Republic of the Philippines
# Supreme Court
Manila

**FIRST DIVISION**

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| **REPUBLIC OF THE PHILIPPINES,** Petitioner, | **G.R. No. 169710** |
| | Present: |
| - versus - | SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, |
| **JOSE ALBERTO ALBA, REPRESENTED BY HIS ATTORNEY-IN-FACT, MANUEL C. BLANCO, JR.,** Respondent. | PEREZ, and PERLAS-BERNABE, *JJ.* |
| | Promulgated: AUG 19 2015 |

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## DECISION

**BERSAMIN, *J.*:**

Under appeal is the decision promulgated on September 8, 2005,[1] whereby the Court of Appeals (CA) upheld the judgment rendered on January 31, 2001 by the 7th Municipal Circuit Trial Court (MCTC) of Ibajay-Nabas, stationed in Ibajay, Aklan granting the application of the respondent for the registration of five parcels of land with a total area of 213,037 square meters, more or less, all situated in Barangay Rizal, Municipality of Nabas, Province of Aklan.[2]

### Antecedents

The respondent was the purchaser for value of the parcel of land known as Lot No. 9100 situated in Barangay Rizal, Municipality of Nabas, Province of Aklan, and subdivided and designated in the approved survey plan as Lot No. 9100-A, with an area of 50,000 square meters, more or less;

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1 *Rollo*, pp. 27-36; penned by Associate Justice Isaias P. Dicdican (retired), with Associate Justice Ramon M. Bato, Jr. and Associate Justice Enrico A. Lanzanas (retired) concurring.

2 CA *rollo*, pp. 15-22.

Lot No. 9100-B, with an area of 49,999 square meters, more or less; Lot No. 9100-C, with an area of 50,000 square meters, more or less; Lot No. 9100-D, with an area of 35,001 square meters, more or less; and Lot No. 9100-E, with an area of 28,037 square meters, more or less. He applied for the original registration of title over the parcels of land in the MCTC.[3]

The Office of the Solicitor General (OSG), in behalf of the Republic of the Philippines, opposed the application for original registration of title, contending that the respondent and his predecessors-in-interest had not been in open, continuous, exclusive and notorious possession and occupation of the lands in question since June 12, 1945.[4]

After trial, the MCTC rendered judgment on the application on January 31, 2001, disposing:

> WHEREFORE, premises considered, judgment is hereby rendered GRANTING the application for registration of the parcel of land designated in the approved Survey Plan (Exhibit "C") known as Lot No. 9100, Cad.758-D, Nabas Cadastre and described in the Technical Description (Exhibit "D") with an area of FIFTY THOUSAND (50,000) square meters, more or less, Exhibit "D-1" with an area of FORTY NINE THOUSAND NINE HUNDRED NINETY NINE (49,999) Exhibit "D-2" with an area of FIFTY THOUSAND (50,000) square meters, more or less, Exhibit "D-3" with an area of THIRTY FIVE THOUSAND ONE (35,001) square meters, more or less, and Exhibit "D-4" with an area of TWENTY EIGHT THOUSAND THIRTY SEVEN (28,037) square meters, more or less, or a total area of TWO HUNDRED THIRTEEN THOUSAND THIRTY SEVEN (213,037) SQUARE METERS, more or less, situated at Barangay Rizal, Municipality of Nabas, Province of Aklan, Island of Panay, Philippines, under the Property Registration Decree (PD 1529), and title thereto registered and confirmed in the name of JOSE ALBERTO ALBA, of legal age, married to Maria Beatris Morales, Filipino citizen, and presently residing at 34 Derby, White Plains, Quezon City, Metro Manila, and herein represented by his attorney-in-fact Manual C. Blanco, whose residence is at Viscarra Subdivision, Andagao, Kalibo, Aklan.
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> After this decision shall have become final and executory, an order for the issuance of Decree of Registration of Title shall issue in favor of the applicant.
>
> SO ORDERED.[5]

The OSG appealed the judgment to the CA upon the following errors, to wit:

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3 Id. at 15.
4 Records, pp. 42-43.
5 Supra note 2, at 20-21.

1. That the lower court did not acquire jurisdiction over the application for registration due to the following:

   a. applicant-appellee's failure to show that the land subject of the application falls under the jurisdiction of the MCTC;

   b. applicant-appellee's failure to adduce the Official Gazette as evidence;

   c. applicant-appellee's failure to submit the original tracing cloth plan of the land subject of the application; and

2. That the lower court erred in granting the application for registration when the applicant-appellee failed to prove possession of an alienable and disposable land of the public domain for the period and in the concept required by law.[6]

## Decision of the CA

On September 8, 2005,[7] the CA, finding that the trial court did not disregard evidence that affected the results of the case, and that there was no cogent reason to disturb its factual findings, decreed thusly:

> **WHEREFORE**, in view of the foregoing premises, judgment is hereby rendered by us **DISMISSING** the appeal filed in this case and **AFFIRMING** the Decision dated January 31, 2001 rendered by the lower court in LRC Case No. N-057, LRA Record No. N-69758.
>
> **SO ORDERED**.[8]

## Issues

Hence, this appeal, with the petitioner insisting, through the OSG, that:

> I.
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> THE COURT A QUO DID NOT ACQUIRE JURISDICTION OVER THE SUBJECT APPLICATION FOR REGISTRATION OF TITLE FOR FAILURE OF RESPONDENT TO SUBMIT THE ORIGINAL TRACING CLOTH PLAN OR *SEPIA* OF THE LAND APPLIED FOR REGISTRATION
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> II.
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> RESPONDENT FAILED TO PROVE POSSESSION OVER THE PROPERTY APPLIED FOR REGISTRATION IN THE CONCEPT REQUIRED BY LAW.[9]

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6 *Rollo*, pp. 29-30.
7 Supra note 1.
8 Id. at 35.
9 *Rollo*, p. 18.

## Ruling

The appeal is meritorious.

### I
### Requirement for the submission of the approved tracing cloth plan may be excused if other competent means of proving identity and location of the lands subject of the application are available and produced in court

Although conceding the mandatory requirement for the tracing cloth plan, the CA nonetheless ruled in favor of the respondent upon the authority of jurisprudence, including *Director of Lands v. Court of Appeals*,[10] wherein the Court, citing the purpose for the requirement of submitting the tracing cloth plan to be the establishment of the true identity and location of the land subject of the application for registration in order to avoid boundary overlaps with adjacent lands,[11] held that the respondent satisfied this purpose by submitting the approved plan and the technical descriptions of Lot No. 9100 (and its derivative lots);[12] that the approved plan and the technical descriptions settled the identity and location of Lot No. 9100;[13] and that considering that there was no glaring and irreconcilable discrepancy,[14] the purpose of submitting the tracing cloth plan was fully served.

The OSG maintains, however, that the submission of the tracing cloth plan was a statutory requirement of mandatory character, rendering the non-submission fatal to the application;[15] that the submission could not be waived expressly or impliedly;[16] that to fix the exact or definite identity of the land as shown in the approved plan and technical descriptions was the primary purpose of the submission;[17] and that upon the respondent's failure to "actually" present the tracing cloth plan, the trial court did not acquire jurisdiction over the *res*, rendering the proceedings a nullity.[18]

Section 17 of Presidential Decree No. 1529 (*The Property Registration Decree of 1978*) provides:

> Section 17. *What and where to file.*–The application for land registration shall be filed with the Court of First Instance of the province or city where the land is situated. The applicant shall file, together with the

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10 G.R. No. L-56613, March 14, 1988, 158 SCRA 568.
11 *Rollo*, pp. 32-33.
12 Id. at 33.
13 Id.
14 Id.
15 Id. at 19.
16 Id. at 20.
17 Id.
18 Id.

> application, all original muniments of titles or copies thereof and a survey plan of the land approved by the Bureau of Lands.
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> The clerk of court shall not accept any application unless it is shown that the applicant has furnished the Director of Lands with a copy of the application and all annexes.

Section 17 shows, indeed, that it is mandatory for the applicant for original registration to submit to the trial court not only the original or duplicate copies of the muniments of title but also the copy of the duly approved survey plan of the land sought to be registered. The survey plan is crucial because it provides reference of the property's exact identity and location.

Did the respondent's submission of the approved plan and technical description, both of which had been approved by Regional Technical Director of the Land Management Services, satisfy the requirement?

The answer is in the affirmative. In *Republic v. Guinto-Aldana*,[19] this Court has relaxed the requirement for the submission of the tracing cloth plan by holding that:

> Yet if the reason for requiring an applicant to adduce in evidence the original tracing cloth plan is merely to provide a convenient and necessary means to afford certainty as to the exact identity of the property applied for registration and to ensure that the same does not overlap with the boundaries of the adjoining lots, there stands to be no reason why a registration application must be denied for failure to present the original tracing cloth plan, especially where it is accompanied by pieces of evidence—such as a duly executed blueprint of the survey plan and a duly executed technical description of the property—which may likewise substantially and with as much certainty prove the limits and extent of the property sought to be registered.

To the same effect were the rulings in *Republic v. Court of Appeals*,[20] *Recto v. Republic*[21] and *Republic v. Hubilla*,[22] where the Court has pointed out that although the best means to identify a piece of land for registration purposes is the original tracing cloth plan approved by the Bureau of Lands (now the Lands Management Services of the Department of Environment and Natural Resources), other evidence could provide sufficient identification. In particular, the Court has said in *Hubilla*, citing *Recto*:

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[19] G.R. No. 175578, August 11, 2010, 628 SCRA 210, 220.

[20] G.R. No. L-62680, November 9, 1988, 167 SCRA 150, 154, citing *Republic v. Intermediate Appellate Court*, No. L-70594, October 10, 1986, 144 SCRA 705, 708 and *Director of Lands v. Court of Appeals*, No. L-56613, March 14, 1988, 158 SCRA 568.

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

[22] G.R. No. 157683, February 11, 2005, 451 SCRA 181.

> While the petitioner correctly asserts that the submission in evidence of the original tracing cloth plan, duly approved by the Bureau of Lands, is a mandatory requirement, this Court has recognized instances of substantial compliance with this rule. In previous cases, this Court ruled that blueprint copies of the original tracing cloth plan from the Bureau of Lands and other evidence could also provide sufficient identification to identify a piece of land for registration purposes. x x x[23]

Here, the submission of the approved plan and technical description of Lot No. 9100 constituted a substantial compliance with the legal requirement of ascertaining the identity or location of the lands subject of the application for registration. The plan and technical description had been approved by the Regional Technical Director of the Land Management Services,[24] and were subsequently identified, marked, and offered in evidence during the trial. Verily, no error can be attributed to the CA when it declared that:

> It is our view that the original tracing cloth plan need not be presented in evidence because the identity and location of Lot No. 9100 were clearly established by the approved plan and the technical description thereof. It must be noted that, during the hearing of the case, no person appeared and answered within the time allowed by the trial court to oppose the application filed by the applicant-appellee except the oppositor-appellant. As a result thereof, the testimonial and documentary evidence submitted and offered by the applicant-appellee were admitted as unrebutted and unopposed.
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> Another point to consider is the fact that there is no glaring and irreconcilable discrepancy of the actual area of Lot No. 9100. Thus, there is no need to present in evidence the original tracing cloth plan.[25]

## II
## Respondent did not establish his required possession

The CA upheld the finding of the MCTC that the respondent had established his title through documentary evidence like the tax declarations and the deed of sale from his predecessors-in-interest; and through evidence showing possession in the concept of an owner for over 50 years. It observed that although the tax declarations or realty tax payments relevant to the lands were not conclusive evidence of ownership, they were good *indicia* of his possession in the concept of 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."[26]

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[23] Id. at 184-185.
[24] Supra note 8.
[25] Id. at 33.
[26] Id. at 34.

The OSG counters that the CA should not have upheld the application for registration on the basis of mere tax declarations and the testimonies of respondent's attorney-in-fact Manuel Blanco and Atty. Gideon de Pedro; and that their testimonies of possession since time immemorial did not meet the standard required by law to warrant the grant of the application.[27] Essentially, the OSG contends that in order for the respondent as the applicant for the original registration of title to prove possession of alienable public land for the period prescribed by law that was open, exclusive and uninterrupted,[28] he should not simply declare such possession as his and that of his predecessor-in-interest;[29] that general statements or phrases were nothing more than conclusions of law that were not evidence of possession;[30] that instead the respondent as the applicant should present specific acts showing the nature of the alleged possession;[31] and that, accordingly, he did not discharge his burden of substantiation of his application.[32]

We agree with the insistence of the OSG.

Section 14(1) of P.D. No. 1529 provides:

> SEC. 14. *Who may apply.* – The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:
>
> **(1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession of alienable and disposable lands of the public domain under a bonafide claim of ownership since June 12, 1945, or earlier.**
>
> x x x x

There are three requisites for the filing of an application for registration of title under Section 14(1) of PD 1529, namely: (1) that the property in question is alienable and disposable land of the public domain; (2) that the applicant by himself or through his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation; and (3) that such possession is under a *bona fide* claim of ownership since June 12, 1945, or earlier. In short, the right to file the application for original registration derives from a *bona fide* claim of ownership dating back to June 12, 1945, or earlier, by reason of the claimant's open, continuous, exclusive and notorious possession of alienable and disposable land of the public domain.

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27 Id. at 21.
28 Id.
29 Id.
30 Id.
31 Id.
32 Id.

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Anent the aforecited requisites, the OSG controverted only the second, that is, that the respondent did not sufficiently prove his and his predecessors-in-interest's open, continuous, exclusive and notorious possession and occupation of the lands.

The respondent did not satisfactorily demonstrate that his or his predecessors-in-interest's possession and occupation were of the nature and character contemplated by the law. None of his witnesses testified about any specific acts of ownership exercised by him or his predecessors-in-interest on the lands. The general statements of his witnesses on the possession and occupation were mere conclusions of law that did not qualify as competent and sufficient evidence of his open, continuous, exclusive and notorious possession and occupation. As we see it, the OSG has correctly observed that his witnesses did not testify on the specific acts of possession of the respondent or of his predecessors-in-interest.

In *Republic v. Alconaba*,[33] this Court has explained that the intent behind the law's use of the terms *possession* and *occupation* is to emphasize the need for actual and not just constructive or fictional possession, thus:

> The law speaks of *possession and occupation*. Since these words are separated by the conjunction *and*, the clear intention of the law is not to make one synonymous with the other. Possession is broader than occupation because it includes constructive possession. When, therefore, the law adds the word *occupation*, it seeks to delimit the all encompassing effect of constructive possession. Taken together with the words open, continuous, exclusive and notorious, the word *occupation* serves to highlight the fact that for an applicant to qualify, his possession must not be a mere fiction. Actual possession of a land consists in the manifestation of acts of dominion over it of such a nature as a party would naturally exercise over his own property.[34]

The Court reverses the CA. The respondent did not competently account for any act of occupation, development, cultivation or maintenance of the lands subject of his application, either on his part or on the part of his predecessors-in-interest for the entire time that they were supposedly in possession of the lands. Witnesses Manuel Blanco and Atty. Gideon de Pedro only testified of their possession since time immemorial but did not offer any details of specific acts indicative of possession and occupation. To prove possession, the offer of general statements or phrases is a merely self-serving, unsubstantiated assertion. Atty. de Pedro alleged that his uncle, Basilio de Pedro, had once possessed the lands that were *cogonal*, and used them for pasture and planting of coconut trees, but did not adduce any specific details indicating such activities as manifestations of ownership or

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[33] G.R. No. 155012, April 14, 2004, 427 SCRA 611.
[34] Id. at 619-620.

possession that could be ultimately attributed to the respondent. That the lands were *cogonal* or planted with coconut trees did not conclusively disclose that the lands had been actively and regularly, not merely casually or occasionally, cultivated and maintained.

The respondent's claim of ownership on the basis of the tax declarations alone did not also suffice. In *Cequeña v. Bolante*,[35] the Court has pointed out that only when tax declarations were coupled with proof of actual possession of the property could they become the basis of a claim of ownership.[36] Indeed, in the absence of actual public and adverse possession, the declaration of the land for tax purposes did not prove ownership.[37] It is well-settled that tax declarations are not conclusive proof of possession or ownership, and their submission will not lend support in proving the nature of the possession required by the law.

In sum, the respondent did not prove that he and his predecessors-in-interest have been in continuous, exclusive, and adverse possession and occupation thereof in the concept of owners. Hence, his application for original land registration fails.

**WHEREFORE**, the Court **GRANTS** the petition for review on *certiorari*; **REVERSES** and **SETS ASIDE** the decision promulgated on September 8, 2005; **DISMISSES** the application for land registration of the respondent; and **ORDERS** the respondent to pay the costs of suit.

**SO ORDERED.**

**LUCAS P. BERSAMIN**
Associate Justice

**WE CONCUR:**

**MARIA LOURDES P. A. SERENO**
Chief Justice

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35 G.R. No. 137944, April 6, 2000, 330 SCRA 217.
36 Id. at 226-227.
37 Id. at 228.

**TERESITA J. LEONARDO-DE CASTRO**
Associate Justice

**JOSE PORTUGAL PEREZ**
Associate Justice

**ESTELA M. PERLAS-BERNABE**
Associate Justice

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARIA LOURDES P. A. SERENO**
Chief Justice