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SECOND DIVISION

[G.R. No. 141325. July 31, 2006]

PELBEL MANUFACTURING CORPORATION, Substituted by Pelagia Beltran, and VIRGINA MALOLOS, *petitioners, vs.* **HON. COURT OF APPEALS, and THE REPUBLIC OF THE PHILIPPINES,** *petitioners.*

[G.R. No. 141174. July 31, 2006]

ALLADIN F. TRINIDAD and AQUILINA C. BONZON, *petitioners, vs.* **REPUBLIC OF THE PHILIPPINES (LAGUNA LAKE DEVELOPMENT AUTHORITY),** *respondents.*

SYLLABUS

1. CIVIL LAW; LAND REGISTRATION; JUDICIAL CONFIRMATION OF AN IMPERFECT TITLE; LAND APPLIED FOR MUST BE ALIENABLE AND DISPOSABLE PUBLIC LAND AND THE APPLICANT BY HIMSELF AND THROUGH HIS PREDECESSORS-IN-INTEREST HAD OCCUPIED AND POSSESSED THE LAND, IN THE CONCEPT OF AN OWNER, OPENLY, CONTINUOUSLY, EXCLUSIVELY AND ADVERSELY SINCE JUNE 12, 1945, OR EARLIER. — Petitioners, in this case, applied for registration of title to two parcels of land covered by Plan Psu- 240345, Both parcels of land are located in San Juan, Taytay, Rizal, near the shore of Laguna de Bay. The controlling law in the instant case is Commonwealth Act No. 141, as amended otherwise known as the Public Land Act. It governs what were used to be known as public agricultural lands, or what are otherwise known as alienable and disposable lands of the public domain. Under the Public Land Act, there is a presumption that the land applied for belongs to the state, and that the occupants and possessors can only claim an interest in the land by virtue of their imperfect title or continuous, open, and notorious possession thereof for a period prescribed by law, This principle is rooted in the Regalian doctrine, under which the State is the source of any asserted right to ownership

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of land. The basic doctrine is that all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State. Any applicant for judicial confirmation of an imperfect title has the burden of proving, by incontrovertible evidence, that the (a) land applied for is alienable and disposable public land; and, (b) the applicant, by himself or through his predecessor-in-interest had occupied and possessed the land, in the concept of owner, openly, continuously, exclusively, and adversely since June 12, 1945, or earlier.

2. **ID.; ID.; ID.; PETITIONERS FAILED TO SHOW THAT THE PARCELS OF LAND SUBJECT OF THEIR APPLICATION ARE ALIENABLE AND DISPOSABLE; THE GOVERNMENT, THROUGH THE LAGUNA LAKE DEVELOPMENT AUTHORITY, ESTABLISHED THAT THE AREAS SOUGHT TO BE REGISTERED FORM PART OF THE LAKE BED OR BASIN OF THE LAGUNA LAKE WHICH IS CONSIDERED PART OF THE PUBLIC DOMINION UNDER ARTICLE 502 OF THE CIVIL CODE.** — We hold that petitioners failed to show that the parcels of land subject of their application are alienable and disposable. The government, through the Laguna Lake Development Authority, established that the areas sought to be registered are below the statutory minimum elevation of 12.50 meters, hence formed part of the bed Laguna Lake Under Republic Act (R.A.) No. 4850, as amended. In a Report dated November 19, 1985, Laguna Lake Development Authority Geodetic Engineer Joel G. Merida stated that one-half of the area of Lot 1 and the entire area of Lot 2, Psu- 240345, are covered by mud and lake water at an elevation of 11.77 meters, and the highest observed elevation is 12.19 meters. This means that the subject lots form part of the lake bed or basin Laguna Lake. Sec. 41(11) of R.A. No. 4850 sets the minimum water elevation at 12.50 meters. Lands located at and below such elevation are public lands which form part of the bed of said lake. Art. 502 of the Civil Code enumerates the bodies of water that are properties of public dominion, as follows: The following are of public dominion: (1) Rivers and their natural beds; (2) Continuous or intermittent waters of springs and brooks running in their natural beds and the beds themselves; (3) Waters rising continuously or intermittently on lands of public dominion; (4) *Lakes* and lagoons formed by Nature on public lands, *and their beds.*

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3. ID.; ID.; ID.; PETITIONERS-APPLICANTS PRESENTED NO SUBSTANTIAL EVIDENCE THAT THEY AND THEIR PREDECESSORS-IN-INTEREST HAVE BEEN IN OPEN, CONTINUOUS, EXCLUSIVE, AND NOTORIOUS POSSESSION AND OCCUPATION OF THE ENTIRE AREA IN QUESTION, IN THE CONCEPT OF AN OWNER SINCE JUNE 12, 1945, OR PRIOR THERETO.— We further uphold the Court of Appeals in ruling that petitioners – applicants presented no substantial evidence that they and their predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the entire area in question, in the concept of owner since June 12, 1945, or prior thereto. Petitioners presented Pedro Bernardo, their common predecessor-in-interest, as witness. The testimony of Pedro Bernardo is clearly insufficient. No other proof was presented to establish Bernardo's possession and occupation of the more than three (3) hectares of land sought to be registered. Possession is open when it is visible and apparent to a common observer. Continuous possession consist of uninterrupted acts of nonpermissive possession of property by the current occupants and their predecessors. To be notorious, possession must be so conspicuous that it is generally known and talked of by the public or at least by the people in the vicinity of the premises. Mere possession of land and the making of vague assertions to the public that a possessor is claiming the land are not sufficient to satisfy the requirement of open and notorious possession. Bernardo failed to show that his alleged possession and occupation were of the nature and duration required by law. Bare and general allegations, without more, do not amount to preponderant evidence that would shift the burden to the oppositor, in this case, the Republic. Further, it militates against the claim of actual possession under a claim of ownership since June 1945, that the subject properties were declared for taxation purposes only in 1980, or five (5) years before the filing of the application.

APPEARANCES OF COUNSEL

De Castro & Cagampang Law Offices for petitioners in G.R. No. 141325.

Aladdin F. Trinidad for petitioner in G.R. No. 141174.

The Solicitor General for respondents.

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DECISION

PUNO, *J.*:

Before us are the consolidated cases of *"Pelbel Manufacturing Corporation, Substituted by Pelagia Beltran, and Virginia Malolos v. Court of Appeals and the Republic of the Philippines"* and *"Aladdin F. Trinidad and Aquilina C. Bonzon v. Republic of the Philippines (Laguna Lake Development Authority),"* appealing the Court of Appeals' November 14, 1997 Decision[1] in CA-G.R. CV No. 23592 and December 22, 1999 Resolution,[2] which reversed the Regional Trial Court's (RTC's) Decision[3] dated September 12, 1988 in Land Registration Case No. 243-A. The RTC granted the application of petitioners Pelagia Beltran, Aladdin F. Trinidad and Virginia Malolos to have the parcels of land situated in San Juan, Taytay, Rizal, and indicated in Psu-240345 to be registered in their names.

The facts, narrated by the Court of Appeals, are as follows:

The original applicants for registration are Pelbel Manufacturing Corporation, Aladdin Trinidad and Virginia Malolos. The lots sought to be registered are two parcels of land covered by Plan Psu-240345, the first parcel having an area of 28,181 square meters, more or less and the second parcel having an area of 2,070 square meters, more or less. Both parcels of land are situated [in] San Juan, Taytay, Rizal.

The case was set for initial hearing on April 1, 1985 and after fulfillment by the applicants of the jurisdictional requirements of notice, posting and publication, initial hearing took place as scheduled. There being no formal opposition on record, an Order of general default was issued and Applicants were allowed to present evidence *ex-parte* before the Acting Clerk of Court who was commissioned to receive evidence.

Earlier on March 28, 1985 however, the Laguna Lake Development Authority filed a Manifestation (Record, pp. 30-31) stating that, as

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[1] G.R. No. 141325 *rollo*, pp. 37-59.

[2] *Id.* at 79-82.

[3] *Id.* at 83-92.

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per projections of the subject lots in the topographic map prepared by the Bureau of Coast and Geodetic Survey using technical description of the lots approved by the Bureau of Lands, subject lots are situated below the elevation of 12.50 meters, thus forming part of the bed of the Laguna Lake in accordance with Sec. 41 (paragraph 11) of Republic Act No. 4850 as amended by P.D. No. 813.

On April 22, 1985, the Office of the Solicitor General filed its Opposition (Record, p. 40) alleging that neither the applicants nor their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the land since June 12, 1945 or prior thereto; that the applicants' claim of ownership in fee simple on the basis of Spanish Title or grant can no longer be availed of for failure to file the appropriate application for registration within six (6) months from February 16, 1976 as required by P.D. No. 892; and that applicant Pelbel Manufacturing Corporation is disqualified, being a private corporation, to hold lands of the public domain except by lease pursuant to Section 11, Article XIV of the 1973 Constitution.

On May 3, 1985, a Motion For Substitution of Party Applicant was filed by Pelbel to substitute Pelagia P. Beltran in its place as applicant with respect to 17,500 square meters of the lot applied for, which Motion was granted by the lower court (Record, p. 48).

On May 4, 1985, the lower court rendered the assailed Decision (Record, p. 49) adjudicating the parcels of land applied for in favor of the following: Pelagia Beltran – 17,500 square meters; Aladdin Trinidad – 2,500 square meters; Virginia Malolos – 10,251 square meters (Appellant's Brief, p. 3; *Rollo*, p. 260), based on the following findings:

> The aforecited established facts support the application for registration of the two parcels of land subject of the present application. The applicants have satisfactorily proven their peaceful, continuous, and public possession of the said parcels of land for over a period of thirty years and no person or persons had/have disturbed their possession thereof nor interposed any formal opposition to the instant application. The subject parcels of land being within the disposable portion of the public domain, the applicants are therefore entitled to the registration of their titles to the parcels of land subject of this case. The Provincial Engineer of Rizal attested to the effect that the subject property will not be affected by any government highway as shown in the clearance marked as Exh.[s] H and H-1 of the applicant corporation.

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WHEREFORE, premises considered, this court confirms and declares the applicants as the true and absolute owners of the parcels of land subject of this application, situated [in] San Juan, Taytay, Rizal and let therefore an order be as it is hereby ordered issued for the registration of the titles to the subject land in the following proportions in favor and in the names of:

a) 17,500 square meters unto Pelagia Beltran, 60 years old, married to Geronimo Beltran, Filipino citizen, and a resident of Gen. Segundo St., Pasig, Metro Manila;

b) 2,500 square meters unto Aladdin F. Trinidad, 54 years old, married to Perfecta Trinidad, Filipino citizen, and residing at Valle Verde, Pasig, Metro Manila; and

c) 10,251 square meters unto Virginia Malolos, 50 years old, married to Eliseo Malolos, Filipino [c]itizen[,] and residing [on] Macopa St., Quezon City.

as *pro-indiviso* owners in fee simple of the parcels of land indicated in Psu-1445109 (Exh. G), particularly described in the corresponding technical description (Exh[s]. G-1 and G-2) upon payment of the required fees therefor.

(Record, pp. 56-57)

A Motion to Amend Order of General Default and Set Aside Decision dated May 4, 1985 (Record, pp. 64-[6]7) was filed by Laguna Lake Development Authority on the ground that LLDA had already established by preliminary investigations that the lots are below elevation of 12.50 meters, hence are of public dominion. On June 26, 1985[,] the lower court directed the Office of the Solicitor General to file comment on the motion.

On August 29, 1985, applicant Aladdin F. Trinidad, in his Motion to Segregate the land applied for by him from Plan PSU-[240345] stated that the LLDA's position was untenable based on Supreme Court decisions in *Republic of the Philippines vs. Court of Appeals and Santos del Rio,* 131 SCRA 532 and *Bautista vs. Court of Appeals and Santos del Rio,* 131 SCRA 532 which held that parts around Laguna de Bay which become covered with water four to five months a year, not due to tidal action, but due to rains cannot be considered a part of the bed or basin of Laguna de Bay nor as a foreshore land. LLDA filed an Opposition stating that in the aforementioned cases the Supreme Court failed to apply Sec. 41 (paragraph 11) of R.A.

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4850 as amended by P.D. 813 in resolving the issue of whether or not subject lots are public land.

Paragraph 11 of R.A. 4850 as amended states:

> (11) Laguna Lake or Lake. Whenever Laguna Lake or lake is used in this Act, the same shall refer to Laguna de Bay which is that area covered by the lake water *when it is at the average annual maximum lake level of elevation 12.50 meters,* as referred to a datum 10.00 meters below mean lower low water (m.L.L.W.). *Lands located at and below such elevation are public lands which form part of the bed of said lake.* (Italics supplied.)

In his Rejoinder, [Aladdin] Trinidad contended that the enactment of R.A. No. 4850 in 1966 did not retroact to make the subject lots public.

On September 17, 1985, the OSG filed its Comment supporting the LLDA's position that lakes and their beds such as the lots sought to be registered are, under Article 502, par. 4 of the [N]ew Civil Code, considered public domain. Invoking Article XV, Section II of the 1972 Constitution, the OSG further argued that applicant Pelbel, being a corporation, is disqualified from acquiring lands of the public domain and that applicants are not entitled to registration for lack of the requisite number of years of possession before June 12, 1945.

Acting upon LLDA's Motion, the lower court in an Order dated October 3, 1985 reopened the case to enable the government to present its evidence. On November 25, 1985[,] Geodetic Engineer Joel G. Merida was presented as government witness. Merida testified that upon LLDA's verification and actual inspection of the subject lots conducted in November, the highest observed vertical elevation of the subject lots was determined to be at elevation 12.19 meters.

On October 17, 1988, the OSG filed a Motion to Dismiss applicants-appellees' application on the ground that there was no valid amendment and republication of the application relative to the substitution by Beltran as applicant in lieu of Pelbel [C]orporation which the court denied in an Order dated January 12, 1987, stating:

> After going over the above-mentioned arguments set forth by Oppositor Republic of the Philippines, the Court finds that the ground [set forth] by the Oppositor is devoid of merit.
>
> The record disclose[d] that acting on a Motion for Substitution of Party-Applicant, dated April 29, 1985 filed by

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Applicant Pelbel Manufacturing Corporation, the Court in its Order dated May 3, 1985 granted the substitution of applicant, Pelbel Manufacturing Corporation with Applicant Pelagia Beltran.

Being a private person, Applicant is not covered by the constitutional prohibition invoked by Oppositor Republic of the Philippines which applies only to private corporation.

On the claim of Oppositor Republic of the Philippines, that the substitution was an attempt to circumvent the constitutional prohibition against private corporations, the Court can just add that the applicant Pelbel Manufacturing Corporation in conveying the property applied for by it has in its favor the disputable presumption that private transactions have been fair and regular pursuant to the provisions of Rule 131, Section 5, sub par. (p) of the Rules of Court. Said presumption is deemed satisfactory if uncontradicted but may be contradicted and overcome by other evidence. The record disclose[d] that no evidence was ever presented to contradict said disputable presumption in favor of the applicant private corporation.

The alleged failure to notify Oppositor Republic of the Philippines of the substitution of applicant Pelbel Manufacturing Corporation by Applicant Pelagia Beltran is just a procedural defect and not a jurisdictional defect which would affect the validity of the Amended Application.

On the second ground for the dismissal of the Amended Application for failure to republish the same, the Court agrees with Applicant Trinidad that considering that the amendment on the application does not affect any increase or alteration of the area of the property applied for but pertains only to an amendment of the joinder or discontinuance of the parties, no republication of the Amended Application is necessary.

(Record, p. 192)

On September 12, 1988[,] the lower court rendered the questioned decision which substantially affirmed its May 4, 1985 decision.

In this appeal, the Office of the Solicitor General assigns the following as errors:

1. THE LOWER COURT ERRED IN HOLDING THAT THE LOTS 1 & 2 OF PSU 240345 (EXH. G) SOUGHT TO BE

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REGISTERED BY APPELLEES ARE NOT PART OF LAGUNA LAKE, HENCE, REGISTRABLE.

2. THE LOWER COURT ERRED IN NOT FINDING THAT APPELLEES FAILED TO ADDUCE ADEQUATE AND SUBSTANTIAL PROOF THAT THEY AND THEIR PREDECESSORS[-]IN-INTEREST HAVE BEEN IN OPEN[,] CONTINUOUS, EXCLUSIVE AND NOTORIOUS POSSESSION OF THE LOTS SOUGHT TO BE REGISTERED SINCE JUNE 12, 1945 OR PRIOR THERETO.

3. THE LOWER COURT ERRED IN NOT DISMISSING THE INSTANT APPLICATION FOR REGISTRATION OF TITLE.

During the pendency of this appeal, the Spouses Abraham and Aquilina Bonzon filed an Intervention over Lot No. 2 of PSU-242343 included in the land being applied for in the name of Virginia Malolos (*Rollo*, pp. 324-334). The instant case was declared submitted for decision with intervenors' brief as well as that of Pelbel Manufacturing Corporation.[4]

On November 14, 1997, the Court of Appeals reversed and set aside the decision of the trial court. It dismissed the applications for land registration of petitioners Pelagia Beltran, Aladdin F. Trinidad and Virginia Malolos.

On December 22, 1999, the appellate court denied the motion for reconsideration of petitioner Pelbel Manufacturing Corporation, as substituted by Pelagia Beltran.

Hence, this appeal.

Petitioners Pelbel Manufacturing Corporation, substituted by Pelagia Beltran, and Virginia Malolos base their appeal on the following grounds:

I.

THE LOTS IN QUESTION ARE ALIENABLE AND DISPOSABLE[5]

A. The conclusion of the Court of Appeals that the lots in question are not alienable and disposable because of the absence

[4] *Id.* at 39-47.

[5] *Id.* at 19.

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of a certification from the Government that the lots are alienable and disposable is not supported by the evidence, and is clearly contrary to the undisputed evidence on record.[6]

B. The conclusion of the Court of Appeals that the lots in question are part of the Laguna Lake is not supported by substantial evidence and negated by applicable law and jurisprudence.[7]

C. Elementary logic dictates that if the lots with houses and the roads between the subject lots are alienable and disposable, then the subject lots are alienable and disposable.[8]

D. The findings and conclusions of the trial [c]ourt are in accord with the facts, the law and the evidence.[9]

II.

THE COURT OF APPEALS ERRED AS A MATTER OF LAW IN REVERSING THE HOLDING OF THE TRIAL COURT THAT THE PETITIONERS AND THEIR PREDECESSORS-IN-INTEREST HAD BEEN IN OPEN, PUBLIC AND ADVERSE POSSESSION OF THE PROPERTY IN THE CONCEPT OF OWNERS FOR MORE THAN 30 YEAR IS BASED ON MERE CONJECTURES[,] SPECULATIONS AND GENERALIZATION.[10]

A. The findings of facts of the trial [c]ourt on the credibility of witnesses are binding on the Court of Appeals.[11]

B. There are no substantial reasons of the Court of Appeals for reversing the conclusion and finding of the trial [c]ourt.[12]

C. The ruling of the trial [c]ourt ought to be re-instated and upheld, as a matter of law and established jurisprudence.[13]

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[6] *Ibid.*

[7] *Id.* at 20.

[8] *Id.* at 24.

[9] *Id.* at 25.

[10] *Id.* at 26.

[11] *Id.* at 26.

[12] *Id.* at 26.

[13] *Id.* at 27.

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On the other hand, petitioners Aladdin F. Trinidad and Aquilina C. Bonzon cite the grounds for their appeal in the following manner:

FIRST GROUND

Is the Questioned Decision And Resolution Of The Hon. Court Of Appeals Supported By Evidence And Which Is Contradicted By The Evidence Of The Petitioners In The Record (*Tolentino vs. De Jesus, et al.*, L-32797, 27 March 1974).

SECOND GROUND

Has The Hon. Court Of Appeals Disregarded The Applicable Laws And Decisions Of The Hon. Supreme Court in the below cases:

1. *Director of Lands vs. Hon. Court of Appeals, et al.[,]* G.R. No. L-43105, August 31, 1984.
2. *Aurora Bautista, et al. vs. Hon. Court of Appeals, et al.*, G.R. No. 43190, August 31, 1984.

in deciding this case which cases interpreted the laws applicable to this case on the basis of the facts established by the evidence in the records.[14]

In sum, the two consolidated petitions raise the following issues:

(1) Whether the subject parcels of land are public land; and

(2) If they are not public land, whether applicants-petitioners have registrable title to the land.

We uphold the ruling of the Court of Appeals.

Petitioners, in this case, applied for registration of title to two parcels of land covered by Plan Psu-240345. Both parcels of land are located in San Juan, Taytay, Rizal, near the shore of Laguna de Bay. The controlling law in the instant case is Commonwealth Act No. 141, as amended, otherwise known

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[14] G.R. No. 141174 *rollo*, pp. 14-15.

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as the Public Land Act. It governs what were used to be known as public agricultural lands, or what are otherwise known as alienable and disposable lands of the public domain. Under the Public Land Act, there is a presumption that the land applied for belongs to the state, and that the occupants and possessors can only claim an interest in the land by virtue of their imperfect title or continuous, open, and notorious possession thereof[15] for a period prescribed by law. This principle is rooted in the Regalian doctrine, under which the State is the source of any asserted right to ownership of land. The basic doctrine is that all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State.[16] Any applicant for judicial confirmation of an imperfect title has the burden of proving, by incontrovertible evidence,[17] that the (a) land applied for is alienable and disposable public land; and, (b) the applicant, by himself or through his predecessors-in-interest had occupied and possessed the land, in the concept of owner, openly, continuously, exclusively, and adversely since June 12, 1945, or earlier.[18]

We hold that petitioners failed to show that the parcels of land subject of their application are alienable and disposable. The government, through the Laguna Lake Development Authority, established that the areas sought to be registered are below the statutory minimum elevation of 12.50 meters, hence formed part of the bed of Laguna Lake under Republic Act (R.A.) No. 4850, as amended. In a Report dated November 19, 1985, Laguna Lake Development Authority Geodetic Engineer Joel G. Merida stated that one-half of the area of Lot 1 and the entire area of Lot 2, Psu-240345, are covered by mud and lake water at an elevation of 11.77 meters, and the highest observed elevation

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[15] *Republic v. Herbieto*, G.R. No. 156117, May 26, 2005, 459 SCRA 183.

[16] *Republic v. Manna Properties, Inc.*, G.R. No. 146527, January 31, 2005, 450 SCRA 247.

[17] *Zarate v. Director of Lands*, G.R. No. 131501, July 14, 2004, 434 SCRA 322; *Director of Lands v. Buyco*, G.R. No. 91189, November 27, 1992, 216 SCRA 78, 94, citing *Santiago v. De los Santos*, 161 SCRA 146.

[18] Sec. 48(b) of the Public Land Act, as amended by P.D. No. 1073.

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is 12.19 meters.[19] This means that the subject lots form part of the lake bed or basin of Laguna Lake. Sec. 41(11) of R.A. No. 4850 sets the minimum water elevation at 12.50 meters. Lands located at and below such elevation are public lands which form part of the bed of said lake. Art. 502 of the Civil Code enumerates the bodies of water that are properties of public dominion, as follows:

> The following are of public dominion:
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> (1) Rivers and their natural beds;
>
> (2) Continuous or intermittent waters of springs and brooks running in their natural beds and the beds themselves;
>
> (3) Waters rising continuously or intermittently on lands of public dominion;
>
> (4) *Lakes* and lagoons formed by Nature on public lands, *and their beds*;
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> x x x x x x x x x
>
> (Italics supplied.)

Petitioners invoke the case of *Bautista v. Court of Appeals,*[20] claiming that the inundation was merely due to the rains, and that the water elevation should be determined from the highest ordinary depth during dry season. They cite Art. 74 of the Law of Waters of 1866 which defines the extent of a lake bed as "the ground covered by their waters when at their highest ordinary depth," and the case of *Government of the Philippine Islands v. Colegio de San Jose*[21] which defines the phrase "highest ordinary depth" as the highest depth of the waters (the Laguna Lake, in this case) during the dry season, such depth being the regular, common, natural depth which occurs always or most of the time during the year. It is contended that the measurement of Laguna Lake Development Authority Geodetic Engineer

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[19] G.R. No. 141174 *rollo*, pp. 70-71.

[20] G.R. No. 43105, August 31, 1984, 131 SCRA 532.

[21] 53 Phil. 423 (1929).

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Merida of 12.19 meters as the highest observed elevation of the subject lots was made in November,[22] which is still rainy season. We disagree for while November is not part of the summer season, it is not part of the rainy season either. It still is part of the dry season during which the waters are at their "highest ordinary depth."

Further, we agree with the ruling of the appellate court that the fact that a few of the other estates in the vicinity had succeeded in being registered, and that there are already existing houses and roads between Laguna Lake and the subject lots, does not prove that the subject lots are not part of the Laguna Lake bed. Mr. Ananias Mariano registered 6,993 square meters of land in his name under Original Certificate of Title (OCT) No. 8906 which land appears to be even located farther from the lake than the subject lots, while Juvencio Ortañez registered 84,238 square meters of land in his name under OCT No. 55351 which land is situated near the margins of the Laguna Lake. The land titles of these two individuals only prove that they are the owners in fee simple of the respective real properties described therein, free from all liens and encumbrances except such as may be expressly noted thereon or otherwise reserved by law.[23] They do not prove petitioners' title to the subject lots. Further, in *Ledesma v. Municipality of Iloilo,*[24] this Court held that "simple possession of a certificate of title, under the Torrens System, does not make the possessor the true owner of all the property described therein. If a person obtains a title, under the Torrens System, which includes by mistake or oversight land which cannot be registered under the Torrens System, he does not, by virtue of said certificate alone, become the owner of the lands illegally included." It is basic principle that prescription

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[22] G.R. No. 141174 *rollo*, p. 71.

[23] *Dy v. Court of Appeals*, G.R. No. 97929, December 17, 1991, 204 SCRA 878.

[24] 49 Phil. 769 (1926), *cited in Widows and Orphans Association, Inc. v. Court of Appeals*, G.R. No. 91797, August 28, 1991, 201 SCRA 165, 175-176.

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does not run against the government. In *Reyes v. Court of Appeals,*[25] we held:

> When the government is the real party in interest, and is proceeding mainly to assert its own rights and recover its own property, there can be no defense on the ground of laches or limitation. . .
>
> Public land fraudulently included in patents or certificates of title may be recovered or reverted to the State in accordance with Section 101 of the Public Land Act. Prescription does not lie against the State in such cases for the Statute of Limitations does not run against the State. The right of reversion or reconveyance to the State is not barred by prescription.

We further uphold the Court of Appeals in ruling that petitioners-applicants presented no substantial evidence that they and their predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the entire area in question, in the concept of owner since June 12, 1945, or prior thereto.

Petitioners presented Pedro Bernardo, their common predecessor-in-interest, as witness. Bernardo testified, as follows:

Q Before this land was sold to Potenciana Espiritu, how long have you owned this land before you sold this to Potenciana Espiritu?

A I have been the owner of this property for 25 years.

Q Before the same was sold to Potenciana Espiritu what did you do with the land when you were still the owner of the land?

A The land is devoted to planting of palay.

Q Do you have a tenant who till[s] the land for you?

A The tenant died.

Q Did he die before you sold the property or after?

A After I sold the property to Potenciana Espiritu, the tenants died, however, he was able to work as tenant for Potenciana for a period of about 4 or 5 years.

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[25] G.R. No. 94524, September 10, 1998, 295 SCRA 296, *cited in East Asia Traders, Inc. v. Republic*, G.R. No. 152947, July 7, 2004, 433 SCRA 716, 726.

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Q When you were in possession of this property for about a period of 25 years do you know of any other person who have claimed right or interest?

A None that I know.

Q Can you tell us if you were in possession of the property continuously, publicly, adversely to the whole world?

A Yes, sir, peaceful because there is no adverse claimant. It is continuous and public and adverse to the whole world.[26]

The above-quoted testimony of Pedro Bernardo is clearly insufficient. No other proof was presented to establish Bernardo's possession and occupation of the more than three (3) hectares of land sought to be registered. Possession is open when it is visible and apparent to a common observer.[27] Continuous possession consists of uninterrupted acts of nonpermissive possession of property by the current occupants and their predecessors.[28] To be notorious, possession must be so conspicuous that it is generally known and talked of by the public[29] or at least by the people in the vicinity of the premises.[30] Mere possession of land[31] and the making of vague assertions to the public that a possessor is claiming the land[32] are not sufficient to satisfy the requirement of open and notorious possession. Bernardo failed to show that his alleged possession

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[26] G.R. No. 141325 *rollo*, pp. 57-58.

[27] *Marengo Cave Co. v. Ross,* 212 Ind. 624, 10 N.E.2d 917 (1937); *Striefel v. Charles-Keyt-Leaman Partnership,* 1999 ME 111, 733 A.2d 984 (Me. 1999); *Hoffman v. Freeman Land and Timber,* LLC., 329 Or. 554, 994 P.2d 106 (1999).

[28] *Georgia Power Co. v. Irvin,* 267 Ga. 760, 482 S.E.2d 362 (1997).

[29] *Snook v. Bowers,* 12 P.3d 771 (Alaska 2000).

[30] *Illinois Ry. Museum, Inc. v. Siegel,* 132 Ill. App. 2d 77, 266 N.E.2d 724 (2d Dist. 1971).

[31] *Ruggles v. Dandison,* 284 Mich. 338, 279 N.W. 851 (1938); *Morgan v. Jenson,* 47 N.D. 137, 181 N.W. 89 (1921); *Baxter v. Girard Trust Co.,* 288 Pa. 256, 135 A. 620, 49 A.L.R. 1011 (1927).

[32] *Rachel v. Johnson,* 230 Ark. 1003, 328 S.W.2d 87 (1959).

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and occupation were of the nature and duration required by law. Bare and general allegations, without more, do not amount to preponderant evidence that would shift the burden to the oppositor, in this case, the Republic.[33] Further, it militates against the claim of actual possession under a claim of ownership since June 1945, that the subject properties were declared for taxation purposes only in 1980, or five (5) years before the filing of the application.[34]

IN VIEW WHEREOF, the Petitions of Pelbel Manufacturing Corporation, substituted by Pelagia Beltran, and Virginia Malolos, and Aladdin F. Trinidad and Aquilina C. Bonzon are *DENIED*. The Court of Appeals' November 14, 1997 Decision in CA-G.R. CV No. 23592 and December 22, 1999 Resolution are *AFFIRMED*.

Costs against petitioners.

SO ORDERED.

Sandoval-Gutierrez, Corona, Azcuna, and *Garcia, JJ.*, concur.

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[33] *Republic v. Enciso*, G.R. No. 160145, November 11, 2005, 474 SCRA 700.

[34] G.R. No. 141325 *rollo*, p. 58.