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Decision of August 17, 2006. The Court *DIRECTS* Seaboard-Eastern Insurance Company, Inc. to pay petitioner New World International Development (Phils.), Inc. US$721,500.00 under Policy MA-HO-000266, with 24% interest *per annum* for the duration of delay in accordance with Sections 243 and 244 of the Insurance Code and attorney's fees equivalent to 10% of the insurance proceeds. Seaboard shall also pay, from finality of judgment, a 12% interest *per annum* on the total amount due to petitioner until its full satisfaction.

SO ORDERED.

Velasco, Jr. (Chairperson), Leonardo-de Castro,[*] *Peralta,* and *Mendoza, JJ.,* concur.

FIRST DIVISION

[G.R. No. 172331. August 24, 2011]

RAMON ARANDA, *petitioner, vs.* **REPUBLIC OF THE PHILIPPINES,** *respondent.*

SYLLABUS

1. CIVIL LAW; LAND REGISTRATION; PROPERTY REGISTRATION DECREE (P.D. NO. 1529); REQUIREMENTS FOR ORIGINAL REGISTRATION OF LAND IN AN ORDINARY REGISTRATION PROCEEDING.— The Property Registration Decree (P.D. No. 1529) provides for original registration of land in an ordinary registration proceeding. Under Section 14(1) thereof, a petition may be granted upon compliance with the following requisites:

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[*] Designated as additional member in lieu of Associate Justice Maria Lourdes P. A. Sereno, per Special Order No. 1069 dated August 23, 2011.

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(a) that the property in question is alienable and disposable land of the public domain; (b) that the applicants by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation; and (c) that such possession is under a *bona fide* claim of ownership since June 12, 1945 or earlier.

2. ID.; ID.; THE STATUS OF THE LAND APPLIED FOR AS ALIENABLE AND DISPOSABLE WAS NOT CLEARLY ESTABLISHED IN CASE AT BAR.— Under the Regalian doctrine which is embodied in Section 2, Article XII of the 1987 Constitution, all lands of the public domain belong to the State, which is the source of any asserted right to ownership of land. All lands not appearing to be clearly within private ownership are presumed to belong to the State. Unless public land is shown to have been reclassified or alienated to a private person by the State, it remains part of the inalienable public domain. To overcome this presumption, incontrovertible evidence must be established that the land subject of the application is alienable or disposable. To prove that the land subject of an application for registration is alienable, an 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 lands applied for are alienable and disposable. In this case, the Assistant Regional Executive Director For Operations-Mainland Provinces of the Department of Environment and Natural Resources (DENR), in compliance with the directive of the trial court, issued a certification stating that the subject property "falls within the Alienable and Disposable Land, Project No. 22-A of Lipa, Batangas per LC Map 718 certified on March 26, 1928." However, in the Certification dated January 14, 2000 issued by the DENR CENR Officer of Batangas City, Pancrasio M. Alcantara, which was submitted in evidence by the petitioner, it states that: This is to certify that based on projection from the technical reference map of this Office, Lot No. 3730, Ap-04-009883, situated at Barangay San Andres, Malvar, Batangas containing an area of NINE THOUSAND ONE HUNDRED THREE AND FORTY SEVEN (9,103.47) SQUARE METERS and shown at the reverse side hereof has been verified to be within the ALIENABLE AND DISPOSABLE ZONE under

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Project No. 39, Land Classification Map No. 3601 certified on 22 December 1997 except for twenty meters strip of land along the creek bounding on the northeastern portion which is to be maintained as streambank protection. x x x Petitioner has not explained the discrepancies in the dates of classification mentioned in the foregoing government certifications. Consequently, the status of the land applied for as alienable and disposable was not clearly established.

3. ID.; ID.; PETITIONER'S EVIDENCE FAILED TO SHOW THAT HE AND HIS PREDECESSORS-IN-INTEREST POSSESSED THE PROPERTY IN THE MANNER AND FOR THE DURATION REQUIRED BY LAW.— We also agree with the CA that petitioner's evidence failed to show that he possessed the property in the manner and for the duration required by law. Petitioner presented tax declarations and the deeds of confirmation of the 1946 sale from the original owner (Lucio Olan) to Anatalio Aranda and the 1965 donation made by the latter in favor of petitioner. But as found by the CA, the history of the land shows that it was declared for taxation purposes for the first time only in 1981. On the other hand, the Certification issued by the Municipal Treasurer of Malvar stated that petitioner, who supposedly received the property from his father in 1965, had been paying the corresponding taxes for said land "for more than five consecutive years including the current year [1999]," or beginning 1994 only or just three years before the filing of the application for original registration. While, as a rule, tax declarations or realty tax payments of property are not conclusive evidence of ownership, nevertheless they are good *indicia* of possession in the concept of owner, for no one in his right mind would be paying taxes for a property that is not in his actual or constructive possession – they constitute at least proof that the holder has a claim of title over the property. Petitioner likewise failed to prove the alleged possession of his predecessors-in-interest. His witness Luis Olan testified that he had been visiting the land along with his father Lucio since he was 6 years old (he was 70 years old at the time he testified), or as early as 1936. Yet, there was no evidence that Lucio Olan declared the property for tax purposes at anytime before he sold it to Anatalio Aranda. There is also no showing that Anatalio Aranda declared the property in his name from the time he bought it from Lucio Olan. And even assuming that Lucio actually planted rice and corn on the

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land, such statement is not sufficient to establish possession in the concept of owner as contemplated by law. Mere casual cultivation of the land does not amount to exclusive and notorious possession that would give rise to ownership. Specific acts of dominion must be clearly shown by the applicant.

4. ID.; ID.; PETITIONER'S APPLICATION FOR JUDICIAL CONFIRMATION OF IMPERFECT TITLE WAS PROPERLY DISMISSED FOR FAILURE TO MEET THE QUANTUM OF PROOF REQUIRED BY LAW.— We have held that a person who seeks the registration of title to a piece of land on the basis of possession by himself and his predecessors-in-interest must prove his claim by clear and convincing evidence, *i.e.*, he must prove his title and should not rely on the absence or weakness of the evidence of the oppositors. Furthermore, the court has the bounden duty, even in the absence of any opposition, to require the petitioner to show, by a preponderance of evidence and by positive and absolute proof, so far as possible, that he is the owner in fee simple of the lands which he is attempting to register. Since petitioner failed to meet the quantum of proof required by law, the CA was correct in reversing the trial court and dismissing his application for judicial confirmation of title.

APPEARANCES OF COUNSEL

Dante SL. Resurreccion for petitioner.
The Solicitor General for respondent.

D E C I S I O N

VILLARAMA, JR., *J.*:

On appeal is the Decision[1] dated July 26, 2005 and Resolution[2] dated April 11, 2006 of the Court of Appeals (CA) in CA-G.R.

[1] *Rollo,* pp. 27-36. Penned by Associate Justice Magdangal M. De Leon with Associate Justices Salvador J. Valdez, Jr. and Mariano C. Del Castillo (now a Member of this Court) concurring.

[2] *Id.* at 48-49. Penned by Associate Justice Magdangal M. De Leon with Associate Justices Mariano C. Del Castillo (now a Member of this Court) and Noel G. Tijam, concurring.

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CV No. 73067 which reversed and set aside the Decision[3] dated January 31, 2001 of the Regional Trial Court (RTC) of Tanauan, Batangas, Branch 6 in Land Reg. Case No. T-335 (LRA Record No. N-69447).

Subject of a petition for original registration before the RTC is a parcel of land situated in San Andres, Malvar, Batangas with an area of 9,103 square meters and designated as Lot 3730, Psc 47, Malvar Cadastre. The petition[4] was originally filed by ICTSI Warehousing, Inc. (ICTSI-WI) represented by its Chairman, Enrique K. Razon, Jr. The Republic through the Office of the Solicitor General (OSG) filed its opposition[5] on grounds that the land applied for is part of the public domain and the applicant has not acquired a registrable title thereto under the provisions of Commonwealth Act No. 141 as amended by Republic Act No. 6940.

ICTSI-WI sought leave of court to amend the application citing the following reasons: (1) the petition was not accompanied by a certification of non-forum shopping; (2) the statement of technical description was based merely on the boundaries set forth in the tax declaration; and (3) due to a technicality, the sale between the vendor and applicant corporation cannot push through and consequently the tax declaration is still in the name of vendor Ramon Aranda and the land cannot be transferred and declared in the name of ICTSI-WI.[6]

The trial court admitted the Amended Application for Registration of Title,[7] this time filed in the name of Ramon Aranda, herein petitioner. Petitioner prayed that should the Land Registration Act be not applicable to this case, he invokes the liberal provisions of Section 48 of Commonwealth Act

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[3] *Id.* at 22-25. Penned by Judge Voltaire Y. Rosales.

[4] Records, pp. 1-4.

[5] *Id.* at 22-24.

[6] *Id.* at 37-38.

[7] *Id.* at 39-43.

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No. 141, as amended, having been in continuous possession of the subject land in the concept of owner, publicly, openly and adversely for more than thirty (30) years prior to the filing of the application.[8]

In support of the application, petitioner's sister Merlita A. Enriquez testified that in 1965 her father Anatalio Aranda donated the subject land to his brother (petitioner), as evidenced by documents "*Pagpapatunay ng Pagkakaloob ng Lupa*" which she and her siblings executed on June 7, 2000.[9] She came to know the land for the first time in 1965 when she was eight years old and his brother Ramon has been tilling the land since then, planting it with rice and corn. His brother did not introduce any permanent improvement and also did not hire a tenant to work on the land. As to the donation made by his father to his brother Ramon, she recalled there was such a document but it was eaten by rats.[10]

Another witness, Luis Olan, testified that his father Lucio Olan originally owned the land and that he had known about this property since he was six (6) years old as he used to accompany his father in going to the land. His father farmed the land and planted it first, with rice, and later corn. They had open, peaceful, continuous and adverse possession of the land in the concept of owner until his father sold the land in 1946 to Anatalio Aranda. The children of Anatalio then took over in tilling the land, planting it with rice and corn and adding a few coconut trees. He does not have any copy of the document of sale because his mother gave it to Anatalio.[11]

On January 31, 2001, the trial court rendered its Decision[12] granting the application and ordering the issuance of a decree of registration in favor of petitioner.

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[8] *Id.* at 41.

[9] TSN, May 24, 2000, pp. 2-6; TSN, June 27, 2000, pp. 2-7; Records, pp. 88-89-A.

[10] TSN, May 24, 2000, pp. 14-16.

[11] TSN, June 27, 2000, pp. 9-15.

[12] *Supra* note 3.

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The Republic appealed to the CA which reversed the trial court. The CA held that petitioner's evidence does not satisfactorily establish the character and duration of possession required by law, as petitioner failed to prove specific acts showing the nature of the possession by his predecessors-in-interest. The CA also did not give evidentiary weight to the documents "*Pagpapatunay ng Pagkakaloob ng Lupa*" and "*Pagpapatunay ng Bilihang Lampasan ng Lupa*",[13] both prepared only in the year 2000 when the application for registration was filed, as factual proof of ownership by the parties to the compromise agreement.

Petitioner's motion for reconsideration was likewise denied by the CA.

Hence, this appeal by way of a petition for review on *certiorari* under Rule 45 alleging that the decision of the CA is based on a misapprehension of facts with regard to compliance with the required 30 years of open, exclusive, public and adverse possession in the concept of owner. Petitioner argues that the deeds of confirmation of the 1946 sale in favor of Anatalio Aranda and the 1965 donation to petitioner are competent proof of transfer of ownership notwithstanding that these were executed only in the year 2000. He asserts that the testimonies of witnesses Merlita Aranda-Enriquez and Luis Olan on the fact of loss and destruction of copies of the aforesaid deeds constitute secondary evidence of the contents thereof based on recollection of persons who are adversely affected. Such testimonial evidence coupled with the deeds of confirmation warrants the application of the exception from the best evidence rule. Petitioner thus contends that the CA had no legal basis to doubt the veracity of the donation and sale of the subject property, and to conclude that the confirmation deeds can be treated as compromise agreement considering that the transactions had been previously completed and perfected by the parties.

We deny the petition.

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[13] Records, pp. 103-104.

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The Property Registration Decree (P.D. No. 1529) provides for original registration of land in an ordinary registration proceeding. Under Section 14(1)[14] thereof, a petition may be granted upon compliance with the following requisites: (a) that the property in question is alienable and disposable land of the public domain; (b) that the applicants by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation; and (c) that such possession is under a *bona fide* claim of ownership since June 12, 1945 or earlier.

Under the Regalian doctrine which is embodied in Section 2, Article XII of the 1987 Constitution, all lands of the public domain belong to the State, which is the source of any asserted right to ownership of land. All lands not appearing to be clearly within private ownership are presumed to belong to the State. Unless public land is shown to have been reclassified or alienated to a private person by the State, it remains part of the inalienable public domain. To overcome this presumption, incontrovertible evidence must be established that the land subject of the application is alienable or disposable.[15]

To prove that the land subject of an application for registration is alienable, an 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

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[14] SECTION 14. *Who may apply.* – The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:

(1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a *bona fide* claim of ownership since June 12, 1945, or earlier.

x x x x x x x x x

[15] *Republic v. Lao,* G.R. No. 150413, July 1, 2003, 405 SCRA 291, 298, citing *Seville v. National Development Company,* G.R. No. 129401, February 2, 2001, 351 SCRA 112, 120; *Bracewell v. Court of Appeals,* 380 Phil. 156, 162 (2000); *Menguito v. Republic,* G.R. No. 134308, December 14, 2000, 348 SCRA 128, 139; and *Pagkatipunan v. Court of Appeals,* G.R. No. 129682, March 21, 2002, 379 SCRA 621, 628.

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of Bureau of Lands investigators; and a legislative act or a statute.[16] The applicant may also secure a certification from the Government that the lands applied for are alienable and disposable.[17]

In this case, the Assistant Regional Executive Director For Operations-Mainland Provinces of the Department of Environment and Natural Resources (DENR), in compliance with the directive of the trial court, issued a certification stating that the subject property "falls within the Alienable and Disposable Land, Project No. 22-A of Lipa, Batangas per LC Map 718 certified on March 26, 1928."[18] However, in the Certification[19] dated January 14, 2000 issued by the DENR CENR Officer of Batangas City, Pancrasio M. Alcantara, which was submitted in evidence by the petitioner, it states that:

> This is to certify that based on projection from the technical reference map of this Office, Lot No. 3730, Ap-04-009883, situated at Barangay San Andres, Malvar, Batangas containing an area of NINE THOUSAND ONE HUNDRED THREE AND FORTY SEVEN (9,103.47) SQUARE METERS and shown at the reverse side hereof has been verified to be within the ALIENABLE AND DISPOSABLE ZONE under **Project No. 39, Land Classification Map No. 3601 certified on 22 December 1997** except for twenty meters strip of land along the creek bounding on the northeastern portion which is to be maintained as streambank protection.
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> x x x x x x x x x (Emphasis supplied.)

Petitioner has not explained the discrepancies in the dates of classification[20] mentioned in the foregoing government certifications. Consequently, the status of the land applied for as alienable and disposable was not clearly established.

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[16] *Republic v. Court of Appeals,* G.R. No. 127060, November 19, 2002, 392 SCRA 190, 201.

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

[18] Records, p. 110.

[19] *Id.* at 82-b.

[20] See *Republic v. T.A.N. Properties, Inc.,* G.R. No. 154953, June 26, 2008, 555 SCRA 477, 492.

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We also agree with the CA that petitioner's evidence failed to show that he possessed the property in the manner and for the duration required by law.

Petitioner presented tax declarations and the deeds of confirmation of the 1946 sale from the original owner (Lucio Olan) to Anatalio Aranda and the 1965 donation made by the latter in favor of petitioner. But as found by the CA, the history of the land shows that it was declared for taxation purposes for the first time only in 1981. On the other hand, the Certification issued by the Municipal Treasurer of Malvar stated that petitioner, who supposedly received the property from his father in 1965, had been paying the corresponding taxes for said land "for more than five consecutive years including the current year [1999]," or beginning 1994 only or just three years before the filing of the application for original registration. While, as a rule, tax declarations or realty tax payments of property are not conclusive evidence of ownership, nevertheless they are good *indicia* of possession in the concept of owner, for no one in his right mind would be paying taxes for a property that is not in his actual or constructive possession – they constitute at least proof that the holder has a claim of title over the property.[21]

Petitioner likewise failed to prove the alleged possession of his predecessors-in-interest. His witness Luis Olan testified that he had been visiting the land along with his father Lucio since he was 6 years old (he was 70 years old at the time he testified), or as early as 1936. Yet, there was no evidence that Lucio Olan declared the property for tax purposes at anytime before he sold it to Anatalio Aranda. There is also no showing that Anatalio Aranda declared the property in his name from the time he bought it from Lucio Olan. And even assuming that Lucio actually planted rice and corn on the land, such statement is not sufficient to establish possession in the concept of owner as contemplated by law. Mere casual cultivation of the land does not amount to exclusive and notorious possession that

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[21] *Buenaventura v. Republic,* G.R. No. 166865, March 2, 2007, 517 SCRA 271, 289.

would give rise to ownership.[22] Specific acts of dominion must be clearly shown by the applicant.

We have held that a person who seeks the registration of title to a piece of land on the basis of possession by himself and his predecessors-in-interest must prove his claim by clear and convincing evidence, *i.e.*, he must prove his title and should not rely on the absence or weakness of the evidence of the oppositors.[23] Furthermore, the court has the bounden duty, even in the absence of any opposition, to require the petitioner to show, by a preponderance of evidence and by positive and absolute proof, so far as possible, that he is the owner in fee simple of the lands which he is attempting to register.[24] Since petitioner failed to meet the quantum of proof required by law, the CA was correct in reversing the trial court and dismissing his application for judicial confirmation of title.

WHEREFORE, the present petition for review on *certiorari* is *DENIED*. The Decision dated July 26, 2005 and Resolution dated April 11, 2006 of the Court of Appeals in CA-G.R. CV No. 73067 are *AFFIRMED and UPHELD*.

With costs against the petitioner.

SO ORDERED.

Corona, C.J. (Chairperson), Leonardo-de Castro, Bersamin, and *Perez,*[*] *JJ.,* concur.

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[22] *Wee v. Republic,* G.R. No. 177384, December 8, 2009, 608 SCRA 72, 83, citing *Director of Lands v. Judge Reyes,* 160-A Phil. 832, 851 (1975) and *Ramirez and Bayot de Ramirez v. Director of Lands,* 60 Phil. 114 (1934).

[23] *Arbias v. Republic,* G.R. No. 173808, September 17, 2008, 565 SCRA 582, 597, citing *Republic v. Intermediate Appellate Court,* G.R. No. 66069, September 28, 1984, 132 SCRA 395, 397, cited in *Edaño v. Court of Appeals,* G.R. No. 83995, September 4, 1992, 213 SCRA 585, 592.

[24] *Id.*, citing *Maloles and Malvar v. Director of Lands,* 25 Phil. 548, 553 (1913), cited in *Edaño v. Court of Appeals, id.* at 593.

[*] Designated additional member per Raffle dated August 22, 2011 vice Associate Justice Mariano C. Del Castillo who recused himself due to prior action in the Court of Appeals.