Supreme Court E-Library

REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

THIRD DIVISION

[G.R. No. L-48327. August 21, 1991]

REPUBLIC OF THE PHILIPPINES, DIRECTOR OF LANDS and DIRECTOR OF FORESTRY, *petitioners, vs.* **HON. COURT OF APPEALS, PAULINA PARAN, ELISA PARAN MAITIM and SINA PARAN,** *respondents.*

SYLLABUS

1. **CIVIL LAW; LAND REGISTRATION; OFFICE OF THE SOLICITOR GENERAL IS THE ONLY OFFICE EMPOWERED TO REPRESENT THE GOVERNMENT IN ALL LAND REGISTRATION AND RELATED PROCEEDINGS.** — The Office of the Solicitor General is the entity that is empowered to represent the Government in all land registration and related proceedings and as such, the Solicitor General is entitled to be furnished copies of all court orders, notices and decisions.

2. **ID.; ID.; JUDGMENT IN LAND REGISTRATION PROCEEDINGS; SERVICE OF DECISION ON THE SOLICITOR GENERAL; TOLLING OF REGLEMENTARY PERIOD FOR FILING OF APPEALS AND DETERMINATION OF FINALITY OF JUDGMENTS.** — Service of decisions on the Solicitor General is the proper basis for computing the reglementary period for filing of appeals and for determining whether a decision had attained finality.

Supreme Court E-Library

3. ID.; ID.; ID.; ID.; ID.; PROVINCIAL FISCAL; POSSESSES NO LEGAL AUTHORITY TO DETERMINE WHEN TO APPEAL. — The representative of the Solicitor General, *e.g.* the Provincial Fiscal, has no legal authority to decide whether or not an appeal should be made.

4. ID.; ID.; ID.; ID.; ID.; APPEAL TAKEN BY THE SOLICITOR GENERAL, WITHIN THE REGLEMENTARY PERIOD. — From the chronology of the instant case, it is evident that the appeal interposed by the Solicitor General was filed within the appropriate period. Although the Provincial Fiscal had received earlier a copy of the Decision of the land registration court, the Solicitor General received his copy only on 26 August 1974. On 25 September 1974, the last day then allowed for filing an appeal, the Solicitor General filed a motion for reconsideration. The order denying this motion for reconsideration was received on 18 August 1975; on the same day, the Solicitor General filed a notice of appeal. The Court considers the appeal of the Solicitor General to have been filed on time since the motion for reconsideration earlier filed had suspended the running of the period to appeal.

5. ID.; ID.; CONFIRMATION OF IMPERFECT TITLE; FILING OF PETITION NOT BARRED BY PRESCRIPTION; PERIOD OF FILING VALIDATED BY LAW ENACTED AFTER EXPIRATION OF THE PERIOD RE-EXTENDED. — The Court does not agree that private respondents are barred by prescription from having their imperfect title confirmed. The original text of Section 47 of C.A. No. 141 provided that applications for confirmation had to be filed at the latest on 31 December 1938. Pursuant to C.A. No. 292, the period was extended to 31 December 1941; later, that period was extended once more to 31 December 1957 by R.A. No. 107. The period for filing was for the third time extended by R.A. No. 2061 to allow applicants until 31 December 1968 to file their petitions. The extensions of time did not, however, end with R.A. No. 2061. R.A. No. 6236 again extended the period to 31 December 1976. The Court notes that the application of private respondents was filed on 13 February 1970, *i.e.*, after expiration of the period provided in R.A. No. 2061. R.A. No. 6236, which was approved 19 June 1971, validated the application filed in the interim by private respondents, and the exercise of jurisdiction by the land registration court in respect of the subject matter of the application. The fact that a succession

Supreme Court E-Library

of statutes had simply extended the original time period, rather than established a series of discrete periods of time with specific beginning dates and ending dates, shows a clear legislative intent to avoid interregna which would have generated doubts and difficult questions of law. In fact, R.A. No. 6236 was amended anew by P.D. No. 1073 issued on 25 January 1977 to allow applications to be filed on or before *31 December 1987*.

6. **ID.; ID.; PUBLIC LANDS; OFFICIAL PROCLAMATION OF THE EXECUTIVE DEPARTMENT REQUIRED TO DECLASSIFY LAND PREVIOUSLY CLASSIFIED AS FORESTAL INTO ALIENABLE OR DISPOSABLE LANDS FOR AGRICULTURE OR OTHER PURPOSES.** — There is no question that a positive act (*e.g.*, an official proclamation) of the Executive Department of the Government is needed to declassify land which had been classified as forestal and to convert it into alienable or disposable lands for agricultural or other purposes. In the case of *Director of Lands vs. Funtilar*, the Court considered the reports of the District Forester and the District Land Officer as adequate proof that the land applied for was no longer classified as forestal.

7. **ID.; ID.; ID.; LAND DECLARED PART OF RESERVATION PRESUMED TO BE PART OF SUCH RESERVATION UNTIL DECLASSIFICATION IS SHOWN.** — We consider and so hold that once a parcel of land is shown to have been included within a Forest Reservation duly established by Executive Proclamation, as in the instant case, a presumption arises that the parcel of land continues to be part of such Reservation until clear and convincing evidence of subsequent withdrawal therefrom or declassification is shown. A simple, unsworn statement of a minor functionary of the Bureau of Forest Development is not, by itself, such evidence.

8. **ID.; ID.; ID.; MEMBERS OF CULTURAL MINORITY ALLOWED TO APPLY FOR CONFIRMATION OF THEIR TITLE TO LANDS OF THE PUBLIC DOMAIN WHETHER DISPOSABLE OR NOT IF SUITABLE FOR AGRICULTURE.** — The applicants in the instant case are natives of Benguet and members of the Ibaloi tribe. They are members of a cultural minority whose application for registration of land should be considered as falling under Section 48(c) of C.A. No. 141. Section 48(c), did not form part of the original text of C.A. No. 141; it was added

Supreme Court E-Library

on 18 June 1964 by R.A. No. 3872. It is clear to the Court that the addition of subsection (c) was intended to create a distinction between applications for judicial confirmation of imperfect titles by *members of national cultural minorities* and applications by *other qualified persons in general.* Members of cultural minorities may apply for confirmation of their title to lands of the public domain, *whether disposable or not*; they may therefore apply for public lands even though such lands are legally forest lands or mineral lands of the public domain, so long as such lands are *in fact suitable for agriculture.*

9. ID.; ID.; ID.; MEMBERS OF MAINSTREAM SOCIETY MAY APPLY ONLY WITH RESPECT TO DISPOSABLE LANDS OF THE PUBLIC DOMAIN. — The rest of the community, however, "Christians" or members of mainstream society may apply only in respect of "agricultural lands of the public domain," that is, "disposable lands of the public domain" which would of course exclude lands embraced within forest reservations or mineral land reservations.

10. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; ISSUE NOT RAISED IN THE PLEADINGS BEFORE THE LOWER COURTS *MOTU PROPRIO* CONSIDERED ON APPEAL IF NECESSARY FOR A COMPLETE RESOLUTION OF THE CASE. — The existence or non-existence of a distinction between Section 48(b) and Section 48(c) of C.A. No. 141 was not raised in any of the pleadings filed by the parties either in the land registration court or in the Court of Appeals. This Court, however, is not precluded from considering this issue since it is necessary for a complete resolution of the case.

11. CIVIL LAW; LAND REGISTRATION; PUBLIC LANDS; CONFIRMATION OF IMPERFECT TITLE; DISTINCTION LAID DOWN IN 1964 BY R.A. 3872 ELIMINATED BY P.D. NO. 1073. — That the distinction so established in 1964 by R.A. No. 3872 was expressly eliminated or abandoned thirteen (13) years later by P.D. No 1073 effective 25 January 1977, only highlights the fact that during those thirteen (13) years, members of national cultural minorities had rights in respect of lands of the public domain, disposable or not. P.D. No. 1073 amended Sections 48(b) and (c) of C.A. No. 141 in the following manner: "*The provisions of Section 48(b) and Section 48(c)*, Chapter VIII, of the Public Land Act *are hereby amended* in the sense that these provisions *shall apply only to alienable and disposable*

Supreme Court E-Library

lands of the public domain which have been in open, continuous, exclusive and notorious possession and occupation by the applicant himself or thru his predecessor-in-interest, under a *bona fide* claim of acquisition of ownership, since June 12, 1945."

12. ID.; ID.; ID.; ID.; VESTED PRIOR TO THE PROMULGATION OF P.D. NO. 1073. — Private respondents' application for judicial confirmation of their imperfect title was filed in 1970 and that the land registration court rendered its decision confirming their long-continued possession of the lands here involved in 1974, that is, during the time when Section 48(c) was in legal effect. Private respondents' imperfect title was, in other words, perfected or vested by the completion of the required period of possession prior to the issuance of P.D. No. 1073. Private respondents' right in respect of the land they had possessed for thirty (30) years could not be divested by P.D. No. 1073.

13. ID.; ID.; ID.; ID.; REGALIAN DOCTRINE; APPLICATION ALONG SIDE CONSTITUTIONAL PROVISIONS ON SOCIAL JUSTICE AND LAND REFORM, A MUST. — The Court stressed in *Director of Lands v. Funtilar* (142 SCRA 57 [1986]). "The Regalian doctrine which forms the basis of our land laws and, in fact, all laws governing natural resources is a revered and long standing principle. *It must, however, be applied together with the constitutional provisions on social justice and land reform and must be interpreted in a way as to avoid manifest unfairness and injustice. "Every application for a concession of public lands has to be viewed in the light of its peculiar circumstances.* A strict application of the *Heirs of Amunategui v. Director of Forestry* ruling is warranted whenever a portion of the public domain is in danger of ruthless exploitation, fraudulent titling, or other questionable practices. But *when an application appears to enhance the very reasons behind the enactment of* Act 496, as amended, or the Land Registration Act, and *Commonwealth Act 141, as amended,* or the Public Land Act, then *their provisions should not be made to stand in the way of their own implementation.*"

APPEARANCES OF COUNSEL

Florencio Q. Pax & Moises P. Cating for private respondents.

Supreme Court E-Library

DECISION

FELICIANO, *J.*:

This Petition for Review assails the Resolutions of the Court of Appeals dated 15 September 1977 and 18 May 1978 in C.A.-G.R. No. 59538-R, which dismissed the appeal filed therein by the Republic and two (2) bureau directors.

Private respondents are applicants for registration of a parcel of land situated in Beckel, La Trinidad, Benguet, containing an area of 34,178 square meters and covered by Survey Plan Psu-105218. In their application dated 13 February 1970, private respondents claim to have acquired the land from their father Dayotao Paran and by actual, physical, exclusive and open possession thereof since time immemorial.[1]

On 18 November 1970, the Office of the Solicitor General filed on behalf of the Director of Lands an Opposition[2] contending that: (1) private respondents have no registrable title; (2) the parcel of land sought to be registered is part of the public domain belonging to the Republic of the Philippines; and (3) the application for registration was filed after expiration of the period provided for in R.A. No. 2061, hence the land registration court did not acquire jurisdiction over the case.

The Office of the Provincial Fiscal of Baguio and Benguet, on the other hand, filed a Motion to Dismiss[3] based solely on the ground that the application made by private respondents was filed beyond 31 December 1968, the extended period for filing of applications for registration provided for by R.A No 2061. The Office of the Provincial Fiscal of Baguio and Benguet later filed another Opposition,[4] this time in representation of the Director of Forestry, stating that the parcel of land sought

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[1] Exhibits Folder, pp. 1-2.

[2] *Rollo*, pp. 37-39.

[3] *Id.*, pp. 40-44.

[4] *Id.*, p 45.

Supreme Court E-Library

to be registered is within the Central Cordillera Forest Reserve covered by Proclamation No. 217 dated 16 February 1929.

On 12 November 1970, the land registration court issued an Order[5] declaring a general default against the whole world except the Bureau of Lands, the Reforestration Administration, and the Bureau of Forestry. Another Order[6] was then issued denying the motion to dismiss filed by the Provincial Fiscal. Thereupon, the case proceeded to trial.

On 7 August 1974, the land registration court rendered a Decision[7] with the following dispositive portion:

"In view thereof, finding the applicants and their predecessors-in-interest to have been in open, continuous and notorious possession of the aforesaid land as bonafide owner[s] thereof for more than 30 years, their title hereto (sic) is hereby confirmed. Let an order issue for the issuance of the decree after the finality of this decision in the names of Paulina Paran, widow; Elisa Paran Maitim, married to Beles Paran; Sina Paran, widow; all of legal age, Filipino citizens and residents of Beckel, La Trinidad, Benguet, in equal undivided shares.

It is so ordered."

A copy of the Decision was received by the Provincial Fiscal on 13 August 1974 who filed neither a motion for reconsideration nor a notice of appeal. The Solicitor General, who was separately furnished a copy of the Decision, received it on 26 August 1974. On 25 September 1974, the last day then allowed for filing an appeal, the Solicitor General filed a motion for reconsideration. The motion was denied. Copy of the order denying the motion for reconsideration was received by the Solicitor General almost a year later, on 18 August 1975; on the very same day, he immediately filed a notice of his intention to appeal. The record on appeal subsequently filed by the Solicitor

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[5] Record, p. 24.

[6] *Id.*, pp. 46-48.

[7] *Rollo*, pp. 46-48.

Supreme Court E-Library

General was approved, "having been filed within the period prescribed by law," and the records of the case were ordered elevated to the Court of Appeals.

Earlier, however, the land registration court had directed the Land Registration Commission to issue a decree for the titling of the land in the name of private respondents. The Order dated 23 June 1975 was issued because no appeal had apparently beer perfected at that time from the Decision promulgated on 7 August 1974. The Solicitor General asked that Order be set aside or the ground that it was issued prematurely, that is, he had not yet received as of 23 June 1975 the order denying his motion for reconsideration of the decision. The Solicitor General's motion for reconsideration was denied by the land registration court.

Considering that the Solicitor General had filed an appeal from the Decision dated 7 August 1974, private respondents urged the Court of Appeals to dismiss the appeal contending that the Decision of the land registration court had attained finality and was no longer open to review. By a Resolution[8] of the Court of Appeals dated 15 September 1977, the motion of private respondents was granted and the appeal interposed by petitioners was dismissed. The Resolution reads.

"ACTING on the motion to dismiss appeal filed by counsel for applicants-appellees on the ground that the appellant's brief clearly indicates that appellant is only appealing from the original order which was already final and executory. (sic) Upon examination of the records of this case, the court finds out that the contention of appellees is tenable. In view of the same, the Court RESOLVED to GRANT applicants-appellees' motion.

Wherefore, the appeal interposed by appellant is now dismissed and considered abandoned."

Petitioners moved for reconsideration of that Resolution; their motion was denied in an extended Resolution[9] of the Court of Appeals promulgated on 18 May 1978.

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[8] *Id.*, p. 24.

[9] *Id.*, pp. 25-31.

Supreme Court E-Library

Petitioners in the instant Petition for Review urge that:

"1. respondent Court of Appeals erred in not holding that petitioners' appeal was perfected on time;

2. respondent Court of Appeals erred in not holding that [the] decision rendered without jurisdiction does not attain finality since [the] land involved is part of [the] Central Cordillera Forest Reserve; and that

3. respondent Court of Appeals erred in not declaring as void in these proceedings [the] trial court's decision."[10]

The first issue raised by petitioners is founded on the holding of the Court of Appeals, that:

"This admission notwithstanding, and if only to clarify, we will rule on the issue of perfection of the appeal in this case. We maintain that the decision in the court below had already become final and executory when the appeal was interposed. The period of appeal should commence to run from the date the Provincial Fiscal received a copy of the decision, to wit: August 13, 1974. The thirty-day period of appeal had lapsed when the Solicitor General filed his notice of appeal. The receipt by the Provincial Fiscal of the decision is deemed that of the Solicitor General. The records reveal that it was the Provincial Fiscal who all along had represented the Government in the hearing of the application for registration. His official actuations and omissions in regard to the case must perforce bind the Office of the Solicitor General. To ignore the official actuation's and omissions of the fiscal in the hearing of the application for registration would be a virtual admission that there was no opposition on the part of the Government, a situation which would have been even more absurd."[11]

Petitioners for their part contend that the thirty-day (30) period (now fifteen [15] days) for filing an appeal should not commence to run from the time the Provincial Fiscal received a copy of the Decision of the land registration court on 13 August 1974, but rather only from 26 August 1974 when the Solicitor General received his own copy of the Decision.

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[10] Petition for Review, p. 7; *Rollo*, p. 11.

[11] Court of Appeals Decision, pp. 5-6; *Rollo*, pp. 29-30.

Supreme Court E-Library

Recent decisions of this Court sustain the position taken by petitioners. The Office of the Solicitor General is the entity that is empowered to represent the Government in all land registration and related proceedings[12] and as such, the Solicitor General is entitled to be furnished copies of all court orders, notices and decisions. Service of decisions on the Solicitor General is the proper basis for computing the reglementary period for filing of appeals and for determining whether a decision had attained finality. The representative of the Solicitor General, *e.g.* the Provincial Fiscal, has no legal authority to decide whether or not an appeal should be made.[13]

From the chronology of the instant case, it is evident that the appeal interposed by the Solicitor General was filed within the appropriate period. Although the Provincial Fiscal had received earlier a copy of the Decision of the land registration court, the Solicitor General received his copy only on 26 August 1974. On 25 September 1974, the last day then allowed for filing an appeal, the Solicitor General filed a motion for reconsideration. The order denying this motion for reconsideration was received on 18 August 1975; on the same day, the Solicitor General filed a notice of appeal. The Court considers the appeal of the Solicitor General to have been filed on time since the motion for reconsideration earlier filed had suspended the running of the period to appeal.[14]

During the proceedings below, petitioners had asked the land registration court to dismiss the application for registration of private respondents on the ground that the same was filed beyond the time allowed under R.A. No. 2061. R.A. No. 2061 had fixed a period expiring on 31 December 1968 while private respondents' application was filed sometime in 1970.

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[12] Section 1(e), P.D. No. 478.

[13] *Republic vs. Court of Appeals*, 135 SCRA 161 (1986); *Republic vs. Court of Appeals*, 148 SCRA 480 (1987); *Republic vs. Associacion Benevola de Cebu*, 178 SCRA 692 (1989).

[14] *Estate of Amadeo Matute Olave vs. Court of Appeals*, 149 SCRA 358 (1987); *Jamilano vs. Cuevas*, 152 SCRA 158 (1987); *Pacarro vs. Secretary of Labor*, 156 SCRA 262 (1987).

Supreme Court E-Library

The Court does not agree that private respondents are barred by prescription from having their imperfect title confirmed. The original text of Section 47 of C.A. No. 141 provided that applications for confirmation had to be filed at the latest on 31 December 1938. Pursuant to C.A. No. 292, the period was extended to 31 December 1941; later, that period was extended once more to 31 December 1957 by R.A. No. 107. The period for filing was for the third time extended by R.A. No. 2061 to allow applicants until 31 December 1968 to file their petitions. The extensions of time did not, however, end with R.A. No. 2061. R.A. No. 6236 again extended the period of 31 December 1976. The amendment introduced by R.A. No. 6236 reads:

"Sec. 47. The persons specified in the next following section are hereby granted time, *not to extend beyond December thirty-one, nineteen hundred and seventy-six* within which to take advantage of the benefit of this chapter: Provided, That this extension shall apply only where the area applied for does not exceed 144 hectares: Provided, further, That the several periods of time designated by the President in accordance with section forty-five of this Act shall apply also to the lands comprised in the provisions of this chapter, *but this section shall not be construed as prohibiting any of said persons from acting under this chapter at any time prior to the period fixed by the President.*" (Italics supplied)

The Court notes that the application of private respondents was filed on 13 February 1970, *i.e.*, after expiration of the period provided in R.A. No. 2061. We consider, however, that the above underscored portions of R.A. No. 6236, which was approved 19 June 1971, validated the application filed in the interim by private respondents, and the exercise of jurisdiction by the land registration court in respect of the subject matter of the application. The fact that a succession of statutes had simply extended the original time period,[15] rather than established

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[15] It is noteworthy that most of the amendatory statutes were enacted *after expiration of the period that was being re-extended.* The original time period was to expire 31 December 1938; C.A. No. 292, approved 9 June 1938, extended the original period so as "not to extend beyond [31 December 1941]."

Supreme Court E-Library

a series of discrete periods of time with specific beginning dates and ending dates, shows a clear legislative intent to avoid interregnal which would have generated doubts and difficult questions of law. In fact, R.A. No. 6236 was amended anew by P.D. No. 1073 issued on 25 January 1977 to allow applications to be filed on or before *31 December 1987*.

Petitioners, however, maintain that the land applied for is forest land located within the Central Cordillera Forest Reserve and hence not subject to registration. This was in fact the principal issue litigated by the parties before the land registration court. Petitioners submitted a letter dated 4 June 1971 signed by Baguio City Forester Luis U. Baker, Bureau of Forestry, Department of Agriculture and Natural Resources, informing the Provincial Fiscal of Baguio and Benguet that the land occupied by private respondents lay within the boundaries of the vast Reserve.[16] While private respondents do not dispute that the land was formerly a part of the Central Cordillera Forest Reserve, they contend that it had already been released therefrom. Private respondents submitted a certification[17] signed by Leopoldo Palacay, Chief of Land Classification Party No. 57 of the Bureau of Forest Development, Department of Agriculture and Natural Resources, showing the legal nature or status of the land as alienable or disposable.

In 2 June 1947, R.A. No. 107 extended the original period "not to extend beyond December 31, 1957."

On 13 June 1958, R.A. No. 2061 extended the re-extended period so as "not to extend beyond December 31, 1968."

As noted earlier, on 19 June 1971, R.A. No. 6236 extended the revised period once more so as "not to extend beyond December 31, 1976."

Finally, on 25 January 1977, PD No. 1073 extended the period once again so as "not to extend beyond 31 December 1987."

[16] Exhibits Folder, p. 48. Forester Luis U. Baker testified on cross-examination that the Reserve embraced an area of 679,136 hectares, straddling the Provinces of Abra, Ilocos Sur, Ilocos Norte and Mountain Province (TSN, 28 June 1974, p. 10).

[17] *Id.*, p. 46; the certification is undated but appears to have been executed on or about May 1974. It did not, however, indicate when the supposed re-classification had been affected.

Supreme Court E-Library

After appraisal of the evidence submitted by the parties, the land registration court held that the land involved had already been released from the Central Cordillera Forest Reserve and, accordingly, rendered a decision confirming the title of private respondents.

There is no question that a positive act (*e.g.*, an official proclamation) of the Executive Department of the Government is needed to declassify land which had been classified as forestal and to convert it into alienable or disposable lands for agricultural or other purposes.[18] In the case of *Director of Lands vs. Funtilar*,[19] the Court considered the reports of the District Forester and the District Land Officer as adequate proof that the land applied for was no longer classified as forestal. In that case, both the District Forester and the District Land Officer made identical findings that the land applied for was alienable and disposable in character and did not interpose any opposition to the application for registration. The difficulty in the instant case is that while the certification of Leopoldo Palacay on which private respondents rely may, standing alone, be evidence that a reclassification had occurred, it is contradicted by an official report of Luis Baker. Moreover, the private respondents' application for registration was in fact opposed by the Director of Lands as well as the Director of Forestry.

The evidence of record thus appears unsatisfactory and insufficient to show clearly and positively that the land here involved had been officially released from the Central Cordillera Forest Reserve to form part of the alienable and disposable lands of the public domain. We consider and so hold that once a parcel of land is shown to have been included within a Forest Reservation duly established by Executive Proclamation, as in the instant case, a presumption arises that the parcel of land continues to be part of such Reservation until clear and convincing evidence of subsequent withdrawal therefrom or de-classification is shown. A simple, unsworn statement of a minor functionary

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[18] *Director of Lands vs. Court of Appeals*, 178 SCRA 708 (1989).

[19] 142 SCRA 57 (1986).

Supreme Court E-Library

of the Bureau of Forest Development is not, by itself, such evidence. Under the view we take of this case, however, the definite resolution of this question becomes unnecessary.

The applicants in the instant case are natives of Benguet and members of the Ibaloi tribe.[20] They are members of a cultural minority whose application for registration of land should be considered as falling under Section 48(c) of C.A. No. 141. At the time private respondents filed their application, the text of Section 48 read:

"Sec. 48. The following-described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title thereafter, under the Land Registration Act, to wit:

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"(b) Those who by themselves or through their predecessors-in-interest have been, in continuous, exclusive and notorious possession and occupation of *agricultural lands of the public domain*, under a *bona fide* claim of acquisition or ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title, except when prevented by war or *force majeure*. Those shall be conclusively presumed to have performed all the conditions essential to a government grant and shall be entitled to a certificate of title under the provisions of this chapter.

"(c) *Members of the national cultural minorities* who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of *lands of the public domain suitable to agriculture whether disposable or not*, under a *bona fide* claim of ownership for at least 30 years shall be entitled to the rights granted in subsection (b) hereof." (Italics supplied)

Section 48(c), quoted above, did not form part of the original text of C.A. No. 141; it was added on 18 June 1964 by R.A.

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[20] TSN. 16 March 1974, pp. 10, 11 and 19.

Supreme Court E-Library

No. 3872. It is clear to the Court that the addition of subsection (c) was intended to create a distinction between applications for judicial confirmation of imperfect titles by *members of national cultural minorities* and applications by *other qualified persons in general*.[21] Members of cultural minorities may apply for confirmation of their title to lands of the public domain, *whether disposable or not*; they may therefore apply for public lands even though such lands are legally forest lands or mineral lands of the public domain, so long as such lands are *in fact suitable for agriculture*. The rest of the community, however, "Christians" or members of mainstream society may apply only in respect of "agricultural lands of the public domain," that is, "disposable lands of the public domain" which would of course exclude lands embraced within forest reservations or mineral land reservations.

That the distinction so established in 1964 by R.A. No. 3872 was expressly eliminated or abandoned thirteen (13) years later by P.D. No. 1073 effective 25 January 1977, only highlights the fact that during those thirteen (13) years, members of national cultural minorities had rights in respect of lands of the public domain, disposable or not. P.D. No. 1073 amended Sections 48(b) and (c) of C.A. No. 141 in the following manner:

"*The provisions of Section 48(b) and Section 48(c)*, Chapter VIII, of the Public Land Act *are hereby amended* in the sense that these provisions *shall apply only to alienable and disposable lands of the public domain* which have been in open, continuous, exclusive and notorious possession and occupation by the applicant himself or thru his predecessor-in-interest, under a *bona fide* claim of acquisition of ownership, since June 12, 1945." (Italics supplied)

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[21] The existence or non-existence of a distinction between Section 48(b) and Section 48(c) of C.A. No. 141 was not raised in any of the pleadings filed by the parties either in the land registration court or in the Court of Appeals. This Court, however, is not precluded from considering this issue since it is necessary for a complete resolution of the case. *National Housing Authority v. Court of Appeals*, 121 SCRA 777 (1983); *Hernandez v. Andal*, 78 Phil. 196 (1947).

Supreme Court E-Library

It is important to note that private respondents' application for judicial confirmation of their imperfect title was filed in 1970 and that the land registration court rendered its decision confirming their long-continued possession of the lands here involved in 1974, that is, during the time when Section 48(c) was in legal effect. Private respondents' imperfect title was, in other words, perfected or vested by the completion of the required period of possession prior to the issuance of P.D. No. 1073. Private respondents' right in respect of the land they had possessed for thirty (30) years could not be divested by P.D. No. 1073.

The Court stressed in *Director of Lands vs. Funtilar* (*supra*):

"The Regalian doctrine which for as the basis of our land laws and, in fact, all laws governing natural resources is a revered and long standing principle. *It must, however, be applied together with the constitutional provisions on social justice and land reform and must be interpreted in a way as to avoid manifest unfairness and injustice.*

"*Every application for a concession of public lands has to be viewed in the light of its peculiar circumstances.* A strict application of the *Heirs of Amunategui v. Director of Forestry* (*supra*) ruling is warranted whenever a portion of the public domain is in danger of ruthless exploitation, fraudulent titling, or other questionable practices. But *when an application appears to enhance the very reasons behind the enactment of* Act 496, as amended, or the Land Registration Act, and *Commonwealth Act 141, as amended*, or the Public Land Act, then *their provisions should not be made to stand in the way of their own implementation.*" (Italics supplied)

The land registration court found that the possession of private respondents, if tacked on to that of their predecessors-in-interest, sufficiently meets the requirement of thirty (30) years open, continuous, exclusive and notorious possession. Private respondents acquired the property from their deceased father who, in turn, had inherited it from private respondents' grandfather. Even before the death of their father, private respondents were already occupying the land. They lived on it since their father had built a house on the land and had planted

Supreme Court E-Library

it with bananas, camote, avocadoes, oranges and mangoes. Dayotao Paran had declared the land for taxation purposes prior to 1938 and had since paid the corresponding realty taxes.[22]

The Declarations of Real Property submitted by private respondents indicated that the land had become suitable to agriculture. Aside from sweet potatoes and vegetables, private respondents harvested rice from the land.[23] To enhance their agricultural production, private respondents or their predecessors-in-interest had built terraces and dikes. Forester Luis Baker noted this fact in his report.

Clearly, the requirements of Section 48(c) were satisfied by private respondents. They are entitled to judicial confirmation of their imperfect title.

WHEREFORE, the Petition for Review is hereby *DENIED*. The Decision of the land registration court dated 7 August 1974 is *AFFIRMED*.

SO ORDERED.

Fernan, C.J. (Chairman), Gutierrez, Jr., Bidin, and *Davide, Jr., JJ.*, concur.

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[22] Folder of Exhibits, pp. 13-45.

[23] *Id.*, pp. 13-15.