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right to buy Lot 300 under the Letter of Intent, does not lie. No right of possession, which is the only issue in an unlawful detainer case, arises from such Letter of Intent which, as it clearly states, merely signifies intent to, not actually transfer ownership.

WHEREFORE, the petition is *DENIED*, and the assailed Decision and the Resolution of the Court of Appeals are *AFFIRMED*.

Costs against petitioners.

SO ORDERED.

Quisumbing (Chairperson), Carpio, Tinga, and *Velasco, Jr., JJ.,* concur.

FIRST DIVISION

[G.R. No. 150000. September 26, 2006]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **TRI-PLUS CORPORATION,** *respondent.*

SYLLABUS

1. **CIVIL LAW; LAND REGISTRATION; LEGAL REQUIREMENTS; FAILURE TO SUBMIT THE ORIGINAL TRACING CLOTH PLAN, DULY APPROVED BY THE BUREAU OF LANDS, IS FATAL TO A PARTY'S APPLICATION FOR ORIGINAL REGISTRATION.**— At the outset, however, the Court does not agree with petitioner's contention in its first assigned error that respondent failed to properly identify Lot 1061 which is one of the lots sought to be titled. Insofar as the identity of the land subject of an application for original registration is concerned, this Court has laid down the rule, as follows: The submission in evidence of the original tracing cloth plan, duly approved by the Bureau

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of Lands, in cases for application of original registration of land is a mandatory requirement. The reason for this rule is to establish the true identity of the land to ensure that it does not overlap a parcel of land or a portion thereof already covered by a previous land registration, and to forestall the possibility that it will be overlapped by a subsequent registration of any adjoining land. The failure to comply with this requirement is fatal to petitioner's application for registration.

2. **ID.; ID.; ID.; ID.; SUBMISSION OF THE BLUE PRINT COPY AND OTHER EVIDENCE, DULY APPROVED BY THE BUREAU OF LANDS, CONSIDERED AS SUBSTANTIAL COMPLIANCE WITH THE LEGAL REQUIREMENTS FOR THE PROPER IDENTIFICATION OF THE LAND.**— However, in *Republic of the Philippines v. Court of Appeals* and in the more recent cases of *Spouses Recto v. Republic of the Philippines* and *Republic of the Philippines v. Hubilla*, the Court ruled that while the best evidence to identify a piece of land for registration purposes is the original tracing cloth plan from the Bureau of Lands (now the Lands Management Services of the DENR), blueprint copies and other evidence could also provide sufficient identification. In the present case respondent submitted in evidence a blueprint copy of the Advance Plan of Lot 1061 and a Technical Description thereof, both of which had been duly certified and approved by the Lands Management Services of the DENR. The Court finds these pieces of evidence as substantial compliance with the legal requirements for the proper identification of Lot 1061. The discrepancy in the common boundary that separates Lot 1061 from Lot 1058, as contained in the LRA Report does not cast doubt on the identity of the subject lot. As the CA correctly held, the discrepancy is not substantial because it does not unduly increase or affect the total area of the subject lot and at the same time prejudice the adjoining lot owner. It is only when the discrepancy results to an unexplained increase in the total area of the land sought to be registered that its identity is made doubtful. Besides, only a portion of the many boundaries of Lot 1061 has been found to bear a discrepancy in relation to the boundary of one adjoining lot and the LRA Report simply recommends that the Lands Management Services of the DENR verify the reported discrepancy and make the necessary corrections, if needed, in order to avoid duplication in the issuance of titles covering the same parcels of land.

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3. ID.; ID.; CONFIRMATION OF IMPERFECT TITLE; REQUISITES.— In any case, while the subject lands were properly identified, the Court finds that respondent failed to comply with the other legal requirements for its application for registration to be granted. Applicants for confirmation of imperfect title must prove the following: (a) that the land forms part of the alienable and disposable agricultural lands of the public domain; and (b) that they have been in open, continuous, exclusive and notorious possession and occupation of the same under a *bona fide* claim of ownership either since time immemorial or since June 12, 1945. In the present case, the Court finds merit in petitioner's contention that respondent failed to prove the first requirement that the properties sought to be titled forms part of the alienable and disposable agricultural lands of the public domain.

4. ID.; ID.; ID.; ID.; PUBLIC LANDS NOT SHOWN TO HAVE BEEN RECLASSIFIED OR RELEASED AS ALIENABLE AGRICULTURAL LAND OR ALIENATED TO A PRIVATE PERSON BY THE STATE REMAIN PART OF THE INALIENABLE PUBLIC DOMAIN.— Section 6 of Commonwealth Act No. 141, as amended, provides that the classification and reclassification of public lands into alienable or disposable, mineral or forest land is the prerogative of the Executive Department. Under the Regalian doctrine, which is embodied in our Constitution, all lands of the public domain belong to the State, which is the source of any asserted right to any ownership of land. All lands not appearing to be clearly within private ownership are presumed to belong to the State. Accordingly, public lands not shown to have been reclassified or released as alienable agricultural land or alienated to a private person by the State remain part of the inalienable public domain.

5. ID.; ID.; ID.; ID.; ID.; INCONTROVERTIBLE EVIDENCE MUST BE PRESENTED TO ESTABLISH THAT THE LAND SUBJECT OF THE APPLICATION IS ALIENABLE OR DISPOSABLE.— It must be stressed that incontrovertible evidence must be presented to establish that the land subject of the application is alienable or disposable. In the present case, the only evidence to prove the character of the subject lands as required by law is the notation appearing in the Advance Plan stating in effect that the said properties are alienable and disposable. However, this is hardly the kind of proof required by law. To prove that the land subject of an application for registration is alienable,

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an applicant must establish the existence of a positive act of the government such as a presidential proclamation or an executive order, an administrative action, investigation reports of Bureau of Lands investigators, and a legislative act or statute. The applicant may also secure a certification from the Government that the lands applied for are alienable and disposable. In the case at bar, while the Advance Plan bearing the notation was certified by the Lands Management Services of the DENR, the certification refers only to the technical correctness of the survey plotted in the said plan and has nothing to do whatsoever with the nature and character of the property surveyed. Respondents failed to submit a certification from the proper government agency to prove that the lands subject for registration are indeed alienable and disposable.

6. **ID.; ID.; ID.; TAX DECLARATIONS OR REALTY TAX PAYMENTS OF PROPERTY ARE GOOD INDICIA OF POSSESSION IN THE CONCEPT OF AN OWNER.**— Moreover, other pieces of evidence presented by respondent to prove the period of its possession and that of its predecessors-in-interest show that the subject properties were declared for taxation purposes beginning only in 1961. This date may be considered as relatively recent considering that respondent's predecessors-in-interest claim to have been in possession of the subject properties as early as 1947. While belated declaration of a property for taxation purposes does not necessarily negate the fact of possession, tax declarations or realty tax payments of property are, nevertheless, 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. In the present case, respondent failed to explain why, despite the claim of its predecessors-in-interest that they possessed the subject properties in the concept of an owner as early as 1947, it was only in 1961 that they started to declare the same for purposes of taxation.

7. **ID.; ID.; ID.; BURDEN OF PROOF IN LAND REGISTRATION CASES RESTS ON THE APPLICANT WHO MUST SHOW CLEAR, POSITIVE AND CONVINCING EVIDENCE THAT HIS ALLEGED POSSESSION AND OCCUPATION WERE OF THE NATURE AND DURATION REQUIRED BY LAW.**— From the foregoing, it is clear that respondent and its predecessors-in-interest failed to prove that they had been in open, continuous,

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exclusive and notorious possession of the subject properties under a *bona fide* claim of ownership since June 12, 1945 or earlier, as required by law. Well-entrenched is the rule that the burden of proof in land registration cases rests on the applicant who must show clear, positive and convincing evidence that his alleged possession and occupation were of the nature and duration required by law. In the present case, the Court finds that respondent failed to prove, by clear and convincing evidence, the legal requirements that the lands sought to be titled are alienable and disposable and that its predecessors-in-interest were already in possession of the subject lots since 1945 or earlier.

8. **ID.; ID.; ID.; PROPERTIES WHICH REMAIN PART OF THE INALIENABLE PUBLIC DOMAIN CANNOT BE THE SUBJECT THEREOF.** — As to the last assigned error, respondent having failed to prove that the subject properties are alienable and disposable public lands, the Court agrees with petitioner that there would be no basis in concluding that these lands have already become private. The presumption remains that said properties remain part of the inalienable public domain and, therefore, could not become the subject of confirmation of imperfect title.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Romulo Senining & Zosa and *Quijano Law Offices* for respondent.

D E C I S I O N

AUSTRIA-MARTINEZ, *J.*:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision[1] dated September 14, 2001 of the Court of Appeals (CA) in CA-G.R. CV No. 60671, which affirmed the judgment of the Municipal

[1] Penned by Justice Eriberto U. Rosario, Jr. (now retired) and concurred in by Justices Buenaventura J. Guerrero (now retired) and Edgardo P. Cruz.

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Trial Court (MTC) of Consolacion, Metro Cebu in LRC Case No. N-21 granting herein respondent's application for registration of title to Lots Nos. 1061 and 1062 of the Cadastral Survey of Consolacion, Cebu.

The facts of the case are as follows:

On April 30, 1997 Tri-Plus Corporation,[2] through its president, Euclid C. Po, filed with the MTC of Consolacion, Metro Cebu,[3] an Application for Registration of Title over two parcels of land designated as Lots 1061 and 1062 of the cadastral survey of Consolacion, Cebu, containing an area of 3,939 and 4,796 square meters, respectively, and located at Barangay Tayud, Consolacion, Cebu.[4] In its application, Tri-Plus alleged that it is the owner in fee simple of the subject parcels of land, including the improvements thereon, having acquired the same through purchase; and that it is in actual, continuous, public, notorious, exclusive and peaceful possession of the subject properties in the concept of an owner for more than 30 years, including that of its predecessors-in-interest.[5] The case was docketed as LRC Case No. N-21.[6]

On September 4, 1997, the trial court received an Opposition to the Application for Registration filed by the Republic of the Philippines through the Office of the Solicitor General (OSG) on the grounds that neither the applicant nor its predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the land in question since June 12,

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[2] Also referred to in the CA *rollo* and records as Tri-Plus Land Corporation.

[3] In its capacity as Cadastral and Land Registration Court by virtue of SC Administrative Circular 6-93-A, dated November 15, 1995, which was issued pursuant to the provisions of Section 34 of Batas Pambansa Blg. 129, as amended by R.A. No. 7691 and the Resolution of the Court *En Banc* in Administrative Matter No. 93-3-488-0, dated March 25, 1993.

[4] Records, p. 1.

[5] *Id.*

[6] *Id.*

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1945 or prior thereto; that the muniments of title submitted by the applicant which consists, among others, of tax declarations and receipts of tax payments, do not constitute competent and sufficient evidence of a *bona fide* acquisition of the land applied for or of its open, continuous, exclusive and notorious possession and occupation thereof in the concept of owner since June 12, 1945 or prior thereto; that the claim of ownership in fee simple on the basis of a Spanish title or grant may no longer be availed of by the applicant because it failed to file an appropriate application for registration in accordance with the provisions of Presidential Decree (P.D.) No. 892; and that the subject parcels of land are portions of the public domain belonging to the Republic of the Philippines and are not subject to private appropriation.[7]

On September 19, 1997, Tri-Plus presented documentary evidence to prove compliance with the jurisdictional requirements of the law. On even date, a Manifestation and Motion was filed by the heirs of Toribio Pepito praying that they be given a period of 10 days within which to file their written opposition.[8] However, the oppositors failed to file their written opposition on time. The trial court then commissioned its clerk of court to receive evidence from the applicant and directed the former to submit a report thereon. Accordingly, a Commissioner's Report was submitted on the proceedings taken.[9]

In its Judgment dated February 26, 1998, the MTC made the following finding and conclusion:

> The totality of the evidence, both documentary and testimonial, of the applicant clearly shows that it and its predecessors-in-interest had been in actual, public, exclusive and continuous possession in concept of owner of the parcels of land above-mentioned for no less than thirty (30) years prior to the filing of the instant petition for registration of its imperfect title. This being so, the applicant is entitled

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[7] *Id.* at 33-34.

[8] *Id.* at 41.

[9] *Id.* at 44-46.

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that its title be confirmed under the provisions of the Torrens System of Registration.[10]

Accordingly, it disposed of the case as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered declaring the applicant TRI-PLUS LAND CORPORATION the exclusive and absolute owner of Lot 1061 of the Cadastral Survey of Consolacion, Cebu, as shown on plan Ap-07-002362 (Exhibit "J") and described in its corresponding technical description (Exhibit "K"), and Lot 1062 of the Cadastral Survey of Consolacion, Cebu, as shown on plan Ap-07-002366 (Exhibit "O") and described in its corresponding technical description (Exhibit "P").

Once this decision becomes final, let an Order for the issuance of the decree of registration for Lots 1061 and 1062, Consolacion Cadastre, be issued in the name of TRI-PLUS LAND CORPORATION.

SO ORDERED.[11]

The OSG appealed the trial court's judgment with the CA.[12]

Subsequently, the Land Registration Authority (LRA), through its Director on Registration, submitted a Report dated August 6, 1998 to the MTC, pertinent portions of which read as follows:

1. Two (2) parcels of land described as Lots 1062 and 1061, Cad. 545-D, Consolacion Cadastre on Plan Ap-07-002366 and Ap-07-002362, both situated in the Barangay of Tayud, Municipality of Consolacion, Province of Cebu, are being applied for original registration of title;

2. After examining the afore-said plan discrepancy was noted in the bearings and distances of line 3-4 and 4-5 of Lot 1061, Ap-07-002362, being S.57 deg. 19'W 8.02m. and S.52 deg. 10'W 18.24, which do not conform with the bearings and distances (N. 52 deg. 01'E.,

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[10] *Id.* at 77-78.

[11] *Id.* at 78.

[12] Under Section 34 of B.P. Blg. 129, as amended by R.A. No. 7691, decisions of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, in their capacity as cadastral and land registration courts, are appealable in the same manner as decisions of the Regional Trial Courts.

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18.00m) and (N. 52 deg. 47'E., 17.71m.) along lines 12-13 and 11-12, respectively of plan Rs-07-01-000358, lot 1508, Consolacion Cad. 545-D, decreed in LRA (NALTDRA) Record No. N-60851.

3. That the above discrepancy was brought to the attention of the Regional Technical Director, DENR, Land Management Services, Region VII, Mandaue City, for verification and correction in a letter dated 7 July 1998.

4. This Authority is not in a position to verify whether or not the parcels of land subject of registration are already covered by land patent.[13]

On September 14, 2001, the CA rendered the presently assailed Decision finding no reversible error in the appealed judgment, thereby, affirming the same.[14]

Hence, herein petition based on the following assignments of errors:

I

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT FINDING THAT THE TRIAL COURT DID NOT ACQUIRE JURISDICTION TO HEAR AND DECIDE THE CASE, BECAUSE THE IDENTITY OF THE LAND REMAINS UNCERTAIN.

II

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT FINDING THAT RESPONDENT FAILED TO DISCHARGE THE BURDEN OF PROVING THAT THE PROPERTY IS ALIENABLE AND DISPOSABLE.

III

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT FINDING THAT RESPONDENT IS DISQUALIFIED FROM ACQUIRING LANDS OF THE PUBLIC DOMAIN.[15]

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[13] Annex "G" to the Petition for Review, *rollo*, p. 81.

[14] CA *rollo*, pp. 68-81.

[15] *Rollo*, pp. 19-20.

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As to the first assigned error, petitioner contends that the CA erred in relying on the original survey plan approved by the Lands Management Services of the Department of Environment and Natural Resources (DENR) when it ruled that the applicant was able to duly establish the identity of Lot 1061. This reliance, petitioner argues, is mistaken considering that the Report of the Director on Registration of the LRA pointed to a discrepancy in the bearings and distances of the boundaries which separate Lot 1061 from an adjoining land, Lot 1058. This discrepancy, petitioners submit, casts doubt on the identity of the land subject of the application for registration. Petitioner then concludes that if there is uncertainty in the metes and bounds of the property sought to be titled, the trial court cannot acquire jurisdiction over the subject matter of the case. Hence, the proceedings before the trial court, including its decision granting the application for registration, are void.

As to the second assignment of error, petitioner argues that the CA erred in holding that the applicant was able to prove that the subject properties are alienable and disposable lands of the public domain. Petitioner contends that a mere notation appearing in the survey plans of the disputed properties showing that the subject lands had been classified as alienable and disposable on June 25, 1963 is not sufficient to establish the nature and character of these lands. Petitioner asserts that there should be a positive act on the part of the government, such as a certification from the DENR, to prove that the said lands are indeed alienable and disposable. Petitioner further contends that even if the subject properties were classified as alienable and disposable on June 25, 1963, the law, nonetheless, requires that such classification should have been made on June 12, 1945 or earlier.

Anent the last assigned error, petitioner contends that since the applicant failed to discharge the burden of proving that the subject properties are alienable and disposable, there is no basis for the CA to rule that these properties are private lands.

In its Comment, respondent contends that it was able to prove the identity of Lot 1061 with certainty. While it admits the

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discrepancy in the bearings and distances which form the boundary between Lot 1061 and the adjoining Lot 1058, respondent contends that such discrepancy is merely technical in nature because Lots 1058 and 1061 remain the same and that there is neither an increase nor decrease in the area of the subject lot sought to be titled; and that what was required by the LRA in its Report was for the applicant to correct and adjust the bearings and distances of Lot 1061 in order to conform to the boundaries of Lot 1058.

Respondent also argues that the notations appearing in the survey plans of the subject properties serve as sufficient proof that these lands are alienable and disposable. Respondent asserts that the survey plans were duly approved by the DENR, Lands Management Services whose official acts are presumed to be in accordance with law.

Lastly, respondent argues that its predecessor-in-interest's continuous, actual, adverse and peaceful possession of the subject properties in the concept of an owner for a period of more than 30 years, coupled with the fact that they declared these lands in their name, gives a strong presumption in respondent's favor that the subject properties no longer form part of the public domain.

Parties filed their respective Memoranda.[16]

The Court finds the petition meritorious.

At the outset, however, the Court does not agree with petitioner's contention in its first assigned error that respondent failed to properly identify Lot 1061 which is one of the lots sought to be titled.

Insofar as the identity of the land subject of an application for original registration is concerned, this Court has laid down the rule, as follows:

The submission in evidence of the original tracing cloth plan, duly approved by the Bureau of Lands, in cases for application of original

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[16] *Id.* at 165 and 192.

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registration of land is a mandatory requirement. The reason for this rule is to establish the true identity of the land to ensure that it does not overlap a parcel of land or a portion thereof already covered by a previous land registration, and to forestall the possibility that it will be overlapped by a subsequent registration of any adjoining land. The failure to comply with this requirement is fatal to petitioner's application for registration.[17]

However, in *Republic of the Philippines v. Court of Appeals*[18] and in the more recent cases of *Spouses Recto v. Republic of the Philippines*[19] and *Republic of the Philippines v. Hubilla,*[20] the Court ruled that while the best evidence to identify a piece of land for registration purposes is the original tracing cloth plan from the Bureau of Lands (now the Lands Management Services of the DENR), blueprint copies and other evidence could also provide sufficient identification. In the present case, respondent submitted in evidence a blueprint copy of the Advance Plan of Lot 1061[21] and a Technical Description[22] thereof, both of which had been duly certified and approved by the Lands Management Services of the DENR. The Court finds these pieces of evidence as substantial compliance with the legal requirements for the proper identification of Lot 1061. The discrepancy in the common boundary that separates Lot 1061 from Lot 1058, as contained in the LRA Report does not cast doubt on the identity of the subject lot. As the CA correctly held, the discrepancy is not substantial because it does not unduly increase or affect the total area of the subject lot and at the same time prejudice the adjoining lot owner. It is only when the discrepancy

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[17] *Del Rosario v. Republic of the Philippines*, 432 Phil. 824, 834 (2002).

[18] G.R. No. 62680, November 9, 1988, 167 SCRA 150, 154 citing *Republic of the Philippines v. Intermediate Appellate Court*, 229 Phil. 20 (1986) and *Director of Lands v. Court of Appeals*, G.R. No. 56613, March 14, 1988, 158 SCRA 568.

[19] G.R. No. 160421, October 4, 2004, 440 SCRA 79, 87.

[20] G.R. No. 157683, February 11, 2005, 451 SCRA 181, 184-185.

[21] Exhibit "J", Records, p. 8.

[22] Exhibit "K", *id.* at 9.

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results to an unexplained increase in the total area of the land sought to be registered that its identity is made doubtful. Besides, only a portion of the many boundaries of Lot 1061 has been found to bear a discrepancy in relation to the boundary of one adjoining lot and the LRA Report simply recommends that the Lands Management Services of the DENR verify the reported discrepancy and make the necessary corrections, if needed, in order to avoid duplication in the issuance of titles covering the same parcels of land.

Petitioner's argument that, on the basis of the LRA Report, the MTC should have dismissed respondent's application for registration for lack of jurisdiction over the subject matter, is without merit. The MTC could not have possibly done this because said Report was submitted to the trial court more than five months after the latter rendered its Decision. A copy of the LRA Report attached to the present petition shows that it is dated August 6, 1998 while the MTC decision was rendered much earlier on February 26, 1998. In fact, the Office of the Solicitor General (OSG) perfected its appeal by filing a notice of appeal of the MTC Decision on April 2, 1998, which is also prior to the submission of the LRA report. Hence, by the time the LRA report was submitted to the MTC, the latter has already lost jurisdiction over the case, not on the ground cited by petitioner but because the appeal to the CA was already perfected, vesting jurisdiction upon the appellate court.

In any case, while the subject lands were properly identified, the Court finds that respondent failed to comply with the other legal requirements for its application for registration to be granted.

Applicants for confirmation of imperfect title must prove the following: (a) that the land forms part of the alienable and disposable agricultural lands of the public domain; and (b) that they have been in open, continuous, exclusive and notorious possession and occupation of the same under a *bona fide* claim of ownership either since time immemorial or since June 12, 1945.[23]

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[23] *Carlos v. Republic of the Philippines*, G.R. No. 164823, August 31, 2005, 468 SCRA 709, 714-715.

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In the present case, the Court finds merit in petitioner's contention that respondent failed to prove the first requirement that the properties sought to be titled forms part of the alienable and disposable agricultural lands of the public domain.

Section 6 of Commonwealth Act No. 141, as amended, provides that the classification and reclassification of public lands into alienable or disposable, mineral or forest land is the prerogative of the Executive Department. Under the Regalian doctrine, which is embodied in our Constitution, all lands of the public domain belong to the State, which is the source of any asserted right to any ownership of land.[24] All lands not appearing to be clearly within private ownership are presumed to belong to the State.[25] Accordingly, public lands not shown to have been reclassified or released as alienable agricultural land or alienated to a private person by the State remain part of the inalienable public domain.[26]

It must be stressed that incontrovertible evidence must be presented to establish that the land subject of the application is alienable or disposable.[27]

In the present case, the only evidence to prove the character of the subject lands as required by law is the notation appearing in the Advance Plan stating in effect that the said properties are alienable and disposable. However, this is hardly the kind of proof required by law. To prove that the land subject of an application for registration is alienable, an applicant must establish the existence of a positive act of the government such as a presidential proclamation or an executive order, an administrative action, investigation reports of Bureau of Lands investigators, and a legislative act or statute.[28] The applicant may also secure

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[24] *Republic of the Philippines v. Naguiat*, G.R. No. 134209, January 24, 2006, 479 SCRA 585, 590.

[25] *Id.*

[26] *Id.* at 590-591.

[27] *Republic of the Philippines v. Lao*, 453 Phil. 189, 198 (2003).

[28] *Republic of the Philippines v. Court of Appeals*, 440 Phil. 697, 710-711 (2002).

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a certification from the Government that the lands applied for are alienable and disposable.[29] In the case at bar, while the Advance Plan bearing the notation was certified by the Lands Management Services of the DENR, the certification refers only to the technical correctness of the survey plotted in the said plan and has nothing to do whatsoever with the nature and character of the property surveyed. Respondents failed to submit a certification from the proper government agency to prove that the lands subject for registration are indeed alienable and disposable.

As to the second requirement, testimonial evidence were presented to prove that respondent's predecessors-in-interest had been in possession of the subject lots in the concept of an owner for the period required by law. The first witness was Thelma Pilapil who claims to be the daughter of Constancia Frias from whom respondent bought Lot 1061. Pilapil testified that her family has been in possession of Lot 1061 since her birth.[30] When her testimony was offered on October 7, 1997, she was 40 years old.[31] Deducting 40 years from 1997, it means that her family started possession of Lot 1061 only in 1957. The second witness who was presented was Tomas Frias from whom respondent bought Lot 1062. Frias testified that he was 67 years old at the time that his testimony was taken on October 7, 1997.[32] He claims that he started owning the subject lot when he was 17 years old and had been in possession of the same since then.[33] Hence, by simple arithmetic, the testimony of Frias proves that he came to possess Lot 1062 only in 1947. While he testified that Lot 1062 was previously owned by his father and that he inherited the property from his parents, no evidence was presented to show that the latter indeed previously

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[29] *Zarate v. Director of Lands*, G.R. No. 131501, July 14, 2004, 434 SCRA 322, 332.

[30] TSN, October 7, 1997, p. 8.

[31] *Id.*

[32] *Id.* at 15.

[33] *Id.* at 17.

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owned the said property and that they had been in possession of the same on or before June 12, 1945.

Moreover, other pieces of evidence presented by respondent to prove the period of its possession and that of its predecessors-in-interest show that the subject properties were declared for taxation purposes beginning only in 1961.[34] This date may be considered as relatively recent considering that respondent's predecessors-in-interest claim to have been in possession of the subject properties as early as 1947. While belated declaration of a property for taxation purposes does not necessarily negate the fact of possession, tax declarations or realty tax payments of property are, nevertheless, 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.[35] In the present case, respondent failed to explain why, despite the claim of its predecessors-in interest that they possessed the subject properties in the concept of an owner as early as 1947, it was only in 1961 that they started to declare the same for purposes of taxation.

From the foregoing, it is clear that respondent and its predecessors-in-interest failed to prove that they had been in open, continuous, exclusive and notorious possession of the subject properties under a *bona fide* claim of ownership since June 12, 1945 or earlier, as required by law.

Well-entrenched is the rule that the burden of proof in land registration cases rests on the applicant who must show clear, positive and convincing evidence that his alleged possession and occupation were of the nature and duration required by law.[36] In the present case, the Court finds that respondent failed to prove, by clear and convincing evidence, the legal requirements

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[34] Exhibits "M" and "Q", records, pp. 56 and 63, respectively.

[35] *Republic of the Philippines v. Alconaba*, G.R. No. 155012, April 14, 2004, 427 SCRA 611, 621.

[36] *Republic of the Philippines v. Enciso*, G.R. No. 160145, November 11, 2005, 474 SCRA 700, 713.

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that the lands sought to be titled are alienable and disposable and that its predecessors-in-interest were already in possession of the subject lots since 1945 or earlier.

As to the last assigned error, respondent having failed to prove that the subject properties are alienable and disposable public lands, the Court agrees with petitioner that there would be no basis in concluding that these lands have already become private. The presumption remains that said properties remain part of the inalienable public domain and, therefore, could not become the subject of confirmation of imperfect title.

Finally, 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.[37] The Court must not, therefore, relax the stringent safeguards relative to the registration of imperfect titles.

WHEREFORE, the instant petition is *GRANTED*. The Decision of the Court of Appeals dated September 14, 2001 in CA-G.R. CV No. 60671 is *REVERSED* and *SET ASIDE*. Respondent Tri-Plus Corporation's application for registration and issuance of title to Lots 1061 and 1062, Consolacion Cad-545-D, in LRC Case No. N-21 filed with the Municipal Trial Court of Consolacion, Metro Cebu, is *DISMISSED*.

SO ORDERED.

Panganiban, C.J. (Chairperson), Ynares-Santiago, Callejo, Sr., and *Chico-Nazario, JJ.,* concur.

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[37] *Republic of the Philippines v. Kalaw*, G.R. No. 155138, June 8, 2004, 431 SCRA 401, 414.