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In addition, interest at the rate of six percent (6%) per annum shall be imposed on all damages awarded from the date of finality of this judgment until fully paid, likewise pursuant to prevailing jurisprudence.[42]

WHEREFORE, the Decision dated March 17, 2009 of the Court of Appeals, sentencing petitioner Arnel Sison *y* Escuadro to *reclusion perpetua* for the crime of qualified rape, is hereby **AFFIRMED** with **MODIFICATION** that he is **ORDERED** to pay AAA the reduced amounts of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages. Petitioner is also **ORDERED** to pay ₱30,000.00 as exemplary damages and interest at the rate of six percent (6%) per annum is imposed on all the damages awarded from the date of finality of this judgment until fully paid.

Petitioner's conviction of Illegal Possession of Firearms is hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.

Velasco, Jr. (Chairperson), Abad, Mendoza, and *Perlas-Bernabe, JJ.,* concur.

SECOND DIVISION

[G.R. No. 189021. February 22, 2012]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **LUCIA M. GOMEZ,** *respondent.*

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[42] *Id.*, citing *People v. Jimmy Alverio*, G.R. No. 194259, March 16, 2011; *People v. Jose Galvez y Blanco*, G.R. No. 181827, February 2, 2011.

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SYLLABUS

1. **CIVIL LAW; LAND REGISTRATION; PROPERTY REGISTRATION DECREE (P.D. 1529); APPLICATION FOR REGISTRATION; REQUISITES; CERTIFICATION FROM THE COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICER (CENRO) IS INADEQUATE TO PROVE THAT THE LAND WAS ALIENABLE AND DISPOSABLE.—** In *Republic v. Doldol*, we said that the Public Land Act requires that the applicant must prove (a) that the land is alienable public land; and (b) that the open, continuous, exclusive and notorious possession and occupation of the land must have been either since time immemorial or for the period prescribed in the Public Land Act. In resolving the case at bar, we find *Republic of the Philippines v. T.A.N. Properties, Inc*, is on all fours with the present case. In 1999, T.A.N. Properties sought the registration of a property for which it presented a Certification from the CENRO. Thus, we held that this Certification was inadequate to prove that the land was alienable and disposable, to wit: **The well-entrenched rule is that all lands not appearing to be clearly of private dominion presumably belong to the State. The onus to overturn, by incontrovertible evidence, the presumption that the land subject of an application for registration is alienable and disposable rests with the applicant**.

2. **ID.; ID.; ID.; WHO MAY APPLY; REQUISITES NOT COMPLIED WITH.—** It is likewise important to note that the Certifications considered by the CA were not presented during trial, but only on appeal. This being so, the genuineness and due execution of these documents were not proven. Furthermore, they did not cover the contested property, but merely the lots adjacent to it. In conclusion, respondent was not able to comply with Sec. 14(1) of P.D. 1529, or the Property Registration Decree, which states: Who May Apply. — The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives: (1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation **of alienable and disposable lands of the public**

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domain under a *bona fide* claim of ownership since June 12, 1945, or earlier.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Gepty Dela Cruz Morales & Associates for respondent.

D E C I S I O N

SERENO, *J.*:

The present Petition seeks to reverse the Decision[1] of the Court of Appeals (CA) promulgated on 24 July 2009. The Decision affirmed the order for the registration of a 430-square meter property situated in *Barangay* Andagao, Kalibo, Aklan in the name of herein respondent.

The facts are as follows:

Lot No. 2872, Csd 06-005822, Psc. 24, Kalibo, Cadastre was alleged to have been originally possessed by Gabriel Gomez. In 1936, his nephew Emilio Gomez, who was the father of respondent herein, bought the lot in a public auction and declared it under the name of the heirs of Gabriel Gomez.

In 1945, the lot was declared for taxation purposes and was issued Tax Declaration (TD) No. 2234. In 1955, Emilio declared part of Lot No. 2872 under his name. When he died in 1969, his surviving spouse and children allegedly took continuous possession and occupancy of the lot, for which they paid real property tax. On 29 December 1986, the lot was allegedly partitioned by Emilio's heirs when they executed a Deed of Adjudication with Consolidation and Extrajudicial Partition, by which Lot No. 2872-I was allegedly partitioned to respondent.

Thus, on 15 December 1999, respondent filed an Application for registration of title with regard to her part.

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[1] Penned by Associate Justice Florito S. Macalino, with Associate Justices Stephen C. Cruz and Rodil V. Zalameda, concurring; *rollo*, pp. 49-56.

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Meanwhile, herein petitioner filed its Opposition to the Application on the following grounds:

1. That neither the [respondent] nor [her] predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the land in question since June 12, 1945 or prior thereto (Sec. 48 (b), C.A. 141,[2] as amended by P.D. 1073).

2. That the muniments of title and/or the tax declaration/s and tax payment/s (sic) receipts of [respondent] does (sic) not constitute competent and sufficient evidence of bona fide acquisition of lands applied for; or her open, continuous, exclusive and notorious possession and occupation thereof, in the concept of owner, since June 12, 1945 or prior thereto. The alleged tax declarations adverted to in the petition do not appear to be genuine and the tax declaration/s and/or tax payment receipt/s indicate the pretended possession of applicant/s to be recent vintage.

3. That the claim of ownership in fee simple on the basis of Spanish title or grant can no longer be availed of by the applicant/s who have failed to file an appropriate application for registration within the period of six (6) months from February 16, 1976 as required by P.D. No. 892.[3] From the records, it appears that the instant application was filed on April 21, 1998.[4]

4. That the parcel/s applied for is/are portions of the public domain belonging to the Republic of the Philippines not subject to private appropriation.[5]

On 28 November 2002, the Municipal Trial Court (MTC) rendered its Decision[6] in favor of respondent, the dispositive portion of which states:

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[2] Commonwealth Act No. 141, or The Public Land Act.

[3] Discontinuance of the Spanish Mortgage System of Registration and of the Use of Spanish Titles as Evidence in Land Registration Proceedings.

[4] Note that in the narration of facts by the CA, the application was filed on 15 December 1999.

[5] *Rollo*, p. 21.

[6] *Id.* at 57-60.

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WHEREFORE, premises considered, judgment is hereby rendered ordering the parcel of land described in the survey plan of Lot 2872 as Lot No. 2872-I, Csd-06-005822, Psc-24 Kalibo Cadastre and its corresponding technical description with an area of four hundred thirty (430) square meters, more or less, situated in Brgy. Andagao, Kalibo, Aklan, Philippines brought under the Property Registration Degree (sic) (P.D. 1529) and the title thereto registered and confirmed in the name of Lucia M. Gomez, single, Filipino, of legal age, and resident of Toting Reyes Street, Kalibo, Aklan, Philippines.

SO ORDERED.

On appeal, petitioner alleged that respondent failed to prove that the subject lot was alienable and disposable; that she was further not able to prove open, continuous, exclusive, and peaceful possession for at least thirty (30) years; and that the requirements of Presidential Decree (P.D.) No. 1529[7] had not been complied with.

Petitioner asserted that respondent had the burden to prove that the subject lot was alienable and disposable. Failing to present this certification, she failed to overcome that burden.

Petitioner also contended that the witnesses of respondent gave general statements and inconsistent testimonies. In addition, it posited that tax declarations under respondent's name or those of her predecessors were not conclusive proofs of ownership in land registration cases.

Finally, petitioner pointed out that respondent failed to state in her application or to testify whether she wanted to have the line of way or road determined, in accordance with Sec. 20 of P.D. 1529.

Subsequently, the CA dismissed the appeal. It held that the Certification made by Geodetic Engineer Rafael Escabarte that the land was alienable and disposable was sufficient. The Certification states:

I HEREBY CERTIFY THAT THIS IS INSIDE THE ALIENABLE AND DISPOSABLE AREA AS PER L.C. MAP NO. 2415, PROJECT

[7] Property Registration Decree.

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NO. 1 OF KALIBO, AKLAN, CERTIFIED BY THE BUREAU OF FOREST DEVELOPMENT NOW DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES ON DEC. 22, 1960 AND IT IS OUTSIDE CIVIL, (sic) AND MILITARY RESERVATION.

This Certification was found in the subdivision plan of Lot No. 2872, the mother lot of Lot No. 2872-I.[8] The subdivision plan was also approved by the Officer-in-Charge, Regional Technical Director Edgardo R. Gerobin of the Land Management Division of the Department of Environment and Natural Resources (DENR). The CA also considered that the Community Environment and Natural Resources Officer (CENRO) also certified[9] that the lots adjacent to Lot No. 2872-I were alienable and disposable.

Finally, the CA affirmed the MTC's findings of fact with regard to respondent's open, continuous, exclusive and notorious possession and occupation of the subject lot.

Petitioner is now before this Court contending that the CA erred in ruling that respondent was able to sufficiently prove that the land was alienable and disposable; and that she had possessed the subject lot in the manner and for the duration required by law.

The Petition is meritorious.

In *Republic v. Doldol*,[10] we said that the Public Land Act requires that the applicant must prove (a) that the land is alienable public land; and (b) that the open, continuous, exclusive and notorious possession and occupation of the land must have been either since time immemorial or for the period prescribed in the Public Land Act.

In resolving the case at bar, we find *Republic of the Philippines v. T.A.N. Properties, Inc.*[11] is on all fours with the present

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[8] *Rollo*, p. 109.

[9] *Id.* at 110-114.

[10] 356 Phil. 670 (1998).

[11] G.R. No. 154953, 26 June 2008, 555 SCRA 477.

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case. In 1999, T.A.N. Properties sought the registration of a property for which it presented a Certification from the CENRO. Thus, we held that this Certification was inadequate to prove that the land was alienable and disposable, to wit:

> The well-entrenched rule is that all lands not appearing to be clearly of private dominion presumably belong to the State. The onus to overturn, by incontrovertible evidence, the presumption that the land subject of an application for registration is alienable and disposable rests with the applicant.
>
> In this case, respondent submitted two certifications issued by the Department of Environment and Natural Resources (DENR). The 3 June 1997 Certification by the Community Environment and Natural Resources Offices (CENRO), Batangas City, certified that "lot 10705, Cad-424, Sto. Tomas Cadastre situated at Barangay San Bartolome, Sto. Tomas, Batangas with an area of 596,116 square meters falls within the ALIENABLE AND DISPOSABLE ZONE under Project No. 30, Land Classification Map No. 582 certified [on] 31 December 1925." The second certification in the form of a memorandum to the trial court, which was issued by the Regional Technical Director, Forest Management Services of the DENR (FMS-DENR), stated "that the subject area falls within an alienable and disposable land, Project No. 30 of Sto. Tomas, Batangas certified on Dec. 31, 1925 per LC No. 582."
>
> **The certifications are not sufficient. DENR Administrative Order (DAO) No. 20, 18 dated 30 May 1988, delineated the functions and authorities of the offices within the DENR. Under DAO No. 20, series of 1988, the CENRO issues certificates of land classification status for areas below 50 hectares**. The Provincial Environment and Natural Resources Offices (PENRO) issues certificate of land classification status for lands covering over 50 hectares. DAO No. 38, dated 19 April 1990, amended DAO No. 20, series of 1988. DAO No. 38, series of 1990 retained the authority of the CENRO to issue certificates of land classification status for areas below 50 hectares, as well as the authority of the PENRO to issue certificates of land classification status for lands covering over 50 hectares. **In this case, respondent applied for registration of Lot 10705-B. The area covered by Lot 10705-B is over 50 hectares (564,007 square meters). The CENRO certificate covered the entire Lot 10705 with an area of 596,116 square meters which, as per DAO No. 38, series of 1990, is beyond**

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the authority of the CENRO to certify as alienable and disposable.

The Regional Technical Director, FMS-DENR, has no authority under DAO Nos. 20 and 38 to issue certificates of land classification. Under DAO No. 20, the Regional Technical Director, FMS-DENR:

1. Issues original and renewal of ordinary minor products (OM) permits except rattan;

2. Approves renewal of resaw/mini-sawmill permits;

3. Approves renewal of special use permits covering over five hectares for public infrastructure projects; and

4. Issues renewal of certificates of registration for logs, poles, piles, and lumber dealers.

Under DAO No. 38, the Regional Technical Director, FMS-DENR:

1. Issues original and renewal of ordinary minor [products] (OM) permits except rattan;

2. Issues renewal of certificate of registration for logs, poles, and piles and lumber dealers;

3. Approves renewal of resaw/mini-sawmill permits;

4. Issues public gratuitous permits for 20 to 50 cubic meters within calamity declared areas for public infrastructure projects; and

5. Approves original and renewal of special use permits covering over five hectares for public infrastructure projects.

Hence, the certification issued by the Regional Technical Director, FMS-DENR, in the form of a memorandum to the trial court, has no probative value.

Further, 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

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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 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.**

Public documents are defined under Section 19, Rule 132 of the Revised Rules on Evidence as follows:

(a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;

(b) Documents acknowledged before a notary public except last wills and testaments; and

(c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

Applying Section 24 of Rule 132, the record of public documents referred to in Section 19 (a), when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record, or by his deputy…**The CENRO is not the official repository or legal custodian of the issuances of the DENR Secretary declaring public lands as alienable and disposable. The CENRO should have attached an official publication of the DENR Secretary's issuance declaring the land alienable and disposable.**

Section 23, Rule 132 of the Revised Rules on Evidence provides:

> Sec. 23. Public documents as evidence. — Documents consisting of entries in public records made in the performance of a duty by a public officer are *prima facie* evidence of the facts stated therein. All other public documents are evidence,

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even against a third person, of the fact which gave rise to their execution and of the date of the latter.

The CENRO and Regional Technical Director, FMS-DENR, certifications do not fall within the class of public documents contemplated in the first sentence of Section 23 of Rule 132. The certifications do not reflect "entries in public records made in the performance of a duty by a public officer," such as entries made by the Civil Registrar in the books of registries, or by a ship captain in the ship's logbook. The certifications are not the certified copies or authenticated reproductions of original official records in the legal custody of a government office. The certifications are not even records of public documents. The certifications are conclusions unsupported by adequate proof, and thus have no probative value. Certainly, the certifications cannot be considered *prima facie* evidence of the facts stated therein.

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.)

It is likewise important to note that the Certifications considered by the CA were not presented during trial, but only on appeal. This being so, the genuineness and due execution of these documents were not proven. Furthermore, they did not cover the contested property, but merely the lots adjacent to it.

In conclusion, respondent was not able to comply with Sec. 14(1) of P.D. 1529, or the Property Registration Decree, which states:

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

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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. (Emphasis supplied.)

WHEREFORE, in view of the foregoing, the Petition is hereby **GRANTED**. The Court of Appeals Decision in CA-G.R. CV No. 79088 is hereby **SET ASIDE**. The application for registration filed by Lucia M. Gomez is **DENIED**.

SO ORDERED.

Carpio (Chairperson), Villarama, Jr.,[*] *Perez,* and *Reyes, JJ.,* concur.

SECOND DIVISION

[G.R. No. 190794. February 22, 2012]

JOSAN, JPS, SANTIAGO CARGO MOVERS, and MARY GRACE S. PARUNGAO,[*] *petitioners, vs.* **EDUARDO RAMOS ADUNA,** *respondent.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; TERMINATION OF EMPLOYMENT; ABANDONMENT; ELEMENTS.—

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[*] Designated as Acting Member of the Second Division vice Associate Justice Arturo D. Brion per Special Order No. 1195 dated 15 February 2012.

[*] The case title indicated in the Petition filed before this Court was followed. However, a review of court records reveals that petitioners were also referred to as "JO-SAN TRUCKING CORPORATION / SANTIAGO CARGO MOVERS, INC. / JPS SANTIAGO CARGO MOVERS, INC., and MARY GRACE S. PARUNGAO." *See* respondent's Position Paper, pp. 1-3; *rollo*, pp. 53-55.