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SECOND DIVISION

[G.R. No. 193618. November 28, 2016]

HEIRS OF LEOPOLDO DELFIN and SOLEDAD DELFIN, namely EMELITA D. FABRIGAR AND LEONILO C. DELFIN, *petitioners, vs.* **NATIONAL HOUSING AUTHORITY,** *respondent.*

SYLLABUS

1. CIVIL LAW; LAND REGISTRATION; PROPERTY REGISTRATION DECREE (PD NO. 1529); FOR ACQUISITIVE PRESCRIPTION TO SET IN PURSUANT TO SECTION 14(2) OF PD. NO. 1529, IT IS REQUIRED THAT THE PROPERTY IS ESTABLISHED TO BE PRIVATE IN CHARACTER AND THE APPLICABLE PRESCRIPTIVE PERIOD UNDER EXISTING LAWS HAD PASSED.— Petitioners are erroneously claiming title based on acquisitive prescription under Section 14(2) of Presidential Decree No. 1529. x x x. For acquisitive prescription to set in pursuant to Section 14(2) of Presidential Decree No. 1529, two (2) requirements must be satisfied; first, the property is established to be private in character; and second the applicable prescriptive period under existing laws had passed.

2. ID.; ID.; ID.; CLASSIFICATION OF PROPERTY; FOR PRESCRIPTION TO BE VIABLE, THE PUBLICLY-OWNED LAND MUST BE PATRIMONIAL OR PRIVATE IN CHARACTER AT THE ONSET, FOR POSSESSION FOR THIRTY (30) YEARS DOES NOT CONVERT IT INTO PATRIMONIAL PROPERTY.— Property – such as land – is either of public dominion or private ownership. "Land is considered of public dominion if it either: (a) is intended for public use; or (b) belongs to the State, without being for public use, and is intended for some public service or for the development of the national wealth." Land that belongs to the state but which is not or is no longer intended for public use, for some public service or for the development of the national wealth, is patrimonial property; it is property owned by the State in its *private* capacity. Provinces, cities, and municipalities

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may also hold patrimonial lands. Private property "consists of all property belonging to private persons, either individually or collectively," as well as "the patrimonial property of the State, provinces, cities, and municipalities." Accordingly, only publicly owned lands which are patrimonial in character are susceptible to prescription under Section 14(2) of Presidential Decree No. 1529. Consistent with this, Article 1113 of Civil Code demarcates properties of the state, which are not patrimonial in character, as being not susceptible to prescription x x x. Contrary to petitioners' theory then, for prescription to be viable, the publicly-owned land must be patrimonial or private in character at the onset. Possession for thirty (30) years does not convert it into patrimonial property.

3. ID.; ID.; ID.; FOR LAND OF PUBLIC DOMAIN TO BE CONVERTED INTO PATRIMONIAL PROPERTY, THERE MUST BE AN EXPRESS DECLARATION – IN THE FORM OF A LAW DULY ENACTED BY CONGRESS OR A PRESIDENTIAL PROCLAMATION IN CASES WHERE THE PRESIDENT IS DULY AUTHORIZED BY LAW – THAT THE PUBLIC DOMINION PROPERTY IS NO LONGER INTENDED FOR PUBLIC SERVICE OR THE DEVELOPMENT OF THE NATIONAL WEALTH OR THAT THE PROPERTY HAS BEEN CONVERTED INTO PATRIMONIAL PROPERTY.— For land of the public domain to be converted into patrimonial property, there must be an express declaration – "in the form of a law duly enacted by Congress or a Presidential Proclamation in cases where the President is duly authorized by law" – that "the public dominion property is no longer intended for public service or the development of the national wealth or that the property has been converted into patrimonial." x x x. [I]n this Court's 2013 Resolution in *Heirs of Malabanan v. Republic*: [W]hen public land is no longer intended for public service or for the development of the national wealth, thereby effectively removing the land from the ambit of public dominion, a declaration of such conversion must be made in the form of a law duly enacted by Congress or by a Presidential proclamation in cases where the President is duly authorized by law to that effect.

4. ID.; ID.; ID.; ID.; A MERE INDORSEMENT OF THE EXECUTIVE SECRETARY IS NOT THE LAW OR PRESIDENTIAL PROCLAMATION REQUIRED FOR

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CONVERTING LAND OF THE PUBLIC DOMAIN INTO PATRIMONIAL PROPERTY AND RENDERING IT SUSCEPTIBLE TO PRESCRIPTION.— Attached to the present Petition was a copy of a May 18, 1988 supplemental letter to the Director of the Land Management Bureau. This referred to an executive order, which stated that petitioners' property was no longer needed for any public or quasi-public purposes x x x. However, a mere indorsement of the executive secretary is not the law or presidential proclamation required for converting land of the public domain into patrimonial property and rendering it susceptible to prescription. There then was no viable declaration rendering the Iligan property to have been patrimonial property at the onset. Accordingly, regardless of the length of petitioners' possession, no title could vest on them *by way of prescription*.

5. ID.; ID.; THE PUBLIC LAND ACT (COMMONWEALTH ACT NO. 141); BEFORE CLAIMS OF TITLES TO PUBLIC DOMAIN LANDS MAY BE CONFIRMED, THE APPLICANTS MUST PROVE THAT THE LAND SUBJECT OF THE CLAIM IS AGRICULTURAL LAND, AND THAT THEY HAVE BEEN IN OPEN, CONTINUOUS, AND EXCLUSIVE POSSESSION OF THE LAND SINCE JUNE 12, 1945.— While petitioners may not claim title by prescription, they may, nevertheless, claim title pursuant to Section 48 (b) of Commonwealth Act No. 141 (the Public Land Act). Section 48 enabled the confirmation of claims and issuance of titles in favor of citizens occupying or claiming to own lands of the public domain or an interest therein. Section 48 (b) specifically pertained to those who "have 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, since June 12, 1945" x x x. Section 48(b) of the Public Land Act therefore requires that two (2) requisites be satisfied before claims of titles to public domain lands may be confirmed: first, that the land subject of the claim is agricultural land; and second, open, continuous, notorious , and exclusive possession of the land since June 12, 1945.

6. ID.; ID.; ID.; PETITIONERS ARE ENTITLED TO JUST COMPENSATION FOR THE TAKING OF THEIR PROPERTY, HAVING ESTABLISHED THAT THEY

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ACQUIRED TITLE OVER THE SAME PURSUANT TO SECTION 48(B) OF THE PUBLIC LAND ACT.— [P]etitioners acquired title over the Iligan Property pursuant to Section 48(b) of the Public Land Act. First, there is no issue that the Iligan Property had already been declared to be alienable and disposable land. Respondent has admitted this and Deputy Public Land Inspector Pio Lucero, Jr.'s letters to the Director of Lands attest to this. Second, although the Delfin Spouses' testimonial evidence and tax declarations showed that their possession went only as far back as 1952, Deputy Public Land Inspector Pio Lucero, Jr.'s letters to the Director of Land nevertheless attest to a previous finding that the property had already been occupied as early as June 1945. Having shown that the requisites of Section 48(b) of the Public Land Act have been satisfied and having established their rights to the Iligan Property, it follows that petitioners must be compensated for its taking.

APPEARANCES OF COUNSEL

Eltanal Maglinao Ugat & Partners for petitioners.
Mary Joy De Guzman-Baybay for respondent.

D E C I S I O N

LEONEN, *J.*:

Under Commonwealth Act No. 141, a claimant may acquire alienable and disposable public land upon evidence of exclusive and notorious possession of the land since June 12, 1945. The period to acquire public land by acquisitive prescription under Presidential Decree No. 1529 begins to run only after the promulgation of a law or a proclamation by the President stating that the land is no longer intended for public use or the development of national wealth.

This resolves a Petition for Review on Certiorari[1] under Rule 45 of the 1997 Rules of Civil Procedure praying that the

[1] *Rollo*, pp. 50-67.

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assailed February 26, 2010 Decision[2] and July 2, 2010 Resolution[3] of the Court of Appeals in CA-G.R. CV No. 80017 be reversed, and that the May 20, 2002 Decision[4] of the Regional Trial Court in Civil Case No. II-1801 be reinstated.

The Regional Trial Court's May 20, 2002 Decision awarded compensation to Leopoldo and Soledad Delfin (Delfin Spouses) for an Iligan City property subsequently occupied by respondent National Housing Authority.

The assailed Court of Appeals Decision reversed the Regional Trial Court's May 20, 2002 Decision and dismissed the Delfin Spouses' complaint seeking compensation. The assailed Court of Appeals Resolution denied their Motion for Reconsideration.

In a Complaint for "Payment of Parcel(s) of Land and Improvements and Damages"[5] the Delfin Spouses claimed that they were the owners of a 28,800 square meter parcel of land in Townsite, Suarez, Iligan City (the "Iligan Property").[6] They allegedly bought the property in 1951 from Felix Natingo and Carlos Carbonay, who, allegedly, had been in actual possession of the property since time immemorial.[7] The Delfin Spouses had been declaring the Iligan Property in their names for tax purposes since 1952,[8] and had been planting it with mangoes, coconuts, corn, seasonal crops, and vegetables.[9]

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[2] *Id*. at 69-85. The Decision was penned by Associate Justice Romulo V. Borja, and concurred in by Associate Justices Edgardo T. Lloren and Angelita A. Gacutan of the Twenty-First Division, Court of Appeals, Cagayan de Oro.

[3] *Id*. at 99-105. The Resolution was penned by Associate Justice Romulo V. Borja, and concurred in by Associate Justices Edgardo T. Lloren and Angelita A. Gacutan of the Former Twenty-First Division, Court of Appeals, Cagayan de Oro.

[4] *Id*. at 149-159. The Decision was penned by Presiding Judge Maximo B. Ratunil of the Regional Trial Court of Lanao Del Norte.

[5] *Id*. at 112-115.

[6] *Id*. at 11.

[7] *Id*. at 11 and 144.

[8] *Id*. at 11.

[9] *Id*. at 120-121.

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They further alleged that, sometime in 1982, respondent National Housing Authority forcibly took possession of a 10,798 square meter portion of the property.[10] Despite their repeated demands for compensation, the National Housing Authority failed to pay the value of the property.[11] The Delfin Spouses thus, filed their Complaint.[12]

They asserted that the property's reasonable market value was not less than ₱40 per square meter[13] and that its improvements consisting of fruit-bearing trees should be valued at ₱13,360.00 at the time of taking.[14] They similarly claimed that because the National Housing Authority occupied the property, they were deprived of an average net yearly income of ₱10,000.00.[15]

In its Answer,[16] the National Housing Authority alleged that the Delfin Spouses' property was part of a military reservation area.[17] It cited Proclamation No. 2151 (actually, Proclamation No. 2143, the National Housing Authority made an erroneous citation) as having supposedly reserved the area in which property is situated for Iligan City's slum improvement and resettlement program, and the relocation of families who were dislocated by the National Steel Corporation's five-year expansion program.[18]

According to the National Housing Authority, Proclamation No. 2151 also mandated it to determine the improvements' valuation.[19] Based on the study of the committee it created, the

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[10] *Id*. at 11 and 144.

[11] *Id*. at 11.

[12] *Id*. at 10.

[13] *Id*. at 11.

[14] *Id*.

[15] *Id*.

[16] *Id*. at 116-119.

[17] *Id*. at 144.

[18] *Id*.

[19] *Id*. at 145.

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value of the property was supposedly only ₱4.00 per square meter, regardless of the nature of the improvements on it.[20]

It emphasized that among all claimants, only the Delfin Spouses and two others remained unpaid because of their disagreement on the property's valuation.[21]

The National Housing Authority failed to appear during the pre-trial conference.[22] Upon the Delfin Spouses' motion, the Regional Trial Court declared the National Housing Authority in default.[23] The case was set for the ex-parte reception of the Delfin Spouses' evidence.[24]

On May 20, 2002, the Regional Trial Court rendered a Decision in favor of the Delfin Spouses.[25] The dispositive portion of the Decision read:

> WHEREFORE, premises considered, and by virtue of the existence of preponderance of evidence, the Court hereby enters a judgment in favor of spouses-plaintiffs Leopoldo Delfin and Soledad Delfin against defendant National Housing Authority, its agents or representative/s ordering to pay the former the following, to wit:
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> 1) ₱400,000.00 representing the reasonable market value of a portion of the land taken by the defendant containing an area of 10,000 square meters at the rate of ₱40.00 per square meters plus legal interest per annum from the filing in Court of the complaint until fully paid;
>
> 2) ₱13,360.00 representing the value of the permanent improvements that were damaged and destroyed plus legal interest per annum from the time of the filing of this case until fully paid;

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[20] *Id*.

[21] *Id*.

[22] *Id*. at 12.

[23] *Id*.

[24] *Id*. at 12-13.

[25] *Id*. at 159.

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3) ₱10,000.00, representing attorney's fees;

4) The costs of this suit.[26]

The Regional Trial Court stated that it had no reason to doubt the evidence presented by the Delfin Spouses:

> On this regards (sic), the Court finds no reason to doubt the veracity of the plaintiff['s evidence], there being none to controvert the same. If said evidence did not ring true, the defendant should have and could have easily destroyed their probatory value. Such indifference can only mean that defendant had not (sic) equitable rights to protect or assert over the disputed property together with all the improvements existing thereon. This, the defendant did not do so and the Court finds no cogent reasons to disbelieve or reject the plaintiffs categorical declarations on the witness stand under a solemn oath, for the same are entitled to full faith and credence. Indeed, if the defendant National Housing Authority have been blinded with the consequence of their neglect and apathy, then defendant have no right to pass on to the spouses-plaintiffs of their negligence and expect the Court to come to their rescue. For it is now much too late in the day to assail the decision which has become final and executory.[27]

The National Housing Authority filed a Motion for Reconsideration, but this was denied in the Regional trial Court's September 10, 2002 Resolution.[28]

On the National Housing Authority's appeal, the Court of Appeals rendered the assailed February 26, 2010 Decision reversing the Regional Trial Court:[29]

> WHEREFORE, the appeal is GRANTED. The assailed Decision is REVERSED and SET ASIDE. Consequently, appellees' complaint for compensation is DISMISSED for lack of merit. The property taken by appellant NHA and for which compensation is sought by appellees is hereby DECLARED land of the public domain.[30]

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[26] *Id*. at 159.

[27] *Id*. at 157.

[28] *Id*. at 14-15.

[29] *Id*. at 69-85.

[30] *Id*. at 26.

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The Court of Appeals ruled that the characterization of the property is no longer an issue because the National Housing Authority already conceded that the property is disposable public land by citing Proclamation No. 2151, which characterized the property as "a certain disposable parcel of public land."[31] However, the Delfin Spouses supposedly failed to establish their possession of the property since June 12, 1945, as required in Section 48(b) of the Public Land Act.[32]

During the pendency of their petition before the Court of Appeals. Both Leopoldo and Soledad Delfin both passed away. Lepoldo passed away on February 3, 2005 and Soledad on June 22, 2004. Their surviving heirs, Emelita D. Fabrigar and Leonilo C. Delfin filed a Motion for Substitution before the Court of Appeals, which was not acted upon.[33]

In its assailed July 2, 2010 Resolution,[34] the Court of Appeals denied the Motion for Reconsideration filed by the heirs of the Delfin Spouses.

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[31] *Id*. at 20.

[32] *Id*. at 24.

Com. Act No. 141, Sec. 48(b) provides:

Section 48. The following-described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor under the Land Registration Act, to wit:

. . . .

(b) Those who by themselves or through their predecessors-in-interest have 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, since June 12, 1945, immediately preceding the filing of the application for confirmation of title, except when prevented by war or *force majeure*. These shall be conclusively presumed to have performed all the conditions essential to a government grant and shall be entitled to a certificate of title under the provisions of this chapter.

[33] *Id*. at 52.

[34] *Rollo*, pp. 99-105.

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Hence, this petition which was filed by the surviving heirs of the Delfin Spouses, Emelita D. Fabrigar and Leonilo C. Delfin (petitioners).[35]

For resolution is the issue of whether petitioners are entitled to just compensation for the Iligan City property occupied by respondent National Housing Authority.

I

The right to be justly compensated whenever private property is taken for public use cannot be disputed. Article III, Section 9 of the 1987 Constitution states that

> Section 9. Private property shall not be taken for public use without just compensation.

The case now hinges on whether the petitioners and their predecessors-in-interests have been in possession of the Iligan Property for such duration and under such circumstances as will enable them to claim ownership.

Petitioners argue that they and their predecessors-in-interests' open, continuous, exclusive, and notorious possession of the Iligan Property for more than 30 years *converted* the property from public to private.[36] They then posit that they acquired ownership of the property through acquisitive prescription under Section 14(2) of Presidential Decree No. 1529.[37]

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[35] *Id*. at 52.

[36] *Id*. at 60.

[37] *Id*.

> Pres. Decree No. 1529, Sec. 14 states:
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> Section 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:
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> . . . . . .
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> (2) Those who have acquired ownership of private lands by prescription under the provision of existing laws.
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> . . . . . .

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Petitioners also assert that the Court of Appeals disregarded certifications and letters from government agencies, which support their claims, particularly, their and their predecessors-in-interest's possession since June 12, 1945.[38]

Respondent counters, citing the Court of Appeals Decision, that petitioners cannot rely on Section 14(2) of Presidential Decree No. 1529 because the property was not yet declared private land when they filed their Complaint.[39]

II

Petitioners are erroneously claiming title based on acquisitive prescription under Section 14(2) of Presidential Decree No. 1529.

Section 14 reads in full:

Section 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.

Where the land is owned in common, all the co-owners shall file the application jointly.

Where the land has been sold under pacto de retro, the vendor a retro may file an application for the original registration of the land, provided, however, that should the period for redemption expire during the pendency of the registration proceedings and ownership to the property consolidated in the vendee a retro, the latter shall be substituted for the applicant and may continue the proceedings.

A trustee on behalf of his principal may apply for original registration of any land held in trust by him, unless prohibited by the instrument creating the trust.

[38] *Rollo*, p. 63.

[39] *Id*. at 176-177.

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(2) *Those who have acquired ownership of private lands by prescription under the provision of existing laws.*

(3) Those who have acquired ownership of private lands or abandoned river beds by right of accession or accretion under the existing laws.

(4) Those who have acquired ownership of land in any other manner provided for by law.

Where the land is owned in common, all the co-owners shall file the application jointly.

Where the land has been sold under pacto de retro, the vendor a retro may file an application for the original registration of the land, provided, however, that should the period for redemption expire during the pendency of the registration proceedings and ownership to the property consolidated in the vendee a retro, the latter shall be substituted for the applicant and may continue the proceedings.

A trustee on behalf of his principal may apply for original registration of any land held in trust by him, unless prohibited by the instrument creating the trust. [Emphasis supplied]

For acquisitive prescription to set in pursuant to Section 14(2) of Presidential Decree No. 1529, two (2) requirements must be satisfied: first, the property is established to be private in character; and second the applicable prescriptive period under existing laws had passed.

Property — such as land — is either of public dominion or private ownership.[40]

"Land is considered of public dominion if it either: (a) is intended for public use; or (b) belongs to the State, without being for public use, and is intended for some public service or for the development of the national wealth."[41] Land that belongs to the state but which is not or is no longer intended

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[40] CIVIL CODE, Art. 419 provides:

Article 419. Property is either of public dominion or of private ownership.

[41] *Heirs of Malabanan v. Republic*, 111 Phil. 141, 160 (2013). [Per *J.* Bersamin, *En Banc*], *citing* CIVIL CODE, Art. 420.

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for public use, for some public service or for the development of the national wealth, is patrimonial property;[42] it is property owned by the State in its *private* capacity. Provinces, cities, and municipalities may also hold patrimonial lands.[43]

Private property "consists of all property belonging to private persons, either individually or collectively,"[44] as well as "the patrimonial property of the State, provinces, cities, and municipalities."[45]

Accordingly, only publicly owned lands which are patrimonial in character are susceptible to prescription under Section 14(2) of Presidential Decree No. 1529. Consistent with this, Article 1113 of Civil Code demarcates properties of the state, which are not patrimonial in character, as being not susceptible to prescription:

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[42] CIVIL CODE, Arts. 421 and 422 provide:

Article 421. All other property of the State, which is not of the character stated in the preceding article, is patrimonial property.

Article 422. Property of public dominion, when no longer intended for public use or for public service, shall form part of the patrimonial property of the State.

[43] CIVIL CODE, Arts. 423 and 424 state:

> Article 423. The property of provinces, cities, and municipalities is divided into property for public use and patrimonial property.
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> Article 424. Property for public use, in the provinces, cities, and municipalities, consist of the provincial roads, city streets, municipal streets, the squares, fountains, public waters, promenades, and public works for public service paid for by said provinces, cities, or municipalities.
>
> All other property possessed by any of them is patrimonial and shall be governed by this Code, without prejudice to the provisions of special laws.

[44] CIVIL CODE, Art. 425 states:

> Article 425. Property of private ownership, besides the patrimonial property of the State, provinces, cities, and municipalities, consists of all property belonging to private persons, either individually or collectively.

[45] CIVIL CODE, Art 425.

Art. 1113. All things which are within the commerce of men are susceptible of prescription, unless provided. Property of the State or any of its subdivisions not patrimonial in character shall not be the object of prescription.

Contrary to petitioners' theory then, for prescription to be viable, the publicly-owned land must be patrimonial or private in character at the onset. Possession for thirty (30) years does not convert it into patrimonial property.

For land of the public domain to be converted into patrimonial property, there must be an express declaration — "in the form of a law duly enacted by Congress or a Presidential Proclamation in cases where the President is duly authorized by law"[46] that "the public dominion property is no longer intended for public service or the development of the national wealth or that the property has been converted into patrimonial."[47]

This Court's 2009 Decision in *Heirs of Malabanan v. Republic*[48] explains:

> Nonetheless, Article 422 of the Civil Code states that "[p]roperty of public dominion, when no longer intended for public use or for public service, shall form part of the patrimonial property of the State." It is this provision that controls how public dominion property may be converted into patrimonial properly susceptible to acquisition by prescription. After all, Article 420 (2) makes clear that those property "which belong to the State, without being for public use, and are intended for some public service or for the development of the national wealth" are public dominion property. For as long as the property belongs to the State, although already classified as alienable or disposable, it remains property of the public dominion if when * it is "intended for some public service or for the development of the national wealth."

Accordingly, there must be an express declaration by the State that the public dominion property is no longer intended for public

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[46] *Heirs of Malabanan v. Republic*, 605 Phil. 244, 279 (2009) [Per *J.* Tinga, *En Banc*].

[47] *Id.*

[48] 605 Phil. 244 (2009) [Per *J.* Tinga, *En Banc*].

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service or the development of the national wealth or that the property has been converted into patrimonial. Without such express declaration, the property, even if classified as alienable or disposable, remains property of the public dominion, pursuant to Article 420 (2), and thus incapable of acquisition by prescription. It is only when such alienable and disposable lands are expressly declared by the State to be no longer intended for public service or for the development of the national wealth that the period of acquisitive prescription can begin to run. Such declaration shall be in the form of a law duly enacted by Congress or a Presidential Proclamation in cases where the President is duly authorized by law.[49]

This was reiterated in this Court's 2013 Resolution in *Heirs of Malabanan v. Republic*:[50]

[W]hen public land is no longer intended for public service or for the development of the national wealth, thereby effectively removing the land from the ambit of public dominion, a declaration of such conversion must be made in the form of a law duly enacted by Congress or by a Presidential proclamation in cases where the President is duly authorized by law to that effect.[51]

Attached to the present Petition was a copy of a May 18, 1988 supplemental letter to the Director of the Land Management Bureau.[52] This referred to an executive order, which stated that petitioners' property was no longer needed for any public or quasi-public purposes:

That it is very clear in the 4th Indorsement of the Executive Secretary dated April 24, 1954 the portion thereof that will not be needed for any public or quasi-public purposes, be disposed in favor of the actual occupants under the administration of the Bureau of Lands (copy of the Executive Order is herewith attached for ready reference)[53]

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[49] *Id*. at 278-279.

[50] 717 Phil. 141 (2013) [Per *J*. Bersamin, *En Banc*].

[51] *Id*. at 162.

[52] *Rollo*, p. 139.

[53] *Id*.

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However, a mere indorsement of the executive secretary is not the law or presidential proclamation required for converting land of the public domain into patrimonial property and rendering it susceptible to prescription. There then was no viable declaration rendering the Iligan property to have been patrimonial property at the onset. Accordingly, regardless of the length of petitioners' possession, no title could vest on them *by way of prescription*.

III

While petitioners may not claim title by prescription, they may, nevertheless, claim title pursuant to Section 48 (b) of Commonwealth Act No. 141 (the Public Land Act).

Section 48 enabled the confirmation of claims and issuance of titles in favor of citizens occupying or claiming to own lands of the public domain or an interest therein. Section 48 (b) specifically pertained to those who "have 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, since June 12, 1945":

> Sec. 48. The following-described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor under the Land Registration Act, to wit:
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> . . . . . .
>
> (b) Those who by themselves or through their predecessors-in-interest have 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, since June 12, 1945, immediately preceding the filing of the application for confirmation of title, except when prevented by war or force majeure. These shall be conclusively presumed to have performed all the conditions essential to a government grant and shall be entitled to a certificate of title under the provisions of this chapter. (As amended by PD 1073.)

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Section 48(b) of the Public Land Act therefore requires that two (2) requisites be satisfied before claims of title to public domain lands may be confirmed: first, that the land subject of the claim is agricultural land; and second, open, continuous, notorious, and exclusive possession of the land since June 12, 1945.

The need for the land subject of the claim to have been classified as agricultural is in conformity with the constitutional precept that "[a]lienable lands of the public domain shall be limited to agricultural lands."[54] As explained in this Court's 2013 Resolution in *Heirs of Malabanan v. Republic*:

> Whether or not land of the public domain is alienable and disposable primarily rests on the classification of public lands made under the Constitution. Under the 1935 Constitution, lands of the public domain were classified into three, namely, agricultural, timber and mineral. Section 10, Article XIV of the 1973 Constitution classified lands of the public domain into seven, specifically, agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest, and grazing land, with the reservation that the law might provide other classifications. The 1987 Constitution adopted the classification under the 1935 Constitution into agricultural, forest or timber, and mineral, but added national parks. Agricultural lands may be further classified by law according to the uses to which they may be devoted. The identification of lands according to their legal classification is done exclusively by and through a positive act of the Executive Department.
>
> Based on the foregoing, the Constitution places a limit on the type of public land that may be alienated. Under Section 2, Article XII of the 1987 Constitution, only agricultural lands of the public domain may be alienated; all other natural resources may not be.
>
> Alienable and disposable lands of the State fall into two categories, to wit: (a) patrimonial lands of the State, or those classified as lands of private ownership under Article 425 of the Civil Code, without limitation; and (b) lands of the public domain, or the public lands as provided by the Constitution, but with the limitation that the lands

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[54] CONST., Art. XII, Sec. 3. Also, CONST., Art. XII, Sec. 2 states that, "[w]ith the exception of agricultural lands, all other natural resources shall not be alienated."

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must only be agricultural. Consequently, lands classified as forest or timber, mineral, or national parks are not susceptible of alienation or disposition unless they are reclassified as agricultural. A positive act of the Government is necessary to enable such reclassification, and the exclusive prerogative to classify public lands under existing laws is vested in the Executive Department, not in the courts.[55]

As the Court of Appeals emphasized, respondent has conceded that the Iligan property was alienable and disposable land:

> As to the first requirement: There was no need for appellees to establish that the property involved was alienable and disposable public land. This characterization of the property is conceded by [respondent] who cites Proclamation No. 2151 as declaring that the disputed property was a certain disposable parcel of public land.[56]

That the Iligan property was alienable and disposable, agricultural land, has been admitted. What is claimed instead is that petitioners' possession is debunked by how the Iligan Property was supposedly part of a military reservation area[57] which was subsequently reserved for Iligan City's slum improvement and resettlement program, and the relocation of families who were dislocated by the National Steel Corporation's five-year expansion program.[58]

Indeed, by virtue of Proclamation No. 2143 (erroneously referred to by respondent as Proclamation No. 2151) certain parcels of land in Barrio Suarez, Iligan City were reserved for

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[55] *Heirs of Malabanan v. Republic*, 717 Phil 141, 161-162 (2013) [Per *J.* Bersamin, *En Banc*], *citing* CONST. (1935), Art. XIII Sec. 1; *Krivenko v. Register of Deeds of Manila*, 79 Phil. 461, 468 (1947) [Per *C.J.* Moran, Second Division]; CONST., Art. XII, Sec. 3; BERNAS, *THE 1987 CONSTITUTION*, 1188-1189 (2009); CIVIL CODE, Art. 425; *Director of Forestry v. Villareal*, 252 Phil. 622 (1989) [Per *J.* Cruz, *En Banc*]; *Heirs of Jose Amunategui v. Director of Forestry*, 211 Phil. 260 (1983) [Per *J.* Gutierrez, Jr., First Division]; and *Director of Lands v. Court of Appeals*, 214 Phil. 606 (1984) [Per *J.* Melencio-Herrera, First Division].

[56] *Rollo*, p. 79.

[57] *Id.* at 144.

[58] *Id.*

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slum-improvement and resettlement program purposes.[59] The proclamation characterized the covered area as "disposable parcel of public land":

> WHEREAS, a certain disposable parcel of public land situated at Barrio Suarez, Iligan City consisting of one million one hundred seventy-four thousand eight hundred fifty-three (1,174,853) square meters, more or less, has been chosen by National Steel Corporation and the City Government of Iligan with the conformity of the National Housing/Authority, as the most suitable site for the relocation of the families to be affected/dislocated as a result of National Steel Corporation's program and for the establishment of a slum improvement and resettlement project in the City of Iligan;[60]

However, even if the Iligan Property was subsumed by Proclamation No. 2143, the same proclamation recognized private rights, which may have already attached, and the rights of qualified free patent applicants:

> NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by law, do hereby reserve for relocation of the families to be affected/dislocated by the 5-year expansion program of the National Steel Corporation and for the slum improvement and resettlement project of the City of Iligan under the administration and disposition of the National Housing Authority, subject to private rights, if any there be, Lot 5258 (portion) of the Iligan Cadastre, which parcel of land is of the public domain, situated in Barrio Suarez, City of Iligan and more particularly described as follows:
>
> . . . .
>
> *This Proclamation is subject to the condition that the qualified free patent applicants occupying portions of the aforedescribed parcel of land, if any, may be compensated for the value of their respective portions and existing improvements thereon*, as may be determined by the National Housing Authority.[61]

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[59] *Id.*

[60] Proclamation No. 2143 (1981).

[61] Proclamation No. 2143 (1981).

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Whatever rights petitioners (and their predecessors-in-interest) may have had over the Iligan property was, thus, not obliterated by Proclamation No. 2143. On the contrary, the Proclamation itself facilitated compensation.

More importantly, there is documentary evidence to the effect that the Iligan Property was not even within the area claimed by respondent. In a letter[62] to the Director of Lands, dated December 22, 1987, Deputy Public Land Inspector Pio Lucero, Jr. noted that:

> That this land known as Lot No. 5258, Cad. 292, Iligan Cadastre which portion was claimed also by the Human Settlement and/or National Housing Authority; but the area applied for by Leopoldo Delfin is outside the claim of the said agency as per certification issued dated June 10, 1988; copy of which is herewith attached for ready reference;[63]

The same letter likewise indicated that the Iligan Property was already occupied by June 1945 and that it had even been released for agricultural purposes in favor of its occupants.[64] Accordingly, the Deputy Public Land Inspector recommended the issuance of a patent in favor of petitioner Leopoldo Delfin:[65]

> Upon investigation conducted by the undersigned in the premises of the land, it was found and ascertained that the land applied for by Leopoldo Delfin was first entered, occupied, possessed and cultivated by him since the year June, 1945 up to the present; he have already well improved the land and introduced some considerable improvements such as coconut trees and different kinds of fruit trees which are presently all fruit bearing trees; declared the same for taxation purposes and taxes have been paid every year; and that there is no other person or persons who bothered him in his peaceful occupation and cultivation thereof;

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[62] *Rollo*, p. 140

[63] *Id*.

[64] *Id*.

[65] *Id*.

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Records of this Office show that said land was surveyed and claimed by the Military Reservation, but the portion of which has been released in favor of the actual occupants and the area of Leopoldo Delfin is one of the portions released for agricultural purposes;

. . . . . .

That the applicant caused the survey of the land under Sgs-12-000099, approved by the Regional Land Director, Region XII, Bureau of Lands, Cotabato City on April 3, 1979 (see approved plan attached hereof);

In view hereof, it is therefore respectfully recommended that the entry of the application be now confirmed and that patent be yes issued in favor of Leopoldo Delfin.[66]

A May 18, 1988 supplemental letter to the Director of the Land Management Bureau further stated:

That the land applied for by Leopoldo Delfin is a portion of Lot No. 5258, Cad. 292, Iligan Cadastre which was entered, occupied and possessed by the said applicant since the year June 1945 up to the present; well improved the same and introduced some considerable improvements such as different kinds of fruit trees, coconut trees and other permanent improvements thereon;

. . . . . .

That is very clear in the 4th Indorsement of the Executive Secretary dated April 24, 1954 the portion thereof that will not be needed for any public or quasi-public purposes, be disposed in favor of the actual occupants under the administration of the Bureau of Lands[.][67]

Clearly then, petitioners acquired title over the Iligan Property pursuant to Section 48(b) of the Public Land Act.

First, there is no issue that the Iligan Property had already been declared to be alienable and disposable land. Respondent has admitted this and Deputy Public Land Inspector Pio Lucero, Jr.'s letters to the Director of Land attest to this.

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[66] *Id*.

[67] *Id*. at 139.

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Second, although the Delfin Spouses' testimonial evidence and tax declarations showed that their possession went only as far back as 1952, Deputy Public Land Inspector Pio Lucero, Jr.'s letters to the Director of Land nevertheless attest to a previous finding that the property had already been occupied as early as June 1945.

Having shown that the requisites of Section 48(b) of the Public Land Act have been satisfied and having established their rights to the Iligan Property, it follows that petitioners must be compensated for its taking.

WHEREFORE, the Petition is **GRANTED**. The assailed Court of Appeals Decision dated February 26, 2010 and Resolution dated July 2, 2010 in CA-G.R. CV No. 80017 are **REVERSED and SET ASIDE**. The Regional Trial Court's Decision dated May 20, 2002 in Civil Case No. II-1801 is **REINSTATED.**

SO ORDERED.

Carpio (*Chairperson*), *Brion, del Castillo*, and *Mendoza, JJ.*, concur.

THIRD DIVISION

[G.R. No. 197634. November 28, 2016]

JULIUS B. CAMPOL, *petitioner, vs.* **MAYOR RONALD S. BALAO-AS and VICE-MAYOR DOMINADOR I. SIANEN,** *respondents.*