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SO ORDERED.

Corona, C.J. (Chairperson), Leonardo-de Castro, Bersamin, and *Villarama, Jr., JJ.,* concur.

THIRD DIVISION

[G.R. No. 170757. November 28, 2011]

PACIFICO M. VALIAO, for himself and in behalf of his co-heirs LODOVICO, RICARDO, BIENVENIDO, all Surnamed VALIAO and NEMESIO M. GRANDEA, *petitioners, vs.* **REPUBLIC OF THE PHILIPPINES, MACARIO ZAFRA, and MANUEL YUSAY,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; ONLY QUESTIONS OF LAW ALLOWED; EXCEPTIONS; WHEN FACTUAL FINDINGS OF APPELLATE COURT ARE CONTRARY TO THOSE OF THE TRIAL COURT. — Anent the propriety of filing a petition for review under Rule 45 of the Rules of Court, the principle is well-established that this Court is not a trier of facts and that only questions of law may be raised. The resolution of factual issues is the function of the lower courts whose findings on these matters are received with respect and are, as a rule, binding on this Court. This rule, however, is subject to certain exceptions. One of these is when the findings of the appellate court are contrary to those of the trial court. Due to the divergence of the findings of the CA and the RTC, the Court will now re-examine the facts and evidence adduced before the lower courts.

2. CIVIL LAW; PROPERTY REGISTRATION DECREE (PD 1529); WHO MAY APPLY.— Section 14 (1) of Presidential Decree No. (PD) 1529, otherwise known as the *Property Registration*

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Decree provides: x x x From the foregoing, petitioners need to prove that: (1) the land forms part of the alienable and disposable land of the public domain; and (2) they, by themselves or through their predecessors-in-interest, have been in open, continuous, exclusive, and notorious possession and occupation of the subject land under a *bona fide* claim of ownership from June 12, 1945 or earlier. These the petitioners must prove by no less than clear, positive and convincing evidence.

3. ID.; ID.; ID.; REQUISITES; THAT THE LAND FORMS PART OF THE ALIENABLE AND DISPOSABLE LAND OF THE PUBLIC DOMAIN; REQUIRES INCONTROVERTIBLE EVIDENCE. — Under the Regalian doctrine, which is embodied in our Constitution, all lands of the public domain belong to the State, which is the source of any asserted right to any ownership of land. All lands not appearing to be clearly within private ownership are presumed to belong to the State. Accordingly, public lands not shown to have been reclassified or released as alienable agricultural land or alienated to a private person by the State remain part of the inalienable public domain. Unless public land is shown to have been reclassified as alienable or disposable to a private person by the State, it remains part of the inalienable public domain. Property of the public domain is beyond the commerce of man and not susceptible of private appropriation and acquisitive prescription. Occupation thereof in the concept of owner no matter how long cannot ripen into ownership and be registered as a title. The burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for registration (or claiming ownership), who must prove that the land subject of the application is alienable or disposable. To overcome this presumption, incontrovertible evidence must be established that the land subject of the application (or claim) is alienable or disposable. There must be a positive act declaring land of the public domain as alienable and disposable. To prove that the land subject of an application for registration is alienable, the applicant must establish the existence of a positive act of the government, such as a presidential proclamation or an executive order; an administrative action; investigation reports of Bureau of Lands investigators; and a legislative act or a statute. The applicant may also secure a certification from the government that the land claimed to have been possessed for

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the required number of years is alienable and disposable. x x x Verily, the rules on the confirmation of imperfect title do not apply unless and until the land subject thereof is released in an official proclamation to that effect so that it may form part of the disposable agricultural lands of the public domain.

4. ID.; ID.; ID.; ID.; THOSE WHO BY THEMSELVES OR THROUGH THEIR PREDECESSORS-IN-INTEREST HAVE BEEN IN OPEN, CONTINUOUS, EXCLUSIVE, AND NOTORIOUS POSSESSION AND OCCUPATION OF THE SUBJECT LAND UNDER A *BONA FIDE* CLAIM OF OWNERSHIP SINCE JUNE 12, 1945 OR EARLIER. — It is settled that the applicant must present proof of specific acts of ownership to substantiate the claim and cannot just offer general statements which are mere conclusions of law than factual evidence of possession. Actual possession consists in the manifestation of acts of dominion over it of such a nature as a party would actually exercise over his own property. x x x As regards petitioners' possession of the land in question from 1947 to 1966, petitioners could only support the same with a tax declaration dated September 29, 1976. At best, petitioners can only prove possession since said date. What is required is open, exclusive, continuous and notorious possession by petitioners and their predecessors-in-interest, under a *bona fide* claim of ownership, *since June 12, 1945* or earlier. Petitioners failed to explain why, despite their claim that their predecessors-in-interest have possessed the subject properties in the concept of an owner even before June 12, 1945, it was only in 1976 that they started to declare the same for purposes of taxation. Moreover, tax declarations and receipts are not conclusive evidence of ownership or of the right to possess land when not supported by any other evidence. The disputed property may have been declared for taxation purposes in the names of the applicants for registration, or of their predecessors-in-interest, but it does not necessarily prove ownership. They are merely *indicia* of a claim of ownership.

APPEARANCES OF COUNSEL

Mateo A. Valenzuela for petitioners.
The Solicitor General for public respondent.
Reynaldo C. Depasucat for private respondents.

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D E C I S I O N

PERALTA, *J.*:

Before this Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to set aside the Decision[1] and Resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 54811, which reversed the Decision[3] of the Regional Trial Court (RTC) of Kabankalan, Negros Occidental, Branch 61, in Land Registration Case No. 03, granting petitioners' application for registration of title over a parcel of land located in Ilog, Negros Occidental.

The factual milieu of this case is as follows:

On August 11, 1987, petitioners[4] Pacifico, Lodovico, Ricardo, Bienvenido, all surnamed Valiao, and Nemesio Grandea filed with the RTC of Kabankalan, Negros Occidental an application for registration of a parcel of land with an area of 504,535 square meters, more or less, situated in Barrio Galicia, Municipality of Ilog, Negros Occidental.

On June 20, 1988, private oppositors Macario Zafra and Manuel Yusay filed their Motion to Dismiss the application on the following grounds: (1) the land applied for has not been declared alienable and disposable; (2) *res judicata* has set in to bar the application for registration; and (3) the application has no factual or legal basis.

On August 24, 1988, the Republic of the Philippines (Republic), through the Office of the Solicitor General (OSG), opposed the application for registration on the following grounds, among others: that neither the applicants nor their predecessors-in-

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[1] Penned by Associate Justice Arsenio J. Magpale, with Associate Justices Pampio A. Abarintos and Sesinando E. Villon, concurring; *rollo*, pp. 27-38.

[2] *Rollo*, p. 39.

[3] CA Records, pp. 82-104.

[4] Represented in this case by Pacifico Valiao.

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interest had been in open, continuous, exclusive and notorious possession and occupation of the land in question since June 12, 1945 or prior thereto; that the muniment/s of title and/or the tax declaration/s and tax payments/receipts of applicants, if any, attached to or alleged in the application, do/es not constitute competent and sufficient evidence of a *bona fide* acquisition of the land applied for or of their open, continuous, exclusive and notorious possession and occupation in the concept of owner, since June 12, 1945 or prior thereto; that the parcel of land applied for is a portion of public domain belonging to the Republic, which is not subject to private appropriation; and that the present action is barred by a previous final judgment in a cadastral case prosecuted between the same parties and involving the same parcel of land.

On July 3, 1989, the RTC denied private oppositors' Motion to Dismiss. Trial thereafter ensued.

In support of their application for registration, petitioners alleged that they acquired the subject property in 1947, upon the death of their uncle Basilio Millarez (Basilio), who purchased the land from a certain Fermin Payogao, pursuant to a Deed of Sale[5] dated May 19, 1916 entirely handwritten in Spanish language. Basilio possessed the land in question from May 19, 1916 until his death in 1947. Basilio's possession was open, continuous, peaceful, adverse, notorious, uninterrupted and in the concept of an owner. Upon Basilio's death, the applicants as co-heirs possessed the said land until 1966, when oppositor Zafra unlawfully and violently dispossessed them of their property, which compelled them to file complaints of Grave Coercion and Qualified Theft against Zafra. In support of their claim of possession over the subject property, petitioners submitted in evidence Tax Declaration No. 9562[6] dated September 29, 1976 under the names of the heirs of Basilio Millarez.

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[5] Exhibit "F", records, p. 28.

[6] Exhibit "J", *id.* at 333.

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The RTC, in its Decision dated December 15, 1995, granted petitioners' application for registration of the subject property, the dispositive portion of which states:

> WHEREFORE, in view of the foregoing, this Court hereby orders and decrees registration of Lot No. 2372 subject of the present proceedings and the registration of title thereto, in favor of the applicants, who are declared the true and lawful owners of said Lot No. 2372, except applicant Lodovico Valiao, who sold his right to Macario Zafra.
>
> Upon the finality of this decision, let the corresponding decree of registration and Certificate of Title be issued in the name of the applicants, Heirs of Basilio Millarez, namely: Pacifico Valiao, Ricardo Valiao, Bienvenido Valiao and Nemesio Grandea, subject to the rights of private oppositors, Macario Zafra and Manuel Yusay over said lot whose fishpond permits are declared VALID and will expire on December 31, 2003.
>
> No costs.
>
> SO ORDERED.[7]

Aggrieved by the Decision, the private oppositors and the Republic, through Assistant Prosecutor Josue A. Gatin, filed an appeal with the CA, which reversed the trial court's findings in its Decision dated June 23, 2005. The CA ruled that the classification of lands of the public domain is an exclusive prerogative of the executive department of the government and in the absence of such classification, the lands remain as unclassified until it is released therefrom and rendered open to disposition. Further, there exists a prior cadastral case involving the same parties herein and the same Lot No. 2372, which ruled that Lot No. 2372 belongs to the Republic. The CA held that such judgment constitutes *res judicata* that bars a subsequent action for land registration. It also ruled that the subject property is part of the inalienable land of the public domain and petitioners failed to prove that they and their predecessors-in-interest had been in open, continuous, exclusive and notorious possession of the land in question since June 12, 1945 or earlier. The dispositive portion of the decision reads:

[7] CA records, pp. 103-104.

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WHEREFORE, premises considered, the instant appeal is GRANTED. Accordingly, We REVERSE the Decision dated December 15, 1995 of the Regional Trial Court, DENY the application for registration of title filed by petitioners-appellees, DECLARE as moot and academic any and all claims of private oppositors-appellants over Lot No. 2372, and DECLARE the subject parcel of land to be inalienable and indisposable land belonging to the public domain.

SO ORDERED.[8]

Petitioners filed a motion for reconsideration, which was denied by the CA in a Resolution dated November 17, 2005. Hence, the present petition with the following issues:

I

WHETHER OR NOT LOT NO. 2372 OF THE ILOG CADASTRE IS ALIENABLE AND DISPOSABLE LAND OF THE PUBLIC DOMAIN.

II

WHETHER OR NOT THE CLAIM OF PRESCRIPTION BY THE APPLICANT WILL LIE ON LOT NO. 2372.

III

WHETHER OR NOT THE DECISION OF THE COURT OF APPEALS IN CAD. CASE NO. 23, ENTITLED *LODOVICO VALIAO, ET, AL., VS. MACARIO ZAFRA, ET, AL.*, AC G.R. NO. CV-68873, CONSTITUTES *RES JUDICATA* AS FAR AS THIS APPLICATION FOR REGISTRATION IS CONCERNED.

IV

WHETHER OR NOT THE ALLEGED POSSESSION OF THE APPLICANTS THROUGH THEIR PREDECESSORS-IN-INTEREST IS SUFFICIENT TO SUSTAIN THEIR CLAIM FOR PRESCRIPTION.[9]

Petitioners claim that Lot No. 2372 is an alienable and disposable portion of the public domain. The possession of applicants' predecessors-in interest since 1916 until 1966 had been open, continuous and uninterrupted; thus, converting the

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[8] *Rollo*, p. 38.

[9] *Id.* at 13.

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said land into a private land. The subject lot had already become private in character in view of the length of time the applicants and their predecessors-in-interest had possessed the subject lot, which entitles them to the confirmation of their title. Petitioners further claim that prior dismissal in a cadastral proceeding does not constitute *res judicata* in a subsequent application for registration of a parcel of land.

In its Comment, the OSG submits that the issues to be resolved in the present petition, *i.e.*, whether Lot No. 2372 is alienable and disposable land of the public domain and whether petitioners have the right to have the said property registered in their name through prescription of time are questions of fact, which were already passed upon by the CA and no longer reviewable by the Court, since findings of fact of the CA, when supported by sufficient evidence, are conclusive and binding on the parties. The OSG further claims that petitioners failed to prove that the subject lot is part of the alienable and disposable portion of the public domain and that petitioners' application for land registration is already barred by a prior decision in a cadastral case. Lastly, the OSG asserts that petitioners did not present sufficient evidence to prove that their possession over the subject lot applied for had been open, peaceful, exclusive, continuous and adverse.

Anent the propriety of filing a petition for review under Rule 45 of the Rules of Court, the principle is well-established that this Court is not a trier of facts and that only questions of law may be raised. The resolution of factual issues is the function of the lower courts whose findings on these matters are received with respect and are, as a rule, binding on this Court. This rule, however, is subject to certain exceptions. One of these is when the findings of the appellate court are contrary to those of the trial court.[10] Due to the divergence of the findings of the CA and the RTC, the Court will now re-examine the facts and evidence adduced before the lower courts.

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[10] *Guillang v. Bedania*, G.R. No. 162987, May 21, 2009, 588 SCRA 73, 84.

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Section 14 (1) of Presidential Decree No. (PD) 1529, otherwise known as the *Property Registration Decree* provides:

> SEC. 14. *Who may apply.* — The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly-authorized representatives:
>
> (1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a *bona fide* claim of ownership since June 12, 1945, or earlier.

From the foregoing, petitioners need to prove that: (1) the land forms part of the alienable and disposable land of the public domain; and (2) they, by themselves or through their predecessors-in-interest, have been in open, continuous, exclusive, and notorious possession and occupation of the subject land under a *bona fide* claim of ownership from June 12, 1945 or earlier.[11] These the petitioners must prove by no less than clear, positive and convincing evidence.[12]

Under the Regalian doctrine, which is embodied in our Constitution, all lands of the public domain belong to the State, which is the source of any asserted right to any ownership of land. All lands not appearing to be clearly within private ownership are presumed to belong to the State. Accordingly, public lands not shown to have been reclassified or released as alienable agricultural land or alienated to a private person by the State remain part of the inalienable public domain.[13] Unless public land is shown to have been reclassified as alienable or disposable to a private person by the State, it remains part of the inalienable public domain. Property of the public domain is beyond the

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[11] *Republic v. Dela Paz,* G.R. No. 171631, November 15, 2010, 634 SCRA 610, 619, citing *Mistica v. Republic,* G.R. No. 165141, September 11, 2009, 599 SCRA 401, 408.

[12] *Mistica v. Republic, supra,* at 401-411.

[13] *Republic v. Tri-Plus Corporation,* G.R. No. 150000, September 26, 2006, 503 SCRA 91,101-102.

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commerce of man and not susceptible of private appropriation and acquisitive prescription. Occupation thereof in the concept of owner no matter how long cannot ripen into ownership and be registered as a title.[14] The burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for registration (or claiming ownership), who must prove that the land subject of the application is alienable or disposable. To overcome this presumption, incontrovertible evidence must be established that the land subject of the application (or claim) is alienable or disposable.[15]

There must be a positive act declaring land of the public domain as alienable and disposable. To prove that the land subject of an application for registration is alienable, the applicant must establish the existence of a positive act of the government, such as a presidential proclamation or an executive order; an administrative action; investigation reports of Bureau of Lands investigators; and a legislative act or a statute. The applicant may also secure a certification from the government that the land claimed to have been possessed for the required number of years is alienable and disposable.[16]

No such evidence was offered by the petitioners to show that the land in question has been classified as alienable and disposable land of the public domain. In the absence of incontrovertible evidence to prove that the subject property is already classified as alienable and disposable, we must consider the same as still inalienable public domain.[17] Verily, the rules on the confirmation of imperfect title do not apply unless and until the land subject thereof is released in an official proclamation

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[14] *Republic v. Candy Maker, Inc.*, G.R. No. 163766, June 22, 2006 , 492 SCRA 272, 291.

[15] *Secretary of the Department of Environment and Natural Resources v. Yap*, G.R. Nos. 167707 and 173775, October 8, 2008, 568 SCRA 164, 192.

[16] *Id.*

[17] *Arbias v. Republic*, G.R. No. 173808, September 17, 2008, 565 SCRA 582, 596.

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to that effect so that it may form part of the disposable agricultural lands of the public domain.

With respect to the existence of a prior cadastral case, it appears that on July 11, 1966, the petitioners filed in Cadastral Case No. 23 of the then CFI of Negros Occidental a petition to reopen the proceedings relative to three lots, one of which is Lot No. 2372. The lower court, in its Order[18] dated October 20, 1980, held that Lot No. 2372 belongs to the Republic. It found that after the subject lot was declared public land, it was found to be inside the communal forest. On appeal, the CA, in its Decision[19] dated August 7, 1984, found no reversible error and affirmed the decision of the cadastral court. Thereafter, a petition elevating the case to this Court was dismissed for lack of merit.[20] In the present case, the CA, in its Decision dated June 23, 2005, ruled that such judgment constitutes *res judicata* that will bar a subsequent action for land registration on the same land.

In *Director of Lands v. Court of Appeals*,[21] the Court held that a judicial declaration that a parcel of land is public, does not preclude even the same applicant from subsequently seeking a judicial confirmation of his title to the same land, provided he thereafter complies with the provisions of Section 48[22] of

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[18] Records, pp. 102-107.

[19] *Id.* at 108-113.

[20] CA decision, *rollo*, p. 34; OSG Comment, *rollo*, p. 94.

[21] G.R. No. L-45828, June 1, 1992, 209 SCRA 457, 463, citing *Director of Lands v. Court of Appeals*, No. L-47847, July 31, 1981, 106 SCRA 426, 433.

[22] Sec. 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such land 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:

x x x x x x x x x

(b) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive, and notorious possession

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Commonwealth Act No. 141, as amended, and as long as said public lands remain alienable and disposable. In the case at bar, not only did the petitioners fail to prove that the subject land is part of the alienable and disposable portion of the public domain, they failed to demonstrate that they by themselves or through their predecessors-in-interest have possessed and occupied the subject land since June 12, 1945 or earlier as mandated by the law.

It is settled that the applicant must present proof of specific acts of ownership to substantiate the claim and cannot just offer general statements which are mere conclusions of law than factual evidence of possession.[23] Actual possession consists in the manifestation of acts of dominion over it of such a nature as a party would actually exercise over his own property.[24]

The testimonies of Nemesio and Pacifico as to their own and their predecessors-in-interest's possession and ownership over the subject lot fail to convince Us. Petitioners claim that Basilio was in possession of the land way back in 1916. Yet no tax declaration covering the subject property, during the period Basilio allegedly occupied the subject property, *i.e.*, 1916 to 1947, was presented in evidence. Other than the bare allegations of Nemesio and Pacifico that Basilio allegedly introduced improvements on the subject property, there is nothing in the records which would substantiate petitioners' claim that Basilio was in possession of Lot No. 2372 since June 12, 1945 or earlier, the period of possession required by law. Hence,

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and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition of ownership, **since June 12, 1945, or earlier**, 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. (Emphasis supplied).

[23] *Republic v. Carrasco*, G.R. No. 143491, December 6, 2006, 510 SCRA 150, 160; *Republic of the Phils. v. Alconaba*, 471 Phil. 607, 620 (2004).

[24] *Republic v. Candy Maker, Inc.*, *supra* note 14, at 292-293.

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petitioners' assertion that Basilio possessed the property in question from 1916 to 1947 is, at best, conjectural and self-serving.

As regards petitioners' possession of the land in question from 1947 to 1966, petitioners could only support the same with a tax declaration dated September 29, 1976. At best, petitioners can only prove possession since said date. What is required is open, exclusive, continuous and notorious possession by petitioners and their predecessors-in-interest, under a *bona fide* claim of ownership, *since June 12, 1945* or earlier.[25] Petitioners failed to explain why, despite their claim that their predecessors-in-interest have possessed the subject properties in the concept of an owner even before June 12, 1945, it was only in 1976 that they started to declare the same for purposes of taxation. Moreover, tax declarations and receipts are not conclusive evidence of ownership or of the right to possess land when not supported by any other evidence. The disputed property may have been declared for taxation purposes in the names of the applicants for registration, or of their predecessors-in-interest, but it does not necessarily prove ownership. They are merely *indicia* of a claim of ownership.[26]

Evidently, since the petitioners failed to prove that (1) the subject property was classified as part of the disposable and alienable land of the public domain; and (2) they and their predecessors-in-interest had been in open, continuous, exclusive, and notorious possession and occupation thereof under a *bona fide* claim of ownership since June 12, 1945 or earlier, their application for confirmation and registration of the subject property under PD 1529 should be denied.

WHEREFORE, the Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 54811, which reversed the Decision of the Regional Trial Court of Kabankalan, Negros Occidental, Branch 61, in Land Registration Case No. 03, is

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[25] *Republic v. Bibonia*, G.R. No. 157466, June 21, 2007, 525 SCRA 268, 276-277.

[26] *Arbias v. Republic*, *supra* note 17, at 593-594.

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AFFIRMED. The application for registration of title filed by the petitioners Pacifico Valiao, Lodovico Valiao, Ricardo Valiao, Bienvenido Valiao, and Nemesio Grandea, over Lot No. 2372, with a total area of 504,535 square meters, more or less, situated in Barrio Galicia, Municipality of Ilog, Negros Occidental, is *DENIED*.

SO ORDERED.

Velasco, Jr. (Chairperson), Abad, Mendoza, and *Perlas-Bernabe, JJ.,* concur.

FIRST DIVISION

[G.R. No. 174143. November 28, 2011]

SPOUSES RICARDO HIPOLITO, JR. and LIZA HIPOLITO, *petitioners, vs.* **TERESITA CINCO, CARLOTA BALDE CINCO and ATTY. CARLOS CINCO,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; QUESTIONS OF FACT, NOT PROPER. — [I]n a petition for review on *certiorari* [under Rule 45 of the Rules of Court], the scope of this Court's judicial review of decisions of the [CA] is generally confined only to errors of law, and questions of fact are not entertained." The Supreme Court is not a trier of facts and it is not duty-bound to analyze and weigh again the evidence considered in the proceedings below. More so, this Court is not duty-bound to analyze and weigh evidence pertaining to factual issues which have not been subject of any proper proceedings below. "Well-entrenched and settled is the rule that points of law, theories, issues and arguments not brought to the attention of the trial court adequately and on time need not be, and ordinarily will not be, considered by a reviewing