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SECOND DIVISION

[G.R. No. 175343. July 27, 2011]

LORETO LUGA (Deceased), Substituted by CELERINA LUGA — Deceased (wife) and Children Namely: Purificacion Luga-Biong, Elizabeth Luga-Cabaña, Rosalie Luga-Tanutan, Ledia Luga-Guy Ab, Maritess Luga-Gravino, Nestor Luga and David Luga, *petitioners, vs.* **SPS. ELENA AND ROGELIO ARCIAGA,** *respondents.*

SYLLABUS

1. CIVIL LAW; PROPERTY; OWNERSHIP; POSSESSION; PETITIONER FAILED TO PROVE THAT HE WAS A *BONA FIDE* OCCUPANT OF THE LAND IN QUESTION THROUGH EVIDENCE REQUIRED TO ACQUIRE TITLE TO LAND THROUGH POSSESSION AND OCCUPATION.— Our perusal of the record shows that, as the party asserting a right superior to that claimed by the Spouses Arciaga, Loreto failed to prove that he was a *bona fide* occupant of the land in litigation. Despite his testimony and that elicited from his witnesses, Canuto Blantucas and Sofronio Obenque, to the effect that he occupied the subject parcel in 1957, Loreto's documentary evidence consisting of receipts issued by the NAFCO and BOL simply showed that he was a tenant on the plantation from 1955 to 1957, remitting a portion of the produce harvested therefrom to said government agencies. When cross-examined by the Spouses Arciaga's counsel, Loreto also admitted that he did not file any application for the land and/or declare the same for taxation purposes because he knew that he was not the owner thereof. Consistent with the foregoing admission, moreover, the x x x answers given by Loreto to the RTC's clarificatory questions effectively contradicted petitioners' assertion that their father acquired the litigated parcel through uninterrupted adverse possession thereof for more than thirty years.

2. ID.; ID.; ID.; ID.; POSSESSION MAY BE EXERCISED IN ONE'S OWN NAME OR IN THAT OF ANOTHER AND IT

IS NOT NECESSARY FOR THE OWNER OR HOLDER OF THE THING TO PERSONALLY EXERCISE HIS POSSESSORY RIGHTS; PETITIONER'S TOLERATED OCCUPANCY OF THE LAND CANNOT BE SAID TO HAVE OUSTED THE POSSESSION CLAIMED BY RESPONDENTS.— In contrast, the Spouses Arciaga were able to demonstrate that Honorio filed an Occupant's Affidavit dated 28 July 1960 in respect to the 2.5 hectare landholding to which the subject parcel pertained and even made the occupants thereof — Loreto and Celerina among them - to sign a private document dated 16 May 1966, acknowledging that he was the *bona fide* possessor by virtue of whose permission and tolerance they were temporarily allowed to build houses of light materials thereon. With Rogelio's acquisition of the rights over two portions of the land claimed by Honorio, Elena subsequently applied for the acquisition of the subject parcel from the BOL and complied with the requirements therefor, including the posting of notices of her application as well as the investigation conducted by a representative of the same agency. Upon the recommendation of BOL Branch Operations Manager Gaudencio Wamelda, the land was sold to Elena with the approval of the Office of the President and eventually registered in her name under Transfer Certificate of Title No. T-139473 of the Davao City Registry. As between the parties' conflicting claims, we find that the CA correctly upheld the Spouses Arciaga's acquisition of the subject parcel from the BOL over Loreto's nebulous claim on the same. For one, the bare assertion of Loreto and his witnesses that he had been in the open, adverse and continuous possession of the property for over thirty years (30) is hardly the well-nigh incontrovertible evidence required for acquisition of disposable lands of the public domain. Because forgery cannot be presumed and must be proved by clear, positive and convincing evidence by the party alleging the same, Loreto's bare denial of his signature on the 16 May 1966 document prepared by Honorio cannot, for another, expediently impugn the probative value thereof. Quite significantly, said document lends credence to the Spouses Arciaga's claim that Loreto's occupancy of the land in litigation was upon their tolerance and that of their predecessor-in-interest. Since possession may be exercised in one's own name or in that of another and it is not necessary for the owner or holder of the thing to personally exercise his possessory rights

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Loreto's tolerated occupancy of the land cannot be said to have ousted the possession claimed by the Spouses Arciaga.

3. ID.; ID.; ID.; ID.; TAX RECEIPTS AND TAX DECLARATIONS MAY BECOME A BASIS OF A CLAIM OF OWNERSHIP WHEN COUPLED WITH PROOF OF ACTUAL POSSESSION.— Even if Loreto were, moreover, to be considered the *bona fide* occupant of the land in dispute, it cannot be gainsaid that he effectively forfeited the priority accorded him under Section 3 of Republic Act No. 477, as amended, when he failed to register his claim in writing after the notice relative to Elena's application was posted at the Barangay Hall of Toril, the Davao City Hall and BOL Davao Branch. Called as witness by Loreto during the presentation of the evidence in chief, then *Toril Barangay* Chairman Consing Te categorically admitted on cross-examination that the following notice was duly posted for thirty days at the *Barangay* Hall, 500 meters away from the land in litigation, to wit: NOTICE is hereby given that Mrs. Elena Arciaga with Residence at St. Michael Village, Daliao, Toril, Davao City has applied for patent/title covering Lot No. 1, Pcs-11-000889 of the Y. Furukawa Daliao Plantation. This NOTICE is being posted for a period of 30 days beginning November 16, 1987 pursuant to Board Resolution No. 554, Series of 1979, of the Board of Liquidators. Any person adversely affected by said application should register his/her claim in writing with this Office not later than December 16, 1987, otherwise, said claim shall be considered as waived in favor of the applicant. November 16, 1987. With Loreto's occupation of the subject parcel dependent, for the most part, on his bare assertions and that of his witnesses, petitioners argue that the CA erred in giving credit to the Spouses Arciaga's tax receipts and tax declarations which, by themselves, do not conclusively prove ownership of the land. In civil cases, however, the rule is settled that the burden of proof is upon the plaintiff to establish his case by preponderance of evidence, relying on the strength of his own evidence and not the weakness of that of his opponent. As *prima facie* proofs of ownership or possession of the property for which such taxes have been paid, tax receipts and tax declaration may, moreover, become a basis of a claim of ownership when coupled with proof of actual possession. More than the Occupant's Affidavit of Application executed by Elena, the joint affidavit executed by

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her witnesses and the certification issued by the *Toril Barangay* Chairman, the Spouses Arciaga's actual possession of the lot was, additionally proved by the Inspection and Investigation Report filed under oath by BOL Inspector/Investigator Nathaniel Rios. In the absence of proof adduced to rebut the presumption of regularity in the performance of official duty, the same report deserves credence over Loreto's naked assertion of possession of the subject parcel.

4. **REMEDIAL LAW; EVIDENCE; DISPUTABLE PRESUMPTIONS; THAT OFFICIAL DUTY HAS BEEN REGULARLY PERFORMED; THE DETERMINATION MADE BY THE BUREAU OF LANDS, THE ADMINISTRATIVE AGENCY TASKED WITH THE DISPOSITION OF LANDS TRANSFERRED TO THE REPUBLIC OF THE PHILIPPINES DESERVES UTMOST RESPECT WHEN SUPPORTED BY SUBSTANTIAL EVIDENCE.—** As a determination made by the administrative agency tasked with the disposition of lands transferred to the Republic of the Philippines, the BOL's award and sale of the litigated parcel in favor of Elena deserves utmost respect when supported by substantial evidence. An action for reconveyance of a property is, after all, a legal and equitable remedy available to a landowner whose property has been wrongfully or erroneously registered in another's name, after one year from the date of the decree of registration and so long as the property has not passed to an innocent purchaser for value. The decree of registration is respected as incontrovertible. Where there is a wrongful or erroneous registration in another person's name, the rightful owner or one with a better right can seek reconveyance of the property and cancellation of title. Loreto failed to prove a right than petitioners' over the land. We find that the CA correctly ordered the dismissal of the complaint for reconveyance and damages from which the instant suit originated.

APPEARANCES OF COUNSEL

Public Attorney's Office for petitioners.
Raul O. Tolentino for respondents.

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D E C I S I O N

PEREZ, *J.*:

At bench is a petition for review on *certiorari* filed pursuant to Rule 45 of the *1997 Rules of Civil Procedure*, primarily assailing the Decision dated 25 October 2005 rendered by the then Special Twenty-Third Division of the Court of Appeals in CA-G.R. CV No. 69368,[1] the dispositive portion of which states:

> WHEREFORE, the instant appeal is hereby **GRANTED**. The assailed Decision of the Regional Trial Court, dated October 9, 1995 is hereby **REVERSED** and **SET ASIDE**. The Complaint filed by Plaintiff-Appellee is DISMISSED. Spouses ELENA ARCIAGA and ROGELIO Arciaga are hereby declared the rightful owner[s] of the disputed property. No pronouncement as to costs.
>
> SO ORDERED.[2]

The Facts

The suit concerns a 911 square meter parcel of land situated in the District of Toril, Davao City, presently registered in the name of respondent Elena Arciaga (Elena), married to respondent Rogelio Arciaga (Rogelio), under Transfer Certificate of Title No. T-139473 of the Davao City registry.[3] The land used to form part of the Y. Furukawa Daliao Plantation which, after being turned over to the Philippine government, was initially administered by the National Abaca and Other Fibers Corporation (NAFCO) and, later, by the Board of Liquidators (BOL), pursuant to Republic Act No. 477,[4] as amended. A former tenant

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[1] Records, CA-G.R. CV No. 69368, CA's Decision dated 25 October 2005, pp. 60-71.

[2] *Id.* at 70.

[3] Records, Civil Case No. 22,718-94, Exhibit "18", p. 145.

[4] *An Act to Provide for the Administration and Disposition of Properties, Including the Proceeds and Income Thereof Transferred to the Republic of the Philippines, Under the Philippine Property Act of 1946 and of Republic Act No. Eight, and of the Public Lands and Improvements Thereon Transferred to the National Abaca and Other Fibers Corporation Under*

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of NAFCO at the Furukawa Plantation, Co., Inc.,[5] it appears that Loreto Luga (Loreto) became a tenant of the BOL[6] and, in said capacity, occupied the subject parcel since 1957, eventually building a house of light of materials thereon. On 28 July 1960, however, it appears that an Occupant's Affidavit was executed by one Honorio Romero (Honorio), a former employee of NAFCO, over a 2.5 hectare landholding of which the land in litigation formed part.[7]

On 3 December 1970, Honorio executed a Deed of Transfer of Right over a 600 square meter portion of said landholding in favor of Rogelio who paid the sum of ₱10,000.00 as consideration for the improvements thereon. On 23 March 1972, the former further executed a similar deed selling in favor of the latter his interest over an adjacent 340 square meter portion of the same landholding, for the sum of ₱2,000.00.[8] In receipt of Elena's application for patent/title over the subject parcel, the BOL issued and caused the posting of the 16 November 1987 Notice directing person/s affected thereby to make known their adverse claim/s, if any.[9] In support of her application, Elena filed the required Occupant's Affidavit of Application, buttressed by a Joint-Affidavit executed by her witnesses as well as a Certification issued by Barangay Chairman of Toril, attesting to her actual possession of the subject parcel.[10]

With the appraisal and inspection of the land in litigation, the approval of Elena's application was recommended by BOL Officer-in-Charge/Operation's Manager Gaudencio Wamelda to the BOL's

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the Provisions of Executive Order No. 29 Dated October 25, 1946 and Executive Order No. 99 Dated October 22, 1947.

[5] Records, Civil Case No. 22,718-94, Exhibit "F" and submarkings, pp. 80-82.

[6] Exhibits "D" and "E", *id.* at 73-74.

[7] Exhibit "3"; *id.* at 120-121; TSN, 6 February 1995, pp. 41-42.

[8] Records, Civil Case No. 22,718-94, Exhibits "5" and "6", pp. 124-126.

[9] Exhibit "9", *id.* at 129,

[10] Exhibits "7", "8" and "10", *id.* at 127-130.

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General Manager.[11] On 8 March 1988, Elena was apprised of the fact that her application had been approved under said Board's Resolution No. 60, Series of 1988, subject to the payment of the total cost of ₱14,235.00 which she paid on 24 March 1988.[12] Upon the execution on 12 May 1988 of the Deed of Absolute Sale over the parcel, the BOL favorably indorsed and requested the issuance of a certificate of title in favor of Elena and forwarded to the Davao City Register of Deeds copies of the approved tracing cloth plan, white print copies thereof as well as the technical descriptions of the subject parcel.[13] On 29 November 1988, Transfer Certificate of Title No. T-139473 was eventually issued in favor of respondent Elena who, forthwith, declared the land in her name for taxation purposes and started paying the real estate taxes due thereon.[14]

On 2 March 1994, Loreto commenced the instant suit with the filing of his complaint for reconveyance of title and damages against Elena and Rogelio which was docketed as Civil Case No. 22,718-94 before Branch 17 of the Regional Trial Court of Davao City (RTC). Claiming that he had been in possession of the subject parcel since 1957, Loreto alleged, among other matters, that he discovered the titling of the same in the name of Elena only in 1993; and, that the latter had fraudulently misled the BOL into believing that she was the one in possession of the land.[15] Served with summons, Elena and Rogelio, on the other hand, filed their 16 April 1994 answer, specifically denying the material allegations of the complaint. Contending that they acquired the disputed parcel from Honorio, they averred that the possession asserted by Loreto had been by virtue of their tolerance and consent as well as that of their said predecessor-in-interest.[16] In his 5 May 1994 reply, Loreto, in turn, insisted that he and

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[11] Exhibits "11", "13" and "14", *id.* at 131; 133-134.

[12] Exhibits "15", "16-A", "17" and "17-B", *id.* at 136, 138-141.

[13] Exhibits "17-B" and "17-C", *id.* at 143-144.

[14] Exhibits "18", "19" to "26", *id.* at 145-154.

[15] *Id.* at 1-5, Complaint dated 1 March 1994.

[16] *Id.* at 11-17, Answer dated 16 April 1994.

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his family had stayed on the land long before Honorio and the Spouses Arciaga laid claim thereto.[17]

The issues joined and the mandatory pre-trial conference subsequently terminated,[18] the RTC went on to receive the testimonial and documentary evidence the parties adduced in support of their respective causes. In addition to his own testimony[19] as well as the documents presented in the course thereof,[20] Loreto proffered those elicited from his neighbors Canuto Blantucas and Sofronio Obenque, BOL employee Bruno Arlegui, *Barangay* Toril Pangkat Secretary Fidel Blantucas and the same locality's *Barangay* Chairman, Consing Te.[21] The defense evidence, on the other hand, consisted of the testimonies of Elena and Rogelio[22] as well as those given by their predecessor-in-interest, Honorio and BOL Branch Operation Manager Gaudencio Wamelda.[23] In refutation of said defense witnesses' testimonies as well as the pieces of documentary evidence adduced in connection therewith,[24] Loreto once again took the witness stand on rebuttal[25] and offered the testimonial[26] and/or documentary evidence[27] provided by Luis Denia Farm Manager, Manuel Denia.

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[17] *Id.* at 22-25, Reply dated 5 May 1994.

[18] *Id.* at 36-38, Pre-Trial Order dated 2 September 1994.

[19] TSN, 23 November 1994.

[20] Records, Civil Case No. 22,718-94, Loreto's Formal Offer of Documentary Evidence dated 20 December 1994, pp. 65-82.

[21] TSN, 5 September 1994; TSN, 27 September 1994; TSN, 27 October 1994; TSN, 23 November 1994; TSN, 24 November 1994.

[22] TSN, 7 February 1995; TSN, 1 March 1995; TSN, 2 June 1995.

[23] TSN, 21 December 1994; TSN, 6 February 1995; TSN, 2 June 1995; TSN, 10 March 1995.

[24] Records, Civil Case No. 22,718-94, Spouses Arciaga's Offer of Exhibits dated 13 June 1995, pp. 106-154.

[25] TSN, 10 July 1995.

[26] TSN, 15 August 1995.

[27] Records, Civil Case No. 22,718-94, Loreto's Additional Formal Offer of Evidence dated 24 August 1995, pp. 165-173.

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On 9 October 1995, the RTC rendered a decision, finding that the evidence adduced by the parties preponderantly established that Loreto is entitled to the land in litigation since his possession thereof preceded that asserted by the Spouses Arciaga. Brushing aside the latter's claim that former's possession was merely tolerated by them and Honorio,[28] the RTC disposed of the case in the following wise:

> WHEREFORE, finding the evidence of the plaintiff, as well as that of the defendants, sufficient to prove by preponderance of evidence the right for reconveyance of TCT No. T-139473, from defendant Elena Arciaga, obtain[ed] through fraud and misrepresentation, and falsification of document with the Board of Liquidators, Toril, Davao City, into the name of plaintiff, Loreto Luga, within thirty (30) days from receipt of decision, by defendants.
>
> Failure of defendants to execute a deed of reconveyance of the above-title in favor of plaintiff, within the above-period, the Clerk of Court, of this court, will execute the proper deed of reconveyance in favor of plaintiff, of the above-mentioned certificate of title, with cost against defendants.
>
> Plaintiff's prayer for recovery of moral damages, exemplary damages and litigation expenses, cannot be granted for failure of plaintiff to support award of the above damages.
>
> SO ORDERED.[29]

Elevated by Elena and Rogelio on appeal before the CA[30] under docket of CA-G.R. CV No. 69368, the foregoing decision was, however, reversed and set-aside in the herein assailed 25 October 2005 decision rendered by said court's then Special Twenty-Third Division. In upholding the Spouses' Arciaga's claim over that asserted by Loreto, the CA ruled that the evidence on record disclose that: (a) the latter was merely allowed to occupy the land in litigation by the former's predecessor-in-interest, Honorio; (b) Loreto's testimony revealed that he never

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[28] *Id.* at 176-198, RTC Decision dated 9 October 1995.

[29] *Id.* at 198.

[30] *Id.* at 200, RTC's Order dated 6 December 1995.

possessed the parcel in the concept of an owner; (c) unlike the Spouses Arciaga, Loreto never declared the land for taxation purposes in his own name and only attempted to do so only in 1993; and, (d) since Loreto's evidence does not constitute the "well-nigh incontrovertible" evidence required to acquire title to land through possession and occupation, he is not entitled to the reconveyance ordered by the RTC.[31]

Having filed a motion for the reconsideration of the foregoing decision,[32] the Public Attorney's Office (PAO), as Loreto's counsel, moved for substitution of parties in view of its client's death on 6 October 1998.[33] As a consequence, Loreto was substituted in the case by his wife, Celerina Luga (Celerina), and their children, petitioners Purificacion Luga-Biong, Elizabeth Luga-Cabana, Rosalie Luga-Tanutan, Ledia Luga-Guy-ab, Marites Luga-Gravino, Nestor Luga and David Luga (petitioners). Duly opposed by the Spouses Arciaga,[34] the aforesaid motion for reconsideration was denied for lack of merit in the CA's resolution dated 27 October 2006,[35] hence, this petition.[36] Subsequent to Celerina's death on 5 November 2005,[37] Rogelio also died on 6 July 2006, survived by Elena and their children, Rogel, Gerlyn and Giselle, all surnamed Arciaga.[38]

The Issue

Petitioners urge the reversal of the assailed 25 October 2005 decision and 27 October 2006 resolution, upon the affirmative of the following issue:

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[31] Records, CA-G.R. CV No. 69368, CA's Decision dated 25 October 2005, pp. 60-72.

[32] *Id.* at 73-76, Motion for Reconsideration dated 21 November 2005.

[33] *Id.* at 78-80.

[34] *Id.* at 83-85, Comment/Opposition dated 28 November 2005.

[35] *Id.* at 89-90, CA's Decision dated 27 October 2006.

[36] *Rollo*, pp. 10-28, Petition dated 15 December 2006.

[37] *Id.* at 125-127.

[38] *Id.* at 159-161.

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WHETHER THE HONORABLE COURT OF APPEALS ERRED IN GRANTING THE APPEAL OF THE RESPONDENTS AND IN DISMISSING THE COMPLAINT FILED BY THE PETITIONERS.[39]

The Court's Ruling

We find the petition bereft of merit.

As part of the Y. Furukawa Daliao Plantation which had been turned over to the Republic of the Philippines in accordance with the Philippine Property Act of 1946 and Republic Act No. 8, the disposition of the land in litigation by the BOL is clearly governed Republic Act No. 477. As amended by Republic Act No. 1970,[40] Section 1 of Republic Act No. 477 provides that all lands which have been so transferred to the Republic of the Philippines shall be subdivided into convenient sized lots, except such portions thereof as the President of the Philippines may reserve for the use of the National or Local government, or the use of corporations or entities owned or controlled by the government.[41] As amended by Presidential Decree No. 967,[42]

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[39] *Id.* at 20.

[40] *An Act to Amend Section One of Republic Act No. 477 Providing for the Administration and Disposition of Properties, Including the Proceeds and Income Thereof Transferred to the Republic of the Philippines, Under The Philippine Property Act of 1946 And of Republic Act No. 8 and All Public Lands and Improvements Thereon Transferred to the National Abaca and Other Fibers Corporation Under the Provisions of Executive Order No. 29 Dated October 25, 1946 and of Executive Order No. 99 Dated October 22, 1947.*

[41] Section 1. All lands which have been or may hereafter be transferred to the Republic of the Philippines in accordance with the Philippine Property Act of Nineteen Hundred and forty six (Act of Congress of the United States of July 3, 1946) and Republic Act Number Eight and all the public lands and improvements thereon transferred from the Bureau of Lands to the National Abaca and Other Fibers Corporation under the provisions of Executive Order Numbered 29 dated October 25, 1946, and of Executive Order Numbered 99, dated October 22, 1947, shall be subdivided by the National Abaca and Other Fibers Corporation into convenient-sized lots, except such portions thereof as the President of the Philippines may reserve or transfer title thereto for the use of the National or local governments, or for the use of the corporations

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on the other hand, Section 3 of the same law provides that such lands of the public domain, except commercial and industrial lots, shall be sold by the BOL to persons who are qualified to acquire public lands,[43] giving preference first to *bona fide* occupants thereof on or before 12 December 1946 but not later than 31 October 1960 and who shall be limited to the area they have actually and continuously improved and maintained.[44]

Our perusal of the record shows that, as the party asserting a right superior to that claimed by the Spouses Arciaga, Loreto failed to prove that he was a *bona fide* occupant of the land in litigation. Despite his testimony[45] and that elicited from his

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or entities owned or controlled by the Government. Subdivision lots primarily intended for, or devoted to, agricultural purposes shall not exceed an area of five hectares for coconut lands, ten hectares for improved abaca lands, and twelve hectares for unimproved lands; urban homesite or residential lots shall not exceed an area of One Thousand square meters nor less than One Hundred Fifty square meters; Provided, that any provision of law to the contrary notwithstanding, *the Department of General Services shall determine the minimum size of said urban homesite or residential lots and shall allot to the actual occupants thereof at the time of the approval of this Act*.

[42] *Amending Certain Provisions of Republic Act No.477.*

[43] *Board of Liquidators v. Court of Appeals,* 248 Phil. 275, 278-279 (1988).

[44] Sec. 3. All lands so subdivided, except commercial and industrial lots, shall be sold by the Board of Liquidators without the sales application, publication and public auction required in sections twenty-four, twenty-five, and twenty-six of Commonwealth Act Numbered One Hundred Forty-One, as amended, to persons who are qualified to acquire public agricultural lands;

Provided, however, that sales of such lands heretofore made by the National Abaca and Other Fibers Corporation, without sales application, publication and public auction as provided in the above-mentioned sections of the Public Land Law are hereby authorized, ratified and confirmed; *Provided, further*, that preference shall be given first to *bona fide* occupants thereof on or before December twelve, nineteen hundred and forty-six but not later than October thirty-one, nineteen hundred and sixty and who shall be limited to the area they have actually and continuously improved and maintained: *Provided, finally*, that the subdivided lots which may still be unoccupied and/or where the awards thereof were cancelled and nullified shall be disposed of through negotiated sale among qualified persons who may apply for said lots.

[45] TSN, 23 November 1994, pp. 21-30; 35-37.

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witnesses, Canuto Blantucas[46] and Sofronio Obenque,[47] to the effect that he occupied the subject parcel in 1957, Loreto's documentary evidence consisting of receipts issued by the NAFCO[48] and BOL[49] simply showed that he was a tenant on the plantation from 1955 to 1957, remitting a portion of the produce harvested therefrom to said government agencies. When cross-examined by the Spouses Arciaga's counsel, Loreto also admitted that he did not file any application for the land and/or declare the same for taxation purposes because he knew that he was not the owner thereof.[50] Consistent with the foregoing admission, moreover, the following answers given by Loreto to the RTC's clarificatory questions effectively contradicted petitioners' assertion that their father acquired the litigated parcel through uninterrupted adverse possession thereof for more than thirty years, *viz.*:

x x x x x x x x x

Q. In other words, even in 1957 when you alleged that you occupied this lot you never intend[ed] that you will be the owner?

A. Before I ha[d] no intention to own this land but only recently I was informed that I have to own this. Only recently I have the intention.

Q. You have that intention only when you learned that it was already titled with other person[s]?

A. Yes.

Q. Did you not transfer your other property to another person since 1957 up to the present?

A. Why should I sell because I know that the land where I constructed my house I am not allowed to sell because that

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[46] TSN, 5 September 1994, pp. 11-14.

[47] TSN, 27 September 1994, pp. 5-7.

[48] Records, Civil Case No. 22,718-94, Exhibit "F" and submarkings, pp. 80-82.

[49] Exhibits "D" and "E", *id.* at 73-74.

[50] TSN, 23 November 1994, pp. 41-43.

> is not my land (*sic)*. I am just occupying the land of the government. I have no right to sell this land.[51]

x x x x x x x x x

In contrast, the Spouses Arciaga were able to demonstrate that Honorio filed an Occupant's Affidavit dated 28 July 1960 in respect to the 2.5 hectare landholding to which the subject parcel pertained[52] and even made the occupants thereof — Loreto and Celerina among them — to sign a private document dated 16 May 1966, acknowledging that he was the *bona fide* possessor by virtue of whose permission and tolerance they were temporarily allowed to build houses of light materials thereon.[53] With Rogelio's acquisition of the rights over two portions of the land claimed by Honorio,[54] Elena subsequently applied for the acquisition of the subject parcel from the BOL and complied with the requirements therefor, including the posting of notices of her application[55] as well as the investigation conducted by a representative of the same agency.[56] Upon the recommendation of BOL Branch Operations Manager Gaudencio Wamelda,[57] the land was sold to Elena with the approval of the Office of the President[58] and eventually registered in her name under Transfer Certificate of Title No. T-139473 of the Davao City Registry.[59]

As between the parties' conflicting claims, we find that the CA correctly upheld the Spouses Arciaga's acquisition of the

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[51] TSN, 23 November 1994, pp. 49-50.

[52] Records, Civil Case No. 22,718-94, Exhibit "3", pp. 120-121; TSN, 21 December 1994, pp. 10-13.

[53] Exhibit "4", *id.* at 122-123.

[54] Exibits "5" and "6", *id.* at 124-126.

[55] Exhibit "9", *id.* at 1299.

[56] Exhibit "13", *id.* at 133.

[57] Exhibit "14", *id.* at 134.

[58] Exhibit "17", *id.* at 139-141.

[59] Exhibit "18", *id.* at 145.

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subject parcel from the BOL over Loreto's nebulous claim on the same. For one, the bare assertion of Loreto and his witnesses that he had been in the open, adverse and continuous possession of the property for over thirty years (30) is hardly the well-nigh incontrovertible evidence required for acquisition of disposable lands of the public domain.[60] Because forgery cannot be presumed and must be proved by clear, positive and convincing evidence by the party alleging the same,[61] Loreto's bare denial of his signature on the 16 May 1966 document prepared by Honorio cannot, for another, expediently impugn the probative value thereof. Quite significantly, said document lends credence to the Spouses Arciaga's claim that Loreto's occupancy of the land in litigation was upon their tolerance and that of their predecessor-in-interest. Since possession may be exercised in one's own name or in that of another and it is not necessary for the owner or holder of the thing to personally exercise his possessory rights[62] Loreto's tolerated occupancy of the land cannot be said to have ousted the possession claimed by the Spouses Arciaga.

Even if Loreto were, moreover, to be considered the *bona fide* occupant of the land in dispute, it cannot be gainsaid that he effectively forfeited the priority accorded him under Section 3 of Republic Act No. 477, as amended, when he failed to register his claim in writing after the notice relative to Elena's application was posted at the Barangay Hall of Toril, the Davao City Hall and BOL Davao Branch. Called as witness by Loreto during the presentation of the evidence in chief, then *Toril Barangay* Chairman Consing Te categorically admitted on cross-examination that the following notice was duly posted for thirty days at the Barangay Hall, 500 meters away from the land in litigation,[63] to wit:

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[60] *Republic of the Phils. v. Court of Appeals,* 398 Phil. 911, 923 (2000).

[61] *Aloria v. Clemente*, G.R. No. 165644, 28 February, 483 SCRA 634, 646.

[62] *Santos v. Manalili*, 512 Phil. 324, 331 (2005).

[63] Records, Civil Case No. 22,718-94, Exhibit "9", p. 129; TSN, November 24, 1994, pp. 19-24.

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NOTICE is hereby given that Mrs. Elena Arciaga with Residence at St. Michael Village, Daliao, Toril, Davao City has applied for patent/title covering Lot No. 1, Pcs-11-000889 of the Y. Furukawa Daliao Plantation.

This NOTICE is being posted for a period of 30 days beginning November 16, 1987 pursuant to Board Resolution No. 554, Series of 1979, of the Board of Liquidators.

Any person adversely affected by said application should register his/her claim in writing with this Office not later than December 16, 1987, otherwise, said claim shall be considered as waived in favor of the applicant.

November 16, 1987.

With Loreto's occupation of the subject parcel dependent, for the most part, on his bare assertions and that of his witnesses, petitioners argue that the CA erred in giving credit to the Spouses Arciaga's tax receipts and tax declarations which, by themselves, do not conclusively prove ownership of the land. In civil cases, however, the rule is settled that the burden of proof is upon the plaintiff to establish his case by preponderance of evidence, relying on the strength of his own evidence and not the weakness of that of his opponent.[64] As *prima facie* proofs of ownership or possession of the property for which such taxes have been paid, tax receipts and tax declaration may, moreover, become a basis of a claim of ownership when coupled with proof of actual possession.[65] More than the Occupant's Affidavit of Application executed by Elena, the joint affidavit executed by her witnesses and the certification issued by the *Toril Barangay* Chairman,[66] the Spouses Arciaga's actual possession of the lot was, additionally proved by the Inspection and Investigation

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[64] *Heirs of Spouses Dela Cruz and Magdalena Tuazon v. Heirs of Quintos, Sr.*, 434 Phil. 708, 719 (2002) citing *Javier v. CA*, 231 SCRA 498, 504 (1994).

[65] *De la Cruz v. Court of Appeals*, 458 Phil. 929, 941 (2003) citing *Cequena v. Bolante*, 330 SCRA 216 (2000).

[66] Records, Civil Case No. 22,718-94, pp.127-128; 130, Exhibits "7", "8" and "10", pp. 127-128.

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Report filed under oath by BOL Inspector/Investigator Nathaniel Rios.[67] In the absence of proof adduced to rebut the presumption of regularity in the performance of official duty,[68] the same report deserves credence over Loreto's naked assertion of possession of the subject parcel.

As a determination made by the administrative agency tasked with the disposition of lands transferred to the Republic of the Philippines, the BOL's award and sale of the litigated parcel in favor of Elena deserves utmost respect when supported by substantial evidence.[69] An action for reconveyance of a property is, after all, a legal and equitable remedy[70] available to a landowner whose property has been wrongfully or erroneously registered in another's name, after one year from the date of the decree of registration and so long as the property has not passed to an innocent purchaser for value.[71] The decree of registration is respected as incontrovertible. Where there is a wrongful or erroneous registration in another person's name, the rightful owner or one with a better right can seek reconveyance of the property and cancellation of title.[72] Loreto failed to prove a right than petitioners' over the land. We find that the CA correctly ordered the dismissal of the complaint for reconveyance and damages from which the instant suit originated.

WHEREFORE, premises considered, the petition is *DENIED* for lack of merit and the CA's assailed Decision dated 25 October 2005 is *AFFIRMED in toto*.

SO ORDERED.

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[67] Exhibit "13", *id.* at 133.

[68] Sec. 3 (m), Rule 131, *Revised Rules on Evidence.*

[69] *Supra* note 62 at 332.

[70] *Republic of the Phils. v. Heirs of Angeles*, 439 Phil. 349, 357 (2002).

[71] *Abejaron v. Nabasa*, 411 Phil. 552, 564 (2001).

[72] *Spouses De Ocampo v. Arlos*, 397 Phil. 799, 811 (2000) citing *Amerol v. Bagumbaran*, 154 SCRA 396, 30 September 1987.

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Carpio (Chairperson), Leonardo-de Castro,[*] *Brion,* and *Peralta,*[**] *JJ.,* concur.

FIRST DIVISION

[G.R. No. 175485. July 27, 2011]

CASIMIRO DEVELOPMENT CORPORATION, *petitioner, vs.* **RENATO L. MATEO,** *respondent.*

SYLLABUS

1. CIVIL LAW; LAND REGISTRATION; LAND TITLES; TORRENS SYSTEM OF LAND REGISTRATION; EXPOUNDED.— There is no doubt that the land in question, although once a part of the public domain, has already been placed under the Torrens system of land registration. The Government is required under the Torrens system of registration to issue an official certificate of title to attest to the fact that the person named in the certificate is the owner of the property therein described, subject to such liens and encumbrances as thereon noted or what the law warrants or reserves. The objective is to obviate possible conflicts of title by giving the public the right to rely upon the face of the Torrens certificate and to dispense, as a rule, with the necessity of inquiring further. The Torrens system gives the registered owner complete peace of mind, in order that he will be secured in his ownership as long as he has not voluntarily disposed of any right over the covered land. The Government has adopted the Torrens system

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[*] Associate Justice Teresita J. Leonardo-de Castro is designated as Acting Member of the Second Division as per Special Order No. 1006 dated 10 June 2011.

[**] Associate Justice Diosdado M. Peralta is designated as Acting Member of the Second Division as per Special Order No. 1040 dated 6 July 2011.