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FIRST DIVISION

[G.R. No. 160453. November 12, 2012]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **ARCADIO IVAN A. SANTOS III, and ARCADIO C. SANTOS, JR.,** *respondents.*

SYLLABUS

1. CIVIL LAW; CIVIL CODE; ACCRETION; CONCEPT.— Accretion is the process whereby the soil is deposited along the banks of rivers. The deposit of soil, to be considered accretion, must be: (*a*) gradual and imperceptible; (*b*) made through the effects of the current of the water; and (*c*) taking place on land adjacent to the banks of rivers. Accordingly, respondents should establish the concurrence of the elements of accretion to warrant the grant of their application for land registration.

2. ID.; ID.; ID.; ACCRETION, NOT A CASE OF; DRYING UP OF A RIVER TO FORM DRY LAND CANNOT BE EQUATED AS ACCRETION.— The RTC and the CA grossly erred in treating the dried-up river bed as an accretion that became respondents' property pursuant to Article 457 of the *Civil Code*. That land was definitely not an accretion. The process of drying up of a river to form dry land involved the recession of the water level from the river banks, and the dried-up land did not equate to accretion, which was the gradual and imperceptible deposition of soil on the river banks through the effects of the current. In accretion, the water level did not recede and was more or less maintained. Hence, respondents as the riparian owners had no legal right to claim ownership of Lot 4998-B. Considering that the clear and categorical language of Article 457 of the *Civil Code* has confined the provision only to accretion, we should apply the provision as its clear and categorical language tells us to. Axiomatic it is, indeed, that where the language of the law is clear and categorical, there is no room for interpretation; there is only room for application. The first and fundamental duty of courts is then to apply the law.

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3. ID.; ID.; DRIED-UP RIVER BED CONTINUE TO BELONG TO THE STATE AS ITS PROPERTY OF PUBLIC DOMINION.— The State exclusively owned Lot 4998-B and may not be divested of its right of ownership. Article 502 of the *Civil Code* expressly declares that rivers and their natural beds are public dominion of the State. It follows that the river beds that dry up, like Lot 4998-B, continue to belong to the State as its property of public dominion, unless there is an express law that provides that the dried-up river beds should belong to some other person.

4. ID.; ID.; ACQUISITIVE PRESCRIPTION, NOT APPLICABLE IN CASE AT BAR.— The RTC apparently reckoned respondents' period of supposed possession to be "more than thirty years" from the fact that "their predecessors in interest are the adjoining owners of the subject parcel of land." Yet, its decision nowhere indicated what acts respondents had performed showing their possession of the property "continuously, openly, publicly and adversely" in that length of time. The decision mentioned only that they had paid realty taxes and had caused the survey of the property to be made. That, to us, was not enough to justify the foregoing findings, because, *firstly*, the payment of realty taxes did not conclusively prove the payor's ownership of the land the taxes were paid for, the tax declarations and payments being mere indicia of a claim of ownership; and, *secondly*, the causing of surveys of the property involved was not itself constitutive of continuous, open, public and adverse possession. The principle that the riparian owner whose land receives the gradual deposits of soil does not need to make an express act of possession, and that no acts of possession are necessary in that instance because it is the law itself that pronounces the alluvium to belong to the riparian owner from the time that the deposit created by the current of the water becomes manifest has no applicability herein. This is simply because Lot 4998-B was not formed through accretion. Hence, the ownership of the land adjacent to the river bank by respondents' predecessor-in-interest did not translate to possession of Lot 4998-B that would ripen to acquisitive prescription in relation to Lot 4998-B.

5. ID.; ID.; ALL RIVER BEDS REMAIN PROPERTY OF PUBLIC DOMINION AND CANNOT BE ACQUIRED BY

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ACQUISITIVE PRESCRIPTION UNLESS DECLARED BY THE GOVERNMENT TO BE ALIENABLE AND DISPOSABLE.— Subject to the exceptions defined in Article 461 of the *Civil Code* (which declares river beds that are abandoned through the natural change in the course of the waters as *ipso facto* belonging to the owners of the land occupied by the new course, and which gives to the owners of the adjoining lots the right to acquire only the abandoned river beds not *ipso facto* belonging to the owners of the land affected by the natural change of course of the waters only after paying their value), all river beds remain property of public dominion and cannot be acquired by acquisitive prescription unless previously declared by the Government to be alienable and disposable. Considering that Lot 4998-B was not shown to be already declared to be alienable and disposable, respondents could not be deemed to have acquired the property through prescription.

6. ID.; LAND REGISTRATION; THAT THE LAND SUBJECT OF AN APPLICATION FOR REGISTRATION IS ALIENABLE MUST BE ESTABLISHED CONCLUSIVELY; NOTATION ON THE SURVEY PLAN TO THE EFFECT THAT THE LAND WAS "INSIDE" THE MAP "CLASSIFIED AS ALIENABLE/DISPOSABLE BY THE BUREAU OF FOREST DEV'T", NOT CONSIDERED AS CONCLUSIVE PROOF.— To prove that the land subject of an application for registration is alienable, an applicant must conclusively establish the existence of a positive act of the Government, such as a presidential proclamation, executive order, administrative action, investigation reports of the Bureau of Lands investigator, or a legislative act or statute. Until then, the rules on confirmation of imperfect title do not apply. x x x [R]ulings of the Court indicate that the notation on the survey plan of Lot 4998-B, Cad-00-000343 to the effect that the "survey is inside a map classified as alienable/disposable by the Bureau of Forest Dev't" did not prove that Lot 4998-B was already classified as alienable and disposable. Accordingly, respondents could not validly assert acquisitive prescription of Lot 4988-B.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Orosa Blanco Dime and Ortiz Law Offices for respondents.

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D E C I S I O N

BERSAMIN, *J.*:

By law, accretion – the gradual and imperceptible deposit made through the effects of the current of the water – belongs to the owner of the land adjacent to the banks of rivers where it forms. The drying up of the river is not accretion. Hence, the dried-up river bed belongs to the State as property of public dominion, not to the riparian owner, unless a law vests the ownership in some other person.

Antecedents

Alleging continuous and adverse possession of more than ten years, respondent Arcadio Ivan A. Santos III (Arcadio Ivan) applied on March 7, 1997 for the registration of Lot 4998-B (the property) in the Regional Trial Court (RTC) in Parañaque City. The property, which had an area of 1,045 square meters, more or less, was located in Barangay San Dionisio, Parañaque City, and was bounded in the Northeast by Lot 4079 belonging to respondent Arcadio C. Santos, Jr. (Arcadio, Jr.), in the Southeast by the Parañaque River, in the Southwest by an abandoned road, and in the Northwest by Lot 4998-A also owned by Arcadio Ivan.[1]

On May 21, 1998, Arcadio Ivan amended his application for land registration to include Arcadio, Jr. as his co-applicant because of the latter's co-ownership of the property. He alleged that the property had been formed through accretion and had been in their joint open, notorious, public, continuous and adverse possession for more than 30 years.[2]

The City of Parañaque (the City) opposed the application for land registration, stating that it needed the property for its flood control program; that the property was within the legal easement of 20 meters from the river bank; and that assuming

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[1] Records, Vol. I, pp. 13-15.

[2] *Id.* at 138-142.

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that the property was not covered by the legal easement, title to the property could not be registered in favor of the applicants for the reason that the property was an orchard that had dried up and had not resulted from accretion.[3]

Ruling of the RTC

On May 10, 2000,[4] the RTC granted the application for land registration, disposing:

> WHEREFORE, the Court hereby declares the applicants, ARCADIO IVAN A. SANTOS, III and ARCADIO C. SANTOS, JR., both Filipinos and of legal age, as the TRUE and ABSOLUTE OWNERS of the land being applied for which is situated in the Barangay of San Dionisio, City of Parañaque with an area of one thousand forty five (1045) square meters more or less and covered by Subdivision Plan Csd-00-000343, being a portion of Lot 4998, Cad. 299, Case 4, Parañaque Cadastre, LRC Rec. No. and orders the registration of Lot 4998-B in their names with the following technical description, to wit:
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> x x x x x x x x x
>
> Once this Decision became (sic) final and executory, let the corresponding Order for the Issuance of the Decree be issued.
>
> SO ORDERED.

The Republic, through the Office of the Solicitor General (OSG), appealed.

Ruling of the CA

In its appeal, the Republic ascribed the following errors to the RTC,[5] to wit:

I

THE TRIAL COURT ERRED IN RULING THAT THE PROPERTY SOUGHT TO BE REGISTERED IS AN ACCRETION TO THE

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[3] *Id.* at 255-258.

[4] Records, Vol. II, pp. 519-523.

[5] CA *Rollo*, p. 26.

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ADJOINING PROPERTY OWNED BY APPELLEES DESPITE THE ADMISSION OF APPELLEE ARCADIO C. SANTOS JR. THAT THE SAID PROPERTY WAS NOT FORMED AS A RESULT OF THE GRADUAL FILLING UP OF SOIL THROUGH THE CURRENT OF THE RIVER.

II

THE TRIAL COURT ERRED IN GRANTING THE APPLICATION FOR LAND REGISTRATION DESPITE APPELLEE'S FAILURE TO FORMALLY OFFER IN EVIDENCE AN OFFICIAL CERTIFICATION THAT THE SUBJECT PARCEL OF LAND IS ALIENABLE AND DISPOSABLE.

III

THE TRIAL COURT ERRED IN RULING THAT APPELLEES HAD SUFFICIENTLY ESTABLISHED THEIR CONTINUOUS, OPEN, PUBLIC AND ADVERSE OCCUPATION OF THE SUBJECT PROPERTY FOR A PERIOD OF MORE THAN THIRTY (30) YEARS.

On May 27, 2003, the CA affirmed the RTC.[6]

The Republic filed a motion for reconsideration, but the CA denied the motion on October 20, 2003.[7]

Issues

Hence, this appeal, in which the Republic urges that:[8]

I

RESPONDENTS' CLAIM THAT THE SUBJECT PROPERTY IS AN ACCRETION TO THEIR ADJOINING LAND THAT WOULD ENTITLE THEM TO REGISTER IT UNDER ARTICLE 457 OF THE NEW CIVIL CODE IS CONTRADICTED BY THEIR OWN EVIDENCE.

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[6] *Id.* at 99-107, penned by Associate Justice B.A. Adefuin-de la Cruz (retired), concurred by Associate Justice Jose L. Sabio, Jr. (retired/deceased) and Associate Justice Hakim S. Abdulwahid.

[7] *Id.* at 155.

[8] *Rollo*, pp. 21-22.

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II

ASSUMING THAT THE LAND SOUGHT TO BE REGISTERED WAS "PREVIOUSLY A PART OF THE PARAÑAQUE RIVER WHICH BECAME AN ORCHARD AFTER IT DRIED UP," THE REGISTRATION OF SAID PROPERTY IN FAVOR OF RESPONDENTS CANNOT BE ALTERNATIVELY JUSTIFIED UNDER ARTICLE 461 OF THE CIVIL CODE.

III

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT RULING THAT THE FAILURE OF RESPONDENTS TO FORMALLY OFFER IN EVIDENCE AN OFFICIAL CERTIFICATION THAT THE SUBJECT PROPERTY IS ALIENABLE AND DISPOSABLE IS FATAL TO THEIR APPLICATION FOR LAND REGISTRATION.

IV

THE FINDING OF THE COURT OF APPEALS THAT RESPONDENTS HAVE CONTINUOUSLY, OPENLY, PUBLICLY AND ADVERSELY OCCUPIED THE SUBJECT PROPERTY FOR MORE THAN THIRTY (30) YEARS IS NOT SUPPORTED BY WELL-NIGH INCONTROVERTIBLE EVIDENCE.

To be resolved are whether or not Article 457 of the *Civil Code* was applicable herein; and whether or not respondents could claim the property by virtue of acquisitive prescription pursuant to Section 14(1) of Presidential Decree No. 1529 (*Property Registration Decree*).

Ruling

The appeal is meritorious.

I.
The CA grossly erred in applying Article 457 of the *Civil Code* to respondents' benefit

Article 457 of the *Civil Code* provides that "(t)o the owners of lands adjoining the banks of rivers belong the accretion which they gradually receive from the effects of the currents of the waters."

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In ruling for respondents, the RTC pronounced as follows:

> On the basis of the evidence presented by the applicants, the Court finds that Arcadio Ivan A. Santos III and Arcadio C. Santos, Jr., are the owners of the land subject of this application which was previously a part of the Parañaque River which became an orchard after it dried up and further considering that Lot 4 which adjoins the same property is owned by applicant, Arcadio C. Santos, Jr., after it was obtained by him through inheritance from his mother, Concepcion Cruz, now deceased.
>
> Conformably with Art. 457 of the New Civil Code, it is provided that:
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> > "Article 457. To the owners of the lands adjoining the bank of rivers belong the accretion which they gradually receive from the effects of the current of the waters."[9]

The CA upheld the RTC's pronouncement, holding:

> It could not be denied that "to the owners of the lands adjoining the banks of rivers belong the accretion which they gradually receive from the effects of the current of the waters" (Article 457 New Civil Code) as in this case, Arcadio Ivan Santos III and Arcadio Santos, Jr., are the owners of the land which was previously part of the Parañaque River which became an orchard after it dried up and considering that Lot 4 which adjoins the same property is owned by the applicant which was obtained by the latter from his mother (Decision, p. 3; p. 38 *Rollo*).[10]

The Republic submits, however, that the application by both lower courts of Article 457 of the *Civil Code* was erroneous in the face of the fact that respondents' evidence did not establish accretion, but instead the drying up of the Parañaque River.

The Republic's submission is correct.

Respondents as the applicants for land registration carried the burden of proof to establish the merits of their application by a preponderance of evidence, by which is meant such

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[9] Records, Vol. II, pp. 521-522.

[10] CA *Rollo,* p. 105.

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evidence that is of greater weight, or more convincing than that offered in opposition to it.[11] They would be held entitled to claim the property as their own and apply for its registration under the Torrens system only if they established that, indeed, the property was an accretion to their land.

Accretion is the process whereby the soil is deposited along the banks of rivers.[12] The deposit of soil, to be considered accretion, must be: (*a*) gradual and imperceptible; (*b*) made through the effects of the current of the water; and (*c*) taking place on land adjacent to the banks of rivers.[13] Accordingly, respondents should establish the concurrence of the elements of accretion to warrant the grant of their application for land registration.

However, respondents did not discharge their burden of proof. They did not show that the gradual and imperceptible deposition of soil through the effects of the current of the river had formed Lot 4998-B. Instead, their evidence revealed that the property was the dried-up river bed of the Parañaque River, leading both the RTC and the CA to themselves hold that Lot 4998-B was "the land which was previously part of the Parañaque River xxx (and) became an orchard after it dried up."

Still, respondents argue that considering that Lot 4998-B did not yet exist when the original title of Lot 4 was issued in their mother's name in 1920, and that Lot 4998-B came about only thereafter as the land formed between Lot 4 and the Parañaque River, the unavoidable conclusion should then be that soil and sediments had meanwhile been deposited near Lot 4 by the current of the Parañaque River, resulting in the formation of Lot 4998-B.

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[11] *Rivera v. Court of Appeals*, G.R. No. 115625, January 23, 1998, 284 SCRA 673, 681.

[12] *Heirs of Emiliano Navarro v. Intermediate Appellate Court*, G.R. No. 68166, February 12, 1997, 268 SCRA 74, 85.

[13] *Republic v. Court of Appeals*, No. 61647, October 12, 1984, 132 SCRA 514, 520.

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The argument is legally and factually groundless. For one, respondents thereby ignore that the effects of the current of the river are not the only cause of the formation of land along a river bank. There are several other causes, including the drying up of the river bed. The drying up of the river bed was, in fact, the uniform conclusion of both lower courts herein. In other words, respondents did not establish at all that the increment of land had formed from the gradual and imperceptible deposit of soil by the effects of the current. Also, it seems to be highly improbable that the large volume of soil that ultimately comprised the dry land with an area of 1,045 square meters had been deposited in a gradual and imperceptible manner by the current of the river in the span of about 20 to 30 years – the span of time intervening between 1920, when Lot 4 was registered in the name of their deceased parent (at which time Lot 4998-B was not yet in existence) and the early 1950s (which respondents' witness Rufino Allanigue alleged to be the time when he knew them to have occupied Lot 4988-B). The only plausible explanation for the substantial increment was that Lot 4988-B was the dried-up bed of the Parañaque River. Confirming this explanation was Arcadio, Jr.'s own testimony to the effect that the property was previously a part of the Parañaque River that had dried up and become an orchard.

We observe in this connection that even Arcadio, Jr.'s own Transfer Certificate of Title No. 44687 confirmed the uniform conclusion of the RTC and the CA that Lot 4998-B had been formed by the drying up of the Parañaque River. Transfer Certificate of Title No. 44687 recited that Lot 4 of the consolidated subdivision plan Pcs-13-002563, the lot therein described, was bounded "on the SW along line 5-1 by Dried River Bed."[14] That boundary line of "SW along line 5-1" corresponded with the location of Lot 4998-B, which was described as "bounded by Lot 4079 Cad. 299, (Lot 1, Psu-10676), in the name of respondent Arcadio Santos, Jr. (Now Lot 4, Psd-13-002563) in the Northeast."[15]

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[14] Records, Vol. 2, p. 428 (Transfer Certificate of Title No. 44687).

[15] Records, Vol. 1, pp. 138-139.

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The RTC and the CA grossly erred in treating the dried-up river bed as an accretion that became respondents' property pursuant to Article 457 of the *Civil Code*. That land was definitely not an accretion. The process of drying up of a river to form dry land involved the recession of the water level from the river banks, and the dried-up land did not equate to accretion, which was the gradual and imperceptible deposition of soil on the river banks through the effects of the current. In accretion, the water level did not recede and was more or less maintained. Hence, respondents as the riparian owners had no legal right to claim ownership of Lot 4998-B. Considering that the clear and categorical language of Article 457 of the *Civil Code* has confined the provision only to accretion, we should apply the provision as its clear and categorical language tells us to. Axiomatic it is, indeed, that where the language of the law is clear and categorical, there is no room for interpretation; there is only room for application.[16] The first and fundamental duty of courts is then to apply the law.[17]

The State exclusively owned Lot 4998-B and may not be divested of its right of ownership. Article 502 of the *Civil Code* expressly declares that rivers and their natural beds are public dominion of the State.[18] It follows that the river beds that dry up, like Lot 4998-B, continue to belong to the State as its property of public dominion, unless there is an express law that provides that the dried-up river beds should belong to some other person.[19]

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[16] *Cebu Portland Cement Company v. Municipality of Naga, Cebu*, Nos. L-24116-17, August 22, 1968, 24 SCRA 708, 712.

[17] *Quijano v. Development Bank of the Philippines*, No. L-26419, October 16, 1970, 35 SCRA 270, 277.

[18] The *Civil Code* states:

Article. 502. The following are of public dominion:

(1) Rivers and their natural beds;

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[19] II Tolentino, *Commentaries and Jurisprudence on the Civil Code of the Philippines*, 1994, pp. 137-138, opines:

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II
Acquisitive prescription was not applicable in favor of respondents

The RTC favored respondents' application for land registration covering Lot 4998-B also because they had taken possession of the property continuously, openly, publicly and adversely for more than 30 years based on their predecessor-in-interest being the adjoining owner of the parcel of land along the river bank. It rendered the following ratiocination, *viz*:[20]

> In this regard, the Court found that from the time the applicants became the owners thereof, they took possession of the same property continuously, openly, publicly and adversely for more than thirty (30) years because their predecessors-in-interest are the adjoining owners of the subject parcel of land along the river bank. Furthermore, the fact that applicants paid its realty taxes, had it surveyed per subdivision plan Csd-00-000343 (Exh. "L") which was duly approved by the Land Management Services and the fact that Engr. Chito B. Cainglet, OIC–Chief, Surveys Division Land Registration Authority, made a Report that the subject property is not a portion of the Parañaque River and that it does not fall nor overlap with Lot 5000, thus, the Court opts to grant the application.
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> Finally, in the light of the evidence adduced by the applicants in this case and in view of the foregoing reports of the Department of Agrarian Reforms, Land Registration Authority and the Department of Environment and Natural Resources, the Court finds and so holds that the applicants have satisfied all the requirements of law which are essential to a government grant and is, therefore, entitled to the

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When River Dries Up. – The present article contemplates a case where a river bed is abandoned by a natural change in the course of the river, which opens up a new bed. It has no reference to a case where the river simply dries up. In fact, it cannot be applied at all to the drying up of the river, because there are no persons whose lands are occupied by the waters of the river. **Who shall own the river bed thus left dry? We believe that in such case, the river bed will continue to remain property of public dominion. Under Article 502 of the Code, rivers and their natural beds are property of public dominion. In the absence of any provision vesting the ownership of the dried up river bed in some other person, it must continue to belong to the State.**

[20] Records, Vol. II, p. 522.

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issuance of a certificate of title in their favor. So also, oppositor failed to prove that the applicants are not entitled thereto, not having presented any witness.

In fine, the application is GRANTED.

As already mentioned, the CA affirmed the RTC.

Both lower courts erred.

The relevant legal provision is Section 14(1) of Presidential Decree No. 1529 (*Property Registration Decree*), which pertinently states:

Section 14. *Who may apply.* —The following persons may file in the proper [Regional Trial Court] 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.**

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Under Section 14(1), then, applicants for confirmation of imperfect title must prove the following, namely: (*a*) that the land forms part of the disposable and alienable agricultural lands of the public domain; and (*b*) that they have been in open, continuous, exclusive, and notorious possession and occupation of the land under a *bona fide* claim of ownership either since time immemorial or since June 12, 1945.[21]

The Republic assails the findings by the lower courts that respondents "took possession of the same property continuously, openly, publicly and adversely for more than thirty (30) years."[22]

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[21] *Republic v. Alconaba,* G.R. No. 155012, April 14, 2004, 427 SCRA 611, 617.

[22] *Rollo,* pp. 32-36.

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Although it is well settled that the findings of fact of the trial court, especially when affirmed by the CA, are accorded the highest degree of respect, and generally will not be disturbed on appeal, with such findings being binding and conclusive on the Court,[23] the Court has consistently recognized exceptions to this rule, including the following, to wit: (*a*) when the findings are grounded entirely on speculation, surmises, or conjectures; (*b*) when the inference made is manifestly mistaken, absurd, or impossible; (*c*) when there is grave abuse of discretion; (*d*) when the judgment is based on a misapprehension of facts; (*e*) when the findings of fact are conflicting; (*f*) when in making its findings the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (*g*) when the findings are contrary to those of the trial court; (*h*) when the findings are conclusions without citation of specific evidence on which they are based; (*i*) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by respondent; and (*j*) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.[24]

Here, the findings of the RTC were obviously grounded on speculation, surmises, or conjectures; and that the inference made by the RTC and the CA was manifestly mistaken, absurd, or impossible. Hence, the Court should now review the findings.

In finding that respondents had been in continuous, open, public and adverse possession of the land for more than 30 years, the RTC declared:

> In this regard, the Court found that from the time the applicant became the owners thereof, they took possession of the same property continuously, openly, publicly and adversely for more than thirty years because their predecessor in interest are the adjoining owners of the subject parcel of land along the river banks. Furthermore,

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[23] *Bulos, Jr. v. Yasuma*, G.R. No. 164159, July 17, 2007, 527 SCRA 727, 737.

[24] *Citibank, N.A. (formerly First National City Bank) v. Sabeniano*, G.R. No. 156132, October 16, 2006, 504 SCRA 378, 409.

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the fact that the applicant paid its realty taxes, had it surveyed per subdivision plan Csd-00-000343 (Exh. "L") which was duly approved by the Land Management Services and the fact that Engr. Chito B. Cainglet, OIC – Chief, Surveys Division Land Registration Authority, made a Report that the subject property is not a portion of the Parañaque River and that it does not fall nor overlap with Lot 5000, thus, the Court opts to grant the application.

The RTC apparently reckoned respondents' period of supposed possession to be "more than thirty years" from the fact that "their predecessors in interest are the adjoining owners of the subject parcel of land." Yet, its decision nowhere indicated what acts respondents had performed showing their possession of the property "continuously, openly, publicly and adversely" in that length of time. The decision mentioned only that they had paid realty taxes and had caused the survey of the property to be made. That, to us, was not enough to justify the foregoing findings, because, *firstly*, the payment of realty taxes did not conclusively prove the payor's ownership of the land the taxes were paid for,[25] the tax declarations and payments being mere indicia of a claim of ownership;[26] and, *secondly*, the causing of surveys of the property involved was not itself constitutive of continuous, open, public and adverse possession.

The principle that the riparian owner whose land receives the gradual deposits of soil does not need to make an express act of possession, and that no acts of possession are necessary in that instance because it is the law itself that pronounces the

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[25] *Ebreo v. Ebreo*, G.R. No. 160065, February 28, 2006, 483 SCRA 583, 594; *Seriña v. Caballero*, G.R. No. 127382, August 17, 2004, 436 SCRA 593, 604; *Del Rosario v. Republic*, G.R. No. 148338, June 6, 2002, 383 SCRA 262, 274; *Bartolome v. Intermediate Appellate Court*, G.R. No. 76792, March 12, 1990, 183 SCRA 102, 112.

[26] *Ebreo v. Ebreo*, *supra*; *Heirs of Mariano, Juan, Tarcela and Josefa Brusas v. Court of Appeals*, G.R. No. 126875, August 26, 1999, 313 SCRA 176, 184; *Rivera v. Court of Appeals*, G.R. No. 107903, May 22, 1995, 244 SCRA 218, 222; *Director of Lands v. Intermediate Appellate Court*, G.R. No. 73246, March 2, 1993, 219 SCRA 339, 348; *San Miguel Corporation v. Court of Appeals*, G.R. No. 57667, May 28, 1990, 185 SCRA 722, 725.

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alluvium to belong to the riparian owner from the time that the deposit created by the current of the water becomes manifest[27] has no applicability herein. This is simply because Lot 4998-B was not formed through accretion. Hence, the ownership of the land adjacent to the river bank by respondents' predecessor-in-interest did not translate to possession of Lot 4998-B that would ripen to acquisitive prescription in relation to Lot 4998-B.

On the other hand, the claim of thirty years of continuous, open, public and adverse possession of Lot 4998-B was not even validated or preponderantly established. The admission of respondents themselves that they declared the property for taxation purposes only in 1997 and paid realty taxes only from 1999[28] signified that their alleged possession would at most be for only nine years as of the filing of their application for land registration on March 7, 1997.

Yet, even conceding, for the sake of argument, that respondents possessed Lot 4998-B for more than thirty years in the character they claimed, they did not thereby acquire the land by prescription or by other means without any competent proof that the land was already declared as alienable and disposable by the Government. Absent that declaration, the land still belonged to the State as part of its public dominion.

Article 419 of the *Civil Code* distinguishes property as being either of public dominion or of private ownership. Article 420 of the *Civil Code* lists the properties considered as part of public dominion, namely: (*a*) those intended for public use, such as roads, canals, **rivers**, torrents, ports and bridges constructed by the State, banks, shores, roadsteads, and others of similar character; and (*b*) those which belong to the State, without being for public use, and are intended for some public service or for the development of the national wealth. As earlier mentioned, Article 502 of the *Civil Code* declares that **rivers** and **their natural beds** are of public dominion.

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[27] I Tolentino, *Commentaries and Jurisprudence on the Civil Code of the Philippines*, 1994, p. 28.

[28] *Rollo*, p. 88.

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Whether the dried-up river bed may be susceptible to acquisitive prescription or not was a question that the Court resolved in favor of the State in *Celestial v. Cachopero*,[29] a case involving the registration of land found to be part of a dried-up portion of the natural bed of a creek. There the Court held:

> As for petitioner's claim of ownership over the subject land, admittedly a dried-up bed of the Salunayan Creek, based on (1) her alleged long term adverse possession and that of her predecessor-in-interest, Marcelina Basadre, even prior to October 22, 1966, when she purchased the adjoining property from the latter, and (2) the right of accession under Art. 370 of the Spanish Civil Code of 1889 and/or Article 461 of the Civil Code, the same must fail.
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> Since **property of public dominion is outside the commerce of man and not susceptible to private appropriation and acquisitive prescription, the adverse possession which may be the basis of a grant of title in the confirmation of an imperfect title refers only to alienable or disposable portions of the public domain**. It is only after the Government has declared the land to be alienable and disposable agricultural land that the year of entry, cultivation and exclusive and adverse possession can be counted for purposes of an imperfect title.
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> A creek, like the Salunayan Creek, is a recess or arm extending from a river and participating in the ebb and flow of the sea. As such, **under Articles 420(1) and 502(1) of the Civil Code, the Salunayan Creek, including its natural bed, is property of the public domain which is not susceptible to private appropriation and acquisitive prescription.** And, **absent any declaration by the government, that a portion of the creek has dried-up does not, by itself, alter its inalienable character.**
>
> x x x x x x x x x
>
> Had the disputed portion of the Salunayan Creek dried up after the present Civil Code took effect, the subject land would clearly not belong to petitioner or her predecessor-in-interest since under the aforementioned provision of Article 461, "river beds which are abandoned through the natural change in the course of the waters *ipso facto* belong to the owners of the land occupied by the new

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[29] G.R. No. 142595, October 15, 2003, 413 SCRA 469, 485-489.

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course," and the owners of the adjoining lots have the right to acquire them only after paying their value.

And both Article 370 of the Old Code and Article 461 of the present Civil Code are applicable only when "[r]iver beds are abandoned through the natural change in the course of the waters." It is uncontroverted, however, that, as found by both the Bureau of Lands and the DENR Regional Executive Director, the subject land became dry as a result of the construction an irrigation canal by the National Irrigation Administration. Thus, in *Ronquillo v. Court of Appeals,* this Court held:

> The law is clear and unambiguous. It leaves no room for interpretation. **Article 370 applies only if there is a natural change in the course of the waters. The rules on alluvion do not apply to man-made or artificial accretions nor to accretions** to lands that adjoin canals or esteros or artificial drainage systems. **Considering our earlier finding that the dried-up portion of Estero Calubcub was actually caused by the active intervention of man, it follows that Article 370 does not apply to the case at bar and, hence, the Del Rosarios cannot be entitled thereto supposedly as riparian owners.**
>
> **The dried-up portion of Estero Calubcub should thus be considered as forming part of the land of the public domain which cannot be subject to acquisition by private ownership.** xxx (Emphasis supplied)

Furthermore, **both provisions pertain to situations where there has been a change in the course of a river, not where the river simply dries up.** In the instant Petition, it is not even alleged that the Salunayan Creek changed its course. **In such a situation, commentators are of the opinion that the dry river bed remains property of public dominion.** (Bold emphases supplied)

Indeed, under the Regalian doctrine, all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State.[30] No public land can be acquired by private persons without any grant, express or implied, from the Government. It is indispensable, therefore, that there is a

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[30] *Republic v. Sayo*, G.R. No. 60413, October 31, 1990, 191 SCRA 71, 74.

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showing of a title from the State.[31] Occupation of public land in the concept of owner, no matter how long, cannot ripen into ownership and be registered as a title.[32]

Subject to the exceptions defined in Article 461 of the *Civil Code* (which declares river beds that are abandoned through the natural change in the course of the waters as *ipso facto* belonging to the owners of the land occupied by the new course, and which gives to the owners of the adjoining lots the right to acquire only the abandoned river beds not *ipso facto* belonging to the owners of the land affected by the natural change of course of the waters only after paying their value), all river beds remain property of public dominion and cannot be acquired by acquisitive prescription unless previously declared by the Government to be alienable and disposable. Considering that Lot 4998-B was not shown to be already declared to be alienable and disposable, respondents could not be deemed to have acquired the property through prescription.

Nonetheless, respondents insist that the property was already classified as alienable and disposable by the Government. They cite as proof of the classification as alienable and disposable the following notation found on the survey plan, to wit:[33]

NOTE

ALL CORNERS NOT OTHERWISE DESCRIBED ARE OLD BL CYL. CONC. MONS 15 X 60CM

All corners marked PS are cyl. conc. mons 15 x 60 cm

Surveyed in accordance with Survey Authority NO. 007604-48 of the Regional Executive Director issued by the CENR-OFFICER dated Dec. 2, 1996.

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[31] *Gordula v. Court of Appeals*, G.R. No. 127296, January 22, 1998, 284 SCRA 617, 630.

[32] *Pagkatipunan v. Court of Appeals*, G.R. No. 129682, March 21, 2002, 379 SCRA 621, 627.

[33] *Rollo*, pp. 80-81.

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This survey is inside L.C. Map No. 2623, Proj. No. 25 classified as alienable/disposable by the Bureau of Forest Dev't. on Jan. 3, 1968.

Lot 4998-A = Lot 5883} Cad 299

Lot 4998-B = Lot 5884} Paranaque Cadastre.

Was the notation on the survey plan to the effect that Lot 4998-B was "inside" the map "classified as alienable/disposable by the Bureau of Forest Development on 03 Jan. 1968" sufficient proof of the property's nature as alienable and disposable public land?

To prove that the land subject of an application for registration is alienable, an applicant must conclusively establish the existence of a positive act of the Government, such as a presidential proclamation, executive order, administrative action, investigation reports of the Bureau of Lands investigator, or a legislative act or statute. Until then, the rules on confirmation of imperfect title do not apply.

As to the proofs that are admissible to establish the alienability and disposability of public land, we said in *Secretary of the Department of Environment and Natural Resources v. Yap*[34] that:

The **burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for registration** (or claiming ownership), who must prove that the land subject of the application is alienable or disposable. To overcome this presumption, **incontrovertible evidence must be established that the land subject of the application (or claim) is alienable or disposable.** There must still be a positive act declaring land of the public domain as alienable and disposable. **To prove that the land subject of an application for registration is alienable, the applicant must establish the existence of a positive act of the government such as a presidential proclamation or an executive order; an administrative action; investigation**

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[34] G.R. No. 167707 and G.R. No. 173775, October 8, 2008, 568 SCRA 164, 192-193.

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reports of Bureau of Lands investigators; and a legislative act or a statute. The applicant may also secure a certification from the government that the land claimed to have been possessed for the required number of years is alienable and disposable.

In the case at bar, **no such proclamation, executive order, administrative action, report, statute, or certification was presented to the Court.** The records are bereft of evidence showing that, prior to 2006, the portions of Boracay occupied by private claimants were subject of a government proclamation that the land is alienable and disposable. **Absent such well-nigh incontrovertible evidence, the Court cannot accept the submission that lands occupied by private claimants were already open to disposition before 2006. Matters of land classification or reclassification cannot be assumed. They call for proof."** (Emphasis supplied)

In *Menguito v. Republic*,[35] which we reiterated in *Republic v. Sarmiento*,[36] we specifically resolved the issue of whether the notation on the survey plan was sufficient evidence to establish the alienability and disposability of public land, to wit:

To prove that the land in question formed part of the alienable and disposable lands of the public domain, petitioners relied on the printed words which read: "This survey plan is inside Alienable and Disposable Land Area, Project No. 27-B as per L.C. Map No. 2623, **certified by the Bureau of Forestry on January 3, 1968," appearing on Exhibit "E"** (Survey Plan No. Swo-13-000227).

This proof is not sufficient. Section 2, Article XII of the 1987 Constitution, provides: "All lands of the *public domain*, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources *are owned by the State*. x x x."

For the original registration of title, the applicant (petitioners in this case) **must overcome the presumption that the land sought to be registered forms part of the public domain.** 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. Indeed,

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[35] G.R. No. 134308, December 14, 2000, 348 SCRA 128, 139-140.

[36] G.R. No. 169397, March 13, 2007, 518 SCRA 250, 259-260.

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"occupation thereof in the concept of owner, no matter how long, cannot ripen into ownership and be registered as a title." To overcome such presumption, incontrovertible evidence must be shown by the applicant. Absent such evidence, the land sought to be registered remains inalienable.

In the present case, petitioners cite a surveyor-geodetic engineer's notation in Exhibit "E" indicating that the survey was inside alienable and disposable land. **Such notation does not constitute a positive government act validly changing the classification of the land in question. Verily, a mere surveyor has no authority to reclassify lands of the public domain. By relying solely on the said surveyor's assertion, petitioners have not sufficiently proven that the land in question has been declared alienable.** (Emphasis supplied)

In *Republic v. T.A.N. Properties, Inc.*,[37] we dealt with the sufficiency of the certification by the Provincial Environmental Officer (PENRO) or Community Environmental Officer (CENRO) to the effect that a piece of public land was alienable and disposable in the following manner, *viz*:

x x x **it is not enough for the PENRO or CENRO to certify that a land is alienable and disposable. The applicant for land registration must prove that the DENR Secretary had approved the land classification and released the land of the public domain as alienable and disposable, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO or CENRO.** In addition, the applicant for land registration must present a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records. These facts must be established to prove that the land is alienable and disposable. Respondent failed to do so because **the certifications presented by respondent do not, by themselves, prove that the land is alienable and disposable.**

Only Torres, respondent's Operations Manager, identified the certifications submitted by respondent. The government officials who issued the certifications were not presented before the trial

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[37] G.R. No. 154953, June 26, 2008, 555 SCRA 477, 489-491.

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court to testify on their contents. The trial court should not have accepted the contents of the certifications as proof of the facts stated therein. Even if the certifications are presumed duly issued and admissible in evidence, they have no probative value in establishing that the land is alienable and disposable.

x x x x x x x x x

The CENRO and Regional Technical Director, FMS-DENR, certifications do not prove that Lot 10705-B falls within the alienable and disposable land as proclaimed by the DENR Secretary. Such government certifications do not, by their mere issuance, prove the facts stated therein. Such government certifications may fall under the class of documents contemplated in the second sentence of Section 23 of Rule 132. As such, the certifications are *prima facie* evidence of their due execution and date of issuance but they do not constitute *prima facie* evidence of the facts stated therein. (Emphasis supplied)

These rulings of the Court indicate that the notation on the survey plan of Lot 4998-B, Cad-00-000343 to the effect that the "survey is inside a map classified as alienable/disposable by the Bureau of Forest Dev't" did not prove that Lot 4998-B was already classified as alienable and disposable. Accordingly, respondents could not validly assert acquisitive prescription of Lot 4988-B.

WHEREFORE, the Court **REVERSES** and **SETS ASIDE** the decision of the Court of Appeals promulgated on May 27, 2003; **DISMISSES** the application for registration of Arcadio C. Santos, Jr. and Arcadio Ivan S. Santos III respecting Lot 4998-B with a total area of 1,045 square meters, more or less, situated in Barangay San Dionisio, Parañaque City, Metro Manila; and **DECLARES** Lot 4998-B as exclusively belonging to the State for being part of the dried-up bed of the Parañaque River.

Respondents shall pay the costs of suit.

SO ORDERED.

Sereno, C.J., Leonardo-de Castro, Villarama, Jr., and *Reyes, JJ.,* concur.