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have stayed in the conjugal dwelling, but never as his mistress, and Sia supposedly slept in the maids' quarters.

While such a claim is not necessarily preposterous, we hold that such is a matter of defense which Alfredo should raise in court given that Rosa's complaint and its accompanying affidavits have created a *prima facie* case for Concubinage against Alfredo and Sia.

WHEREFORE, the petition is **DISMISSED.** The Resolutions of the Ombudsman dated 17 April 2009 and 11 October 2010 are **AFFIRMED.**

SO ORDERED.

Carpio (Chairperson), Brion, del Castillo, and *Perlas-Bernabe, JJ.,* concur.

THIRD DIVISION

[G.R. No. 197028. October 9, 2013]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **CARMEN VICTORIA BELMONTE represented by her Attorney-in-fact, DANIEL C. VICTORIA, JR.,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; APPEAL TO THE SUPREME COURT; AS A RULE IN A PETITION FOR REVIEW ON *CERTIORARI*, THE COURT IS LIMITED TO REVIEWING ONLY ERRORS OF LAW; EXCEPTIONS.— As a rule, the Court, in a petition for review on *certiorari*, is limited to reviewing only errors of law, as it is not a trier of facts. There are, however, exceptions to this rule such as when:

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(1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the Court of Appeals are contrary to those of the trial court; (9) the Court of Appeals manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the Court of Appeals are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.

2. CIVIL LAW; PROPERTY; PROPERTY REGISTRATION DECREE (P.D. NO. 1529); ALIENABILITY, POSSESSION AND OCCUPATION SINCE JUNE 12, 1945 OR EARLIER ARE INDISPENSBLE PREREQUISITES TO A FAVORABLE REGISTRATION OF TITLE TO THE PROPERTY; EXPLAINED.— P.D. No. 1529 or the Property Registration Decree specifies who are qualified to apply for registration of land. In particular, Section 14(1) thereof in relation to Section 48(b) of Commonwealth Act 141, as amended by Section 4 of P.D. No. 1073. x x x These triple requirements of alienability and possession and occupation since June 12, 1945 or earlier under Section 14(1) are indispensable prerequisites to a favorable registration of title to the property. Each element must necessarily be proven by no less than clear, positive and convincing evidence; otherwise, the application for registration should be denied. x x x Possession and occupation alone, for 30 years or more, does not suffice. As provided in P.D. No. 1073, it is mandatory that possession and occupation of the piece of land by the applicant, by himself or through his predecessors-in-interest, had commenced on June 12, 1945 or earlier. The burden of proving adverse, continuous, open, and public possession in the concept of an owner rests upon the applicant, by no less than clear, positive and convincing evidence. x x x Furthermore, the Court has held that intermittent and sporadic assertion of alleged ownership does not prove open, continuous, exclusive, and notorious possession and occupation.

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3. ID.; ID.; ID.; ID.; NOT ESTABLISHED IN CASE AT BAR.— In this case, Belmonte's irregular and erratic declaration and payment of real property taxes belie her claim of open and continuous possession of the said lots. Corollarily, tax declarations are merely *indicia* of a claim of ownership. The subject lots may have been declared for taxation purposes in the name of Belmonte's predecessor-in-interest, but it does not automatically prove ownership especially when the details in the tax declarations do not match. x x x These inconsistencies coupled by the erratic declarations for tax, in the absence of other competent evidence, negate open and continuous possession in the concept of an owner. As to the requirement of possession and occupation, the Court is likewise of the view that these prerequisites were not sufficiently established. x x x Evidence to be acceptable must be credible, substantial and satisfactory. General, and often vague, statements as to how Belmonte, through her supposed tenant, possessed the land in question, are mere verbal assertions that do not satisfy possession and occupation as required by law. *Republic v. Alconaba* explained the indispensable requirement of possession and occupation. x x x 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, that is, he must prove his title and should not rely on the absence or weakness of the evidence of the oppositors. Evidently, Belmonte's witnesses were not able to give a concrete, consistent and credible picture of how she exercised dominion or exercised control over the subject properties. This requirement of possession and occupation since June 12, 1945, or even earlier, is very fundamental that the Court, in its September 3, 2013 Resolution in *Heirs of Mario Malahanan vs. Republic of the Philippines,* emphasized that "without satisfying the requisite character and period of possession - possession and occupation that is open, continuous, exclusive, and notorious since June 12, 1945, or earlier — the land cannot be considered *ipso jure* converted to private property even upon the subsequent declaration of it as alienable and disposable." Thus, absent clear and convincing evidence showing a valid claim of open, continuous, exclusive, and notorious possession and occupation since June 12, 1945 or earlier, the Court is constrained to deny Belmonte's application for registration of title.

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APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Daniel B. Valdez for respondent.

D E C I S I O N

MENDOZA, *J.*:

In this petition for review on *certiorari*[1] under Rule 45 of the 1997 Rules of Civil Procedure, the Republic of the Philippines, through the Office of the Solicitor General *(OSG)*, assails the November 22, 2010 Decision[2] of the Court of Appeals *(CA)* as well as its May 18, 2011 Resolution,[3] in CA-G.R. CV No. 88363, affirming *in toto* the July 24, 2006 Decision[4] of the Regional Trial Court, Branch 267, Taguig City (*RTC*), granting the application for registration of respondent Carmen Victoria Belmonte *(Belmonte)*, represented by her attorney-in-fact, Daniel C. Victoria, Jr. *(Daniel, Jr.)*, in Land Registration Case *(LRC)* No. N-11489.

The Facts

On October 24, 2002, Belmonte filed before the RTC her Application for Registration and Confirmation of Titles of two (2) lots identified as Lot No. 3766, measuring around 5,817 square meters, and Lot No. 5194, with an approximate area of 7,123 square meters, located in Barangay Hagonoy and Barangay Bambang, Taguig City, respectively.

Daniel Victoria, Jr., Belmonte's attorney-in-fact and younger sibling, alleged that Belmonte inherited the subject properties

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[1] *Rollo*, pp. 8-35.

[2] *Id.* at 36-44a. Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justice Andres B. Reyes, Jr. and Associate Justice Japar B. Dimaampao, concurring.

[3] *Id.* at 45-46.

[4] *Id.* at 47-51.

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from Daniel Osorio Victoria and Rufina Cruz Victoria, their parents, as evidenced by an extrajudicial settlement of estate. He presented a photocopy of the said document claiming that the original copy got lost. Belmonte narrated that her parents had been in possession of the said lots since the Japanese occupation in 1943. Accordingly, she attached the following documents in support of her application for registration:

Lot No. 3766

a. Approved Conversion Plan for Swo-00-001613;[5]

b. Technical Description of Lot No. 3766;[6]

c. Geodetic Engineer's Certificate;[7]

d. Tax Declaration No. EL-008-01718;[8]

Lot No. 5194

e. Approved Conversion Plan Swo-00-001752;[9]

f. Technical Description of Lot 5194-A;[10]

g. Geodetic Engineer's Certificate;[11]

h. Tax Declaration No. FL-010-00581;[12]

i. Extrajudicial Settlement of the Estate of the Deceased Daniel Osorio Victoria and Rufina Cruz Victoria;[13]

j. Special Power of Attorney.[14]

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[5] Records, p. 6.

[6] *Id.* at 7.

[7] *Id.* at 8.

[8] *Id.* at 9.

[9] *Id.* at 10.

[10] *Id.* at 11.

[11] *Id.* at 12.

[12] *Id.* at 13.

[13] *Id.* at 14.

[14] *Id.* at 20-21.

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The OSG opposed the application arguing that Belmonte failed to comply with the jurisdictional requirements of Presidential Decree *(P.D.)* No. 1529.

On July 24, 2006, the RTC granted Belmonte's application for registration of land title.[15] It held that she was able to successfully establish her ownership over the lots in question and that the land sought to be registered was the same land described in her application for registration.[16] Thus, the decretal portion of said decision reads:

> WHEREFORE, IN VIEW OF THE FOREGOING CONSIDERATIONS, judgment is hereby rendered granting the verified application for registration of land title under Property Registration Decree (P.D. 1529) filed by applicant Carmen Victoria Belmonte, represented by her Attorney-in-fact, Daniel C. Victoria, Jr., thereby confirming the title of the applicant to the subject properties.
>
> Furnish copy of the instant Decision the Office of the Solicitor General, the Provincial Prosecutor's Office of Rizal-Pasig, the Land Registration Authority (LRA) and the Adjoining Property Owners.
>
> SO ORDERED.[17]

On November 22, 2010, the CA affirmed the RTC decision. The CA explained that although Belmonte was not able to present the original tracing cloth plan, she sufficiently established the identity of the subject properties through the certified blueprint copies of the conversion plan, specifically: (1) Conversion Plan for Lot 3766 and (2) Conversion Plan of Lot 5194, which were prepared by Geodetic Engineer Emilia Rivera Sison and duly approved by the Department of Natural Resources Land Management Services. "The Conversion Plan for Lot 3766, was certified correct by Ernesto S. Erive, Chief, Regional Surveys Division and approved by Roquesta E. De Castro, Regional

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[15] *Rollo*, pp. 47-51.

[16] *Id.* at 51.

[17] *Id.*

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Technical Director on July 29, 1996. Similarly, the Conversion Plan of Lot 5194 was approved on December 18, 1996."[18]

The CA further stated that Belmonte successfully established the possession and occupation of her predecessors-in-interest since 1943. The CA gave credence to the testimonies of (1) Daniel, Jr. who disclosed that, before the Japanese invasion, he used to come with his mother to survey the lots and they had a tenant, Reyes; and (2) Marietta Reyes *(Marietta)* who narrated that, from the Japanese period up to 1967, her father-in-law cultivated the subject lots, which was continued by her husband up to 1995.

The OSG moved for a reconsideration[19] but the motion was denied by the CA in its May 18, 2011 Resolution.

Hence, this petition.[20]

In advocacy of its position, the OSG submits this lone issue:

THE RECORD IS BEREFT OF PROOF THAT PRIVATE RESPONDENT HAS BEEN IN OPEN, CONTINUOUS, EXCLUSIVE AND NOTORIOUS POSSESSION OF THE SUBJECT LAND SINCE JUNE 12, 1945, OR EARLIER.[21]

The OSG argued that Belmonte failed to prove open, continuous, exclusive and notorious possession of the subject properties since June 12, 1945 or earlier. The tax declarations she submitted for the lots did not indicate possession since June 12, 1945 or earlier. The earliest tax declaration for Lot No. 5194 was dated 1949 and that for Lot No. 3766 only showed 1969. The OSG likewise called the attention of the Court to the fact that the payments of real estate taxes for the subject properties were intermittent. As to the size or the actual area

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[18] *Id.* at 42.

[19] *Id.* at 52-59.

[20] *Id.* at 8-35.

[21] *Id.* at 19.

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of the subject properties, according to the OSG, there were discrepancies which created doubt as to the identities of the properties being sought to be registered. The OSG wrote that "[t]he tax declaration for Lot No. 3766 for the year 1966 describes the area as six thousand eighty four (6,084) square meters. However, the tax declarations for the year 1974, 1979, 1985, 1991 and 1994 show that the area is measured at six thousand eight hundred eighty four (6,884) square meters. Finally, for 1998, the tax declaration reflects an area of five thousand eight hundred seventeen (5,817) square meters."[22]

The crux of the controversy before the Court now is whether Belmonte has successfully proven possession and occupation since June 12, 1945.

As a rule, the Court, in a petition for review on *certiorari*, is limited to reviewing only errors of law, as it is not a trier of facts.[23] There are, however, exceptions to this rule such as when: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the Court of Appeals are contrary to those of the trial court; (9) the Court of Appeals manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the Court of Appeals are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.[24]

After a careful review of the records, the Court is of the considered view that the disputed decision should be revisited

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[22] *Id.* at 25-30.

[23] *Heirs of Simeon Borlado v. Court of Appeals,* 416 Phil. 257, 261 (2001).

[24] *International Container Terminal Services, Inc. v. FGU Insurance Corporation,* G.R. No. 161539, June 28, 2008, 556 SCRA 194, 119.

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as it appears that the judgment is based on a misapprehension of facts;[25] and the CA manifestly overlooked certain relevant and undisputed facts, that if properly considered, would warrant a different conclusion.[26]

P.D. No. 1529[27] or the Property Registration Decree specifies who are qualified to apply for registration of land. In particular, Section 14(1) thereof in relation to Section 48(b) of Commonwealth Act 141, as amended by Section 4 of P.D. No. 1073,[28] states:

> SEC. 14. *Who may apply*.—The following persons may file in the proper Court of First Instance [now *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.
>
> x x x x x x x x x
>
> Section 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 [now Regional Trial Court] of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:

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[25] Exception No. 4.

[26] Exception No. 5.

[27] AMENDING AND CODIFYING THE LAWS RELATIVE TO REGISTRATION OF PROPERTY AND FOR OTHER PURPOSES.

[28] EXTENDING THE PERIOD OF FILING APPLICATIONS FOR ADMINISTRATIVE LEGALIZATION (FREE PATENT) AND JUDICIAL CONFIRMATION OF IMPERFECT AND INCOMPLETE TITLES TO ALIENABLE AND DISPOSABLE LANDS IN THE PUBLIC DOMAIN UNDER CHAPTER VII AND CHAPTER VIII OF COMMONWEALTH ACT NO. 141, AS AMENDED, FOR ELEVEN (11) YEARS COMMENCING JANUARY 1, 1977.

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x x x x x x x x x

> (b) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition of ownership, **since June 12, 1945, or earlier**, immediately preceding the filing of the application for confirmation of title except when prevented by war or *force majeure*. These 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.

Based on these legal parameters, applicants for registration of title under Section 14(1) must sufficiently establish: (*1*) that the subject land forms part of the disposable and alienable lands of the public domain; (*2*) that the applicant and his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the same; and (*3*) that his possession has been under a *bona fide* claim of ownership since June 12, 1945, or earlier.

These triple requirements of alienability and possession and occupation since June 12, 1945 or earlier under Section 14(1) are indispensable prerequisites to a favorable registration of title to the property. Each element must necessarily be proven by no less than clear, positive and convincing evidence;[29] otherwise, the application for registration should be denied.

To prove the triple requirements, Belmonte submitted the following:

A. Lot No. 3766 - Tax Declarations 4292[30] for 1966, 8966[31] for 1974, 120-008-01828[32] and 120-008-01382[33] for 1979,

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[29] *Alfredo, Preciosa, Angelita & Crisostomo, all surnamed Buenaventura v. Amparo Pascual & Republic of the Phil.*, G.R. No. 168819, November 27, 2008, 572 SCRA 143, 159.

[30] Records, p. 223.

[31] *Id.* at 222.

[32] *Id.* at 220.

[33] *Id.* at 221.

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B-008-01186[34] for 1985, C-008-00648[35] for 1991, D-008-00622[36] for 1994, D-008-02083[37] for 1998, EL-008-01718[38] for 2000 and Tax Clearance[39] for 2003.

B. Lot No. 5194 – Tax Declarations 4108[40] for 1949, 10825[41] for 1962, 3016[42] for 1966, 6832[43] for 1974, 120-010-006[44] and 120-010-00437[45] for 1979, B-010-00464[46] for 1985, C-010-00227[47] for 1991, D-010-00231[48] for 1994, D-010-00801[49] for 1998, EL-010-00581[50] for 2000, FL-010-00581[51] for 2002 and Tax Clearance[52] for 2003.

Belmonte, however, failed to convince the Court that she has met the indispensable requirements of possession since June 12, 1945 or earlier to merit the registration of the title in her

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[34] *Id.* at 219.

[35] *Id.* at 218.

[36] *Id.* at 217.

[37] *Id.* at 216.

[38] *Id.* at 9.

[39] *Id.* at 224.

[40] *Id.* at 237.

[41] *Id.* at 236.

[42] *Id.* at 235.

[43] *Id.* at 234.

[44] *Id.* at 232.

[45] *Id.* at 233.

[46] *Id.* at 231.

[47] *Id.* at 230.

[48] *Id.* at 229.

[49] *Id.* at 228.

[50] *Id.* at 227.

[51] *Id.* at 13.

[52] *Id.* at 238.

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name. Possession and occupation alone, for 30 years or more, does not suffice. As provided in P.D. No. 1073, it is mandatory that possession and occupation of the piece of land by the applicant, by himself or through his predecessors-in-interest, had commenced on June 12, 1945 or earlier.[53] The burden of proving adverse, continuous, open, and public possession in the concept of an owner rests upon the applicant, by no less than clear, positive and convincing evidence.[54]

The earliest tax declaration[55] that Belmonte showed for Lot No. 5194 was dated **1949**. Evidently, it falls short of the time requirement of possession since 1945 or earlier. More importantly, the Court cannot give any probative value to the 1949 tax declaration because the property was declared in the name of a certain Francisca Osorio *(Osorio)*. Belmonte failed to establish the connection between Francisca Osorio and her father and predecessor-in-interest, Daniel Victoria *(Daniel)*. Hence, the Court cannot tack the possession of Osorio, the name entered in the earliest tax declaration with that of Daniel, which was the name entered in later tax declarations. As to Lot No. 3766, records show that Belmonte's predecessor-in-interest started declaring the property for tax purposes only in **1966**.

Furthermore, the Court has held that intermittent and sporadic assertion of alleged ownership does not prove open, continuous, exclusive, and notorious possession and occupation. In this case, Belmonte's irregular and erratic declaration and payment of real property taxes belie her claim of open and continuous possession of the said lots.[56]

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[53] *Republic of the Philippines v. Hanover Worldwide Trading Corporation*, G.R. No. 172102, July 02, 2010, 622 SCRA 730, 739.

[54] *Republic of the Philippines v. East Silverlane Realty Development Corporation*, G.R. No. 186961, February 20, 2012, 666 SCRA 401, 421.

[55] Tax Declaration No. 4108, Records, p. 237.

[56] *Wee v. Republic of the Philippines*, G.R. No. 177384, December 8, 2009, 608 SCRA 72, 83.

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Corollarily, tax declarations are merely *indicia* of a claim of ownership.[57] The subject lots may have been declared for taxation purposes in the name of Belmonte's predecessor-in-interest, but it does not automatically prove ownership especially when the details in the tax declarations do not match. As aptly observed by the OSG, some tax declarations contain discrepancies in the area. With regard to Lot No. 3766, several tax declarations indicated the area as measuring 5,817 sq.m., while the other tax declarations showed the area as 6,884 sq.m. With Lot No. 5194, some tax declarations stated an area of 7,123 sq.m., while others had 4,235 sq.m. These inconsistencies coupled by the erratic declarations for tax, in the absence of other competent evidence, negate open and continuous possession in the concept of an owner.

As to the requirement of possession and occupation, the Court is likewise of the view that these prerequisites were not sufficiently established. It is undisputed that Belmonte resides outside the country and is not in actual possession of the said lots. Daniel, Jr. testified that his sister, Belmonte, had a tenant who cultivated the land on her behalf. To establish the tenancy, a certain Marietta took the witness stand to corroborate his statement. She was allegedly the widow of the land's previous tenant. Unfortunately, her testimony was not persuasive enough to prove the open and notorious possession and occupation of Belmonte over the disputed lots. She did not even know the sharing arrangement between her husband and Belmonte as tenant and landlord.[58] She was not able to describe how her husband tended the subject lots. Other equally relevant details as to what crops were planted, the frequency of crop planting and harvest or how her husband and his ancestors took care of the land on behalf of Belmonte were not supplied. Evidence to be acceptable must be credible, substantial and satisfactory. General, and often vague, statements as to how Belmonte, through her supposed tenant, possessed

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[57] *Valiao v. Republic*, G.R. No. 170757, November 28, 2011, 661 SCRA 299, 309-310, citing *Arbias v. Republic*, G.R. No. 173808, September 17, 2008, 565 SCRA 582, 596.

[58] TSN dated May 26, 2005, p. 5.

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the land in question, are mere verbal assertions that do not satisfy possession and occupation as required by law. *Republic v. Alconaba*[59] explained the indispensable requirement of possession and occupation in this manner:

> The law speaks of possession and occupation. Since these words are separated by the conjunction and, the clear intention of the law is not to make one synonymous with the other. Possession is broader than occupation because it includes constructive possession. When, therefore, the law adds the word occupation, it seeks to delimit the all encompassing effect of constructive possession. Taken together with the words open, continuous, exclusive and notorious, the word occupation serves to highlight the fact that for an applicant to qualify, his possession must not be a mere fiction. Actual possession of a land consists in the manifestation of acts of dominion over it of such a nature as a party would naturally exercise over his own property.

Assuming *arguendo* that somebody cultivated the land, mere casual cultivation of the land does not amount to exclusive and notorious possession that would give rise to ownership.[60] Except as to the self-serving declaration made by Marietta, no other evidence was shown by Belmonte to substantiate her statements.

Moreover, Daniel, Jr. admitted that he did not know the sharing arrangement between Belmonte and the supposed tenant, creating a cloud of doubt as to whether there was really a tenancy at all. He even conceded that the subject properties were, at that time, idle which admission, all the more weakens Belmonte's claim of possession in the concept of an owner. Vital portions of Daniel, Jr.'s testimony are herein reproduced:

> Atty. Elias: And for the guidance of this Court, who is the present tenant, if any, on this property, is there any tenant?

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[59] 471 Phil. 607, 620 (2004).

[60] *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).

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Daniel Jr.:	Now, no more, sir.
Atty. Elias:	Since when?
Daniel Jr.:	Because it (sic) always submerged in the water, if it rains real hard, it's under water, sir.
Atty. Elias:	But you mentioned a while ago that there's somebody in the name of Reyes attended to it?
Daniel Jr.:	Yes, attended to it.
Atty. Elias:	Would you know the agreement relative to the fielding of the land?
Daniel Jr.:	Some sort of so much will go to them and some go to my parents, *mas malaki sa kanila*.[61]

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, that is, he must prove his title and should not rely on the absence or weakness of the evidence of the oppositors.[62] Evidently, Belmonte's witnesses were not able to give a concrete, consistent and credible picture of how she exercised dominion or exercised control over the subject properties.

This requirement of possession and occupation since June 12, 1945, or even earlier, is very fundamental that the Court, in its September 3, 2013 Resolution in *Heirs of Mario Malabanan vs. Republic of the Philippines*,[63] emphasized that "without satisfying the requisite character and period of possession – possession and occupation that is open, continuous, exclusive, and notorious since June 12, 1945, or earlier – the land cannot be considered *ipso jure* converted to private property even upon the subsequent declaration of it as alienable and disposable."

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[61] TSN dated June 24, 2004, pp. 20-21.

[62] *Arbias v. Republic*, G.R. No. 173808, September 17, 2008, 565 SCRA 582, 597, citing *Republic v. Intermediate Appellate Court*, 217 Phil. 374, (1984), cited in *Edaño v. Court of Appeals*, G.R. No. 83995, September 4, 1992, 213 SCRA 585, 592.

[63] G.R. No. 179987, page 12.

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Thus, absent clear and convincing evidence showing a valid claim of open, continuous, exclusive, and notorious possession and occupation since June 12, 1945 or earlier, the Court is constrained to deny Belmonte's application for registration of title.

WHEREFORE, the petition is **GRANTED.** The November 22, 2010 Decision and the May 18, 2011 Resolution of the Court of Appeals in CA-G.R. CV No. 88363 are **REVERSED and SET ASIDE.** The Application for Registration of Title of respondent Carmen Victoria Belmonte in Land Registration Case No. N-11489 is **DENIED** for lack of merit.

SO ORDERED.

Velasco, Jr. (Chairperson), Peralta, Abad and *Leonen, JJ.,* concur.

THIRD DIVISION

[G.R. No. 197842. October 9, 2013]

JAIME P. ADRIANO and LEGASPI TOWERS 300, INC., *petitioners, vs.* **ALBERTO LASALA and LOURDES LASALA,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; APPEAL TO THE SUPREME COURT; PETITION FOR REVIEW ON *CERTIORARI*; FACTUAL FINDINGS OF THE COURT OF APPEALS ARE GENERALLY BINDING ON THE SUPREME COURT; EXCEPTIONS.— In the case of *Engr. Apolinario Dueñas v. Alice Guce-Africa*, it was held that the determination of the existence of a breach of contract is a factual matter not