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SECOND DIVISION

[G.R. No. 195137. June 13, 2012]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **HEIRS OF DOROTEO MONTOYA, represented by BUENAVENTURA MONTOYA,** *respondents.*

SYLLABUS

1. POLITICAL LAW; LAWS RELATIVE TO REGISTRATION OF PROPERTY (P.D. No. 1529); WHO MAY APPLY; THOSE IN POSSESSION OF DISPOSABLE LAND SINCE JUNE 12, 1945 OR EARLIER; REQUISITES. — [Respondents] seek to register the subject property in their name under Section 14(1) of P.D. No. 1529, x x x. For the respondents to rightfully claim that they have acquired an imperfect title worthy of judicial confirmation under the aforecited provision, it is incumbent upon them to prove that: (a) the land is alienable and (b) their possession and occupation must be in the manner and for the period prescribed by law. The respondents must prove by means of clear and convincing evidence that since June 12, 1945 or earlier, they and their predecessors-in-interest performed acts of dominion as anyone would naturally do over his property.

2. ID.; ID.; ID.; ID.; ID.; APPLYING SEC. 48 (B) OF THE PUBLIC LAND ACT WHICH REFERS TO AGRICULTURAL LANDS OF THE PUBLIC DOMAIN, POSSESSION AND OCCUPATION THAT DATES BACK TO JUNE 12, 1945 OR EARLIER; ELUCIDATED. — Commonwealth Act No. 141, otherwise known as the Public Land Act, governs the classification and disposition of lands of the public domain. It is clear under Section 48(b) thereof, which applies exclusively to agricultural lands of the public domain, that possession is not enough. In order to emphasize the necessity for actual possession and exclude fictional or constructive possession, Section 48(b) speaks of possession *and* occupation. As explained by this Court in *Republic of the Philippines v. Alconaba*: 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. It does not matter whether the applicant for registration has been in possession and occupation only after June 12, 1945 for the requirements for confirmation of title is deemed complied with as his predecessors-in-interest's possession and occupation that date back to June 12, 1945 or earlier are tacked to his. Thus, it is of great importance that there exists "well-nigh incontrovertible" evidence that the applicant's predecessors-in-interest had been in possession and occupation of the property sought to be registered since June 12, 1945.

3. ID.; ID.; ID.; ID.; ID.; ID.; TAX DECLARATION FOR THE YEAR 1947 WITH THE ANNOTATION THAT REALTY TAX WERE PAID UNDER THE SAME DECLARATION SINCE 1940, NOT SUFFICIENT. — The only evidence that the respondents were able to present to prove that Feliciano occupied and possessed the subject property from 1940 until he sold the same to Doroteo in 1952 is the tax declaration for the year 1947, which bears the note to the effect that realty tax payments were paid under the same declaration since 1940. This annotation cannot be relied upon in the absence of an explanation why the tax declarations for the years previous to 1947 cannot be presented. Without the need for an elaborate extrapolation, this annotation, by itself, is far from being the credible and competent evidence that the law requires in proving when possession and occupation actually started. A tax declaration, much less a tax declaration the existence of which is proved by means of an annotation, is not a conclusive evidence of ownership, which is, at best, only a basis for inferring possession. However, inference cannot support a claim of imperfect title as it is far from the "well-nigh incontrovertible" evidence required under prevailing jurisprudence. [And] even assuming that Feliciano had been in possession and occupation of the subject property since 1940, this Court finds that the respondents had not sufficiently demonstrated that his supposed possession and occupation were of the nature and character contemplated by law.

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APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Teodorico N. Diesmos for respondents.

D E C I S I O N

REYES, *J.*:

This is a petition for review under Rule 45 of the Rules of Court assailing the Decision[1] dated August 11, 2010 and Resolution[2] dated December 21, 2010 of the Court of Appeals (CA) in CA-G.R. CV No. 92125.

The facts leading to the filing of this petition are undisputed.

On November 12, 2004, the respondents filed with the Municipal Trial Court in Cities, Tagaytay City (MTCC) an Application[3] for land registration covering a parcel of land identified as Lot No. 14839-B, Cad-355 of the Tagaytay Cadastre, situated at *Barangay* Maitim II West, Tagaytay City and with an area of 16,854 square meters. In support of their application docketed as LRC No. N-089-2004, the respondents alleged that: (a) sometime in 1952, their father, Doroteo Montoya (Doroteo), purchased the subject property from Feliciano Bayot (Feliciano); (b) they inherited the subject property from Doroteo, who died in 1972; (c) on December 30, 1996, as Doroteo's heirs, they executed a *"Kasulatan ng Labas ng Hukumang Pagsasalin ng Namatay sa Kanyang Tagapagmana"*; and (d) from the time Doroteo died, they have been in possession of the property in the concept of an owner and this is evidenced by the fruit-bearing trees they planted on the property and the tax declarations in their names.

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[1] Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Mario V. Lopez and Elihu A. Ybañez, concurring; *rollo*, pp. 40-51.

[2] *Id.* at 52-53.

[3] *Id.* at 58-63.

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During trial, the respondents presented the testimonies of Buenaventura Montoya (Buenaventura) and Juan Reyes (Juan). Essentially, Buenaventura corroborated the allegations in the application. On the other hand, Juan, who was then seventy-eight (78) years old, testified that he is aware of Doroteo's ownership of the subject property since he was seven (7) years old and that the respondents assumed ownership following Doroteo's death.[4]

The respondents also submitted twelve (12) tax declarations to show that their predecessors-in-interest, Feliciano and Doroteo, had been in possession of the property since 1940:

Tax Declaration No.	Year	Tax Declaration No. Cancelled
01637	1948	369
C5900-A	1955	01637
08143-A	No Year Stated	C5900-A
015463-A-1	1966	06143-A
017347-A	1966	015463-A
020487-A	1969	017347-A
020506-A	1969	020487-A
05483-B	1974	020506
011-0624	1980	05483-B
011-0380	1985	011-0624
011-0781	1994	011-0380
98-011-0861	1998	011-0781
ARPN-2001-020-00243		
ARPN-020-00592		
7559085	1999	
0073606	2004	

[4] *Id.* at 13-14.

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On June 6, 2008, the MTCC rendered a Decision,[5] granting the respondents' application, the dispositive portion of which states:

> WHEREFORE, this Court hereby approves the application for registration and thus places under the operation of Act 141, Act 496 and/or Presidential Decree No. 1529, otherwise known as the Property Registration Law that parcel of land described as Lot No. 14839-B[,] Cad-355 Csd-04-028178-D, containing an area of SIXTEEN THOUSAND [EIGHT] HUNDRED FIFTY FOUR (16,854) SQUARE METERS, more or less, in the name of THE HEIRS [of] Doroteo Montoya represented by Buenaventura Montoya at Barangay Talon, Amadeo, Cavite.
>
> Once, this DECISION becomes final and executory, the corresponding decree of registration shall forthwith issue[.]
>
> SO ORDERED.[6]

On August 26, 2008, the petitioner moved for reconsideration.[7] According to the petitioner, assuming that the respondents are relying on Section 14(1) of Presidential Decree (P.D.) No. 1529, their petition cannot prosper since the subject land was declared alienable and disposable not on or before June 12, 1945 but only on March 15, 1982 per the Community Environment and Natural Resources Office Report dated May 12, 2005. On the other hand, if the respondents' application for registration is anchored on Section 14(2) of P.D. No. 1529, they must prove that the property is alienable and disposable for the entire period that they were in possession, which should not be less than thirty (30) years. However, since the subject property became alienable and disposable only on March 15, 1982, the respondents had yet to complete the prescriptive period of thirty (30) years at the time they filed their application on November 12, 2004.

In an Order[8] dated September 11, 2008, the MTCC denied the petitioner's motion for reconsideration. Citing *Republic of*

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[5] *Id.* at 54-57.

[6] *Id.* at 57.

[7] *Id.* at 64-73.

[8] *Id.* at 74-75.

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the Philippines v. Court of Appeals and Naguit,[9] the MTCC ruled that the respondents had complied with the requirements of Section 14(1) of P.D. No. 1529 as what is important is that the property had been declared alienable and disposable at the time of the filing of the application.

On appeal to the CA, the findings of the MTCC were affirmed and the respondents were deemed to have perfected a registrable title over the subject property. Citing *Heirs of Mario Malabanan v. Republic*,[10] the CA ruled that under Section 14(1) of P.D. No. 1529, it is not required that the property be declared alienable and disposable prior to June 12, 1945. The legal requirements are complied with if possession in the concept of an owner commenced on or before June 12, 1945 and the property had been declared alienable and disposable prior to the filing of the complaint.

The Supreme Court, in the latest case of *Heirs of Mario Malabanan vs. Republic of the Philippines*, discussed the applicability of the provision of Section 14(1) of Presidential Decree No. 1529 and had formulated one of the issues, which is applicable in the present case, as follows:

> "1. In order that an alienable and disposable land of the public domain may be registered under Section 14(1) of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, should the land be classified as alienable and disposable as of June 12, 1945 or is it sufficient that such classification occur at any time prior to the filing of the applicant for registration provided that it is established that the applicant has been in open, continuous, exclusive and notorious possession of the land under a *bona fide* claim of ownership since June 12, 1945 or earlier?"

Said query was answered in the following manner:

> "(1) In connection with Section 14(1) of the Property Registration Decree, Section 48(b) of the Public Land Act recognizes and confirms that "'those who by themselves or

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[9] 489 Phil. 405 (2005).

[10] G.R. No. 179987, April 29, 2009, 587 SCRA 172.

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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 acquisition of ownership since June 12, 1945"' have acquired ownership of, and registrable title to, such lands based on the length and quality of their possession.

(a) Since Section 48(b) merely requires possession since 12 June 1945 and does not require that the lands should have been alienable and disposable during the entire period of possession, the possessor is entitled to secure judicial confirmation of his title thereto as soon as it is declared alienable and disposable, subject to the timeframe imposed by Section 47 of the Public Land Act.

(b) The right to register granted under Section 48(b) of the Public Land Act is further confirmed by Section 14(1) of the Property Registration Decree.

x x x x x x x x x"

Applying the above ruling to the present case, appellees have established that they have acquired ownership over the property under Section 48(b) of the Public Land Act. Appellees and their predecessors-in-interest, particularly Feliciano Bayot and Doroteo Montoya, have been in possession of the property since June 12, 1945 or earlier. The documentary and testimonial evidence presented by appellees proved that, indeed, they have been in open, continuous, exclusive and notorious possession and occupation of the subject property.[11] (Citations omitted)

The CA also ruled that the respondents had sufficiently proved that their possession and that of their predecessors-in-interest were of the nature required by law.

Tax Declaration Number 01637-A showed that the property was declared for taxation purposes on November 14, 1947 by Feliciano Bayot, the predecessor-in-interest of appellees, wherein the area of the property was 32,732 square meters. The said tax declaration cancelled Tax No. 369, which was issued earlier than November 14, 1947, for the same states 1940. Tax Declaration No. 01637-A was cancelled by Tax Declaration No. C5900-A by virtue of a Deed of

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[11] *Rollo*, pp. 48-49.

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Sale executed on May 31, 1954 and the tax thereon began in 1955 and the same was declared in the name of Doroteo Montoya, the father of appellees herein. Records further showed that thereafter, several tax declarations were issued in the name of the late Doroteo Montoya, from Exhibit Q to Exhibit Z, wherein the total land area of 32,732 square meters was reduced to 21,071 and further to the present size of 16,854 square meters due to the two deeds of sale executed by Doroteo Montoya in favor of Marcial Montoya.

Although tax declarations and realty tax payments of property are not conclusive evidence of ownership, nevertheless, they are good *indicia* of the possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government.[12] (Citations omitted)

The petitioner moved for reconsideration but this was denied by the CA in a Resolution[13] dated December 21, 2010.

The petitioner would want this Court to reverse and set aside the adverse issuances of the CA and dismiss the respondents' attempt to register the subject property in their names. The petitioner claimed that: (a) the respondents cannot register the property under Section 14(1) of P.D. No. 1529 as they failed to prove that they and their predecessors-in-interest possessed the property openly, continuously and exclusively under a *bona fide* claim of ownership since June 12, 1945 or earlier; (b) there is no evidence that Feliciano, from whom Doroteo allegedly purchased property sometime in 1952, possessed and occupied the same in the manner prescribed by law;[14] (c) the respondents cannot tack their possession to that of Feliciano, assuming that he possessed the property in the concept of an owner, without

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[12] *Id.* at 49-50.

[13] *Supra* note 2.

[14] *Rollo*, pp. 23-27.

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credible proof that a valid transfer of rights actually took place between Feliciano and Doroteo;[15] (d) there is no proof that Doroteo exercised acts of dominion over the property;[16] (e) the tax declaration in Feliciano's name is for the year 1947, belying the allegation that he was already in possession of the property on or before June 12, 1945; (f) there was an annotation at the back of the tax declaration for the year 1947 stating that "tax under said declaration begins with year 1940" but the CA erred in immediately concluding that Feliciano was already occupying the property in the concept of an owner as early as 1940 when there is no explanation as to why the tax declarations issued prior to 1947 were not presented in evidence;[17] (g) the twelve (12) tax declarations, being sporadic and intermittent assertions of ownership for a period of sixty-five (65) years, negate the claim that the respondents and their predecessors-in-interest possessed the property openly, continuously, exclusively and notoriously;[18] (h) in the absence of evidence that the respondents and their predecessors-in-interest performed definite acts of ownership over the property, the tax declarations do not prove that the respondents had acquired a registrable title;[19] (i) neither can the respondents register under Section 14(2) as they have not acquired title over the subject property by prescription; and (j) only patrimonial properties of the State are susceptible to being acquired by prescription and there is no evidence that the subject property, while alienable and disposable, can be considered as patrimonial by reason of an express declaration that it is no longer intended for public service or development of national wealth.[20]

The respondents, on the other hand, maintain the correctness of the conclusions made by the CA and the MTCC. According

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[15] *Id.* at 31-33.

[16] *Id.* at 27.

[17] *Id.* at 28.

[18] *Id.* at 29-30.

[19] *Id.* at 30-31.

[20] *Id.* at 33-35.

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to the respondents, they had acquired an imperfect title over the subject property under Section 14(1) of P.D. No. 1529. The respondents alleged that: (a) Feliciano and Doroteo occupied and possessed the subject property in the concept of an owner as evidenced by the tax declarations in their names; (b) Feliciano was already in possession of the property as early as 1940 as shown by the tax declarations in his name; (c) the various plants and fruit-bearing trees on the property conclusively prove that they and their predecessors-in-interest had possessed and occupied the property in the manner prescribed by law; (d) the testimonies of Buenaventura and Juan adequately describe the nature and character of their possession; and (d) tax declarations may not pass as conclusive evidence of ownership but they are, at least, proof that the holders thereof have an adverse claim over the property.

Our Ruling

The respondents categorically stated that they seek to register the subject property in their name under Section 14(1) of P.D. No. 1529, which provides:

> SEC. 14. *Who may apply.* – The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:
>
> (1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession of alienable and disposable lands of the public domain since June 12, 1945, or earlier.

For the respondents to rightfully claim that they have acquired an imperfect title worthy of judicial confirmation under the aforecited provision, it is incumbent upon them to prove that: (a) the land is alienable and (b) their possession and occupation must be in the manner and for the period prescribed by law.[21] The respondents must prove by means of clear and convincing

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[21] See *Republic v. Court of Appeals*, G.R. No. 108998, August 24, 1994, 235 SCRA 567, 576.

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evidence that since June 12, 1945 or earlier, they and their predecessors-in-interest performed acts of dominion as anyone would naturally do over his property.[22]

Commonwealth Act No. 141, otherwise known as the Public Land Act, governs the classification and disposition of lands of the public domain. It is clear under Section 48(b) thereof, which applies exclusively to agricultural lands of the public domain,[23] that possession is not enough. In order to emphasize the necessity for actual possession and exclude fictional or constructive possession, Section 48(b) speaks of possession *and* occupation. As explained by this Court in *Republic of the Philippines v. Alconaba*:[24]

> 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.[25] (Citations omitted)

It does not matter whether the applicant for registration has been in possession and occupation only after June 12, 1945 for the requirements for confirmation of title is deemed complied with as his predecessors-in-interest's possession and occupation that date back to June 12, 1945 or earlier are tacked to his. Thus, it is of great importance that there exists "well-nigh incontrovertible" evidence that the applicant's predecessors-in-interest had been in possession and occupation of the property sought to be registered since June 12, 1945.

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[22] See *Mistica v. Republic*, G.R. No. 165141, September 11, 2009, 599 SCRA 401, 411, citing *Ong v. Republic*, G.R. No. 175746, March 12, 2008, 548 SCRA 160, 167-168.

[23] See *Director of Lands v. Judge Santiago*, 243 Phil. 355, 363 (1988).

[24] 471 Phil. 607 (2004).

[25] *Id.* at 620.

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This Court's review of the records of this case reveals, rather unfortunately, that Feliciano's purported possession and occupation of the subject property had not been convincingly established to have commenced on June 12, 1945 or earlier.

The only evidence that the respondents were able to present to prove that Feliciano occupied and possessed the subject property from 1940 until he sold the same to Doroteo in 1952 is the tax declaration for the year 1947, which bears the note to the effect that realty tax payments were paid under the same declaration since 1940. This annotation cannot be relied upon in the absence of an explanation why the tax declarations for the years previous to 1947 cannot be presented. Without the need for an elaborate extrapolation, this annotation, by itself, is far from being the credible and competent evidence that the law requires in proving when possession and occupation actually started. A tax declaration, much less a tax declaration the existence of which is proved by means of an annotation, is not a conclusive evidence of ownership, which is, at best, only a basis for inferring possession.[26] However, inference cannot support a claim of imperfect title as it is far from the "well-nigh incontrovertible" evidence required under prevailing jurisprudence.

Nonetheless, even assuming that Feliciano had been in possession and occupation of the subject property since 1940, this Court finds that the respondents had not sufficiently demonstrated that his supposed possession and occupation were of the nature and character contemplated by law. None of the witnesses presented by the respondents testified as to what specific acts of ownership were exercised by Feliciano on the subject property and their general statements on the matter are mere conclusions of law and do not qualify as competent evidence of open, continuous, exclusive and notorious possession and occupation.

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[26] See *Republic of the Phils. v. CA*, 328 Phil. 238 (1996).

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Alconaba[27] was resolved against the applicants as their claim of possession and occupation that began in 1940 is based on unsubstantiated and self-serving assertions. Specifically:

> In any case, respondents' bare assertions of possession and occupation by their predecessors-in-interest since 1940 (as testified to by Carmencita) or since 1949 (as testified to by Mauricio and declared in respondents' application for registration) are hardly "the well-nigh incontrovertible" evidence required in cases of this nature. Proof of specific acts of ownership must be presented to substantiate their claim. They cannot just offer general statements which are mere conclusions of law than factual evidence of possession. Even granting that the possession by the respondents' parents commenced in 1940, still they failed to prove that their predecessors-in-interest had been in open, continuous, exclusive, and notorious possession and occupation of the subject land under a *bona fide* claim of acquisition of ownership.[28] (Citations omitted)

This Court finds no reason to decide this case differently. Similar to the parties in *Alconaba*, the respondents failed to account for any act of occupation, development, cultivation or maintenance over the property done by Feliciano for the length of time that he was supposedly in possession. The respondents may have alleged that there are various plants and fruit-bearing trees on the property but they did not present any proof that these supposed manifestations of ownership are attributable to Feliciano. Neither the existence of these plants and trees — their numbers unspecified — decisively show that the subject property was actively and regularly cultivated and maintained — not merely casually or occasionally tended to.

The CA and the MTCC clearly erred in relying on pieces of evidence that are clearly wanting. It is plainly patent and there is no gainsaying that the respondents failed to prove that they and their predecessors-in-interest have been in continuous, exclusive, and adverse possession and occupation thereof in the concept of owners from June 12, 1945 or earlier.

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[27] *Supra* note 24.

[28] *Id.* at 620.

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Considering the proven tendency of the courts to be imprudent and their lack of sagacity when it comes to land registration cases, the advice at circumspection previously issued by this Court deserves reiteration:

> Both under the 1935 and the present Constitutions, the conservation no less than the utilization of the natural resources is ordained. There would be a failure to abide by its command if the judiciary does not scrutinize with care applications to private ownership of real estate. To be granted, they must be grounded in well-nigh incontrovertible evidence. Where, as in this case, no such proof would be forthcoming, there is no justification for viewing such claim with favor. It is a basic assumption of our polity that lands of whatever classification belong to the state. Unless alienated in accordance with law, it retains its rights over the same as *dominus*.[29] (Citations omitted)

> To serve the ends of social justice, which is the heart of the 1987 Constitution, the State promotes an equitable distribution of alienable agricultural lands of the public domain to deserving citizens, especially the underprivileged. A land registration court must, therefore, exercise extreme caution and prudent care in deciding an application for judicial confirmation of an imperfect title over such lands so that the public domain may not be raided by unscrupulous land speculators.[30] (Citation omitted)

WHEREFORE, premises considered, the petition is **GRANTED**. The Decision dated August 11, 2010 and Resolution dated December 21, 2010 of the Court of Appeals in CA-G.R. CV No. 92125 are **SET ASIDE**. The respondents' application for registration of Lot No. 14839-B, Cad-355 of the Tagaytay Cadastre is **DENIED**.

SO ORDERED.

Carpio, Senior Associate Justice (Chairperson), Brion, Perez, and *Sereno, JJ.,* concur.

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[29] *Santiago v. De los Santos*, 158 Phil. 809, 816 (1974).

[30] *Supra* note 24, at 613.