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Since Juanillo had received notice of the termination in August 1977 and as she claims she had made repeated representation and demands for reinstatement, it is passing strange that her claim was not ventilated in the compulsory arbitration proceeding conducted precisely on the issue of termination of GATCORD members who had not complied with the return to work order. All that was needed was to show that she had indeed not participated in the strike by presenting her letter asking for leave. Instead she filed her case seven months after the decision had become final and executory. By way of evidence all she presented was a self-serving uncorroborated letter purportedly asking for leave, receipt of which was not proved. This quantum of evidence fails the substantiality of evidence test to support a decision, a basic requirement in administrative adjudication. [*Ang Tibay v. Court of Industrial Relations, supra; Air Manila v. Balatbat*, G.R. No. L-29064, April 29, 1971, 38 SCRA 489].

WHEREFORE, the petition is hereby GRANTED and the order of the public respondents REVERSED.

SO ORDERED.

Fernan (Chairman), Gutierrez, Jr., and *Bidin, JJ.*, concur.

Feliciano, J., on leave.

THIRD DIVISION

[G.R. No. 71285. November 5, 1987]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **THE INTERMEDIATE APPELLATE COURT, ESTEBAN MENDOZA and LEON PASAHOL,** *respondents.*

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SYLLABUS

1. **CIVIL LAW; LAND TITLES AND DEEDS; PUBLIC LAND ACT (COMMONWEALTH ACT 141); SUBJECT LAND NOT YET RELEASED FROM CLASSIFICATION AS MILITARY RESERVATION AND HAS TO BE RECLASSIFIED AS ALIENABLE PUBLIC LAND.** — While it may be true that as ruled by the appellate court, the private respondents could tack their possession of the land to that of their predecessors-in-interest as a result of which they now have more than thirty (30) years possession of the same, the fact remains that the subject land has not yet been released from its classification as part of the military reservation zone and still has to be reclassified as alienable public land with the approval of the President of the Philippines as required by the Public Land Act (Commonwealth Act No. 141) and Republic Act No. 1275. As we have ruled in *Republic v. Court of Appeals* (148 SCRA 480, 489): "Thus, even if the reopening of the cadastral proceedings was at all possible, private respondents have not qualified for a grant under Sec. 48(b) of Commonwealth Act 141, the facts being that private respondents could only be credited with 1 year, 9 months and 20 days possession and occupation of the lots involved, counted from July 6, 1965, the date when the land area in sitio San Jose, barrio Cabcaban, Mariveles, Bataan, known as Bataan PMD No. 267, which includes the lots claimed by respondents, *had been segregated from the forest zone and released by the Bureau of Forestry as an agricultural land for disposition under the Public Land Act.* Consequently, under the above mentioned jurisprudence, neither private respondents nor their predecessors-in-interest could have possessed the lots for the requisite period of thirty (30) years as disposable agricultural land."

2. **ID.; ID.; ID.; GOVERNMENT HAS PREROGATIVE OF CLASSIFYING LAND OF PUBLIC DOMAIN; MERE PROPOSAL TO CLASSIFY LAND CANNOT TAKE THE PLACE OF A FORMAL ACT OF DECLARATION.** — We cannot sustain the appellate court's ruling that the land in dispute is no longer part of the military reservation on the basis of a mere proposal to classify the same as alienable and disposable land of the public domain. A proposal cannot take

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the place of a formal act declaring forest land released for disposition as public agricultural land. To sustain the appellate ruling would be to pre-empt the executive branch of the government from exercising its prerogative in classifying lands of the public domain.

3. ID.; ID.; ID.; **FOR EQUITABLE REASONS, PETITIONER SHOULD TAKE THE NECESSARY STEPS TOWARD THE DECLASSIFICATION OF THE DISPUTED LAND; TITLING OF DISPOSABLE LANDS TO TILLERS SHOULD BE ENCOURAGED AS A MATTER OF POLICY.** — We are not unmindful, however of the plight of the private respondents who have in good faith possessed and occupied the disputed land for more than (30) years. If what is needed is only the formal release of the property from its classification as a military reservation and its reclassification to disposable agricultural land, the petitioner should, for equitable reasons, take the necessary steps towards the declassification of the same. The attempts of humble people to have disposable lands they have been tilling for generations titled in their names should not only be viewed with an understanding attitude but should, as a matter of policy be encouraged. Apart from strongly opposing an obviously improper method of securing title to public land, the Solicitor General should also take positive steps to help the private respondents remedy the situation in which they find themselves.

D E C I S I O N

GUTIERREZ, JR., *J.*:

This petition for review by way of *certiorari* questions the decision of the then Intermediate Appellate Court which affirmed the decision of the then Court of First Instance of Bataan granting the private respondents' petition to reopen the cadastral registration proceeding of the lot in dispute and ordering its registration in the names of the respondents.

The facts are undisputed. As found by the appellate court, they are as follows:

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"On December 18, 1968, a petition was filed by Esteban Mendoza and Leon Pasahol with the then Court of First Instance of Bataan, Branch I, alleging ownership of the land in question (Lot 444) by purchase from its original owners (Annex "A") and thereafter, actual, continuous, public and adverse possession by them tacked on to their predecessors-in-interest for a period exceeding 30 years.

"Petitioners' predecessors-in-interest failed to answer in the cadastral court for lack of knowledge of the existence of an ongoing cadastral proceeding because of which Lot No. 444 was declared public land. Notwithstanding, admittedly it has not been alienated, reserved, leased or otherwise disposed of by the government. Basic petition reopens cadastral proceedings insofar as this lot is concerned and prays for issuance of a decree/title in petitioners' name.

"Traversing the foregoing, Solicitor General opposed denying adequate basis for grant of prayer; that neither documentary evidence nor nature of possession would warrant; that Lot 444 is of public domain.

"Evidence of ownership and possession show petitioner Esteban Mendoza and his co-petitioner, his brother-in-law Leon Pasahol, bought Lot 444 from the heirs of Maria Nunez and Feliciano Ignacio on December 1, 1957 as shown by a deed of sale (Exhibit "A"); that after acquiring the land, they planted it to various fruit-bearing trees; that from December 1, 1957, petitioners had possessed the land peacefully, openly and continuously under claim of ownership, as had their predecessors-in-interest before them; that before the purchase of the land, it had been declared for taxation purposes in the name of Maria Nunez since 1932 (Exhibit "E"); that in 1962, he and Leon Pasahol had agreed that the property was to be declared for taxation in Pasahol's name only (Exhibit "F"); that petitioners were informed before the sale by their vendors that the latter did not claim the land in the cadastral proceedings Rec. No. 1097, Cad. Case No. 19 because they were 'totally ignorant' of said proceedings, not having been notified of the same; and that the land subject of the petition was not covered by any government or forest reservation.

"Mendoza's testimony was corroborated by witnesses Arsenio Amante, Eliseo Reyes (one of the vendors), and Cresencio Abuzman.

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"Petitioners likewise presented other documentary evidence namely:

"Exhibit "B" — Certification of the Land Registration Commission dated December 23, 1968 that the lot in question had been declared public land.

"Exhibit "C" — Plan of Lot 444 of the Mariveles Cadastre prepared by Geodetic Engineer Victor Clamor, Jr. and certified by Carlos G. Reyes, Chief of the Surveys Division of the Bureau of Lands.

"Exhibit "D" — Technical description of Lot 444 certified as correct by the Surveys Division Chief acting for the Director of Lands.

"Exhibit "G" — Certification dated December 10, 1968 by the Municipal Treasurer of Mariveles, Bataan that payment of land taxes for Lot 444 was up to date.

"Exhibit "H" — Certification by the Acting District Land Officer dated April 15, 1969 that the land had been cadastrally surveyed for the heirs of Feliciano Iglesia, predecessors-in-interest of the petitioners.

"Exhibit "J" — Report of the District Forester, Bureau of Forestry, Balanga, Bataan recommending approval of the petition considering that the land being applied for was not needed for forestry purposes.

"On the part of the State, the Solicitor General did not present evidence of any kind but relied only on the petitioners' own evidence.

"Initially, the court *a quo* denied registration observing, that Exhibit "C", the plan of the property sought to be registered, 'does not appear to have been approved by the Director of Lands.' Furthermore, although Esteban Mendoza and Leon Pasahol were the petitioners in the case, the latter had not appeared 'to corroborate the oral testimony of Mendoza that Pasahol has agreed with him to have the land declared for taxation purposes only in the latter's name.'

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"On motion for reconsideration, the court *a quo* reconsidered and ordered a new hearing on the petition.

"In the new trial, the previous deficiencies were rectified by the petitioners. Leon Pasahol took the witness stand to corroborate Esteban Mendoza's testimony; Exhibit "C" was presented anew in evidence, this time with the required approval of the Director of Lands. As a consequence, the court a *quo granted* the petition for registration of Lot 444." (pp. 1-3, Decision-Intermediate Appellate Court)

On appeal, the Intermediate Appellate Court affirmed the trial court's decision and held:

"In this appeal, the Solicitor General contests, alleging Exhibit "A" shows that petitioners' possession began only in 1957, they could not tack their possession to their predecessors-in-interest because of the failure of the latter to lay claim to the property in question either during the cadastral survey of the area in 1927 or in the original cadastral proceedings held thereafter.

"We do not agree.

"Record shows Feliciano Iglesia, original owner of the property, died before herein cadastral proceedings were instituted. His heirs who succeeded to his rights over the land lived in a remote part thereof and only infrequently visited the provincial capital where the courts were located. Under these circumstances, it is quite credible petitioners' predecessors-in-interest did not receive any notice of the cadastral proceedings. Moreover, there is nothing in the record to show that either the petitioners' possession or that of their predecessors was ever disrupted or interrupted by third-parties, much less by the government. Petitioners after the sale had zealously cultivated the property and religiously paid the taxes thereon for a good number of years. We find possession of the land by both parties was in good faith and that petitioners herein should not, as a consequence, be held strictly accountable for the lapse of their predecessors to file a cadastral claim to the property. Petitioners may tack their period of possession with that of their vendors totalling to more than thirty years.

"The Solicitor General points out, however, that under Section 1 of Republic Act 391, as amended by Republic Act 2061, reopening cadastral proceedings is allowable 'only with respect to such of said parcels of land as have not been alienated, reserved, leased, granted,

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or otherwise provisionally or permanently disposed of by the Government.' Applying said provision to the lot in question, it is claimed that registration is not possible as said land is actually already forest land and/or part of a military reservation. In support of this contention, the Solicitor General cites the Report of Forest Guard Crescensio Abuzman to the District Forester (Exhibit "J") which states that 'the area involved is a portion of former Military Reservation (US) turned over to Philippine Government.' Hence, not disposable under any circumstances.

"We disagree.

"The land may have been a military reservation in the past, but no longer. The same report Exhibit "J" relied upon by the Solicitor General goes on to state that this 'former Military Reservation' had already been 'delimited and classified by our bureau (Forestry) as alienable and disposable block under the Proposed Land Classification Project No. 4-C of Mariveles, Bataan.' Additionally, the Report in fact recommended the titling of the property in the petitioners' name as the same was no longer needed for forestry purposes and the government would not be adversely affected.

"Contributing to the view as to the disposable character of the land is the approval by the Director of Lands himself of Exhibit "C", the plan of the land to be registered. Such approval would hardly be forthcoming were the property really non-disposable as claimed by the State.

"Finally, We note from the record as well that all the other adjoining lots (Nos. 443, 447, 446, 438, *etc.*) were already registered and titled in the names of private individuals, a circumstance hard to reconcile with the position of the Solicitor General that registration of the area was simply not possible." (pp. 4-6, Decision-Intermediate Appellate Court).

In this instant petition, the petitioner challenges the decision of the appellate court as being contrary to law on the ground that it held that the subject land is agricultural and alienable land of the public domain and that the same can be subject to acquisitive prescription of thirty (30) years of open, continuous and uninterrupted possession under a *bona fide* claim of ownership by the private respondents as to entitle them to registration and title over the land.

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The petitioner maintains that Exhibit "J" which is the report of the District Forester recommending approval of the private respondents' petition is a mere proposal contained in the Proposed Land Classification Project No. 4 of Mariveles, Bataan, which has not yet been approved by the President of the Philippines; and that unless the President upon the recommendation of the Minister (Secretary) of Natural Resources, reclassifies and declares a particular land as agricultural or disposable, its status as military reservation or forest land remains unaltered and no amount of physical occupation and cultivation thereof can change it to agricultural land and bring it within the provisions of the Public Land Act. Therefore, it was error on the part of the appellate court to rule that the land in dispute has been in the open, continuous and uninterrupted possession of the private respondents for more than thirty years as to entitle them to register the same and procure a title thereto because possession of an inalienable land, however long, cannot ripen into private ownership.

On the other hand, the private respondents argue that even though Exhibit "J" was a mere proposal, such proposal had been honored and implemented when the land in dispute had been recommended for titling in their favor. Furthermore, the recommendation for such titling was made by the same office or branch of the government authorized and empowered to classify and dispose of the property. Moreover, the subject property has no more use for any government purpose and for which reason, the Bureau did not object but instead recommended that it be titled in favor of the private respondents. In fact, the Director of Lands himself approved the plan Exhibit "C" covering the land sought to be registered.

We find merit in the instant petition.

While it may be true that as ruled by the appellate court, the private respondents could tack their possession of the land to that of their predecessors-in-interest as a result of which they now have more than thirty (30) years' possession of the same, the fact remains that the subject land has not yet been released from its classification as part of the military reservation zone

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and still has to be reclassified as alienable public land with the approval of the President of the Philippines as required by the Public Land Act (Commonwealth Act No. 141) and Republic Act No. 1275. As we have ruled in *Republic v. Court of Appeals* (148 SCRA 480, 489):

"Thus, even if the reopening of the cadastral proceedings was at all possible, private respondents have not qualified for a grant under Sec. 48(b) of Commonwealth Act 141, the facts being that private respondents could only be credited with 1 year, 9 months and 20 days possession and occupation of the lots involved, counted from July 6, 1965, the date when the land area in sitio San Jose, barrio Cabcaban, Mariveles, Bataan, known as Bataan PMD No. 267, which includes the lots claimed by respondents, *had been segregated from the forest zone and released by the Bureau of Forestry as an agricultural land for disposition under the Public Land Act.* (Record on Appeal, p. 19). Consequently, under the above mentioned jurisprudence, neither private respondents nor their predecessors-in-interest could have possessed the lots for the requisite period of thirty (30) years as disposable agricultural land." (Italics supplied).

We, therefore, cannot sustain the appellate court's ruling that the land in dispute is no longer part of the military reservation on the basis of a mere proposal to classify the same as alienable and disposable land of the public domain. A proposal cannot take the place of a formal act declaring forest land released for disposition as public agricultural land. To sustain the appellate ruling would be to pre-empt the executive branch of the government from exercising its prerogative in classifying lands of the public domain. We ruled in the case of *Director of Lands v. Court of Appeals*, (129 SCRA 689, 692-693) that:

"In effect, what the Court *a quo* has done is to release the subject property from the unclassified category, which is beyond their competence and jurisdiction. The classification of public lands is an exclusive prerogative of the Executive Department of the Government and not of the Courts. In the absence of such classification, the land remains as unclassified land until it is released therefrom and rendered open to disposition (Sec. 8, Commonwealth Act No. 141, as amended: *Yngson v. Secretary of Agriculture and Natural Resources*, 123 SCRA 441 [1983]; *Republic v. Court of*

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Appeals, 99 SCRA 742 [1980]. This should be so under time-honored Constitutional precepts. This is also in consonance with the Regalian doctrine that all lands of the public domain belong to the State (Secs. 8 & 10, Art. XIV, 1973 Constitution), and that the State is the source of any asserted right to ownership in land and charged with the conservation of such patrimony (*Republic v. Court of Appeals*, 89 SCRA 648 [1979]).

"The recommendation of the District Forester for release of subject property from the unclassified region is not the ultimate word on the matter. And the fact that BF Map LC No. 637 dated March 1, 1927 showing subject property to be within the unclassified region was not presented in evidence will not operate against the State considering the stipulation between the parties and under the well-settled rule that the State cannot be estopped by the omission, mistake or error of its officials or agents. (*Republic v. Court of Appeals*, 89 SCRA 648 [1979]] if omission there was, in fact.

"While it may be that the Municipality of Obando has been cadastrally surveyed in 1961, it does not follow that all lands comprised therein are automatically released as alienable. A survey made in a cadastral proceeding merely identifies each lot preparatory to a judicial proceeding for adjudication of title to any of the lands upon claim of interested parties. Besides, if land is within the jurisdiction of the Bureau of Forest Development, it would be beyond the jurisdiction of the Cadastral Court to register it under the Torrens System.

"Since the subject property is still unclassified, whatever possession Applicant may have had, and, however long, cannot ripen into private ownership.

We are not unmindful, however of the plight of the private respondents who have in good faith possessed and occupied the disputed land for more than (30) years. If what is needed is only the formal release of the property from its classification as a military reservation and its reclassification to disposable agricultural land, the petitioner should, for equitable reasons, take the necessary steps towards the declassification of the same. As we have held in the same case of *Director of Lands v. Court of Appeals* (*supra*):

"The conversion of subject property into a fishpond by Applicants, or the alleged titling of properties around it, does not automatically

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render the property as alienable and disposable. Applicants' remedy lies in the release of the property from its present classification. In fairness to Applicants, and it appearing that there are titled lands around the subject property, petitioners-officials should give serious consideration to the matter of classification of the land in question.

The attempts of humble people to have disposable lands they have been tilling for generations titled in their names should not only be viewed with an understanding attitude but should, as a matter of policy be encouraged. (*Director of Lands v. Funtillar*, 142 SCRA 57, 69). Apart from strongly opposing an obviously improper method of securing title to public land, the Solicitor General should also take positive steps to help the private respondents remedy the situation in which they find themselves.

WHEREFORE, the petition is GRANTED and the decision of the respondent appellate court is ANNULLED and SET ASIDE. The application for cadastral registration of title of the private respondents is hereby DISMISSED, without prejudice to their recourse to the proper administrative remedy.

SO ORDERED.

Fernan (Chairman), Bidin, and *Cortes, JJ.*, concur.

Feliciano, J., on leave.

EN BANC

[G.R. No. 72492. November 5, 1987]

NEGROS ORIENTAL II ELECTRIC COOPERATIVE, INC., PATERIO TORRES and ARTURO UMBAC, *petitioners, vs.* **SANGGUNIANG PANLUNGSOD OF DUMAGUETE, THE AD HOC COMMITTEE OF THE *SANGGUNIANG PANLUNGSOD* OF DUMAGUETE and ANTONIO S. RAMAS UYPITCHING,** *respondents.*