Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

REPUBLIC OF THE PHILIPPINES,
Petitioner,

- versus -

ROSARIO L. NICOLAS,
Respondent.

G. R. No. 181435

Present:

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
DEL CASTILLO,
JARDELEZA, and
TIJAM, *JJ.*

Promulgated:
OCT 02 2017

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DECISION

SERENO, *CJ:*

This is a Petition for Review on Certiorari[1] filed by the Republic of the Philippines to assail the Court of Appeals (CA) Decision[2] and Resolution[3] in CA-G.R. CV No. 81678. The CA affirmed the Regional Trial Court (RTC) Decision,[4] which granted the Petition[5] filed by respondent Rosario L. Nicolas for the registration of title to a parcel of land located in *Barangay* (*Brgy.*) San Isidro, Rodriguez, Rizal.[6] The appellate court agreed with the conclusion of the RTC that respondent had convincingly established her ownership of the land and was therefore entitled to judicial confirmation and registration of title.[7]

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[1] *Rollo*, pp. 10-49.
[2] Id. at 52-62; Dated 23 August 2007, penned by Associate Justice Lucenito M. Tagle and concurred in by Associate Justices Amelita G. Tolentino and Sixto Marella, Jr.
[3] Id. at 64; Dated 22 January 2008.
[4] Id. at 135-138; Dated 31 July 2002, penned by Presiding Judge Elizabeth Balquin-Reyes.
[5] Id. at 104-107.
[6] Id. at 104.
[7] Id. at 59.

FACTUAL ANTECEDENTS

On 22 March 1996, respondent filed a Petition before the RTC of San Mateo, Rizal,[8] seeking to register her title over Lot 2 of Survey Plan Psu-213331, a parcel of land located in *Brgy.* San Isidro, Rodriguez, Rizal, with an area of 118,448 square meters.[9] She asserted that she was entitled to confirmation and registration of title, as she had been in "natural, open, public, adverse, continuous, uninterrupted" possession of the land in the concept of an owner since October 1964.[10]

Petitioner Republic of the Philippines filed an Opposition[11] to the Petition. It contended that (a) neither respondent nor her predecessors-in-interest had been in open, continuous, exclusive and notorious possession of the land since 12 June 1945;[12] (b) the Tax Declarations attached to the Petition did not constitute sufficient evidence of the acquisition or possession of the property;[13] (c) respondent failed to apply for registration of title within six months from 16 February 1976 as required by Presidential Decree No. (P.D.) 892;[14] and (d) the land in question was part of the public domain and not subject to private appropriation.[15]

After the conduct of proceedings to confirm compliance with jurisdictional requisites,[16] the RTC directed respondent to submit documents to establish that (a) the property that was the subject of the application for registration of title was not covered by the Comprehensive Agrarian Reform Program of the Government; (b) there were no tenants on the property; and (c) the land was not subject to any homestead, free patent, or grant of title from the Land Registration Authority (LRA), the Bureau of Lands, or the Department of Agrarian Reform.[17] Respondent was also directed to begin the presentation of her evidence.[18]

In line with this directive, the Community Environment and Natural Resources Office (CENRO) submitted a Report[19] on the results of its verification of the existing records on the subject property. The Report stated that the land "appears to be [n]ot covered by any public land application nor embraced by any administrative title."[20] However, the entry with respect to whether the land was within the alienable and disposable zone was left blank

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[8] The case was docketed as LRC Case No. N-271-96 SM and assigned to Branch 75 of the RTC of San Mateo Rizal.
[9] *Rollo*, p. 53.
[10] Id. at 106.
[11] Id. at 112-114; Dated 28 May 1997.
[12] Id. at 112.
[13] Id.
[14] Id. at 113.
[15] Id.
[16] Id. at 19.
[17] Id. at 19.
[18] Id. at 19-20.
[19] Records, p. 80; Dated 26 November 1997.
[20] Id.

with a notation that the area was "not projected due to [u]navailability of coordinates re[:] Tala Estate Tie-Line."[21]

The LRA likewise submitted a Report[22] stating that it "was not in a position to verify whether or not the parcel of land subject of registration is already covered by land patent and is within the area classified as alienable and disposable land of the public domain."[23] Hence, the LRA recommended that the CENRO of Antipolo, Rizal, be ordered to submit a report on the status of the land.[24] This proposal was adopted by the RTC in an Order[25] dated 28 December 1998.

During trial, respondent presented three witnesses to prove her right to register the property: Leonila Alfaro, her daughter and attorney-in-fact, who testified that respondent had occupied the land since 1940 and had paid the real estate taxes therefor since 1969;[26] Santiago Eulin, who was allegedly hired by respondent to plant vegetables and fruit trees on the land and who acted as its caretaker since 1942;[27] and Roberto M. Valdez of the LRA, who identified the original tracing cloth plan for the property.[28]

The following documents were likewise submitted to the trial court: Survey Plan PSU-213331,[29] a Surveyor's Certificate[30] and technical descriptions of the property,[31] which purportedly proved that the land had been duly surveyed by the Land Management Sector; various Tax Declarations and receipts;[32] and a Certification issued by the CENRO that the land applied for was not covered by any public land application.[33]

Petitioner, on the other hand, decided to have the case submitted for resolution without any further submission.[34]

THE RULING OF THE RTC

In a Decision dated 31 July 2002, the RTC granted the Petition and ordered the issuance of a Decree of Registration in favor of respondent.[35] It declared that she had acquired ownership of the land by way of open,

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[21] Id.
[22] Id. at 9; Dated 5 November 1998.
[23] Id.
[24] Id.
[25] Id. at 9.
[26] Transcript of Stenographic Notes (TSN) dated 18 March 1999, pp. 7-9.
[27] TSN dated 30 June 1999, p.3.
[28] *Rollo*, p. 137.
[29] Records, pp. 15, 175.
[30] Id. at 17.
[31] Id. at 16.
[32] Id. at 130-135
[33] Id. at 126.
[34] Id. at 163.
[35] Supra note 4.

continuous, public, adverse, actual and *bona fide* possession in the concept of an owner since 1940.[36]

Petitioner appealed the RTC Decision to the CA. In the Appellant's Brief,[37] the Republic argued that respondent had failed to clearly and convincingly establish that she had actual, continuous, exclusive and notorious possession of the property since 12 June 1945 or earlier as required by Section 14(1) of P.D. 1529 or the Property Registration Decree.[38] Petitioner further asserted that there was no basis for the finding of the RTC that she had occupied the land since 1940.[39]

Respondent failed to file an appellee's brief.[40] Consequently, the CA considered the case submitted for resolution.[41]

THE RULING OF THE CA

On 23 August 2007, the CA dismissed petitioner's appeal.[42] According to the appellate court, the evidence presented proved that respondent had occupied the land since 1940. Even assuming that her possession of the property started only when she had it privately surveyed in 1964, she had been its occupant for more than 30 years.[43] As such, she was still entitled to registration of title under Section 14(2) of P.D. 1529.

The CA further characterized the land as private property:

> The fact that the subject land is covered by a private survey (PSU) (EXH. "J") way back in 1964, which survey was approved on April 1965 by Director Nicanor Jorge of the then Bureau of Lands, is a clear indication that it is already private in nature. Moreover, applicant's evidence consisting of the DENR-CENRO Certifications (Exhs. "O" and "P") that Lot 2 of PSY 213331 is not covered by any public land application and that its equivalent is Lot No, 10549 of the Montalban Cadastre have substantial probative value which established (sic) that the land is alienable and disposable and not covered by any land grant from the government.

Petitioner moved for reconsideration of the Decision.[44] The CA, however, denied the motion in a Resolution[45] dated 22 January 2008, prompting petitioner to elevate the case to this Court.

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[36] Id. at 138.
[37] Id. at 141-168.
[38] Id. at 158.
[39] Id. at 161.
[40] *CA rollo*, p. 48.
[41] Id.
[42] *Rollo*, p. 62.
[43] Id. at 60.
[44] Id. at 65-98.
[45] Id. at 64.

PROCEEDINGS BEFORE THIS COURT

In its Petition for Review, the Republic argues that (a) the decision of the CA and the RTC to confirm the title of respondent to the land based on her possession and occupation thereof was not supported by evidence; and (b) the testimonial and documentary evidence she presented did not establish possession of the property in the manner and period required by law, that is, her possession of the property since 12 June 1945 or earlier. Petitioner also emphasizes that the lower courts gave undue importance to the Tax Declarations and receipts presented,[46] as well as to the testimonies of respondent's witnesses, notwithstanding the inconsistencies in their statements.

On 26 September 2008, respondent filed a Manifestation and Comment[47] in which she pointed out that the grounds relied upon by petitioner all pertain to allegedly erroneous findings of fact. She argued that these grounds could not be raised in a Rule 45 proceeding; hence, the dismissal of the petition was warranted.[48]

Petitioner reiterated its arguments in its Reply[49] and Memorandum[50] filed on 17 March 2009 and 19 February 2010, respectively.

ISSUES

Based on the submissions of the parties and the Decisions of the CA and the RTC, two issues are presented for resolution by this Court:

(1) Whether the CA erroneously allowed the judicial confirmation of respondent's title to the property under Section 14(1) of P.D. 1529; and

(2) Whether the CA erred in declaring that respondent is likewise entitled to registration of title based on ownership by acquisitive prescription under Section 14(2) of P.D. 1529.

OUR RULING

We **GRANT** the Petition.

Applications for registration of title to land, both public and private, are governed by Section 14 of P.D. 1529:

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[46] Id. at 37-45.
[47] Id. at 184-186.
[48] Id.
[49] Id. at 198-214.
[50] Id. at 228-275.

> SECTION 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:
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> (1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership since June 12, 1945, or earlier.
>
> (2) Those who have acquired ownership of private lands by prescription under the provisions of existing laws.
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> (3) Those who have acquired ownership of private lands or abandoned river beds by right of accession or accretion under the existing laws.
>
> (4) Those who have acquired ownership of land in any other manner provided for by law.
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> Where the land is owned in common, all the co-owners shall file the application jointly.
>
> Where the land has been sold under pacto de retro, the vendor a retro may file an application for the original registration of the land, provided, however, that should the period for redemption expire during the pendency of the registration proceedings and ownership to the property consolidated in the vendee a retro, the latter shall be substituted for the applicant and may continue the proceedings.
>
> A trustee on behalf of his principal may apply for original registration of any land held in trust by him, unless prohibited by the instrument creating the trust.

Each paragraph of Section 14 refers to a distinct type of application depending on the applicable legal ground. Since each type is governed by its own set of legal principles, the framework for analysis to be used in resolving an application would vary depending on the paragraph invoked.[51] Hence, it is important for the Court to first determine the exact legal ground used by an applicant for registration.[52]

In this case, we note that the application filed by respondent before the RTC did not state the exact legal basis of her request. At best, the pleading implied that her claim was one for registration and confirmation of title based on her *possession* and *occupation* of the property:

> COMES NOW Petitioner Rosario L. Nicolas, of legal age, widow, Pilipino [sic] with address at Brgy. San Isidro, Rodriguez (formerly Montalban),

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[51] See *Heirs of Malabanan v. Republic*, 605 Phil. 244 (2009).
[52] *Canlas v. Republic*, G.R. No. 200894, 10 November 2014.

> Rizal Province, Philippines, by her undersigned counsel and to this Honorable Court respectfully petitions to have the land hereinafter described below brought under the operation of the Land Registration Act and to have said land **titled, registered and confirmed** in her name and further declares that:
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> x x x x
>
> 6. Petitioner acquired the subject parcel of land **by way of occupation** and has been in **natural, open, public, adverse, contin[u]ous, uninterrupted** and in the concept of an **owner/possessor** thereof since October 1964 up to the present.[53] (Emphases supplied)

From the foregoing allegations, it appears that the claim of respondent is anchored on either of the first two paragraphs of Section 14. However, it is unclear whether she sought judicial confirmation and registration of her title pursuant to Section 14(1) of P.D. 1529, or of the registration of her title on the ground of acquisitive prescription under Section 14(2) of the same law.

Similarly, no specific provision in P.D. 1529 was identified by the RTC when it granted the Petition.[54] Its mention of the Civil Code, however, seems to indicate an application of the principle of acquisitive prescription. The CA, for its part, delineated the differences between the first two paragraphs of Section 14, but decided to apply both clauses. In its Decision, it ruled that respondent is entitled to register her title under either paragraph:

> From the evidence adduced, **applicant-appellee has convincingly established her registrable title to the subject land, which is entitled to confirmation and registration by the trial court.** As testified by the daughter of applicant, her mother commenced occupying the subject land since 1940 and up to the present which (sic) has been planted with fruit-bearing trees and vegetables by their caretaker. Her testimony was corroborated by Santiago Eulin, their caretaker since 1942 who took over after his father, the original caretaker. These witnesses declared that they even stayed on the land in question where the applicant has a hut. It was also established that the applicant had the property surveyed in 1964 resulting in the approval of Plan PSU 21331 by the Bureau of Lands. This qualifies applicant under **Section 14, par. 1 of the Property Registration Decree.**
>
> Even assuming that applicant's occupation and possession of the subject land did not start on July 12, 1945 or earlier but only in 1964 when she had it surveyed, still **she can apply for registration of title under Sec. 14, par. 2 of the Property Registration Decree as she has been occupying the land continuously for more than thirty (30) years from the time the application was filed in 1996.**[55] (Emphases supplied)

Given these findings, the Court has examined the application for registration in this case under the legal framework of *both* Section 14(1) and

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[53] Id. at 104-106.
[54] Id. at 137-138.
[55] Id. at 59-60.

(2) of P.D. 1529. We find that respondent has failed to sufficiently establish the requisites of both paragraphs; in particular, with respect to the classification and the character of the land in question. Hence, we are constrained to reverse the CA and the RTC Decisions allowing the registration of her title to the property.

Respondent has failed to prove that the property is alienable and disposable agricultural land that may be registered under Section 14(1) of P.D. 1529.

Section 14(1) of P.D. 1529 governs applications for registration of alienable and disposable lands of the public domain. This paragraph operationalizes Section 48(b) of Commonwealth Act No. 141 as amended.[56] This provision grants occupants of public land the right to judicial confirmation of their title. Based on these two provisions and other related sections of C.A. 141, registration is allowed provided the following requisites have been complied with:

1. The applicant is a Filipino citizen.[57]

2. The applicant, by himself or through his predecessors-in-interest, has been in open, continuous, exclusive and notorious possession and occupation of the property since 12 June 1945.[58]

3. The property has been declared alienable and disposable as of the filing of the application.[59]

4. If the area applied for does not exceed 12 hectares, the application should be filed by 31 December 2020.[60]

As earlier stated, respondent failed to establish the third requisite, i.e., that the property subject of the application is alienable and disposable agricultural land.

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[56] Section 48(b) of Commonwealth Act No. 141, as amended by Presidential Decree No. 1073, states:

> SEC. 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or interest therein, but whose titles have not been perfected or completed, may apply to the Regional Trial Court of the province or city where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Property Registration Decree, to wit:
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> x x x x
>
> (b) 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 agricultural lands of the public domain, under a *bona fide* claim of acquisition or ownership, since June 12, 1945, 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.

[57] Id.

[58] Id.

[59] *Heirs of Malabanan v. Republic*, Resolution on the Motion for Reconsideration, G.R. No. 179987, 3 September 2013, 734 SCRA 561.

[60] C.A. 141, Section 47.

The Court has emphasized in a long line of cases[61] that an applicant for registration under Section 14(1) must prove that the subject property has been classified as alienable and disposable agricultural land by virtue of a positive act of the Executive Department. In *Heirs of Malabanan v. Republic,*[62] we declared:

> Alienable and disposable lands of the State fall into two categories, to wit: (a) patrimonial lands of the State, or those classified as lands of private ownership under Article 425 of the Civil Code, without limitation; and (b) lands of the public domain, or the public lands as provided by the Constitution, but with the limitation that the lands must only be agricultural. Consequently, lands classified as forest or timber, mineral, or national parks are not susceptible of alienation or disposition unless they are reclassified as agricultural. A positive act of the Government is necessary to enable such reclassification, and the exclusive prerogative to classify public lands under existing laws is vested in the Executive Department, not in the courts. xxx Thus, until the Executive Department exercises its prerogative to classify or reclassify lands, or until Congress or the President declares that the State no longer intends the land to be used for public service or for the development of national wealth, the Regalian Doctrine is applicable.

In this case, we note that both the RTC and the CA glossed over this requirement. The RTC, for instance, only made a general conclusion as to the classification and alienability of the property, but without any discussion of the evidence presented:

> From the evidence adduced, applicant-appellee has convincingly established her registrable title to the subject land which is entitled to confirmation and registration by the trial court. x x x It was also established that the applicant had the property surveyed in 1964 resulting in the approval of Plan PSU-213331 by the Bureau of Lands. This qualifies applicant under Sec. 14, par. 1 of the Property Registration Decree.[63]

The CA, on the other hand, simply relied on the fact that the property had been the subject of a private survey in 1964:

> From the evidence adduced, the following facts have been duly proved:
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> x x x x
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> That the land applied for is neither subject to any water, oil/nor (sic) mineral rights, not within any government reservation, naval or

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[61] See, for instance, *Republic v. Sogod Development Corp.*, G.R. No. 175760, 17 February 2016; *Republic v. Lualhati*, G.R. No. 183511, 25 March 2015; *Republic v. Dayaoen*, G.R. No. 200773, 8 July 2015; *Republic v. Sese*, G.R. No. 185092, 4 June 2014, 724 SCRA 592; *Republic v. Heirs of Sin*, G.R. No. 157485, 26 March 2014; *Spouses Fortuna v. Republic*, G.R. No. 173423, 5 March 2014, 718 SCRA 35; *Republic v. De Tensuan*, G.R. No. 171136, 23 October 2013, 708 SCRA 367; *Republic of the Philippines v. T.A.N. Properties, Inc.*, 578 Phil. 441 (2008).

[62] Supra note 59.

[63] *Rollo*, p. 59.

> military, or mineral rights, within the forest zone, and neither is it part of the inalienable or undisposable land of the public domain nor covered by the Code on Comprehensive Agrarian Reform or subject to any subsisting Public Patent application;
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> x x x x
>
> That the said parcel of land applied for is duly surveyed for registration (Exh. "J"), classified as agricultural; that they planted mangoes, buko, sometimes corn in the area through their caretaker x x x.[64]

While a petition for review on certiorari under Rule 45 is generally limited to a review of errors of law, the Court may conduct its own review of the evidence if the findings of the lower courts are bereft of legal and factual bases.[65] In this case, the conclusions of the RTC and the CA are not only contradicted by the evidence on record; they are likewise contrary to law and jurisprudence. As a result, the Court is constrained to set aside these pronouncements.

To prove that the property subject of an application for original registration is part of the alienable and disposable lands of the public domain, applicants must "identify a positive act of the government, such as an official proclamation, declassifying inalienable public land into disposable land for agricultural or other purposes."[66] To sufficiently establish this positive act, they must submit (1) a certification from the CENRO or the Provincial Environment and Natural Resources Office (PENRO); and (2) a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records.[67]

Here, respondent presented the following pieces of evidence to establish her claim that the land had been classified as agricultural and considered alienable and disposable:

> (1) A CENRO Report[68] stating that the land was not covered by any public land application or embraced by any administrative title, but with a notation that that the alienability of the land was "[n]ot projected due to [u]navailability of coordinates re: Tala Estate Tie-line";
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> (2) A CENRO Certification[69] that the lot "is not covered by any kind of public land application";

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[64] Id at 136-137.
[65] *Republic v. Lualhati*, supra.
[66] *Republic v. Heirs of Sin*, supra at 55.
[67] *Republic v. T.A.N. Properties, Inc.*, 578 Phil 441-464 (2008).
[68] Records, p. 80; Signed by Romeo C. Cadano, Land Management Officer III of the CENRO, Region IV, Antipolo, Rizal.
[69] Records, p. 153; Dated 5 January 1998 and signed by Rogelio C. Matias, Chief of Land Management Services, CENRO, Antipolo, Rizal.

(3) A Report[70] from the Land Registration Authority (LRA) declaring that it was "not in a position to verify whether or not the parcel of land subject of registration is already covered by land patent and is within the area classified as alienable and disposable land of the public domain"; and

(4) The testimonies of Leonila Alfaro,[71] her daughter, and Santiago Eulin[72] (the caretaker of the land) confirming that the property is agricultural in nature.

It is evident from the foregoing enumeration that respondent not only neglected to submit the required CENRO/PENRO certification and DENR classification, but also presented evidence that completely failed to prove her assertion.

First, the testimonies of Leonila and Santiago on the classification of the land have very little evidentiary value. That they consider the property agricultural in nature is irrelevant, as their statements are mere opinions bereft of any legal significance.

Second, none of the documents submitted by respondent to the trial court indicated that the subject property was agricultural or part of the alienable and disposable lands of the public domain. At most, the CENRO Report and Certification stated that the land was not covered by any kind of public land application. This was far from an adequate proof of the classification of the land. In fact, in *Republic v Lualhati,*[73] the Court rejected an attempt to prove the alienability of public land using similar evidence:

> Here, respondent failed to establish, by the required evidence, that the land sought to be registered has been classified as alienable or disposable land of the public domain. The records of this case merely bear certifications from the DENR-CENRO, Region IV, Antipolo City, stating that no public land application or land patent covering the subject lots is pending nor are the lots embraced by any administrative title. Said CENRO certifications, however, do not even make any pronouncement as to the alienable character of the lands in question for they merely recognize the absence of any pending land patent application, administrative title, or government project being conducted thereon. But even granting that they expressly declare that the subject lands form part of the alienable and disposable lands of the public domain, these certifications remain insufficient for purposes of granting respondent's application for registration. As constantly held by this Court, it is not enough for the CENRO to certify that a land is alienable and disposable. The applicant for land registration must prove that the DENR Secretary had approved the land classification and released the land of the public

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[70] Id. at 97; Signed by Felino M. Cortez, Director of the Department on Registration.
[71] TSN dated 18 March 1999, p. 6.
[72] TSN dated 30 June 1999, p. 4.
[73] Supra note 65.

> domain as alienable and disposable, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO or CENRO. Unfortunately for respondent, the evidence submitted clearly falls short of the requirements for original registration in order to show the alienable character of the lands subject herein.

Applying these standards to the instant case, we declare that the RTC did not have sufficient basis for its finding that the property in question was alienable and disposable.

The Court also finds that the ruling of the CA on the evidentiary value of the private survey is untenable. The fact that the land has been privately surveyed is not sufficient to prove its classification or alienable character. While the conduct of a survey and the submission of the original tracing cloth plan are mandatory requirements for applications for original registration of land under P.D. 1529, they only serve to establish the true identity of the land and to ensure that the property does not overlap with another one covered by a previous registration.[74] These documents do not, by themselves, prove alienability and disposability of the property. In fact, in several cases,[75] the Court has declared that even a survey plan with a notation that the property is alienable cannot be considered as sufficient evidence of alienability. Here, the survey plan and original tracing cloth plan submitted by respondent does not even bear that notation. Consequently, it was grave error for the CA to consider the mere conduct of a private survey as proof of the classification and the alienability of the land.

Respondent has failed to prove that the land subject of the application is part of the patrimonial property of the State that may be acquired by prescription under Section 14(2) of P.D. 1529.

As previously noted, the CA also allowed the registration of the property under Section 14(2) of P.D. 1529 based on the following findings: (1) the property is "private in nature" as shown by the fact that it is "covered by a private survey"; [76] (2) respondent had occupied the land continuously for more than 30 years from the time of the filing of the application in 1996;[77] and (3) the land is not covered by any public land application based on the DENR-CENRO Certifications submitted by respondent.[78]

We do not agree. The Court finds no sufficient basis to allow the registration of the property under Section 14(2).

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[74] *Republic v. Guinto-Aldana*, 642 Phil. 364-379 (2010).
[75] *Republic v. Espinosa*, 691 Phil. 314-335 (2012); *Republic v. Sarmiento*, 547 Phil. 157 (2007); *Menguito v. Republic*, 401 Phil. 274 (2000).
[76] *Rollo*, p. 60.
[77] Id.
[78] Id.

By express provision of the law, only *private* lands that have been acquired by prescription under existing laws may be the subject of applications for registration under Section 14(2). The starting point of the Court's evaluation must, therefore, be whether the property involved falls within the scope of the paragraph.

Under the Civil Code, all things within human commerce are generally susceptible of prescription.[79] Properties of the public dominion, or those owned by the State, are expressly excluded by law from this general rule,[80] unless they are proven to be *patrimonial* in character. As the Court explained in *Republic of the Philippines v. Tan*:

> Only private property can be acquired by prescription. Property of public dominion is outside the commerce of man. It cannot be the object of prescription because prescription does not run against the State in its sovereign capacity. However, **when property of public dominion is no longer intended for public use or for public service, it becomes part of the patrimonial property of the State.** When this happens, the property is withdrawn from public dominion and becomes property of private ownership, albeit still owned by the State. The property is now brought within the commerce of man and becomes susceptible to the concepts of legal possession and prescription.[81] (Emphasis supplied)

To establish that the land subject of the application has been converted into patrimonial property of the State, an applicant must prove the following:

1. The subject property has been classified as agricultural land.[82]

2. The property has been declared alienable and disposable.[83]

3. There is an express government manifestation that the property is already patrimonial, or is no longer retained for public service or the development of national wealth.[84]

It must be emphasized that without the concurrence of these three conditions, the land remains part of public dominion and thus incapable of acquisition by prescription.[85]

Here, the records show that respondent has failed to allege or prove that the subject land belongs to the patrimonial property of the State. As earlier discussed, the evidence she has presented does not even show that the property is alienable and disposable agricultural land. She has also failed to

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[79] CIVIL CODE, Article 1113.
[80] Id.
[81] G.R. No. 199537, 10 February 2016.
[82] CONSTITUTION, Art. XII, Secs. 2 and 3.
[83] C.A. 141, Section 6.
[84] CIVIL CODE, Art. 422. Also see *Heirs of Malabanan v Republic,* supra note 51.
[85] Id.

cite any government act or declaration converting the land into patrimonial property of the State.

Contrary to the ruling of the CA, the DENR-CENRO Certifications submitted by respondent are not enough; they cannot substitute for the three conditions required by law as proof that the land may be the subject of prescription under the Civil Code. For the same reason, the mere conduct of a private survey of a property – even with the approval of the Bureau of Lands – does not convert the lot into private land or patrimonial property of the State. Clearly, the appellate court erred when it relied on the survey to justify its conclusion that the land is private in nature.

Considering the absence of sufficient evidence that the subject land is a patrimonial property of the State, we must consider it part of public dominion and thus immune from acquisitive prescription.

As a final note, the Court must point out that proof of the classification, alienability and disposability of the subject property is of particular significance in applications for the registration of land. Given the general rule that public lands may not be alienated,[86] it is the burden of applicants to prove that the land they seek to register falls within the classifications enumerated in Section 14 of P.D. 1529; in particular, the specific paragraph they invoke as basis for registration.[87] Absent that proof, no length of possession or occupation would vest any right of ownership over the property,[88] and registration under P.D. 1529 cannot be sanctioned by this Court.

WHEREFORE, the Petition is hereby **GRANTED**. The Court of Appeals Decision dated 23 August 2007 and Resolution dated 22 January 2008 are **REVERSED** and **SET ASIDE**. Respondent's application for land registration is **DENIED** for lack of merit.

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

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[86] Supra note 62.
[87] *Republic v. Dayaoen*, G.R. No. 200773, 8 July 2015 citing *Remman Enterprises, Inc. v. Republic*, G.R. No. 188494, 26 November 2014.
[88] *Republic v. Zurbaran Realty & Development Corp.*, G.R. No. 164408, 24 March 2014, 719 SCRA 601.

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

NOEL G. TIJAM
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