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prision mayor, as minimum, to Fourteen (14) years, Eight (8) months and One (1) day of *reclusion temporal*, as maximum.

Costs *de oficio*.

SO ORDERED.

Davide, Jr., C.J., Panganiban, Carpio, and *Azcuna, JJ.,* concur.

FIRST DIVISION

[G.R. No. 155138. June 8, 2004]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **SPS. TEODORO and DELIA KALAW,** *respondents*.

SYNOPSIS

Challenged in this petition for review is the adjudication in favor of the respondents of a parcel of land containing 450 sq. more or less, located at Batong Malake, Los Baños, Laguna. The petitioner appealed the trial court's decision granting appellant Teodoro Kalaw's application for land registration. Petitioner alleged that Teodoro Kalaw is a citizen of the United States of America; that the original tracing cloth plan was not marked and presented in evidence; and that the respondents failed to establish open, continuous, exclusive, and notorious possession and occupation of the subject land. The Court of Appeals affirmed the decision of the trial court. Unsatisfied with the decision, petitioner filed this petition for review with the Supreme Court.

The Supreme Court granted this petition. The Court found that the subject property was admittedly a part of the public domain; hence, the applicable provision is Section 48 (b) of C.A. 141, as amended. The present version of the said law requires that the adverse and continuous possession of the property should be "since June 12, 1945, or earlier." However,

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the findings of the trial court in this case revealed that the possession of the property could only be reckoned from 1960. Although the possession by the respondent and their predecessor-in-interest is more than 37 years at the time of filling the application for registration, such possession will not suffice for purposes of judicial confirmation of title. Clearly, both the trial court and the Court of Appeals gravely erred in granting the respondent's application for registration of the land in question.

SYLLABUS

1. **CIVIL LAW; LAND REGISTRATION; JUDICIAL CONFIRMATION OF IMPERFECT TITLES; PERSONS QUALIFIED TO FILE APPLICATION FOR REGISTRATION OF LAND; EXPRESS REQUIREMENTS.—** In the present version of Section 48(b) of C.A. No. 141, as amended by P.D. No. 1073, the phrase "for at least thirty years" was substituted with the phrase "since June 12, 1945, or earlier." The date "12 June 1945" was reiterated in Section 14(1) of P. D. No. 1529, otherwise known as the *Property Registration Decree*, which provides: 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.*

2. **ID.; ID.; ID.; ID.; POSSESSION; POSSESSION FOR 37 YEARS, NOT SUFFICIENT FOR PURPOSES OF JUDICIAL CONFIRMATION OF TITLE; POSSESSION SHOULD BE SINCE 12 JUNE 1945 OR EARLIER.—** Possession by the respondents may, therefore, be reckoned from 1960, as testified to by Sta. Maria. Although the possession by the respondents and their predecessor-in-interest is more than 37 years already as of the time of the filing of the application for registration, that possession will not suffice for purposes of judicial confirmation of title. What is required is open, continuous, exclusive, and notorious possession and occupation by

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themselves or through their predecessors-in-interest, under a *bona fide* claim of ownership, since 12 June 1945 or earlier.

3. ID.; ID.; ID.; ID.; OBLIGED TO PROVE COMPLIANCE WITH THE REQUIREMENTS; RATIONALE.— It is doctrinally settled that a person who seeks confirmation of imperfect or incomplete title to a piece of land on the basis of possession by himself and his predecessors-in-interest shoulders the burden of proving by clear and convincing evidence compliance with the requirements of Section 48(b) of C.A. No. 141, as amended. We find that the respondents failed to discharge that burden. Clearly, both the trial court and the Court of Appeals gravely erred in granting their application for registration of the land in question. While it is an acknowledged policy of the State to promote the distribution of alienable public lands as a spur to economic growth and in line with the ideal of social justice, the law imposes stringent safeguards upon the grant of such resources lest they fall into the wrong hands to the prejudice of the national patrimony. We must not, therefore, relax the stringent safeguards relative to the registration of imperfect titles.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Ronald E. Javier for respondents.

D E C I S I O N

DAVIDE, JR., *C.J.:*

Challenged in this petition for review is the adjudication in favor of the respondents of a parcel of land described as Lot 1811, Cad-450, Los Baños Cadastre, containing an area of 540 square meters, more or less, located at Batong Malake, Los Baños, Laguna.

On 3 July 1978, respondents Spouses Teodoro Kalaw and Delia Thalia-Kalaw purchased from their father Nicolas Kalaw the said parcel of land, as evidenced by a Deed of Sale of Unregistered Parcel of Land.[1] On 25 November 1997, the

[1] Exhibit "N," OR, 173-174.

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respondents filed with the Regional Trial Court of Calamba, Laguna, an application[2] for the registration in their names of the said parcel of land, which was docketed as RTC LRC No. 122-97-C.

Petitioner Republic of the Philippines, represented by the Director of Lands through the Office of the Solicitor General (OSG), filed an Opposition[3] to the application on the following grounds: (1) neither the respondents nor their predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the land in question for thirty years; (2) the muniments of title and tax declarations of the respondents do not constitute competent and sufficient evidence of a *bona fide* acquisition of the land applied for, and do not appear to be genuine; (3) the respondents can no longer claim ownership in fee simple on the basis of Spanish title or grant, since they failed to file the appropriate application for registration within the period of six months from 16 February 1976, as required by Presidential Decree No. 892; and (4) the parcel of land applied for forms part of the public domain and is not subject to private appropriation.

During the initial hearing on 12 October 1998, the respondents marked and offered in evidence their exhibits proving compliance with the jurisdictional requirements. Since no opposition was presented from the public, a general default was declared by the trial court.[4]

The respondents presented as first witness Mr. Robert C. Pangyarihan, Chief of the Surveys Division, Land Management Bureau, Department of Environment and Natural Resources (DENR), Region IV-A. He identified the Advance Plan[5] for Lot 1811 and the Technical Description,[6] which were both

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[2] Exh. "A," OR, 1-2.

[3] Exh. "C," OR, 35-37.

[4] OR, 95-96.

[5] Exh. "I," OR, 6.

[6] Exh. "J," OR, 4.

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verified and found correct by the former Chief of the Surveys Division, Danilo A. Arellano, as well as the Certification[7] of 27 August 1998 which he himself issued stating therein that "Lot 1811 of Cad-450, Los Baños Cadastre, covered by plan Ap-04-011535 is not a portion of, and or identical to, any previously approved isolated survey."

The second witness Rodolfo S. Gonzales, Land Management Investigator of the Community Environment and Natural Resources Office (CENRO), DENR, Los Baños, Laguna, confirmed his Report[8] dated 12 October 1998 that after conducting an ocular inspection of the land subject of the application, he found that that the property is not covered by any patent or title, but by a public land application of Nicolas Kalaw.[9]

To prove possession, the respondents presented Roberto Sta. Maria and Ignacio Nuñez. Sta. Maria, who was 69 years old when he took the witness stand, testified that he was employed in 1960 by Teodoro Kalaw as a mechanic of Chit's Theater, a movie house located at Batong Malake, Los Baños, Laguna. Since that time no person had ever made a claim over the land where the theater was located.[10] For his part, Nuñez, who was 74 years old at the time he testified, declared that Nicolas Kalaw bought the subject property from his (Ignacio's) mother, Silvina Banasihan, and thereafter took possession thereof. No person had ever claimed possession or ownership over the said property until it was sold to Teodoro Kalaw.[11]

The testimony of respondents' other witness Susan Kalaw Pua was dispensed with after the public prosecutor agreed to stipulate on the proposed testimony of the witness that (1) she was the attorney-in-fact of her father, Teodoro Kalaw, who was abroad; (2) the land in question was bought by her father from her grandfather; (3) her father had been religiously paying the real

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[7] Exh. "K," OR, 101.

[8] Exh. "L," OR, 102.

[9] TSN, 6 November 1998, 6-9.

[10] TSN, 20 November 1998, 3-4.

[11] *Id*., 6-7.

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estate taxes on the subject property.[12] In lieu of her oral testimony, the respondents marked in evidence Susan's special power of attorney, certified photocopies of the deed of sale[13] executed by Nicolas Kalaw in favor of the respondents and Tax Declaration No. 005-0528[14] in their names; and certifications issued by the Treasurer's Office of Los Baños, Laguna, that the taxes due on the property had been fully paid up to December 1998[15] and that there is "no tax delinquency."[16]

On 11 February 1999 the trial court, acting on the Report[17] dated 11 January 1999 of Director Felino M. Cortez, Department on Registration, LRA, directed the Land Management Bureau of Manila, the CENRO of Los Baños, Laguna, and the Forest Management Bureau of Manila to submit a report on the status of the subject parcel of land by determining whether the said lot or any portion thereof was already covered by a land patent, and was within the area classified as alienable and disposable land of the public domain. It also ordered the Lands Management Sector to verify the discrepancy in area and boundaries pointed out by Director Cortez and to make the necessary correction.[18]

On 20 May 1999, the trial court issued an Order[19] directing the respondents to secure and submit the final report of the LRA within fifteen days from receipt of the order. No final report having been submitted, the trial court, in its Order[20] of 13 July 1999, dismissed the application for registration for insufficiency of evidence.

Subsequently, on 22 July 1999, the trial court received the Supplementary Report[21] of Director Cortez informing it of the

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[12] TSN, 4 December 1998.

[13] OR, 173-174.

[14] Exh. "P" OR, 175.

[15] Exh. "Q," OR, 179.

[16] Exh. "O," OR, 178.

[17] Exh. "R," OR, 143.

[18] OR, 149.

[19] *Id*., 185.

[20] *Id*., 186-187.

[21] *Id*., 189.

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correct tie line of Lot 1811 and that when the corrected tie line was applied in the replotting of plan Ap-04-011535, Lot 1811, Cad-450, Los Baños Cadastre, "no more discrepancy exists without any change in its area and boundaries."

On 5 August 1999, the trial court rendered a decision[22] adjudicating the subject property in favor of the respondents and directing the issuance of a decree of registration once the decision becomes final and executory.

In its motion for reconsideration,[23] the petitioner, through the OSG, pointed out that the trial court did not acquire jurisdiction over the case because the tracing cloth plan, a jurisdictional requirement, was not presented.[24] The respondents opposed the motion, arguing that the polyteline cloth plan was forwarded by the Clerk of Court to the LRA, and that besides, such issue was not raised during the hearing of the petition. In its Order of 7 December 1999,[25] the trial court denied the motion on the ground that no substantial arguments were adduced to warrant the reversal of the decision.

The petitioner appealed from the decision to the Court of Appeals contending that the trial court erred in granting the application for land registration because (1) Teodoro Kalaw is a citizen of the United States of America; (2) the original tracing cloth plan was not marked and presented in evidence; and (3) the respondents failed to establish open, continuous, exclusive, and notorious possession and occupation of the subject land.

In its 23 August 2002 Decision,[26] the Court of Appeals affirmed *in toto* the decision of the trial court. It brushed aside the first assigned error for having been raised for the first time on appeal. As to the second assigned error, it pointed out that

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[22] Per Judge Antonio M. Eugenio, Jr. *Rollo*, 72-76.

[23] OR, 206-208.

[24] *Id.*, 221-222.

[25] *Id.*, 232-233.

[26] Per Associate Justice Mercedes Gozo-Dadole, with Associate Justices Salvador J. Valdez, Jr., and Amelita G. Tolentino, concurring. *Rollo*, 51-62.

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there was no need to mark and submit in evidence the original tracing cloth plan because the identity of the subject lot was sufficiently established by the documents attached to the application of the respondents. As regards the last assigned error, the Court of Appeals declared that since it is a question of fact, the trial court's evaluation of the testimonies of the witnesses is received on appeal with the highest respect and should not, therefore, be disturbed.

Obviously unsatisfied with the decision of the Court of Appeals, the petitioner came to us *via* this petition for review. It alleged that the Court of Appeals committed reversible error in not finding that the respondents failed to prove adverse and continuous possession of the property for thirty years since 12 June 1945 or earlier, and in not finding that respondent Teodoro Kalaw is not qualified to own lands in the Philippines because he is an American citizen.

In our Resolution of 18 August 2003[27] requiring the parties to submit their respective memoranda, we specifically stated:

> No new issues may be raised by a party in his/its Memorandum and the issues raised in his/its pleadings but not included in the Memorandum shall be deemed waived or abandoned.
>
> Being summations of the parties' previous pleadings, the Court may consider the Memoranda alone in deciding or resolving this petition.

In its Memorandum, the petitioner did not pursue anymore the issue of Teodoro Kalaw's citizenship. Hence, such issue is deemed abandoned conformably to the above-quoted Resolution. Moreover, the issue of non-submission of the original tracing cloth plan raised in the said Memorandum may neither be considered, it being a new issue for not having been raised as an error in the petition filed with this Court. The ruling of the Court of Appeals thereon shall stand.

What, therefore, remains to be resolved is whether the Court of Appeals erred in affirming the trial court's decision granting respondents' application for registration.

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[27] *Rollo,* 184-185.

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The respondents maintain that the parcel of land subject of original registration is a private land previously owned by Silvina Banasihan, whose prior ownership and possession was never disputed. As such, its registration is authorized under Section 14, paragraph 2, of P.D. No. 1529, which does not require proof of open, adverse, and continuous possession by their predecessors since 12 June 1945 or earlier. It is sufficient that they prove open, public, and adverse possession for at least thirty years prior to the filing of the application for registration pursuant to Articles 1118, 1137, and 1138 of the Civil Code. And, that 30-year period should be reckoned not from 12 June 1945 or earlier, but from 1960 when respondents' father and predecessor-in-interest Nicolas Kalaw purchased the property from its previous owner Silvina Banasihan.

Such claim of the respondents that the land subject of their application for registration is a private land is belied by their own evidence. The sworn report[28] submitted by respondent's own witness Rodolfo Gonzales states that the subject property is "covered by FPA (IV-3) 11988 Nicolas Kalaw-applicant." In his testimony in court, Mr. Gonzales confirmed that the land in question is "covered by a public land application of a certain Nicolas Kalaw,"[29] the father of respondent Teodoro Kalaw. He also declared that such free patent application (FPA) was still pending approval in his office.[30]

With these documentary and testimonial evidence adduced by the respondents themselves showing that the subject parcel of land is covered by a public land or free patent application, they cannot now claim that the land is a private land, which can be acquired by prescription pursuant to Articles 1118, 1137, and 1138 of the Civil Code.

Neither can the respondents take refuge in the letter[31] of Isidro L. Mercado of CENRO informing the trial court's Clerk

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[28] Exh. "L," OR, 102.

[29] TSN, 6 November 1998, 7.

[30] *Id.*, 7-8.

[31] OR, 84.

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of Court that the subject lot is within the disposable land under Land Classification Project No. 15 of Los Baños, Laguna, certified and declared as such on 31 December 1925. Nowhere is it stated that the said land is private and not part of the public domain.

Likewise, we find no basis in the Court of Appeals' statement that "the Supplementary Report submitted and presented by the LRA dated June 29, 1999 thru Felino Cortez, Director of the Department of Registration, states that there is no legal obstacle or impediment for the registration of the subject property, which therefore removes the same from being within the coverage and classification within the public domain."[32] After a cursory reading of that Report, we found no such statement, not even an implied one. It only recommended that "the corrected tie line of the subject lot . . . be approved."[33]

Since the subject property is admittedly part of the public domain, the applicable provision is Section 48(b) of C.A. 141, as amended.

The OSG argues that respondents failed to prove adverse and continuous possession of the property for thirty years since 12 June 1945. The OSG must have been confused by our previous decisions regarding the requirement of a 30-year period of open, adverse, and continuous possession for judicial confirmation of imperfect title. It must be pointed out that such 30-year period was based on the provisions of Section 48(b) of C.A. No. 141, as amended by Republic Act No. 1942,[34] which read:

> 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 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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[32] CA Decision, 10; *Rollo*, 60.

[33] OR, 189.

[34] Effective on 22 June 1957.

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(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, for at least thirty years 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.

However, on 25 January 1977, during the martial law regime, then President Ferdinand Marcos enacted P.D. No. 1073, whose Section 4 provides:

SEC. 4. The provisions of Section 48(b) and Section 48(c), Chapter VIII, of the Public Land Act are hereby amended in the sense that these provisions shall apply only to alienable and disposable lands of the public domain which have been in open, continuous, exclusive and notorious possession and occupation by the applicant himself or through his predecessor-in-interest, under a *bona fide* claim of acquisition of ownership, since June 12, 1945.

Thus, in the present version of Section 48(b) of C.A. No. 141, as amended by P.D. No. 1073, the phrase "for at least thirty years" was substituted with the phrase "since June 12, 1945, or earlier." The date "12 June 1945" was reiterated in Section 14(1) of P. D. No. 1529,[35] otherwise known as the *Property Registration Decree*, which provides:

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*

[35] Effective on 11 June 1978.

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> claim of ownership *since June 12, 1945, or earlier*. (Italics supplied).

Incidentally, P.D. No. 1073 set 31 December 1987 as the deadline for judicial confirmation of imperfect and incomplete titles to alienable and disposable land of the public domain. This deadline was extended to 31 December 2000 by R.A. No. 6940. Since the application of the respondents was filed with the trial court in 1997, their application for judicial confirmation of title was thus filed on time.

The required period of possession and the time frame within which to file a petition for judicial confirmation of imperfect title having been clarified, we now proceed to determine the issue of whether the respondents were able to prove open, continuous, exclusive, and notorious possession and occupation of the subject parcel of land under a *bona fide* claim of ownership since 12 June 1945 or earlier. This issue is obviously a question of fact.

Ordinarily, we defer to the findings of facts of the trial court, especially when they are affirmed by the Court of Appeals. However, when they are not supported by the record or are so glaringly erroneous as to constitute a serious abuse of discretion, we shall not hesitate to overturn such finding.[36] We do so in this case.

In the decision rendered by the trial court, it concluded that the respondents' predecessors-in-interest were in open, continuous, public, and adverse possession of the land for more than thirty years prior to the filing of the petition. It did not state the factual basis of its finding.

The Court of Appeals, on the other hand, made the following finding of fact and conclusion:

As emphasized, appellee Teodoro Kalaw is the son of Spouses Nicolas Kalaw and Juliana Laluces. The latter acquired the subject

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[36] *Republic v. Intermediate Appellate Court*, G.R. No. 68946, 22 May 1992, 209 SCRA 214; *Republic v. Alconaba*, G.R. No. 155012, 14 April 2004.

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lot from the original owner thereof, Silvina Banasihan in 1960. And, from the time the parents (predecessor-in-interest) of Teodoro Kalaw took possession of the subject property in 1960, they erected and built a movie house known as Chit's Theater, which is popular and known to many of the residents and the neighboring areas of Brgy. Batong Malake, Los Baños, Laguna, which have been patronized by many moviegoers as it is situated in the center of business area or *poblacion*. This fact is supported by the testimonies of appellees' witnesses namely: Roberto Sta. Maria, Ignacio Nuñez and Susan Kalaw-Pua stating that the appellees were now the owners of the subject property by means of a deed of sale and that the same property has been declared for taxation purposes.[37]

This finding is not supported by the testimonies of respondents' witnesses. Roberto Sta. Maria testified as follows:

Q Mr. Sta. Maria, do you know a certain Teodoro Kalaw from Los Baños, Laguna?

A Yes, sir.

Q Why do you know Teodoro Kalaw?

A He became my employer when he was operating a movie theater, sir.

Q What is the name of this movie theater?

A Chit theater, sir.

Q And this Chit theater, where is it located?

A Batong Malake, Los Baños, Laguna.

Q And who is the owner of that land where this theater is located?

A Nicolas Kalaw, sir.

Q And what is the relation between Nicolas and Teodoro?

A Teodoro is the son of Nicolas, sir.

Q At present, who is the owner of that property or land where this Chit theater is located?

A Teodoro Kalaw, sir.

Q And from whom did Teodoro Kalaw acquire the said property?

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[37] *Rollo*, 60-61.

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A From his father Nicolas Kalaw, sir.

Q Now, you said earlier that you are an employee of the Kalaws over their theater known as Chit theater situated at Batong Malake, Los Baños, Laguna please tell the Court the nature of your work as employee in the said theater?

A During the time that they were operating the whole theater I was their mechanic.

Q And please tell the Court what year was that when you started to be employed in the theater of the Kalaws?

A 1960, sir.

Q From that period of time up to the present, do you know of any person who ever made a claim over that land located at Batong Malake, Los Baños, Laguna where that Chit theater is located?

A No one, sir.

Q You said that the Kalaws are the owners of that land, why do you know that they are the owners of that land?

A Because from the time I worked with them they are the owners of that property.

ATTY. ILAGAN:

That will be all for the witness, your honor.

COURT:

Cross.

FISCAL:

Q Do you know the adjacent owner of the property subject of this petition?

A If you are going to San Pablo City and you are facing the building constructed in that property, on its right is owned by Nuñez while on the left I forgot the owner of the property.

Q Do you know how long has the applicant [been] in possession of this property?

A They were occupying the property from the time I started work with them in 1960.

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Q When you first came to know this property, do you know its classification?

A As far as I know it is a commercial because a movie theater is constructed on that property.

Q And from your observation, could you describe the nature of possession of the applicants over this property?

A What I know is that that property was owned by Nicolas Kalaw and was sold to Teodoro Kalaw, his son.[38]

For his part, Ignacio Nuñez testified as follows:

Q Mr. Nuñez, do you know Nicolas Kalaw?

A Yes, sir.

Q Why do you know him?

A I came to know him from the time he bought that property from my mother, sir.

Q You mentioned about a property that was bought by Nicolas Kalaw from your mother, where is that property located?

A The property beside our property.

Q Where is that located?

A Also at Batong Malake, Los Baños, Laguna.

Q Please tell the Court the name of your mother from whom Nicolas Kalaw bought the property?

A Silvina Banasihan.

Q Now after your mother Silvina Banasihan sold that property to Nicolas Kalaw, who took possession of that property?

A Nicolas Kalaw.

Q And as of this present time, who is the owner of the property which your mother sold to Nicolas Kalaw?

A The son of Nicolas Kalaw named Teodoro.

Q Now, from the time that Nicolas bought that property until Nicolas Kalaw sold the said property to Teodoro Kalaw, his

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[38] TSN, 20 November 1998, 3-5.

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son, was there any person who ever claimed possession or ownership of that property which your mother sold?

A No one, sir.[39]

Worth noting is the fact that no document was presented to prove the alleged sale of the subject property by Silvina Banasihan to Nicolas Kalaw. The Court of Appeals' finding that the property was purchased by Nicolas from Silvina Banasihan in 1960 is devoid of any factual basis. Ignacio Nuñez simply testified that her mother sold the property, but he did not state when it was allegedly sold. The year 1960 was mentioned by Roberto Sta. Maria as the year when he started working at Chit's theater, but not the year when Nicolas Kalaw acquired the property. Neither is there any evidence of the possession by Nicolas Kalaw's predecessor-in-interest, Silvina Banasihan. In fact, there is nothing on record which shows how Silvina Banasihan acquired the subject land.

The evidence presented by the respondents that may prove possession are (1) the testimony of Roberto Sta. Maria that as early as 1960, he worked as a mechanic in the movie house owned and operated by the Kalaws, which was erected on the subject lot; (2) the Deed of Sale of Unregistered Land[40] dated 3 July 1978; and (3) the Report[41] of Rodolfo Gonzales of the CENRO stating, among other things, that the subject lot was declared for taxation purposes in the name of Nicolas Kalaw for the first time in 1970. Notably, tax declarations or realty tax payments of property 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.[42]

Possession by the respondents may, therefore, be reckoned from 1960, as testified to by Sta. Maria. Although the possession

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[39] TSN, 20 November 1998, 6-7.

[40] Exh. "N," OR, 173.

[41] Exh. "L," OR, 102.

[42] *Republic v. Court of Appeals*, G.R. No. 108926, 12 July 1996, 258 SCRA 712, 720; *Republic v. Alconaba, supra* note 36.

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by the respondents and their predecessor-in-interest is more than 37 years already as of the time of the filing of the application for registration, that possession will not suffice for purposes of judicial confirmation of title. What is required is open, continuous, exclusive, and notorious possession and occupation by themselves or through their predecessors-in-interest, under a *bona fide* claim of ownership, since 12 June 1945 or earlier.

It is doctrinally settled that a person who seeks confirmation of imperfect or incomplete title to a piece of land on the basis of possession by himself and his predecessors-in-interest shoulders the burden of proving by clear and convincing evidence[43] compliance with the requirements of Section 48(b) of C.A. No. 141, as amended.[44] We find that the respondents failed to discharge that burden. Clearly, both the trial court and the Court of Appeals gravely erred in granting their application for registration of the land in question.

While it is an acknowledged policy of the State to promote the distribution of alienable public lands as a spur to economic growth and in line with the ideal of social justice, the law imposes stringent safeguards upon the grant of such resources lest they fall into the wrong hands to the prejudice of the national patrimony.[45] We must not, therefore, relax the stringent safeguards relative to the registration of imperfect titles.[46]

WHEREFORE, the instant petition is *GRANTED*. The Decision of the Court of Appeals of 23 August 2002 in CA-G.R. CV No. 66620 is *REVERSED* and *SET ASIDE*. Respondents' application for registration and issuance of title to Lot 1811, Cad-450, Los

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[43] *Republic v. Court of Appeals*, G.R. No. 83995, 4 September 1992, 213 SCRA 585.

[44] *Republic v. Intermediate Appellate Court, supra* note 36.

[45] *Republic v. Court of Appeals*, G.R. No. 62680, 9 November 1988, 167 SCRA 150.

[46] *Menguito v. Republic*, G.R. No. 134308, 14 December 2000, 348 SCRA 128.

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Baños Cadastre, as shown in plan Ap-04-011535, is hereby *DISMISSED* for lack of merit.

Costs against the respondents.

SO ORDERED.

Panganiban, Ynares-Santiago, Carpio, and *Azcuna, JJ.*, concur.

FIRST DIVISION

[G.R. No. 156829. June 8, 2004]

RAMON D. MONTENEGRO, *petitioner, vs.* **MA. TERESA L. MONTENEGRO, for herself and as the mother and natural guardian of the minors, ANTONIO AMELO and ANA MARIA PIA ISABEL, both surnamed "MONTENEGRO,"** *respondents*.

SYNOPSIS

Respondent Teresa filed a complaint for support against her husband, petitioner herein. Four years after the filing of the complaint, petitioner and respondent Teresa entered into a compromise agreement that was approved by the trial court. For failure of petitioner to comply with the compromise agreement Teresa filed a motion for execution, which was granted by the court and a writ of execution was issued. Still petitioner failed to comply with his obligation under the compromise agreement. In several conferences held, petitioner alleged that he was no longer in a position to comply with compromise agreement because he was already insolvent. This prompted Teresa to file a motion to examine petitioner as judgment obligor, which was granted. The trial court issued an order holding petitioner guilty of indirect contempt for his repeated failure to appear at the scheduled hearings for his examination as judgment obligor and imposing on him the penalty of 3 months imprisonment and a fine of ₱20,000.00.