Supreme Court E-Library

the terms and conditions of the Universal Compromise Agreement between the parties pertinent to the instant case are **APPROVED** and **ADOPTED** as the Decision of the Court.

The parties are ordered to faithfully comply with the terms and conditions of the said agreement.

This case is considered closed and terminated. No costs.

SO ORDERED.

Brion (Acting Chairperson),[*] *del Castillo, Perez,* and *Leonen,*[**] *JJ.,* concur.

SECOND DIVISION

[G.R. No.200894. November 10, 2014]

LUZVIMINDA APRAN CANLAS, *petitioner*, *vs.* **REPUBLIC OF THE PHILIPPINES,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; FACTUAL FINDINGS OF THE TRIAL COURT; ISSUE ON SUFFICIENCY OF EVIDENCE IS FACTUAL IN NATURE.— The issue on sufficiency of evidence is factual in nature and is generally outside the province of this court's review of petitions under Rule 45 of the Rules of Court. However, exceptions are allowed when the findings of the trial court and Court of Appeals are conflicting with each other or when the assailed judgment is based on a misapprehension of facts, such as the case at bar.

---

[*] Designated Acting Chairperson in lieu of Justice Antonio T. Carpio per Special Lrder No. 1460 dated May 29, 2013.

[**] Designated Acting Member per Special Order No. 1461 dated May 29, 2013.

Supreme Court E-Library

2. CIVIL LAW; PROPERTY; PRESIDENTIAL DECREE NO. 1529 OR PROPERTY REGISTRATION DECREE; WHO MAY APPLY.— Section 14 of Presidential Decree No. 1529 or the Property Registration Decree governs the applications for registration of title to land: 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. (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.

3. ID.; ID.; ID.; DIFFERENCES BETWEEN SECTION 14(1) AND SECTION 14(2).— In *Republic v. Gielczyk*, this court summarized and affirmed the differences between Section 14(1) and Section 14(2) of Presidential Decree No. 1529 as discussed in *Heirs of Malabanan*: In *Heirs of Mario Malabanan v. Republic*, the Court further clarified the difference between Section 14(1) and Section 14(2) of P.D. No. 1529. The former refers to registration of title on the basis of possession, while the latter entitles the applicant to the registration of his property on the basis of prescription. Registration under the first mode is extended under the aegis of the P.D. No. 1529 and the Public Land Act (PLA) while under the second mode is made available both by P.D. No. 1529 and the Civil Code. Moreover, under Section 48(b) of the PLA, as amended by Republic Act No. 1472, the 30-year period is in relation to possession without regard to the Civil Code, while under Section 14(2) of P.D. No. 1529, the 30-year period involves extraordinary prescription under the Civil Code, particularly Article 1113 in relation to Article 1137.

Supreme Court E-Library

4. ID.; ID.; ID.; REGISTRATION OF INCOMPLETE OR IMPERFECT TITLE; REQUISITES TO BE PROVED BY THE APPLICANT.— An applicant for land registration or judicial confirmation of incomplete or imperfect title under Section 14(1) of Presidential Decree No. 1529 must prove the following requisites: "(1) that the subject land forms part of the disposable and alienable lands of the public domain, and (2) that [the applicant has] been in open, continuous, exclusive and notorious possession and occupation of the same under a bona fide claim of ownership since June 12, 1945, or earlier." Concomitantly, the burden to prove these requisites rests on the applicant.

5. ID.; ID.; POSSESSION; POSSESSION IS OPEN WHEN IT IS PATENT, VISIBLE, APPARENT, NOTORIOUS AND NOT CLANDESTINE.— Possession is open when it is patent, visible, apparent, notorious and not clandestine. It is continuous when uninterrupted, unbroken and not intermittent or occasional; exclusive when the adverse possessor can show exclusive dominion over the land and an appropriation of it to his own use and benefit; and notorious when it is so conspicuous that it is generally known and talked of by the public or the people in the neighborhood.

6. ID.; ID.; OWNERSHIP; TAX DECLARATIONS ARE NOT CONCLUSIVE EVIDENCE OF OWNERSHIP.— It is settled that tax declarations are not conclusive evidence of ownership. Other evidence may be appreciated to determine actual possession and occupation. Documentary evidence, such as tax declarations, when coupled with positive and clear testimonies of the applicant and his or her witnesses, may be weighed in favor of the applicant.

7. ID.; ID.; ID.; TAX DECLARATIONS SERVE AS ADDITIONAL *INDICIA* OF OWNERSHIP.— The fact that a parcel of land is not declared for tax purposes regularly, or that realty taxes are not paid on a regular basis, **does not automatically** contradict the claim of possession. Tax declarations serve as additional *indicia* of ownership. It is not conclusive as to the fact of possession, occupation, or ownership.

8. REMEDIAL LAW; APPEALS; POINTS OF LAW, THEORIES, ISSUED AND ARGUMENTS NOT ADEQUATELY BROUGHT TO THE ATTENTION OF THE LOWER

Supreme Court E-Library

COURT NEED NOT BE CONSIDERED BY THE REVIEWING COURT.— [S]ettled is the rule that no questions will be entertained on appeal unless they have been raised below. Points of law, theories, issues and arguments not adequately brought to the attention of the lower court need not be considered by the reviewing court as they cannot be raised for the first time on appeal. basic considerations of due process impel this rule.

APPEARANCES OF COUNSEL

Ceña Law Office for petitioner.
The Solicitor General for respondent.

D E C I S I O N

LEONEN, *J.*:

This resolves the petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the decision[1] dated November 10, 2011 and resolution[2] dated February 23, 2012 of the Court of Appeals. The Court of Appeals reversed the trial court's decision dated January 30, 2008 in LRC Case No. N-06-003[3] and dismissed petitioner's application for registration of title.

We restate the pertinent facts in this case.

On August 22, 2006, petitioner Luzviminda A. Canlas (Canlas) applied for the original registration of title, under Presidential

---

[1] *Rollo*, pp. 38–53. The decision was promulgated on November 10, 2011, docketed as CA-G.R. CV No. 90643, and was penned by Associate Justice Agnes Reyes-Carpio and concurred in by Associate Justices Fernanda Lampas Peralta and Normandie B. Pizarro, of the Special Thirteenth (13th) Division.

[2] *Id*. at 36-37. The resolution was issued on February 23, 2012.

[3] This case was entitled "In the matter of Application of Registration of Title, Luzviminda A. Canlas, Applicant" and decided by the Regional Trial Court, Branch 67, Binangonan, Rizal.

Supreme Court E-Library

Decree No. 1529,[4] of the 9,751-square-meter parcel of land located in Barrio Macamot, Municipality of Binangonan, Province of Rizal, and technically described as Cadastral Lot No. 11566, Psu-04-006561.[5]

There was no opposition to Canlas' application. Respondent Republic of the Philippines (Republic) did not submit its comment or opposition despite the opportunity given by the trial court.[6] The case was then submitted for decision.[7]

The Regional Trial Court granted Canlas' application[8] and held that:

> We **GRANT** the application. We **ORDER** the Register of Deeds of Rizal (Binangonan) to cause the registration of the property, described in Cadastral Lot No. 11566 of the subdivision plan, Psu-04-006561, in the name of the applicant Luzviminda A. Canlas with the reservation that it shall be subject of easement to public use. Once this judgment becomes final and executory, we shall issue a decree of registration and then order the issuance of an original certificate of title in her name.[9] (Emphasis and underscoring in the original)

According to the trial court, Canlas complied with the procedural requirements and substantiated her application.[10] She sufficiently proved that, through her predecessors-in-interest, she has been in "open, continuous, exclusive and notorious possession of an alienable and disposable parcel of land of the public domain under a bona fide claim of ownership for more than 30 years."[11]

---

[4] "Amending and Codifying the Laws Relative to Registration of Property and for Other Purposes" or the Property Registration Decree.

[5] *Rollo*, pp. 39-40.

[6] *Id*. at 41.

[7] *Id*. at 41-42.

[8] *Id*. at 42.

[9] *Id*. at 39, as cited in the Court of Appeals' decision.

[10] *Id*. at 42.

[11] *Id*.

Supreme Court E-Library

The Republic of the Philippines, however, filed a notice of appeal on February 29, 2008.[12] Acting on the Republic's appeal, the Court of Appeals reversed and set aside the decision of the trial court. The Court of Appeals held that Canlas was not able to prove open, continuous, exclusive, and notorious possession and occupation of the property.[13] According to the Court of Appeals, Canlas failed to discharge the burden of proof placed on applicants for land registration.[14]

The Court of Appeals also found that Canlas admitted during cross-examination that she has not resided on the property since she got married in 1966 and left for San Francisco Del Monte, Quezon City.[15] During the same cross-examination, Canlas contradicted her allegations in the application as to knowledge of any mortgage, encumbrance, or interest of other persons in the property in question.[16] Moreover, she did not show "any acts of occupation, development, cultivation or maintenance over the property."[17]

The dispositive portion of the Court of Appeals' decision reads:

WHEREFORE, the appeal is **GRANTED**. The Decision dated January 30, 2008 in LRC Case No. N-06-003 is **REVERSED and SET ASIDE**. Accordingly, the Application of Registration of Title of Luzviminda A. Canlas is **DISMISSED**.

SO ORDERED.[18] (Emphasis in the original)

The Court of Appeals denied on February 23, 2012 Canlas' December 7, 2011 motion for reconsideration.[19]

---

[12] *Id*. at 43.

[13] *Id*. at 46.

[14] *Id*. at 52.

[15] *Id*.

[16] *Id.* at 46-47.

[17] *Id*. at 52, *citing Wee v. Republic of the Philippines*, 622 Phil. 944, 956 (2009) [Per *J*. Del Castillo, Second Division].

[18] *Id*. at 53.

[19] *Id*. at 36-37.

Supreme Court E-Library

Canlas comes before this court, arguing that she has duly overcome the burden of proof by showing open, continuous, exclusive, adverse, and notorious possession and occupation of the property. This is allegedly shown in the following acts of Canlas and her predecessors-in-interest since the 1900's: declaring the property in their names, paying taxes due on the property, having the property surveyed, and allowing the excavation in the property for the retrieval and hauling of "pulang lupa" for the making of clay pots.[20]

Canlas argued further that "residence" is not synonymous with "possession and occupation" as implied by the Court of Appeals.[21] Presidential Decree No. 1529 does not require the applicant to reside on the land being registered.[22] The law also does not require that a relative of the applicant be present to oversee the property.[23]

On March 4, 2013, this court resolved, among others, to require the Republic to submit its comment, without necessarily giving due course, within 10 days from notice.[24]

In its comment, the Republic argued that "[Canlas] failed to present sufficient and convincing evidence to support her application for registration of the subject parcel of land."[25] Canlas must offer more than a bare assertion of possession and occupation.[26]

In addition, the property had been sporadically and irregularly declared for tax purposes under the name of Honorio Apran from 1949 until 1999.[27] Realty taxes on the property were paid

---

[20] *Id.* at 24–29.

[21] *Id.* at 30.

[22] *Id.*

[23] *Id.*

[24] *Id.* at 86-86-A.

[25] *Id.* at 117.

[26] *Id.* at 119.

[27] *Id.*

Supreme Court E-Library

only in 2003.[28] The Republic observed that the tax declarations presented by Canlas had been made a few months before the application for registration was made and served only to establish a weak claim for a registrable title for her.[29]

On October 23, 2013, this court resolved to require Canlas to file her reply.[30] In her reply[31] dated December 13, 2013, she claimed that she "suddenly realized that she has a significant document that she believes would . . . change the complexion of the instant case."[32] This document is the Land Registration Authority's report and motion dated May 12, 2009 and was allegedly prepared after the Land Registration Authority's receipt of the trial court decision dated January 30, 2008.[33]

The Land Registration Authority, through its Director for Registration,[34] stated that the land described as Psu-04-006561 located in Barrio Macamot,[35] Municipality of Bingangonan, Province of Rizal, is found entirely within the land denominated as Lot 16 of the subdivision plan Psd-240150 covered by Transfer Certificate of Title (TCT) No. M-00861 and is under the name of the "Heirs of Francisco Guido and Hermogenes Guido."[36]

---

[28] *Id.*

[29] *Id.*

[30] *Id.* at 131.

[31] *Id.* at 132–136.

[32] *Id.* at 132.

[33] *Id.* at 137-139. Petitioner claimed that the report and motion was prepared by the Land Registration Authority "to be submitted to the Regional Trial Court (Br. 67, Binangonan, Rizal) upon receipt of RTC Decision" (*rollo*, p. 132).

[34] *Id.* at 139. Mr. Porfirio R. Encisa, Jr., signed as the Land Registration Authority's Director for Registration. The document was noted by Deputy Administrator Ofelia E. Abueg-Sta. Maria.

[35] In the Land Registration Authority's report and motion, the land was described to be situated in Barrio "Mayamot", (*rollo* p. 137).

[36] *Id.* at 137.

Supreme Court E-Library

TCT No. M-00861 was derived from a mother title, TCT No. 23377,[37] which was the subject of *Republic v. Court of Appeals and Guido, et al.*[38] The case stemmed from a complaint, filed by the Republic of the Philippines, for declaration of nullity of Decree No. 6145, the owner's duplicate copy of TCT No. 23377, and all titles derived from the decree.[39] The Republic also prayed that the land covered by the decree be declared in its name, except those parcels of land validly acquired by third persons. According to the Republic, Decree No. 6145 was spurious and false and, in turn, the reconstituted TCT No. 23377, as well as the derivative titles, was invalid.[40] Both the trial court and the Court of Appeals found that Decree No. 6145 and TCT No. 23377 were genuine and authentic.[41]

This court in *Republic* upheld the authenticity and validity of Decree No. 6145 and TCT No. 23377. However, in affirming respondent heirs' title, this court recognized the waiver of certain parts of the land covered by TCT No. 23377 in favor of *bona fide* occupants. The court held that:

> Moreover, conscious of the resulting "largescale dispossession and social displacement of several hundreds of *bona fide* occupants and their families" which the Solicitor General pointed out, the private respondent agreed unanimously to accept the alternative prayer of

---

[37] *Id*. at 138.

[38] G.R. No. 84966, November 21, 1991, 204 SCRA 160 [Per *J*. Medialdea, *En Banc*].

[39] *Id*. at 163.

[40] *Id*. Petitioner Republic alleged the following in its complaint: "'15. The alleged Decree No. 6145 issued on September 10, 1911 and the alleged owner's copy of Transfer Certificate of Title No. 23377 issued on May 12, 1933, both in the name of Francisco and Hermogenes Guido, and which supposed owner's duplicate was made the basis of the administrative reconstitution of Transfer Certificate of Title No. (23377) RT-M-0002 on March 29, 1976, or about 43 years later, are false, spurious and fabricated and were never issued by virtue of judicial proceedings for registration of land, either under Act No. 496, as amended, otherwise known as the Land Registration Act, or any other law, x x x.' (pp. 91-92, *Rollo*)"

[41] *Id*. at 165-166.

Supreme Court E-Library

the petitioner in their joint memorandum (pp. 624-636, *Rollo*). This agreement by private respondents takes the form of a waiver. Though a valid and clear right over the property exists in their favors, they seemingly have voluntarily abandoned the same in favor of: *1) those who possessed and actually occupied specific portions and obtained torrens certificates of titles, and 2) those who possessed certain specific portions for such lengths of time as to amount to full ownership.* The waiver, not being contrary to law, morals, good customs and good policy, is valid and binding on the private respondents.

However, with respect to the second set of possessors, whose alleged bona fide occupancy of specific portions of the property is not evidenced by Torrens Titles, it is imperative that their claims/occupancy be duly proven in an appropriate proceeding.

ACCORDINGLY, the decision of the Court of Appeals in CA-G.R. No. 12933 is AFFIRMED subject to the herein declared superior rights of *bona fide* occupants with registered titles within the area covered by the questioned decree and *bona fide* occupants therein with length of possession which had ripened to ownership, the latter to be determined in an appropriate proceeding.

SO ORDERED.[42] (Emphasis supplied)

Citing the case above, the Land Registration Authority prayed the following before the trial court in its report and motion:

WHEREFORE, it is respectfully prayed of this Honorable Court to issue an order (1) directing the Register of Deeds of Rizal, Binangonan, Rizal to annotate on **TCT No. M-2106** the following memorandum:

> *By virtue of the decision of the Court dated January 30, 2008 in Land Reg. Case No. 06-003, LRC Record No. N-78156, LUZVIMINDA A. CANLAS, applicant, Psu-04-006561, has been adjudicated in favor of the applicant and pursuant to the decision of the Supreme Court in G.R. No. 84966, promulgated on November 21, 1991, entitled Republic of the Philippines vs. Court of Appeals and Antonina Guido, et al., (204 SCRA 160), aforesaid [sic] lot is deemed excluded from this certificate of title.*

and (2) Authorizing this Authority to issue the corresponding decree of registration for the land embraced in plan **Psu-04-006561**, in

[42] *Id*. at 180-181.

Supreme Court E-Library

accordance with the adjudication of the Honorable Court in its decision January 30, 2008.[43] (Emphasis and italics in the original)

According to Canlas, she falls under the second set of possessors described in *Republic* — bona fide occupants whose possession of specific portions for such lengths of time amounted to full ownership but whose occupancy must be duly proved in appropriate proceedings.[44]

In sum, Canlas changed the theory of her case from an application for original registration of land, to a declaration of a right to an indefeasible registrable title of the land described in plan Psu-04-006561 and covered by TCT No. 23377.

Despite the change in Canlas' theory, the main issues to be resolved are: 1) whether petitioner Luzviminda A. Canlas has proven open, continuous, exclusive, and notorious possession and occupation of the land described in plan Psu-04-006561; and 2) whether Psu-04-006561 is covered by TCT No. 23377 wherein she is one of the bona fide occupants whose possession and occupation ripened into an indefeasible right to title as pronounced in *Republic*.

After considering the parties' arguments and the records of this case, this court resolves to grant the petition. The assailed decision and resolution of the Court of Appeals are reversed and set aside. The case is remanded to the trial court for further proceedings with regard to the determination of whether Psu-04-006561 is covered by TCT No. 23377.

At the outset, the issue on sufficiency of evidence is factual in nature and is generally outside the province of this court's review of petitions under Rule 45 of the Rules of Court.[45]

---

[43] *Rollo*, pp. 138-139. *TCT No. M-00861* was cancelled, and TCT No. M-1302 was issued in its place. TCT No. M-1302 was subsequently cancelled, and *TCT No. M-2106* was issued in the name of Antonina Guido, *et al.* (*rollo*, p. 138).

[44] *Id*. at 134.

[45] *See Roman Catholic Archbishop of Manila v. Ramos*, G.R. No. 179181,November 18, 2013, 709 SCRA 576, 587 [Per *J*. Brion, Second

Supreme Court E-Library

However, exceptions are allowed when the findings of the trial court and Court of Appeals are conflicting with each other[46] or when the assailed judgment is based on a misapprehension of facts,[47] such as the case at bar.

Section 14 of Presidential Decree No. 1529[48] or the Property Registration Decree governs the applications for registration of title to land:

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.

(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.

Division], *citing Republic v. Javier,* 613 Phil. 101, 110-111 (2009) [Per *J.* Chico-Nazario, Third Division]; *Republic v. Capco de Tensuan*, G.R. No. 171136, October 23, 2013, 708 SCRA 367, 378-379 [Per *J.* Leonardo-De Castro, First Division]; See also *Bunyi, et al., v. Factor,* 609 Phil. 134, 139–140 (2009) [Per *J.* Quisumbing, Second Division].

[46] See *Amado v. Salvador*, 564 Phil. 728 (2007) [Per *J.* Chico-Nazario, Third Division].

[47] See *Republic v. Capco de Tensuan,* G.R. No. 171136,October 23, 2013, 708 SCRA 367, 379 [Per *J.* Leonardo-De Castro, First Division].

[48] This decree is entitled "Amending and Codifying the Laws Relative to Registration of Property and For Other Purposes."

Supreme Court E-Library

Section 14(1) of Presidential Decree No. 1529 proceeds from Section 48(b) of Commonwealth Act No. 141 or The Public Land Act, as amended, which provides for the grant of the substantive right of title to land to qualified persons:

> 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:
>
> . . . .
>
> (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*. Those 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 P.D. 1073.)

In land registration cases, the applicants' legal basis is important in determining the required number of years or the reference point for possession or prescription. This court has delineated the differences in the modes of acquiring imperfect titles under Section 14 of Presidential Decree No. 1529. *Heirs of Mario Malabanan v. Republic*[49] extensively discussed the distinction between Section 14(1) and Section 14(2) of Presidential Decree No. 1529. Thus, this court laid down rules to guide the public:

> (1) In connection with Section 14(1) of the Property Registration Decree, Section 48(b) of the Public Land Act recognizes and confirms that "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,

[49] 605 Phil. 244, 281-282 (2009) [Per *J.* Tinga, *En Banc*].

Supreme Court E-Library

under a bona fide claim of acquisition of ownership, since June 12, 1945" have acquired ownership of, and registrable title to, such lands based on the length and quality of their possession.

> (a) Since Section 48(b) merely requires possession since 12 June 1945 and does not require that the lands should have been alienable and disposable during the entire period of possession, the possessor is entitled to secure judicial confirmation of his title thereto as soon as it is declared alienable and disposable, subject to the timeframe imposed by Section 47 of the Public Land Act.
>
> (b) The right to register granted under Section 48(b) of the Public Land Act is further confirmed by Section 14(1) of the Property Registration Decree.

(2) In complying with Section 14(2) of the Property Registration Decree, consider that under the Civil Code, prescription is recognized as a mode of acquiring ownership of patrimonial property. However, public domain lands become only patrimonial property not only with a declaration that these are alienable or disposable. There must also be an express government manifestation that the property is already patrimonial or no longer retained for public service or the development of national wealth, under Article 422 of the Civil Code. And only when the property has become patrimonial can the prescriptive period for the acquisition of property of the public dominion begin to run.

> (a) Patrimonial property is private property of the government. The person [who] acquires ownership of patrimonial property by prescription under the Civil Code is entitled to secure registration thereof under Section 14(2) of the Property Registration Decree.
>
> (b) There are two kinds of prescription by which patrimonial property may be acquired, one ordinary and [the] other extraordinary. Under ordinary acquisitive prescription, a person acquires ownership of a patrimonial property through possession for at least ten (10) years, in good faith and with just title. Under extraordinary acquisitive prescription, a person's uninterrupted adverse possession of patrimonial property for at least thirty (30) years, regardless of good faith or just title, ripens into ownership.[50]

---

[50] *Id*. at 285-286. In the resolution dated September 13, 2013, this court

Supreme Court E-Library

In *Republic v. Gielczyk*,[51] this court summarized and affirmed the differences between Section 14(1) and Section 14(2) of Presidential Decree No. 1529 as discussed in *Heirs of Malabanan*:

In *Heirs of Mario Malabanan v. Republic*, the Court further clarified the difference between Section 14(1) and Section 14(2) of P.D. No.

---

resolved petitioners' motion for reconsideration and respondent's partial motion for reconsideration. This court upheld the decision dated April 29, 2009. We held that:

"To sum up, we now observe the following rules relative to the disposition of public land or lands of the public domain, namely:

(1) As a general rule and pursuant to the Regalian Doctrine, all lands of the public domain belong to the State and are inalienable. Lands that are not clearly under private ownership are also presumed to belong to the State and, therefore, may not be alienated or disposed;

(2) The following are excepted from the general rule, to wit:

(a) Agricultural lands of the public domain are rendered alienable and disposable through any of the exclusive modes enumerated under Section 11 of the *Public Land Act*. If the mode is judicial confirmation of imperfect title under Section 48(b) of the *Public Land Act*, the agricultural land subject of the application needs only to be classified as alienable and disposable as of the time of the application, provided the applicant's possession and occupation of the land dated back to June 12, 1945, or earlier. Thereby, a conclusive presumption that the applicant has performed all the conditions essential to a government grant arises, and the applicant becomes the owner of the land by virtue of an imperfect or incomplete title. By legal fiction, the land has already ceased to be part of the public domain and has become private property.

(b) Lands of the public domain subsequently classified or declared as no longer intended for public use or for the development of national wealth are removed from the sphere of public dominion and are considered converted into patrimonial lands or lands of private ownership that may be alienated or disposed through any of the modes of acquiring ownership under the *Civil Code*. If the mode of acquisition is prescription, whether ordinary or extraordinary, proof that the land has been already converted to private ownership prior to the requisite acquisitive prescriptive period is a condition *sine qua non* in observance of the law (Article 1113, *Civil Code*) that property of the State not patrimonial in character shall not be the object of prescription." (*Heirs of Mario Malabanan v. Republic of the Philippines*, G.R. No. 179987, September 3, 2013, 704 SCRA 561, 584-585 [Per J. Bersamin, *En Banc* Resolution])

[51] G.R. No. 179990, October 23, 2013, 708 SCRA 433 [Per *J.* Reyes, First Division].

Supreme Court E-Library

1529. The former refers to registration of title on the basis of possession, while the latter entitles the applicant to the registration of his property on the basis of prescription. Registration under the first mode is extended under the aegis of the P.D. No. 1529 and the Public Land Act (PLA) while under the second mode is made available both by P.D. No. 1529 and the Civil Code. Moreover, under Section 48(b) of the PLA, as amended by Republic Act No. 1472, the 30-year period is in relation to possession without regard to the Civil Code, while under Section 14(2) of P.D. No. 1529, the 30-year period involves extraordinary prescription under the Civil Code, particularly Article 1113 in relation to Article 1137.[52]

In this case, neither the trial court nor the Court of Appeals clarified under which paragraph of Section 14 of Presidential Decree No. 1529 the land was being registered. However, petitioner's allegations in the application filed on August 22, 2006 established Section 14(1) of Presidential Decree No. 1529 as her legal basis. [53]

An applicant for land registration or judicial confirmation of incomplete or imperfect title under Section 14(1) of Presidential Decree No. 1529 must prove the following requisites: "(1) that the subject land forms part of the disposable and alienable lands of the public domain, and (2) that [the applicant has] been in open, continuous, exclusive and notorious possession and occupation of the same under a bona fide claim of ownership since June 12, 1945, or earlier."[54] Concomitantly, the burden to prove these requisites rests on the applicant.[55]

With regard to the first requisite, it is undisputed that the land subject of registration is part of the alienable and disposable lands of the public domain. The trial court found the Department

---

[52] *Id.* at 448, *citing Heirs of Mario Malabanan v. Republic,* 605 Phil. 244, 281 (2009) [Per J. Tinga, *En Banc*].

[53] *Rollo,* p. 54.

[54] *Republic v. Hanover Worldwide Trading Corporation,* G.R. No. 172102, July 2, 2010, 622 SCRA 730, 739 [Per J. Peralta, Second Division].

[55] See *Roman Catholic Archbishop of Manila v. Ramos*, G.R. No. 179181, November 18, 2013, 709 SCRA 576, 590–591 [Per J. Brion, Second Division].

Supreme Court E-Library

of Environment and Natural Resources' report sufficient to prove the existence of the first requisite.[56] The Court of Appeals' decision was silent on this matter. Respondent failed to make objections on the issue as well. Thus, we do not see any reason to deviate from the findings of the lower courts.

As to the second requisite, petitioner claims that she "by herself, and through [her] predecessors-in-interest, had since June 12, 1945 or earlier[,] been in open[,] continuous, exclusive and notorious possession of the . . . parcel of land."[57] However, the Court of Appeals found that petitioner failed to prove with sufficient evidence her open, continuous, exclusive, and notorious possession and occupation of the land. Likewise, respondent argued that petitioner's allegations of possession and occupation were mere conclusions and unsubstantiated.

Petitioner has sufficiently overcome the burden of proof required in a judicial confirmation of incomplete or imperfect title to land.

Contrary to respondent's arguments, the trial court specifically found that petitioner's possession and occupation, through her predecessors-in-interest, started earlier than June 12, 1945. The trial court found:

> Applicant's evidence shows that she complied with the notice requirements (Exhibits "A" to ["]M," inclusive of submarkings) and she was able to substantiate the allegations in her application (Exhibits "N" to "II," inclusive of submarkings). ***In a nutshell, applicant acquired the property by inheritance from Honorio and Gregorio S. Apran and she and her predecessors-in-interest have been in its continuous possession since 1900*** (Exhibits "Q" to "HH," inclusive of submarkings). . . . *The testimonies of the applicant and her witnesses proved that the applicant through her predecessors-in-interest have been in open, continuous, exclusive and notorious possession of an*

[56] *Rollo*, p. 42. In *Republic v. T.A.N. Properties, Inc.*, 578 Phil. 441, 452-453 (2008) [Per *J.* Carpio, First Division], this court held that it is not enough for the Provincial Environment and Natural Resources Offices (PENRO) or Community Environment and Natural Resources Offices (CENRO) to certify that a land is alienable and disposable. However, the facts and issues of that case are not on all fours with the present case.

[57] *Id.* at 54.

Supreme Court E-Library

alienable and disposable parcel of land of the public domain under a bona fide claim of ownership for more than 30 years. After considering the report and the evidence, we find that the applicant has sufficient title proper for registration, and we render judgment confirming it.[58] (Emphasis and italics supplied)

Possession involves committing acts of dominion over a parcel of land in such a way that an owner would perform over his or her property.[59] In explaining the nature of the terms "possession and occupation" provided in law, this court has held that:

The law speaks of *possession and occupation*. Since these words are separated by the conjunction *and*, the clear intention of the law is not to make one synonymous with the other. Possession is broader than occupation because it includes constructive possession. When, therefore, the law adds the word *occupation*, it seeks to delimit the all encompassing effect of constructive possession. Taken together with the words open, continuous, exclusive and notorious, the word *occupation* serves to highlight the fact that for an applicant to qualify, his possession must not be a mere fiction. Actual possession of a land consists in the manifestation of acts of dominion over it of such a nature as a party would naturally exercise over his own property.[60] (Italics in the original)

Moreover, to qualify as open, continuous, exclusive, and notorious possession and occupation, the possession must be of the following character:

Possession is open when it is patent, visible, apparent, notorious and not clandestine. It is continuous when uninterrupted, unbroken and not intermittent or occasional; exclusive when the adverse possessor can show exclusive dominion over the land and an appropriation of it to his own use and benefit; and notorious when

---

[58] *Id*. at 42.

[59] See *Republic v. Gielczyk*, G.R. No. 179990, October 23, 2013, 708 SCRA 433, 456 [Per *J*. Reyes, First Division].

[60] *Republic v. East Silverlane Realty Development Corporation*, G.R. No. 186961, February 20, 2012, 666 SCRA 401, 419 [Per *J*. Reyes, Second Division], *citing Republic v. Alconaba*, 471 Phil. 607 (2004) [Per *C.J*. Davide, Jr., First Division].

Supreme Court E-Library

it is so conspicuous that it is generally known and talked of by the public or the people in the neighborhood.[61]

In reversing the trial court's decision, the Court of Appeals found that petitioner "failed to address the issue of whether she had . . . an open, continuous, exclusive and notorious possession and occupation of the subject property. . . . [Petitioner] could have advanced proofs or arguments to the contrary."[62] Thus, she "had not shown 'any acts of occupation, development, cultivation or maintenance over the property.'"[63]

This court puts more premium on the findings of the trial court that petitioner has sufficiently shown acts of dominion before 1945 and throughout the years. It is settled that the trial court's appreciation of the evidence presented is entitled to great respect since it is in a better position to evaluate the testimonies of witnesses.[64]

Petitioner has sufficiently shown that she, through her predecessors-in-interest, have been in open, continuous, exclusive, and notorious possession and occupation of the 9,751-square-meter parcel of land located in Barrio Macamot, Municipality of Binangonan, Province of Rizal, since June 12, 1945 or earlier.[65] Documentary evidence to prove possession

---

[61] *Heirs of Marcelina Arzadon-Crisologo v. Rañon*, 559 Phil. 169, 181-182 (2007) [Per *J*. Chico-Nazario, Third Division], *cited in Tan v. Republic*, G.R. No. 193443, April 16, 2012, 669 SCRA 499, 509 [Per *J*. Reyes, Second Division Resolution]; See *Roman Catholic Archbishop of Manila v. Ramos*, G.R. No. 179181, November 18, 2013, 709 SCRA 576 [Per *J*. Brion, Second Division].

[62] *Rollo*, pp. 51-52.

[63] *Id*. at 52, *citing Wee v. Republic of the Philippines*, 622 Phil. 944, 956 (2009) [Per *J*. Del Castillo, Second Division].

[64] See *Philippine National Bank v. Court of Appeals*, 381 Phil. 720, 730 (2000) [Per *J*. Kapunan, First Division Resolution]. This court upheld the findings of the trial court as adopted by the Court of Appeals. See also *Aclon v. Court of Appeals*, 436 Phil. 219, 232 (2002) [Per *J*. Austria-Martinez, First Division]; See *Spouses Cirelos v. Spouses Hernandez*, 524 Phil. 156, 169–170 (2006) [Per *J*. Austria-Martinez, First Division].

[65] The present case must be differentiated from *Tan v. Republic*, G.R.

Supreme Court E-Library

was presented and substantiated by the witnesses' testimonies.[66] There were sufficient pieces of evidence to show that petitioner and her predecessors-in-interest exercised specific acts of ownership such as: farming activities; allowing the excavation of land for "pulang lupa" to make clay pots; paying realty taxes; declaring the property for tax purposes; employing a caretaker; causing corrections in entries in public documents with regard to the land; and demanding unlawful occupants to vacate the premises.[67]

The fact of actual possession and occupation can also be gleaned from petitioner's judicial affidavit:

Q	:	When you inherited the property, who was in possession and cultivation thereof?
A	:	My father? [sic]
Q	:	When did he possess the property?
A	:	When he was born thereat and lived there, and when he grew up he cultivated it.
Q	:	When was he born?
A	:	May 16, 1918, Sir.

No. 193443, April 16, 2012, 669 SCRA 499, 510 [Per *J.* Reyes, Second Division Resolution], in that petitioner Canlas showed that she and her predecessors-in-interest have exercised specific acts of ownership over the land subject of the application for registration. This court in *Tan* found that "[w]hile there was an attempt to supplement the tax declaration by testimonial evidence, the same is futile and frivolous. The testimonies . . . do not merit consideration and do not make up for the inherent inadequacy of the eleven (11) tax declarations submitted by the petitioners. Such witnesses did not state what specific acts of ownership or dominion were performed by the petitioners and predecessors-in-interest and simply made that general assertion that the latter possessed and occupied the subject property for more than thirty (30) years, which, by all means, is a mere conclusion of law. The RTC should have tackled evidence of such nature with a disposition to incredulity, if not with an outright rejection."

[66] The following were attached to petitioner's application: a) Approved Plan; b) Technical Description; c) Surveyor's Certificate; d) Tax Declaration; e) *Kasulatan ng Paghahati-hati ng Lupang Labas sa Hukuman ng Yumaong Honorio Apran na may Pagpapapaubaya sa Karapatan*; and f) Certification of Present Declared Owner and Present Value. The testimonies of petitioner and Montano Ulang, petitioner's senior of 10 years who lived near the property subject of registration, were also presented (*rollo*, pp. 56 and 74-82).

[67] *Rollo*, pp. 20-29 and 76-82.

Supreme Court E-Library

Q : Before your father, who?
A : My grandfather, Honorio Apran.
Q : Since when?
A : Approximately 1900's, Sir.
Q : What was done by your grandfather on the property?
A : He tilled the land by growing palay on rainy days, and kamatis, and sometimes watermelon on summer days.
Q : What happened to those farming activities when your grandfather Honorio died?
A : My father continued the farming activities and so did I until I transferred to Quezon City sometime year 2000.
Q : How young were you then in the 1900's?
A : I was not yet even born, Sir.
Q : When were you born?
A : February 26, 1944, Sir.
. . . .
Q : After your father, who possessed and cultivated the property?
A : I, Sir.[68]

In its assailed decision, the Court of Appeals found that petitioner was not in possession of the property to the exclusion of others.[69] It relied on petitioner's statements during cross-examination before the trial court on the following matters: that a conditional sale was made between petitioner and Maura F. Reyes and Lorenza F. Reyes in 1976[70] and that the property had other occupants.[71] The Court of Appeals also stated that it "received an Appeal in Intervention filed by the heirs of Lorenza F. Reyes and the [h]eirs of Maura F. Reyes."[72]

The totality of petitioner's evidence trumps any doubt as to the exclusivity and continuity of petitioner's possession with regard to other occupants and an alleged failed conditional sale

[68] *Id.* at 77-78.

[69] *Id.* at 46-47.

[70] *Id.* at 48.

[71] *Id.* at 50.

[72] *Id.* at 51.

Supreme Court E-Library

executed in 1976 between petitioner and third parties, Lorenza F. Reyes and Maura F. Reyes. We observe that no oppositors appeared during the initial hearing on petitioner's application.[73] Aside from petitioner's statement during cross-examination that the sale did not push through due to non-payment of the full purchase price, the Court of Appeals did not refer to other evidence to establish the conditional sale.

In addition, the Court of Appeals did not allow the intervention of the heirs of Lorenza F. Reyes and Maura F. Reyes.[74] No third parties intervened in the present case.[75]

Respondent's claim that the tax declarations presented by petitioner were sporadic and irregular deserves scant consideration. The Court of Appeals observed that:

> The OSG likewise claims that [petitioner] failed to show her ownership and possession of the property in question, since the subject property was declared for tax purposes only in 1949, 1966, 1974, 1980, 1985, 1994-1999 under the name of Honorio Apan and in 2004 under the name of [petitioner]. . . .
>
> We do not see the point of the OSG in attacking the tax declarations. We do not understand why it harps on the fact that the property was declared for taxation purposes only in 1948. *We do not see any irregularity here. It would have helped Us a lot had the OSG been more specific and did not leave Us in a guessing and explorative game. To Our mind, what matters here is that the tax declarations from 1948 up to the latest are in the correct series — one tax declaration*

---

[73] *Id*. at 42. Jurisprudence is clear that the absence of oppositors in a land registration case does not automatically mean a meritorious case absent clear and convincing evidence of actual possession and occupation. However, petitioner has sufficiently overcome the burden of proof required in land registration cases, as discussed earlier.

[74] In its decision promulgated on November 10, 2011, the Court of Appeals stated that it denied the appeal-in-intervention filed by the heirs of Lorenza F. Reyes and Maura F. Reyes through its resolution dated August 26, 2011. The Court of Appeals reiterated in the same resolution that the case was already deemed submitted for decision pursuant to its resolution dated June 4, 2009 (*rollo*, p. 51).

[75] A letter dated April 15, 2013 was sent by Edgardo Graganta, President of Samahan ng Nagkakaisang Magkakapitbahay ng LORECOM, Inc. (*rollo*, p. 87). He requested a copy of the latest resolution in the case. This court resolved to note without action Edgardo Graganta's letter considering that neither he nor the association is a party to the case (*rollo* p. 95).

Supreme Court E-Library

cancels the immediately previously issued tax declaration which in effect also cancels all the previously issued tax declarations.

Further, We find it misleading for OSG to claim that the realty taxes were only paid a few months before the filing of the application. Per records of this case, the recent payment was on October 22, 2003 while the application for registration was filed on August 22, 2006 or almost three years after.[76] (Italics supplied)

It is settled that tax declarations are not conclusive evidence of ownership.[77] Other evidence may be appreciated to determine actual possession and occupation. Documentary evidence, such as tax declarations, when coupled with positive and clear testimonies of the applicant and his or her witnesses, may be weighed in favor of the applicant.[78]

The fact that a parcel of land is not declared for tax purposes regularly, or that realty taxes are not paid on a regular basis, **does not automatically** contradict the claim of possession. Tax declarations serve as additional *indicia* of ownership. It is not conclusive as to the fact of possession, occupation, or ownership.

Likewise, to solely rely on tax declarations and payment of realty taxes would mean that petitioner's possession of the land should be reckoned from 1949 or the year the earliest tax declaration was made. Such interpretation is untenable and goes beyond the text of Section 14(1) of Presidential Decree No.

---

[76] *Rollo*, pp. 45-46.

[77] See *Roman Catholic Archbishop of Manila v. Ramos*, G.R. No. 179181,November 18, 2013, 709 SCRA 576, 593-594 [Per J. Brion, Second Division].

[78] In *Republic v. Court of Appeals*, 489 Phil. 405, 419 (2005) [Per J. Tinga, Second Division], this court ruled that "possession since 1945 was established through proof of the **existence of 50 to 60-year old trees** at the time . . . the property [was purchased] as well as tax declarations executed . . . in 1945." (Emphasis supplied) In *Arbias v. Republic*, 587 Phil. 361, 374 (2008) [Per J. Chico-Nazario, Third Division], this court declared that "[w]ell-settled is the rule that tax declarations and receipts are not conclusive evidence of ownership or of the right to possess land *when not supported by any other evidence*." (Emphasis supplied); See also *Roman Catholic Archbishop of Manila v. Ramos*, G.R. No. 179181, November 18, 2013, 709 SCRA 576, 594 [Per J. Brion, Second Division]. These cases show that different kinds of evidence may be considered in determining actual possession and occupation.

Supreme Court E-Library

1529. Moreover, as shown in the records, petitioner, through her predecessors-in-interest, has been in possession of the land since the early 1900s.

We remand the issue of the inclusion of plan Psu-04-006561 in TCT No. 23377, as allegedly certified by the Land Registration Authority, to the trial court of origin.

Generally, the remand of a case will not be permitted if "in the interest of justice, the Supreme Court itself can resolve the dispute based on the records before it."[79] Thus, remand may not be allowed in the following instances: "(a) where the ends of justice would not be subserved by a remand; or (b) where public interest demands an early disposition of the case; or (c) where the trial court had already received all the evidence presented by both parties, and the Supreme Court is in a position, based upon said evidence, to decide the case on its merits."[80] None of these are present in this case.

The trial court is in the best position to ascertain the validity and authenticity of the alleged Land Registration Authority report and motion, as well as the truth and probative weight of the statements contained in the document. A reading of *Republic v. Court of Appeals and Guido, et al.*, invoked by petitioner, does not reveal the precise metes and bounds of the property under TCT No. 23377 and whether plan Psu-04-006561 is covered by the title.

It does not escape this court's attention — considering the length of time the document was in petitioner's possession — that the document was presented by petitioner at this late stage in the Court of Appeals proceedings. Records show that petitioner was aware of this development as early as 2009 or even before the appeal to the Court of Appeals.[81] There has been no mention

---

[79] *Dela Peña v. Court of Appeals*, 598 Phil. 862, 876 (2009) [Per *J*. Nachura, Third Division].

[80] *Id*., *citing Lao v. People*, 578 Phil. 679 (2008) [Per *J*. Austria-Martinez, Third Division].

[81] *Rollo*, p. 132.

Supreme Court E-Library

of this document before the Court of Appeals or in the present petition.

The concealment of a document that changes a party's theory of the case is highly improper, if not misleading, and should not be tolerated. In *Multi-Realty Development Corporation v. The Makati Tuscany Condominium Corporation*,[82] this court said that:

> [s]ettled is the rule that no questions will be entertained on appeal unless they have been raised below. Points of law, theories, issues and arguments not adequately brought to the attention of the lower court need not be considered by the reviewing court as they cannot be raised for the first time on appeal. Basic considerations of due process impel this rule.[83]

However, the ends of substantial justice would be better served when the threshing of the issue before the trial court is allowed, to give all parties due process and avoid multiplicity of suits in the future.

WHEREFORE, the petition is **GRANTED**. The assailed decision dated November 10, 2011 and resolution dated February 23, 2012 of the Court of Appeals are **REVERSED** and **SET ASIDE**. The case is, however, **REMANDED** to the trial court for presentation of evidence to determine whether the 9,751-square-meter parcel of land located in Barrio Macamot, Municipality of Binangonan, Province of Rizal, technically described as Cadastral Lot No. 11566, Psu-04-006561, is included in TCT No. 23377, and to proceed accordingly with this court's ruling in *Republic v. Court of Appeals and Guido, et al.*[84]

SO ORDERED.

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

---

[82] 524 Phil. 318 (2006) [Per *J.* Callejo, Sr., First Division].

[83] *Id.* at 335.

[84] G.R. No. 84966, November 21, 1991, 204 SCRA 160 [Per *J.* Medialdea, *En Banc*].