BE REGISTERED SUBJECT TO THE OPERATION OF ACT NO. 627, SINCE THE SAME WERE NEVER A PART NOR COULD THEY HAVE BEEN VALIDLY MADE A PART OF A U.S. NAVAL RESERVATION, AS THEY WERE COVERED BY A POSSESSORY INFORMATION TITLE.

"VI

"ON THE SAME ASSUMPTIONS, AND ON THE FURTHER ASSUMPTION THAT THE LOTS SOUGHT TO BE REGISTERED BECAME PART OF A U.S. NAVAL RESERVATION, THE LOWER COURT ERRED IN NOT HOLDING THAT APPLICANTS NEVERTHELESS HAVE A REGISTRABLE TITLE TO THE PARCELS OF LAND IN QUESTION BY VIRTUE OF THEIR POSSESSORY INFORMATION TITLE AS WELL AS THEIR REQUISITE POSSESSION AND OCCUPATION FOR MORE THAN THE REQUISITE PERIOD, ACT NO. 627 NOTWITHSTANDING.

"VII

"THE LOWER COURT ERRED IN NOT HOLDING THAT THE LOTS SOUGHT TO BE REGISTERED BEING SUBJECT TO APPLICANTS' PRIVATE RIGHTS, ARE EXCEPTED FROM THE OPERATION OF PROCLAMATION NO. 328 OF THE PRESIDENT OF THE PHILIPPINES.

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"VIII

"THE LOWER COURT ERRED IN DENYING APPLICANTS' APPLICATION FOR REGISTRATION."

Before the rendition of decision by the Court of Appeals in this case, a sister case, CA-G.R. No. 52039-R, involving a portion of the same ancestral estate, the same parties and the same issues, was decided in favor of petitioners herein by the said court. The decision in said case has been appealed to Us on *certiorari* docketed as G.R. No. L-46145 Republic of the Philippines (Bureau of Lands) *versus* Hon. Court of Appeals, and heirs of Domingo Baloy, represented by Ricardo Baloy Et. Al., wherein We affirmed the appealed decision rendering a favorable judgment for the petitioners herein (applicants, heirs of Domingo Baloy).

One of the vital issues is whether or not the property became public lands pursuant to Act 627 for failure of Domingo Baloy to claim the same in accordance with the said Act. In the sister case, We affirmed the judgment of the Court of Appeals resolving the question in the negative pointing out that the property could not have been adjudged to be public land pursuant to Act 627 for the reason that since there has not been presented a formal order or decision of the Land Registration Court declaring the land public due to the failure of Domingo Baloy to file his application within the prescribed period. Quoted hereunder is the pertinent portion of Our ruling in the sister case:

"A cursory reading of Sec. 3, Act 627 reveals that several steps are to be followed before any affected land can "*be conclusively adjudged to be public lands.*" Sec. 3, Act 627 reads as follows:

> "SEC. 3. Immediately upon receipt of the notice from the Civil Governor in the proceeding section mentioned it shall be the duty of the judge of the Court of Land Registration to issue a notice, stating that the lands within the limits aforesaid have been reserved for military purposes, and announced and declared to be military reservations, and that claims for all private lands, buildings, and interests therein, within the limits aforesaid, must be presented for registration under the Land Registration Act within six calendar months from the date of issuing the notice, and that all lands, buildings, and interests therein within the limits aforesaid not so

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> presented within the time therein limited will be conclusively adjudged to be public lands, and all claims on the part of private individuals for such lands, buildings, or an interest therein not so presented will be forever barred. The clerk of the Court of Land Registration shall immediately upon the issuing of such notice by the judge cause the same to be published once a week for three successive weeks in two newspapers, one of which newspapers shall be in the English language, and one in the Spanish language in the city or province where the land lies, if there be no such Spanish or English newspapers having a general circulation in the city or province wherein the land lies, then it shall be a sufficient compliance with this section if the notice be published as herein provided, in a daily newspaper in the Spanish language and one in the English language, in the City of Manila, having a general circulation. The clerk shall also cause a duly attested copy of the notice in the Spanish language upon every person living upon or in visible possession of any part of the military reservation. If the person in possession is the head of the family living upon the land, it shall be sufficient to serve the notice upon him, and if he is absent it shall be sufficient to leave a copy of his usual place of residence. The clerk shall certify the manner in which the notices have been published, posted, and served, and his certificate shall be conclusive proof of such publication, posting, and service, but the court shall have power to cause such further notice to be even as in its opinion may be necessary.

Clearly under said provision, private land could be deemed to have become public land only by virtue of a judicial declaration after due notice and hearing. It runs contrary therefore to the contention of petitioners that failure to present claims set forth under Sec. 2 of Act 627 made the land *ipso facto* public without any need of judicial pronouncements. Petitioner in making such declaration relied on Sec. 4 of Act 627 alone. But in construing a statute the entire provisions of the law must be considered in order to establish the correct interpretation as intended by the law-making body. Act 627 by its terms is not self-executory and requires implementation by the Court of Land Registration. Act 627, to the extent that it creates a forfeiture, is a penal statute in derogation of private rights, so it must be strictly construed so as to safeguard private respondents' rights. Significantly, petitioner does not even allege the existence of any judgment of the Land Registration court with respect to the land in question. Without a judgment or order declaring the land to be public, its private character and the possessory information title over it must be respected. Since no such order has been rendered by the Land Registration Court it necessarily

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follows that it never become public land thru the operation of Act 627. To assume otherwise is to deprive private respondents of their property without due process of law. In fact it can be presumed that the notice required by law to be given by publication and by personal service did not include the same of Domingo Baloy and the subject land, and hence he and his land were never brought within the operation of Act 627 as amended. The procedure laid down in Sec. 3 is a requirement of due process. "Due process requires that the statutes under which it is attempted to deprive a citizen of private property without or against his consent must, as in expropriation cases, be strictly complied with because such statutes are in derogation of general rights." (*Arriete vs. Director of Public Works*, 58 Phil. 507, 508, 511).

We also find with favor private respondents' views that court judgments are not to be presumed. It would be absurd to speak of a judgment by presumption. If it could be contended that such a judgment may be presumed, it could equally be contended that applicants' predecessory Domingo Baloy presumably seasonably filed a claim, in accordance with the legal presumption that a person takes ordinary care of his concerns, and that a judgment in his favor was rendered.

The finding of respondent court that during the interim of 57 years from November 26, 1902 to December 17, 1959 (when the U.S. Navy possessed the area) the possessory rights of Baloy or heirs were merely suspended and not lost by prescription, is supported by Exhibit "U", a communication or letter No. 1108-63, dated June 24, 1963, which contains an official statement of the position of the Republic of the Philippines with regard to the status of the land in question. Said letter recognizes the fact that Domingo Baloy and/or his heirs have been in continuous possession of said land since 1894 as attested by an "Information Possessoria" Title, which was granted by the Spanish Government. Hence, the disputed property is private land and this possession was interrupted only by the occupation of the land by the U.S. Navy in 1945 for recreational purposes. The U.S. Navy eventually abandoned the premises. The heirs of the late Domingo P. Baloy, are now in actual possession, and this was been so since the abandonment by the U.S. Navy. A new recreation area is now being used by the U.S. Navy personnel and this place is remote from the land in question.

Clearly, the occupancy of the U.S. Navy was not in the concept of owner. It partakes of the character of a *commodatum*. It cannot therefore militate against the title of Domingo Baloy and his successors-in-interest. One's ownership of a thing may be lost by prescription by reason of

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another's possession if such possession be under claim of ownership, not where the possession is only intended to be transient, as in the case of the U.S. Navy's occupation of the land concerned, in which case the owner is not divested of his title, although it cannot be exercised in the meantime.

WHEREFORE, premises considered, finding no merit in the petition the appealed decision is hereby AFFIRMED.

SO ORDERED."

Moreover, the Director of Lands, in order to support his claim that the subject property became private pursuant to Act 627, must also prove that it lies within the military reservation. A map, (Exhibit 3 for Director of Lands) was presented by the Director of Lands for the Land Registration Court to consider. Anent this piece of evidence, petitioners herein pointed out the following salient facts in the brief they filed with the respondent Court of Appeals.

"But, happily for applicants, this very map, insofar as they are concerned, establishes that the lots sought to be registered lay outside of, albeit contiguous to, the naval reservation set apart by the U.S. President's Executive Order referred to by the court below. From am examination thereof in connection with the testimony of cartographer Dela Cruz, as summarized in the lower court's decision itself,[1] the following appears: (a) the portion of the map enclosed in red line and marked therein as Exhibit "3-A" represents the naval reservation set apart by the U.S. Executive Order adverted to by the court below; (b) the portion shaded light blue and indicated as Exhibit "3-E" represents the parcels of land herein sought to be registered; and (c) plainly, the portion Exhibit "3-E" lies beyond the boundaries of the portion Exhibit "3-A", although adjacent thereto."

"Thus, taking into account Exhibit "3" itself of oppositors, the lower court's second judgment, i.e., that the lots sought to be registered used to be part of the U.S. naval reservation set apart by U.S. President Theodore Roosevelt's Executive Order dated November 26, 1902, falls to the Found. With it, therefore, falls the trial court's assumption that the said parcels of land were involved in a land registration proceeding under Act 627 that resulted in barring forever applicants 'claim over the lots sought to be registered."

Not a single word is found in respondent Court of Appeals' decision presently sought to be reviewed concerning this controlling

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piece of evidence, nor concerning the well-nigh conclusive letter from the Bureau of Lands marked as Exhibit "F". As pointed out by petitioners in their brief:

"Moreover, there is the letter dated June 30, 1966, of the Bureau of Lands, through the Chief of its Legal Division, officially declaring that 'the land is not a part of the public domain' and that therefore 'this Office has no jurisdiction over the premises.'[1] This Bureau of Lands further buttressed by approving the applicants' survey plan over the tract of land (PSU-214168),[2] and the technical description of the same.[3]

"How, in view of all the foregoing, could there be even a scintilla of doubt that the tract of land here involved was never a part of a U.S. naval reservation."

WHEREFORE, premises considered, finding the petition meritorious, the assailed decision is hereby REVERSED and SET ASIDE, and a new one is hereby rendered granting the applications for land registration of the petitioners as prayed for.

SO ORDERED.

Feria (Chairman), Alampay and *Feliciano,* JJ.*, concur.

Fernan, J., no part.

Gutierrez, Jr., I concur *pro hoc vice* in the results.

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[1] Exh. "F".

[2] Exh. "R".

[3] Exhs. "S" and "S-1".

* *J.* Feliciano was designated in lieu of *J.* Fernan.