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have similar characteristics have been combined into fund groups. Accordingly, all financial transactions have been recorded and reported by fund group.[47]

ACCORDINGLY, I vote to **GRANT** the Petition of De La Salle University, Inc. and to **SET ASIDE** the deficiency assessments issued against it.

THIRD DIVISION

[G.R. No. 200726. November 9, 2016]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **MATEO LAO**, *respondent.*

SYLLABUS

1. CIVIL LAW; PRESIDENTIAL DECREE NO. 1529 (PROPERTY REGISTRATION DECREE); REQUIREMENTS WHICH AN APPLICANT FOR REGISTRATION OF TITLE OVER A PARCEL OF LAND MUST ESTABLISH UNDER SECTION 14 (1) OF P.D. NO. 1529, CITED; NOT PRESENT IN CASE AT BAR.— Under Section 14(1) of P.D. No. 1529, it is imperative for an applicant for registration of title over a parcel of land to establish the following: (1) possession of the parcel of land under a bona fide claim of ownership, by himself and/or through his predecessors-in-interest since June 12, 1945, or earlier; and (2) that the property sought to be registered is already declared alienable and disposable at the time of the application. x x x It is settled that the applicant must present proof of specific acts of ownership to substantiate the claim and cannot just offer general statements, which are mere conclusions of law rather than factual evidence of possession. "Actual possession consists

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[47] *Rollo* (G.R. No. 198841), pp. 127-128.

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in the manifestation of acts of dominion over it of such a nature as a party would actually exercise over his own property." x x x Clearly, the totality of evidence presented by Lao failed to establish that he and his predecessors-in-interest have been in peaceful, open, continuous, exclusive, and notorious possession and occupation of the same in the concept of owners since June 12, 1945 or earlier. Lao's claim of ownership of the subject properties based on the tax declarations he presented will not prosper. It is only when these tax declarations are coupled with proof of actual possession of the property that they may become the basis of a claim of ownership.

2. ID.; ID.; THE APPLICANT FOR LAND REGISTRATION MUST PROVE THAT THE DENR (DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES) SECRETARY HAD APPROVED THE LAND CLASSIFICATION AND RELEASED THE LAND OF THE PUBLIC DOMAIN AS ALIENABLE AND DISPOSABLE, AND THAT THE LAND SUBJECT OF APPLICATION FOR REGISTRATION FALLS WITHIN THAT APPROVED AREA.— 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 Provincial Environment and Natural Resources Office (PENRO) or Community Environment and Natural Resources Office (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. x x x It bears stressing that a notation in a survey plan indicating that a parcel of land is inside the alienable and disposable land of the public domain 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.

APPEARANCES OF COUNSEL

Office of the Solicitor General for petitioner.
Mario Jay Mayol for respondent.

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R E S O L U T I O N

REYES, *J.*:

This is a petition for review on *certiorari*[1] under Rule 45 of the Rules of Court seeking to annul and set aside the Decision[2] dated February 1, 2012 issued by the Court of Appeals (CA) in CA-G.R. CEB-CV No. 81180.

Facts

On November 16, 2000, Mateo Lao (Lao) filed with the Municipal Circuit Trial Court (MCTC) of Liloan-Compostela, Cebu an Application for Original Registration of Title of two parcels of land situated in Barangay Estaca, Compostela, Cebu. The subjects of the Application are Lot Nos. 206 and 208 covered by Compostela Subdivision AP-072218-001228 containing a total area of 8,800 square meters.[3] Lao alleged in his Application that he acquired the subject properties by purchase and that he and his predecessors-in-interest have been in peaceful, open, continuous, exclusive, and notorious possession and occupation of the same in the concept of owners prior to June 12, 1945.[4] Lao attached in his application the following documents: (1) tracing cloth plan; (2) white print of plan; (3) technical description of the subject properties; (4) Geodetic Engineer's Certificate; and (5) Certificate of Assessment.[5]

The case was set for initial hearing by the MCTC on January 11, 2002; Lao's counsel offered evidence to establish the jurisdictional facts of the case. After marking the jurisdictional requirements, the case was called three times for the benefit of

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[1] *Rollo*, pp. 18-40.

[2] Penned by Associate Justice Ramon Paul L. Hernando, with Associate Justices Edgardo L. Delos Santos and Victoria Isabel A. Paredes concurring; *id*. at 42-50.

[3] *Id*. at 20.

[4] *Id*. at 43.

[5] *Id*. at 46.

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any oppositors to the application. There being no oppositors, the MCTC issued an Order of General Default, except as against the State.[6] Lao testified that he acquired the subject properties in 1990 from Vicente Calo (Vicente), as evidenced by a Deed of Absolute Sale. He claimed that he possessed the subject properties through his caretaker Zacarias Castro (Zacarias), who planted the same with different kinds of fruit-bearing trees.[7]

Zacarias, testifying in behalf of Lao, alleged that he is familiar with the subject properties since he is the owner of a lot adjacent thereto. He averred that the subject properties were initially owned by his father Casimiro Castro (Casimiro). After his father's death, the subject properties were possessed by Perpetua Calo (Perpetua), and later by Vicente who sold the same to Lao in 1990. Zacarias claimed that he has been the caretaker of the subject properties from the time the same were owned by Perpetua in the 1950s up to the present.[8]

On July 26, 2002, the MCTC rendered a Decision granting Lao's application. The case was later re-opened after the MCTC received the Opposition filed by the Republic of the Philippines (petitioner) on August 8, 2002.[9] Trial on the merits of Lao's application ensued thereafter.

Consequently, however, the MCTC rendered a Decision dated November 28, 2002, granting Lao's application. Thus, the MCTC directed the issuance of Original Certificate of Title over the subject properties. The petitioner appealed the Decision dated November 28, 2002 of the MCTC to the CA, maintaining that Lao has failed to establish that he and his supposed predecessors-in-interest had been in open, continuous, exclusive and notorious possession and occupation of the subject properties under a claim of ownership since June 12, 1945.[10]

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[6] *Id*.

[7] *Id*. at 23.

[8] *Id*.

[9] *Id*. at 46.

[10] *Id*. at 47.

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On February 1, 2012, the CA rendered the herein assailed Decision,[11] affirming the MCTC ruling. The CA opined that the evidence presented by Lao reflects the twin requirements of ownership and possession over the subject properties for at least 30 years. The CA further held that Lao and his predecessors-in-interest have been religiously paying taxes on the subject properties, which is good indicium of possession in the concept of an owner.[12]

In this petition for review on *certiorari*, the petitioner maintains that the requirement of open, continuous, exclusive and notorious possession and occupation of the subject properties under a bona fide claim of ownership since June 12, 1945 had not been complied with.[13] Further, the petitioner claims that the lower courts erred in granting Lao's application since there was no proof that the subject properties had been classified as within the alienable and disposable land of the public domain.[14]

On the other hand, Lao avers that the subject properties form part of the alienable and disposable lands of the public domain; he explains that the Land Management Bureau of the Department of Environment and Natural Resources (DENR) would not have approved the tracing cloth plan of the subject properties if the same are not alienable and disposable.[15] He further claims that the lower courts' findings as regards the nature of his and his predecessors-in-interest's possession and occupation of the subject properties are findings of fact, which is conclusive upon this Court.[16]

Issue

Essentially, the issue for the Court's resolution is whether Lao's application for original registration of the subject properties should be granted.

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[11] *Id*. at 42-50.

[12] *Id*. at 48.

[13] *Id*. at 31.

[14] *Id*. at 27.

[15] *Id*. at 76.

[16] *Id*. at 77.

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Ruling of the Court

The petition is granted.

Section 14 of Presidential Decree (P.D.) No. 1529, otherwise known as the Property Registration Decree, enumerates those who may apply for original registration of title to land, *viz.*:

> 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 and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership since June 12, 1945, or earlier.
>
> (2) Those who have acquired ownership of private lands by prescription under the provision of existing laws.
>
> (3) Those who have acquired ownership of private lands or abandoned river beds by right of accession or accretion under the existing laws.
>
> (4) Those who have acquired ownership of land in any other manner provided for by law.
>
> x x x x

A perusal of Lao's application shows that he applied for original registration of the subject properties under Section 14(1) of P.D. No. 1529, claiming that he and his predecessors-in-interest have been in peaceful, open, continuous, exclusive, and notorious possession and occupation of the same in the concept of owners prior to June 12, 1945.[17]

Under Section 14(1) of P.D. No. 1529, it is imperative for an applicant for registration of title over a parcel of land to establish the following: (1) possession of the parcel of land under a bona fide claim of ownership, by himself and/or through his predecessors-in-interest since June 12, 1945, or earlier; and

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[17] *Id*. at 21.

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(2) that the property sought to be registered is already declared alienable and disposable at the time of the application.[18]

The lower courts erred in ruling that Lao was able to establish that he and his predecessors-in-interest have been in peaceful, open, continuous, exclusive, and notorious possession and occupation of the same in the concept of owners prior to June 12, 1945. It is settled that the applicant must present proof of specific acts of ownership to substantiate the claim and cannot just offer general statements, which are mere conclusions of law rather than factual evidence of possession.[19] "Actual possession consists in the manifestation of acts of dominion over it of such a nature as a party would actually exercise over his own property."[20]

The CA, in concluding that Lao met the required possession and occupation of the subject properties for original registration, opined that:

> It bears stressing that [Lao] and his [predecessors-in-interest] have been religiously paying taxes thereon. In *Rosalina Clado-Reyes[,] et al. v. Spouses Limpe*, the Supreme Court reiterated that tax declarations or realty tax receipts are not conclusive evidence of ownership. Nevertheless, they are good indicia of possession in the concept of an 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. Here, the payment of the taxes on the subject land by [Lao] and his [predecessors-in-interest] adequately established the fact of their successive possession over the lot.
>
> Moreover, contrary to the allegations of [the petitioner], [Lao] and his [predecessors-in-interest], particularly [Vicente], had in fact performed acts of possession over the subject land. [Vicente] had cultivated the land through [Zacarias], its caretaker, as supported by the tax declarations showing that the land was planted with fruit

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[18] *See Heirs of Mario Malabanan v. Republic of the Philippines*, 605 Phil. 244, 262 (2009).

[19] *See Republic of the Philippines v. Carrasco*, 539 Phil. 205, 216 (2006).

[20] *Republic of the Philippines v. Candy Maker, Inc.*, 525 Phil. 358, 376-377 (2006).

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bearing trees. This jibes with [Zacarias'] assertion that at the time that he worked on the land of [Vicente], he was asked to appropriate the land's income for the payment of real estate taxes as the latter was already living abroad. This proves that [Vicente] actually exercised acts of ownership and dominion over the subject land and that his possession thereof was not mere fiction. That he appointed a caretaker over the land shows [Vicente's] vigilance in protecting his interest over his property. The same actuations can be readily gleaned from [Lao] who also engaged the services of [Zacarias] to care for and guard the land that he bought from [Vicente].[21]

The Court does not agree.

Lao's testimony only established that he exercised possession over the subject properties, through Zacarias, when he acquired the same in 1990. On the other hand, Zacarias' testimony only showed that he was the caretaker of the subject properties since the 1950s when the same were still owned by Perpetua.

Further, Lao only mentioned the various transfers of the subject properties from the original owner, Casimiro, to Perpetua; from Perpetua to Vicente; and from Vicente to him. He failed to establish the specific period covering the alleged possession of each of the purported predecessors-in-interest. Furthermore, Lao's allegation as regards the supposed ownership of the subject properties by his predecessors-in-interest is bereft of any documentary proof.

Moreover, as pointed out by the petitioner, Lao failed to offer a reasonable explanation as to why the subject properties were declared for taxation purposes in the name of a certain Ambrocio Calo who, however, was not even identified by Lao as one of his predecessors-in-interest. Clearly, the totality of evidence presented by Lao failed to establish that he and his predecessors-in-interest have been in peaceful, open, continuous, exclusive, and notorious possession and occupation of the same in the concept of owners since June 12, 1945 or earlier.

Lao's claim of ownership of the subject properties based on the tax declarations he presented will not prosper. It is

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

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only when these tax declarations are coupled with proof of actual possession of the property that they may become the basis of a claim of ownership.[22] As already stated, Lao failed to prove that he and his predecessors-in-interest actually possessed the subject properties since June 12, 1945 or earlier.

The lower courts likewise failed to consider that Lao has not even presented a scintilla of proof that the subject properties form part of the alienable and disposable lands of the public domain. "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."[23]

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 Provincial Environment and Natural Resources Office (PENRO) or Community Environment and Natural Resources Office (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.[24]

Lao failed to present any evidence showing that the DENR Secretary had indeed approved a land classification and released the land of the public domain as alienable and disposable, and that the subject properties fall within the approved area per verification through survey by the PENRO or CENRO. Lao merely presented a tracing cloth plan, supposedly approved by the Land Management Bureau of the DENR, which allegedly

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[22] *See Cequeña v. Bolante*, 386 Phil. 419, 422 (2000).

[23] *Rep. of the Phils. v. T.A.N. Properties, Inc.*, 578 Phil. 441, 450 (2008).

[24] *Id*. at 452-453.

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showed that the subject properties indeed form part of the alienable and disposable lands of the public domain.

It bears stressing that a notation in a survey plan indicating that a parcel of land is inside the alienable and disposable land of the public domain 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.[25]

WHEREFORE, in consideration of the foregoing disquisitions, the petition is **GRANTED**. The Decision dated February 1, 2012 issued by the Court of Appeals in CA-G.R. CEB-CV No. 81180 is hereby **REVERSED and SET ASIDE**. Mateo Lao's Application for Original Registration of Title of Lot Nos. 206 and 208, GSS-1272, under Compostela Subdivision AP-072218-001228, is **DENIED** for lack of merit.

SO ORDERED.

Peralta (Acting Chairperson),[*] *del Castillo,*[**] and *Perez, JJ.,* concur.

Velasco, Jr., J., on official leave.

THIRD DIVISION

[G.R. No. 202114. November 9, 2016]

ELMER A. APINES, *petitioner, vs.* **ELBURG SHIPMANAGEMENT PHILIPPINES, INC., and/or DANILO F. VENIDA,** *respondents.*

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[25] *See Menguito v. Republic*, 401 Phil. 274, 287-288 (2000).

[*] Acting Chairperson per Special Order No. 2395 dated October 19, 2016.

[**] Additional Member per Raffle dated January 5, 2015 *vice* Associate Justice Francis H. Jardeleza.