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THIRD DIVISION

[G.R. No. 189859. October 18, 2010]

PIO MODESTO and CIRILA RIVERA-MODESTO, *petitioners, vs.* **CARLOS URBINA, substituted by the heirs of OLYMPIA MIGUEL *VDA. DE* URBINA (Surviving Spouse) and children, namely: ESCOLASTICA M. URBINA, *ET AL.*,** *respondents.*

SYLLABUS

1. CIVIL LAW; PROPERTY; POSSESSION; *ACCION PUBLICIANA*; ELUCIDATED.— An *accion publiciana* is an ordinary civil proceeding to determine the better right of possession of realty independently of title. *Accion publiciana* is also used to refer to an ejectment suit where the cause of dispossession is not among the grounds for forcible entry and unlawful detainer, or when possession has been lost for more than one year and can no longer be maintained under Rule 70 of the Rules of Court. The objective of a plaintiff in *accion publiciana* is to recover possession only, not ownership.

2. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; PETITION FOR REVIEW ON *CERTIORARI*; GENERALLY, REVIEW OF FACTUAL ISSUE IS NOT PROPER; EXCEPTIONS.— In asking us to determine which of the parties has a better right to possess the property, we are asked to resolve a factual issue, involving as it does the weighing and evaluation of the evidence presented by the parties in the courts below. Generally, such an exercise is not appropriate in a petition for review on *certiorari* under Rule 45 of the Rules of Court, which seeks to resolve only questions of law. Moreover, the factual findings of the CA, when supported by substantial evidence, areconclusive and binding on the parties and are not reviewable by this Court, unless the case falls under any of the following recognized exceptions: (1) When the conclusion is a finding grounded entirely on speculation, surmises and conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) **When the judgment is based on a misapprehension of facts**; (5) When the findings of fact are conflicting; (6) When the

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Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) When the findings are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and (10) When the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record. Since the CA affirmed the factual findings of the RTC, we would normally be precluded from re-examining the factual circumstances of this case. However, it appears that the RTC and the CA, in concluding that Urbina has the right to lawfully eject the Modestos from the lot in question, have greatly misapprehended the facts of this case. In finding for Urbina, both the RTC and the CA mainly relied on the principle of estoppel, and focused on the Modestos' admission that they entered into a negotiated contract of sale with Urbina. In the process, they injudiciously ignored the other material issues that the Modestos raised regarding the validity of Urbina's possession of the property, specifically the Modestos' allegation that at the time Urbina began staking his claim over the property, it was still government land. This error on the part of the lower courts is made more evident when we take into account an intervening event which significantly affects the resolution of this case – the issuance by the LMB of its order dated February 19, 2010, which expressly stated that Urbina did not acquire any possessory rights over the lot. For these reasons, we find the review of the evidence on record proper.

3. ID.; ID.; JURISDICTION; AUTHORITY OF THE COURTS TO RESOLVE AND SETTLE QUESTIONS RELATING TO THE POSSESSION OF PROPERTY, UPHELD IN CASE AT BAR.— The authority of the courts to resolve and settle questions relating to the possession of property has long been settled. This authority continues, even when the land in question is public land. As we explained in *Solis v. Intermediate Appellate Court*: We hold that **the power and authority given to the Director of Lands to alienate and dispose of public lands does not divest the regular courts of their jurisdiction over**

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possessory actions instituted by occupants or applicants against others to protect their respective possessions and occupations. While the jurisdiction of the Bureau of Lands [now the Land Management Bureau] is confined to the determination of the respective rights of rival claimants to public lands or to cases which involve disposition of public lands, the power to determine who has the actual, physical possession or occupation or the better right of possession over public lands remains with the courts. The rationale is evident. The Bureau of Lands does not have the wherewithal to police public lands. Neither does it have the means to prevent disorders or breaches of peace among the occupants. Its power is clearly limited to disposition and alienation and while it may decide disputes over possession, this is but in aid of making the proper awards. **The ultimate power to resolve conflicts of possession is recognized to be within the legal competence of the civil courts and its purpose is to extend protection to the actual possessors and occupants with a view to quell social unrest.** Consequently, while we leave it to the LMB to determine the issue of who among the parties should be awarded the title to the subject property, there is no question that we have sufficient authority to resolve which of the parties is entitled to rightful possession.

4. ID.; ID.; APPEALS; FACTUAL FINDINGS OF ADMINISTRATIVE AGENCIES ARE GENERALLY RESPECTED AND EVEN ACCORDED FINALITY BECAUSE OF THE SPECIAL KNOWLEDGE AND EXPERTISE GAINED BY THESE AGENCIES FROM HANDLING MATTERS FALLING UNDER THEIR SPECIALIZED JURISDICTION.— Factual findings of administrative agencies are generally respected and even accorded finality because of the special knowledge and expertise gained by these agencies from handling matters falling under their specialized jurisdiction. Given that the LMB is the administrative agency tasked with assisting the Secretary of the Department of Environment and Natural Resources (*DENR*) in the management and disposition of alienable and disposable lands of the public domain, we defer to its specialized knowledge on these matters.

5. CIVIL LAW; LAND TITLES AND DEEDS; PUBLIC LAND ACT; ONLY A PUBLIC LAND RECLASSIFIED AS ALIENABLE OR ACTUALLY ALIENATED BY THE STATE TO A PRIVATE PERSON CAN CONFER OWNERSHIP OR POSSESSORY

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RIGHTS; APPLICATION IN CASE AT BAR.— Unless a public land is shown to have been reclassified as alienable or actually alienated by the State to a private person, that piece of land remains part of the public domain, and its occupation in the concept of owner, no matter how long, cannot confer ownership or possessory rights. **It is only after the property has been declared alienable and disposable that private persons can legally claim possessory rights over it.** Accordingly, even if we recognize that Urbina had been in possession of the property as early as July 21, 1966, when he filed his Miscellaneous Sales Application, his occupation was unlawful and could not be the basis of possessory rights, in keeping with Section 88 of the Public Land Act, that states: **Section 88.** The tract or tracts of land reserved under the provisions of section eighty-three shall be non-alienable and shall not be subject to occupation, entry, sale, lease, or other disposition until again declared alienable under the provisions of this Act or by proclamation of the President. The same holds true for Urbina's tax declarations. Absent any proof that the property in question had already been declared alienable at the time that Urbina declared it for tax purposes, his tax declarations over the subject property cannot be used to support his claim of possession. Similarly, while the Modestos claim to have been in possession of Lot 356 for almost 33 years, this occupation could not give rise to possessory rights while the property being occupied remain government land that had not yet been declared alienable and disposable.

6. ID.; ID.; ID.; ID.; MERE DECLARATION OF LAND FOR TAXATION PURPOSES DOES NOT CONSTITUTE POSSESSION THEREOF NOR IT IS PROOF OF OWNERSHIP IN THE ABSENCE OF THE CLAIMANT'S ACTUAL POSSESSION.— As for the Certification from the City Treasurer of Taguig that the respondents presented, which certified that Carlos Urbina had paid real estate taxes on real property "describe[d] in the name of Carlos Urbina, with property located at Lower Bicutan, Taguig City" from 2009 and prior years, we note that the certification contains no description of the property subject of the tax declaration, leaving us to wonder on the identity of the property covered by the declaration. In any case, even if we consider this certification as sufficient proof that Urbina declared the subject property for tax declaration purposes, it must be stressed that the **mere**

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declaration of land for taxation purposes does not constitute possession thereof nor is it proof of ownership in the absence of the claimant's actual possession. And in light of our categorical finding that the Modestos actually occupied the property in question from the time that it was declared alienable and disposable until the present time, the tax declaration fails to convince us that Urbina has a right to legally possess it. For these reasons, we find that Urbina utterly failed to prove that he has a better right to possess the property. Thus, we cannot sustain his complaint for ejectment against the Modestos and, perforce, must dismiss the same for lack of merit.

7. ID.; OBLIGATIONS AND CONTRACTS; ESTOPPEL; DOES NOT ARISE WHERE THE REPRESENTATION OR CONDUCT OF THE PARTY SOUGHT TO BE ESTOPPED IS DUE TO IGNORANCE FOUNDED UPON AN INNOCENT MISTAKE; PRINCIPLE OF ESTOPPEL FINDS NO APPLICATION IN CASE AT BAR.— [W]e find the CA's reliance on the principle of estoppel against the Modestos to be misplaced. Through estoppel, an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying on it. This doctrine is based on the grounds of public policy, fair dealing, good faith and justice, and its purpose is to forbid one to speak against his own act, representations, or commitments to the injury of one to whom they were directed and who reasonably relied on it. It bears noting, however, that **no estoppel arises where the representation or conduct of the party sought to be estopped is due to ignorance founded upon an innocent mistake**. Here, the Modestos do not deny that they negotiated with Urbina for the sale of the subject property. However, because they entered the negotiated sales contract with Urbina on the mistaken belief, based on Urbina's erroneous assertion, that he was the lawful owner-possessor of the property in question, we do not consider them bound by this action. Consequently, the principle of estoppel finds no application in this case.

APPEARANCES OF COUNSEL

A.D. Covera & Associates for petitioners.
Victor D. Aguinaldo for respondents.

R E S O L U T I O N

BRION,[*] *J.*:

We resolve the motion for reconsideration filed by petitioners Pio Modesto and Cirila Rivera Modesto (*Modestos* or *petitioners*) dated March 1, 2010,[1] seeking to reverse our January 11, 2010 Resolution, which denied their petition for review on *certiorari* for lack of merit.[2]

FACTUAL ANTECEDENTS

Civil Case No. 53483

This case stems from a complaint for recovery of possession filed by respondent Carlos Urbina (*Urbina*) against the petitioners with the Regional Trial Court of Pasig (*RTC*), docketed as Civil Case No. 53483.

In his complaint, Urbina alleged that he is the owner of a parcel of land situated at Lower Bicutan, Taguig, designated as Lot 56, PLS 272. According to Urbina, the Modestos, through stealth, scheme, and machination, were able to occupy a portion of this property, designated as Lot 356, PLS 272. Thereafter, the Modestos negotiated with Urbina for the sale of this lot. However, before the parties could finalize the sale, the Modestos allegedly cancelled the transaction and began claiming ownership over the lot. Urbina made several demands on the Modestos to vacate the property, the last of which was through a demand letter sent on July 22, 1983. When the Modestos still refused to vacate, Urbina filed the present action against them.

In their answer, the Modestos claimed that Urbina could not be the lawful owner of the property because it was still government property, being a part of the Fort Bonifacio Military Reservation.

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[*] Designated Acting Chairperson of the Third Division, per Special Order No. 906 dated October 13, 2010.

[1] *Rollo*, pp. 97-118.

[2] *Id.* at 95.

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After the resolution of various procedural issues,[3] the RTC of Pasig City rendered a decision in favor of Urbina on April 24, 2000, ordering the petitioners to immediately vacate and surrender the lot to Urbina and to pay him ₱200.00 monthly as compensation for the use of the property from July 22, 1983 until they finally vacate.[4]

The RTC noted that the petitioners recognized Urbina's possessory rights over the property when they entered into a negotiated contract of sale with him for the property. Thus, the Modestos were estopped from subsequently assailing or disclaiming Urbina's possessory rights over this lot.

The petitioners appealed this decision with the Court of Appeals (*CA*).

LMB Conflict No. 110

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[3] On February 17, 1989, the RTC issued a ruling based solely on the pleadings in favor of Urbina, and ordered the Modestos to vacate the lot. The RTC also ordered the Modestos to pay Urbina the amount of ₱200.00 a month as reasonable rental from the time of their occupation in July 1983 until they finally vacated the premises, and to pay ₱3,000.00 as attorney's fees.

On appeal, the CA set aside the RTC judgment on the pleadings, and ordered a remand of the case to the lower court for further proceedings or trial on the merits, as the case may be.

After conducting trial on the merits, the RTC rendered a decision dated March 4, 1996 which dismissed Urbina's complaint without prejudice on the ground that the proper government office in charge of the Fort Bonifacio Military Reservation, being an indispensable party, should be impleaded under Section 7, Rule 3 of the Rules of Court.

Urbina moved for reconsideration, which the RTC thereafter granted in its Order dated May 21, 1996. In the same order, it ordered Urbina to include Fort Bonifacio Military Reservation in its complaint. Urbina then filed an amended complaint, impleading the Bases Conversion Development Authority as party defendant. The RTC admitted the amended complaint. The parties,however, subsequently agreed to drop the Bases Conversion and Development Authority as party defendant since the assailed lot is no longer within the supervision of the BCDA but within the jurisdiction of the Bureau of Lands. *Id.* at 63-65.

[4] *Rollo*, pp. 62-69.

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Urbina's claim of ownership over Lot 56 is based primarily on his Miscellaneous Sales Application No. (III-1) 460 (*Miscellaneous Sales Application*), which he filed on July 21, 1966.[5]

While Urbina's *accion publiciana* complaint was pending before the RTC, the Modestos filed a letter-protest against Urbina's Miscellaneous Sales Application with the Land Management Bureau (*LMB*) on January 29, 1993, claiming that: (a) they are the owners of Lot 356, PLS 272;[6] (b) they have been occupying this lot for almost 33 years; and (c) their house is constructed on this lot.

The Modestos also alleged that they filed an unnumbered sales application for Lot 356 with the LMB, based on their actual occupancy of the property, pursuant to Proclamations 2476 and 172, on February 10, 1993.

On January 31, 2008, the LMB denied with finality the Modestos' unnumbered sales application/protest against Urbina's application, in turn upholding Urbina's Miscellaneous Sales Application.

Refusing to give up, the Modestos filed a motion for reconsideration. They also filed an Insular Government Patent Sales Application over Lot 356 on January 27, 2009.[7]

THE COURT OF APPEALS DECISION

The CA affirmed *in toto* the RTC decision in Civil Case No. 53483 on January 26, 2009.[8] The CA agreed with the RTC's observation that the Modestos were estopped from challenging Urbina's right to possess the property after they acknowledged this right when they entered into the negotiated contract of sale. The CA also gave credence to the January

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[5] *Id.* at 65.

[6] The portion of Lot 56 that the Modestos were occupying.

[7] *Rollo,* p. 122.

[8] Penned by Associate Justice Arturo G. Tayag, with the concurrence of Presiding Justice Conrado M. Vasquez, Jr., and Associate Justice Hakim S. Abdulwahid. *Id.* at 45-60.

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31, 2008 LMB order in LMB Conflict No. 110, ruling that this LMB order bolstered Urbina's possessory rights over the subject property.

At the time the CA decision was issued, respondent Carlos Urbina had already passed away and had been substituted by his surviving heirs, his spouse, Olympia Miguel *Vda*. de Urbina, and his children, Escolastica, Cecilia, Efren, Manolito, and Purificacion, all surnamed Urbina (*respondents*).

THE PETITION

The petitioners subsequently filed a petition for review on *certiorari* with this Court, asserting that the CA committed reversible error in finding that Urbina had possessory rights over the property. **The Modestos mainly argued that at the time Urbina filed his MSA and acquired tax declarations over the subject property, the property was still government property, being part of a military reservation.** The property was thus not alienable and disposable, and could not legally be possessed by a private individual. Accordingly, Urbina could not use the MSA and the tax declarations as proof of a better right to possess the property as against the Modestos.

The Modestos further claimed that the CA committed grievous error when it held that they were estopped from challenging Urbina's right to possess the subject property. While they admitted to negotiating with Urbina for the sale of the property, they alleged that they did so based on Urbina's misrepresentation that he had a legal claim of ownership over the property. **Since their offer to buy the property from Urbina was based on his false assertions, the principle of estoppel cannot apply.**

Additionally, the Modestos alleged that since the property is covered by Proclamation No. 172 and Memorandum Order No. 119, the lower courts should have given due consideration to the primary and exclusive jurisdiction of the Director of Lands (of the Bureau of Lands, now Director of the Land Management Bureau) over these parcels of public lands.

Lastly, the Modestos questioned Urbina's qualifications to possess the property, claiming that Urbina was not in actual,

adverse, public and continuous possession of the property. According to the Modestos, from the time that Urbina filed his Miscellaneous Sales Application in 1966 until the present, Urbina was a resident of Makati City, and did not actually occupy the property.

In our Order dated January 11, 2010, we denied the Modestos' petition for failing to sufficiently show any reversible error in the assailed CA decision.

THE MOTION FOR RECONSIDERATION

On March 3, 2010, the Modestos filed their motion for reconsideration, raising essentially the same grounds already brought up in their petition for review on *certiorari*.

Notably, the Modestos attached LMB Order dated February 19, 2010 (*February 19, 2010 LMB Order*), which resolved their motion for reconsideration of the LMB's January 31, 2008 order in LMB Conflict No. 110. This Order held that the subject property had indeed been a part of the Fort Bonifacio Military Reservation, and only became alienable and disposable after October 16, 1987. Thus, Urbina's Miscellaneous Sales Application over the property was improper and could not be the source of possessory rights over the property.

The order also noted that Urbina failed to comply with the requirements of an applicant for ownership of the property, as set forth in Memorandum No. 119, the implementing guidelines of Proclamation No. 172.

Responding to this motion, the respondents, in their Comment dated May 31, 2010, reiterated that the petitioners are estopped from assailing Urbina's possessory rights over the property after they entered into a negotiated sales contract with him over the subject property. They also accused the Modestos of employing dilatory tactics in filing the present motion.

THE RULING

We GRANT the motion for reconsideration.

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Procedural issue

An *accion publiciana* is an ordinary civil proceeding to determine the better right of possession of realty independently of title.[9] *Accion publiciana* is also used to refer to an ejectment suit where the cause of dispossession is not among the grounds for forcible entry and unlawful detainer, or when possession has been lost for more than one year and can no longer be maintained under Rule 70 of the Rules of Court. The objective of a plaintiff in *accion publiciana* is to recover possession only, not ownership.[10]

In asking us to determine which of the parties has a better right to possess the property, we are asked to resolve a factual issue, involving as it does the weighing and evaluation of the evidence presented by the parties in the courts below. Generally, such an exercise is not appropriate in a petition for review on *certiorari* under Rule 45 of the Rules of Court, which seeks to resolve only questions of law. Moreover, the factual findings of the CA, when supported by substantial evidence, are conclusive and binding on the parties and are not reviewable by this Court, unless the case falls under any of the following recognized exceptions:

(1) When the conclusion is a finding grounded entirely on speculation, surmises and conjectures;

(2) When the inference made is manifestly mistaken, absurd or impossible;

(3) Where there is a grave abuse of discretion;

(4) **When the judgment is based on a misapprehension of facts**;

(5) When the findings of fact are conflicting;

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[9] *Bejar v. Caluag,* G.R. No. 171277, February 17, 2007, 516 SCRA 84, 90; *Sps. Cruz v. Torres*, 374 Phil. 529, 533 (1999); *Bishop of Cebu v. Mangaron*, 6 Phil. 286, 291 (1906); *Ledesma v. Marcos*, 9 Phil. 618, 620 (1908).

[10] *Spouses Padilla v. Velasco*, G.R. No. 169956, January 19, 2009, 576 SCRA 219.

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(6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;

(7) When the findings are contrary to those of the trial court;

(8) When the findings of fact are conclusions without citation of specific evidence on which they are based;

(9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and

(10) When the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record.[11]

Since the CA affirmed the factual findings of the RTC, we would normally be precluded from re-examining the factual circumstances of this case. However, it appears that the RTC and the CA, in concluding that Urbina has the right to lawfully eject the Modestos from the lot in question, have greatly misapprehended the facts of this case.

In finding for Urbina, both the RTC and the CA mainly relied on the principle of estoppel, and focused on the Modestos' admission that they entered into a negotiated contract of sale with Urbina. In the process, they injudiciously ignored the other material issues that the Modestos raised regarding the validity of Urbina's possession of the property, specifically the Modestos' allegation that at the time Urbina began staking his claim over the property, it was still government land.

This error on the part of the lower courts is made more evident when we take into account an intervening event which significantly affects the resolution of this case – the issuance by the LMB of its order dated February 19, 2010, which expressly stated that Urbina did not acquire any possessory rights over

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[11] *Ontimare, Jr. v. Elep*, G.R. No. 159224, January 20, 2006, 479 SCRA 257, 265.

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the lot. For these reasons, we find the review of the evidence on record proper.

Jurisdiction of the Court

The authority of the courts to resolve and settle questions relating to the possession of property has long been settled.[12] This authority continues, even when the land in question is public land. As we explained in *Solis v. Intermediate Appellate Court*:[13]

> We hold that **the power and authority given to the Director of Lands to alienate and dispose of public lands does not divest the regular courts of their jurisdiction over possessory actions instituted by occupants or applicants against others to protect their respective possessions and occupations.** While the jurisdiction of the Bureau of Lands [now the Land Management Bureau] is confined to the determination of the respective rights of rival claimants to public lands or to cases which involve disposition of public lands, the power to determine who has the actual, physical possession or occupation or the better right of possession over public lands remains with the courts.
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> The rationale is evident. The Bureau of Lands does not have the wherewithal to police public lands. Neither does it have the means to prevent disorders or breaches of peace among the occupants. Its power is clearly limited to disposition and alienation and while it may decide disputes over possession, this is but in aid of making the proper awards. **The ultimate power to resolve conflicts of possession is recognized to be within the legal competence of the civil courts and its purpose is to extend protection to the actual possessors and occupants with a view to quell social unrest.**

Consequently, while we leave it to the LMB to determine the issue of who among the parties should be awarded the title to the subject property, there is no question that we have sufficient

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[12] See *Omandam v. Court of Appeals*, G.R. No. 128750, January 18, 2001, 349 SCRA 483; *Heirs of Sabanpan v. Comorposa*, G.R. No. 152807, August 12, 2003, 408 SCRA 692; *City of Baguio v. Nino*, G.R. No. 161811, April 12, 2006, 487 SCRA 216; *Estrella v. Robles, Jr.*, G.R. No. 171029, November 22, 2007, 538 SCRA 60.

[13] G.R. No. 72486, June 19, 1991, 198 SCRA 267.

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authority to resolve which of the parties is entitled to rightful possession.

On the issue of possessory rights

Prefatorily, we observe that the subject property has not yet been titled, nor has it been the subject of a validly issued patent by the LMB. Therefore, the land remains part of the public domain, and neither Urbina nor the Modestos can legally claim ownership over it. This does not mean, however, that neither of the parties have the right to possess the property.

Urbina alleged that he is the rightful possessor of the property since he has a pending Miscellaneous Sales Application, as well as tax declarations over the property. He also relied, to support his claim of a better right to possess the property, on the admission on the part of the Modestos that they negotiated with him for the sale of the lot in question.

On the other hand, the Modestos anchored their right to possess the same on their **actual possession** of the property. They also questioned the legality of Urbina's Miscellaneous Sales Application, and his tax declarations over the property, arguing that since these were obtained when the land was still not alienable and disposable, they could not be the source of any legal rights.

After reviewing the records of this case, we find the reasoning of the Modestos to be more in accord with applicable laws and jurisprudence.

The February 19, 2010 LMB Order

Factual findings of administrative agencies are generally respected and even accorded finality because of the special knowledge and expertise gained by these agencies from handling matters falling under their specialized jurisdiction.[14] Given that the LMB is the administrative agency tasked with assisting the Secretary of the Department of Environment and Natural Resources (*DENR*) in the management and disposition of

[14] *Lim v. Commission on Audit*, G.R. No. 130325, March 11, 2003, citing *Mapa v. Arroyo*, 175 SCRA 76, 81 (1989).

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alienable and disposable lands of the public domain,[15] we defer to its specialized knowledge on these matters. In this regard, we quote with approval the observations made by the Director of the LMB in the February 19, 2010 LMB Order:

Movants [the Modestos] have anchored their Motion for Reconsideration on three (3) assigned errors, to wit:

I. THIS OFFICE ERRED IN ITS FINDINGS THAT THE AREA IS NOT COVERED BY PROCLAMATION NO. 172, AS IMPLEMENTED BY MEMORANDUM ORDER NO. 119;

II. THIS OFFICE ERRED IN ITS FINDINGS THAT CARLOS T. URBINA WAS IN ACTUAL, ADVERSE, PUBLIC AND CONTINUOUS POSSESSION OF THE PROPERTY IN QUESTION;

III. THIS OFFICE ERRED IN NOT HOLDING THAT A NEW SURVEY OF THE AREA IN QUESTION SHOULD BE DONE AND CONDUCTED TO DETERMINE THE TRUE

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[15] Section 14, Executive Order No. 192, provides:

There is hereby created the **Lands Management Bureau** which shall absorb functions and powers of the Bureau of Lands except those line functions and powers which are transferred to the regional field office. The Lands Management Bureau to be headed by a Director and assisted by an Assistant Director shall advise the Secretary on matters pertaining to rational land classification management and disposition and shall have the following functions, but not limited to:

a. Recommend policies and programs for the efficient and effective administration, surveys, management and disposition of alienable and disposable lands of the public domain and other lands outside the responsibilities of other government agencies; such as reclaimed areas and other areas not needed for or are not being utilized for the purposes for which they have been established;

b. Advise the Regional Offices on the efficient and effective implementation of policies, programs and projects for more effective public lands management;

c. **Assist in the monitoring and evaluation of land surveys, management and disposition of lands** to ensure efficiency and effectiveness thereof;

d. Issue standards, guidelines, regulations and orders to enforce policies for the maximization of land use and development;

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BOUNDARIES OF THE PROPERTY IN QUESTION *VIS-À-VIS* THE CLAIMS OF EACH PARTY.

In order to clarify the issues raised in the Motion for Reconsideration, this Office ordered that another ocular inspection and investigation on the subject premises be conducted by Special Investigator Danilo Lim. After said investigation, Special Investigator, Danilo Lim, submitted his Report to the Regional Technical Director, Lands Management Services, thru the Chief, Land Management Division, DENR-NCR.

In his Report, Special Investigator, Danilo Lim made the following findings:

> **The Miscellaneous Sales Application filed by Carlos Urbina is not appropriate because Lot 356 had ceased to be public land as it had become part of the Fort Bonifacio Military Reservation, and hence, no one can claim possessory rights over the said property since it is within said Military Reservation**. The subject area which is located in Lower Bicutan, Taguig, only became alienable and disposable upon the issuance of Presidential Proclamation No. 172 and its implementing guidelines Memorandum Order No. 119 on October 16, 1987.

After a judicious evaluation of the arguments raised in the instant motion, and taking into account the findings and recommendations of Special Investigator Danilo Lim as contained in his Report, this Office finds the same to be not entirely without merit.

Anent the first assigned error, Special Investigator Danilo Lim has found that **the area is indeed a part of the Fort Bonifacio Military Reservation and is covered by Proclamation No. 172** and Memorandum Order No. 119. Upon a thorough research of the origin of the subject property, it turned out that the area was originally

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e. Develop operating standards and procedure to enhance the Bureau's objectives and functions;

f. **Assist the Secretary as Executive Officer charged with carrying out the provisions of the Public Land Act** [C.A. 141, as amended], who shall have direct executive control of the survey, classification, lease, sale, or any other forms of concessions or disposition and management of the lands of the public domain; and

g. Perform other functions as may be assigned by the Secretary and/or provided by law.

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part of the vast parcel of land known as Hacienda De Maricaban. Sometime in 1902, the United States of America purchased said vast tract of land with an area of Seven Hundred and Twenty Nine and Fifteenth Hundred (729.15) Hectares and spanning the Municipalities of Pasig, Taguig, Paranaque and Pasay, from its original owner, Dona Dolores Pacual Casal *Y* Ochoa, for the purpose of **establishing a US Military Reservation** which they later named Fort William Mc Kinley. On July 12, 1957, President Carlos P. Garcia issued **Proclamation No. 423**, reserving for military purposes, the parcels of land identified as Parcel No. 2, No. 3 and No. 4, Psu-2031, on which parcels of land excluding Parcel No. 2, the present Fort Bonifacio was established for the Republic of the Philippines. Parcel No. 3, Psu-2031 is covered by T.C.T. No. 61524 registered in the name of the Republic of the Philippines. On October 16, 1987, President Corazon C. Aquino issued Proclamation No. 172 in order to exclude from the operation of Proclamation No. 423 which established Fort Bonifacio, certain portions of land embraced therein known as Barangays Lower Bicutan, Upper Bicutan, Western Bicutan and Signal Village, all situated in the Municipality of Taguig, and to declare the same open for disposition to actual occupants and qualified applicants under the provisions of Republic Act No. 274 and Republic Act No. 730 in relation to the Public Land Act as amended; and under Memorandum Order No. 119 issued by President Corazon Aquino. In Proclamation No. 172, Lower Bicutan is described as Lot 3 situated in the Municipality of Taguig, M.M., and containing an area of One Million Eighty Four Thousand Three Hundred Eleven (1,084,311) sqm more or less or 108.43 hectares.

In view of all the above recitals, it appears that **the parcel of land subject of this case (Lot 356)** which is located in Barangay Lower Bicutan, City of Taguig **is covered by Proclamation No. 172** issued by President Corazon C. Aquino, and hence, the same **only became alienable and disposable to qualified applicants after October 16, 1987**, the date of its issuance, contrary to what is believed in the assailed Order of this Office.

With respect to the second assigned error, the issue can be resolved by the application of the legal provisions covering the subject property, which is Proclamation No. 172 and its implementing guidelines. Under its implementing guidelines, Memorandum No. 119, the following are the qualifications for an applicant to be qualified to apply for and acquire a lot under Proclamation No. 172, among others, to wit:

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(1) He/She **must be a *bona fide* resident** of the proclaimed areas. To be considered a *bona fide* resident, the applicant must have the following qualifications:

a) A Filipino citizen of legal age and/or a head of the family;

b) **Must have constructed a house** in the area proclaimed for disposition on or before January 6, 1986 and **actually residing therein**;

c) **Must not own any other residential or commercial lot in Metro Manila;**

d) Must not have been a registered awardee of any lot under the administration of the NHA, MHS, or any other government agency, nor the AFP Officer's village;

e) Must not be a professional squatter. A professional squatter, for purposes of this Order, is one who engages in selling lots in the areas proclaimed for disposition; and

f) Has filed the proper application to purchase.

Based on the Report of Special Investigator Lim and the other Land Inspectors who investigated this case, namely: Jose P. Antonio and Jose P. Parayno, it was found that **Pio Modesto and his family are the actual occupants of the area with a residential house and chapel made of light materials** and Pio Modesto and his family are actually residing in the said residential house. On the other hand, it was established that **Carlos Urbina has been a resident of Pasay Road or 4929 Pio Del Pilar, Makati City.** Applying the qualifications provided for in Memorandum Order No. 119, we find that Spouses Modesto are to be qualified to apply for the subject lot as they have been in occupation thereof and have constructed their residential house thereon. Hence, they satisfy the requirements in order to be considered a "Bonafide Resident" as defined in the guidelines. As per our records, **Spouses Pio and Cirila Modesto have also filed an unnumbered I.G.P.S.A. Application for the subject lot on January 27, 2009. Carlos Urbina, however, never constructed any house on the subject lot and neither did he actually reside therein. Besides, he already owns a residential lot in Makati City where he had been residing all this time.** Hence, he cannot be considered a bonafide resident of the subject lot. He likewise failed to file his I.G.P.S.A application for the lot. Instead, what he had filed on January 20, 1966 was a Miscellaneous Sales Application. At that

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time, however, the area of Barangay Lower Bicutan, where the subject lot is located, was still part of the Fort Bonifacio Military Reservation, and the same had not yet been segregated and declared to be alienable and disposable. **Hence, no possessory rights could have been acquired by his over the subject lot.**[16]

From this LMB order, we consider the following facts established:

First, the lot in question, situated in Barangay Lower Bicutan, was part of the Fort Bonifacio Military Reservation, and only became alienable and disposable after October 16, 1987, pursuant to Proclamation No. 172. This factual finding finds further support in the testimony, before the RTC, of Jose Exequiel Vale, Special Investigator and Assisting Hearing Officer of the DENR.[17]

Second, the Modestos are *bona fide* residents of the lot in question, being the actual residents of the lot and having built a house and chapel on the property.

Third, the Modestos have a pending Insular Government Patent Sales Application over the lot in question, filed *after* the property became alienable and disposable.

Taking these facts into account, we now make a distinction, based on the corresponding legal effects, between: (a) possession of the property before October 16, 1987, when the land was still considered inalienable government land, and (b) possession of the property after October 16, 1987, when the land had already been declared alienable and disposable.

Possession prior to October 16, 1987

Unless a public land is shown to have been reclassified as alienable or actually alienated by the State to a private person, that piece of land remains part of the public domain,[18] and its

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[16] *Rollo*, pp. 120-122.

[17] *Id.* at 64.

[18] *Seville v. National Development Company*, G.R. No. 129401, February 2, 2001, 351 SCRA 112.

occupation in the concept of owner, no matter how long, cannot confer ownership or possessory rights.[19] **It is only after the property has been declared alienable and disposable that private persons can legally claim possessory rights over it.**

Accordingly, even if we recognize that Urbina had been in possession of the property as early as July 21, 1966, when he filed his Miscellaneous Sales Application, his occupation was unlawful and could not be the basis of possessory rights, in keeping with Section 88 of the Public Land Act, that states:

> **Section 88.** The tract or tracts of land reserved under the provisions of section eighty-three shall be non-alienable and shall not be subject to occupation, entry, sale, lease, or other disposition until again declared alienable under the provisions of this Act or by proclamation of the President.

The same holds true for Urbina's tax declarations. Absent any proof that the property in question had already been declared alienable at the time that Urbina declared it for tax purposes, his tax declarations over the subject property cannot be used to support his claim of possession.

Similarly, while the Modestos claim to have been in possession of Lot 356 for almost 33 years,[20] this occupation could not give rise to possessory rights while the property being occupied remain government land that had not yet been declared alienable and disposable.

Possession after October 16, 1987

The different land investigators[21] sent by the LMB to survey the subject property have consistently held that the Modestos

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[19] *Spouses de Ocampo v. Arlos,* G.R. No.135527, October 19, 2000, 343 SCRA 716.

[20] Counted from January 29, 1993, when the Modestos filed their protest to Urbina's miscellaneous sales application in LMB Conflict No. 110.

[21] Special Investigator Danilo Lim, Land Inspectors Jose P. Antonio and Jose P. Parayno.

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are the actual occupants of the lot in question. This actual occupation is not denied by Urbina. As a matter of fact, we know from Urbina's final demand letter that the Modestos have been in open and continuous possession of the property since July 22, 1983.[22] We also consider established that the Modestos built a house on the subject property, a fact that Urbina affirmed in his testimony before the RTC.[23] From these circumstances, we consider as settled the fact that **the Modestos were the actual possessors of the property when it was declared alienable and disposable on October 16, 1987, and continued to possess the property until the present time.**

Furthermore, the Modestos have a valid Insular Government Patent Sales Application over the property pending with the LMB, which they filed on January 27, 2009.[24] In contrast, Urbina has a Miscellaneous Sales Application filed in 1966, which the LMB considered invalid since it was filed when the property still formed part of a military reservation.

As for the Certification from the City Treasurer of Taguig that the respondents presented,[25] which certified that Carlos Urbina had paid real estate taxes on real property "describe[d] in the name of Carlos Urbina, with property located at Lower Bicutan, Taguig City" from 2009 and prior years, we note that the certification contains no description of the property subject of the tax declaration, leaving us to wonder on the identity of the property covered by the declaration.

In any case, even if we consider this certification as sufficient proof that Urbina declared the subject property for tax declaration purposes, it must be stressed that the **mere declaration of land for taxation purposes does not constitute possession thereof nor is it proof of ownership in the absence of the**

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[22] *Rollo*, p. 62.

[23] *Id.* at 63.

[24] *Id.* at 122.

[25] Attached to respondent Urbina's Comment dated May 31, 2010; *id.* at 140.

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claimant's actual possession.[26] And in light of our categorical finding that the Modestos actually occupied the property in question from the time that it was declared alienable and disposable until the present time, the tax declaration fails to convince us that Urbina has a right to legally possess it.

For these reasons, we find that Urbina utterly failed to prove that he has a better right to possess the property. Thus, we cannot sustain his complaint for ejectment against the Modestos and, perforce, must dismiss the same for lack of merit.

On the finding of estoppel

Lastly, we find the CA's reliance on the principle of estoppel against the Modestos to be misplaced.

Through estoppel, an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying on it.[27] This doctrine is based on the grounds of public policy, fair dealing, good faith and justice, and its purpose is to forbid one to speak against his own act, representations, or commitments to the injury of one to whom they were directed and who reasonably relied on it.[28] It bears noting, however, that **no estoppel arises where the representation or conduct of the party sought to be estopped is due to ignorance founded upon an innocent mistake**.[29]

Here, the Modestos do not deny that they negotiated with Urbina for the sale of the subject property. However, because they entered the negotiated sales contract with Urbina on the mistaken belief, based on Urbina's erroneous assertion, that

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[26] See *de Luna vs. Court of Appeals*, G.R. No. 94490, August 6, 1992**,** 212 SCRA 276.

[27] CIVIL CODE, Article 1431.

[28] *Rockland Construction Company v. Mid-Pasig Land Development Corporation*, G.R. No. 164587, February 04, 2008, citing *Philippine National Bank v. Court of Appeals*, Nos. L-30831 & L-31176, November 21, 1979, 94 SCRA 357, 368.

[29] *Ramiro v. Grano*, 54 Phil. 744 (1930), citing 21 C.J., 1125, 1126.

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he was the lawful owner-possessor of the property in question, we do not consider them bound by this action. Consequently, the principle of estoppel finds no application in this case.

WHEREFORE, premises considered, we *GRANT* the motion and *REINSTATE* the petition. Consequently, we *REVERSE* and *SET ASIDE* the Decision dated January 26, 2009 and Resolution dated October 5, 2009 of the Court of Appeals in CA-G.R. CV No. 68007. We *DISMISS* the complaint for Recovery of Possession filed by Carlos T. Urbina for lack of merit.

SO ORDERED.

Nachura,[**] *Villarama, Jr., Mendoza,* [***] and *Sereno, JJ.* concur.

FIRST DIVISION

[G.R. No. 191394. October 18, 2010]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **MARIA POLITICO *y* TICALA and EWINIE POLITICO *y* PALMA,** *accused-appellants.*

SYLLABUS

1. CRIMINAL LAW; COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002 (REPUBLIC ACT NO. 9165); IMPLEMENTING RULES AND REGULATIONS; NON-COMPLIANCE WITH THE REQUIREMENTS UNDER SECTION 21 (A) THEREOF IS

[**] Designated Additional Member of the Third Division, per Special Order No. 907 dated October 13, 2010.

[***] Designated Additional Member of the Third Division, per Special Order No. 911 dated October 15, 2010.