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Wilfredo V. Lapitan
 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

Republic of the Philippines
 Supreme Court
 Manila

FEB 20 2018

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES,
 Petitioner,

G.R. No. 190817

Present:

- versus -

VELASCO, JR., J., *Chairperson*,
 BERSAMIN,
 LEONEN,
 MARTIRES, and
 GESMUNDO, JJ.

ROVENCY REALTY AND
 DEVELOPMENT CORPORATION,
 Respondent.

Promulgated:

January 10, 2018

Wilfredo V. Lapitan

X -----X

DECISION

MARTIRES, J.:

This is a petition for review on certiorari seeking to reverse and set aside the 10 March 2009 Decision¹ and the 3 December 2009 Resolution² of the Court of Appeals (CA) in CA-G.R. CV No. 00651, which affirmed the 7 November 2003 Decision³ of the Regional Trial Court (RTC), Branch 41, Cagayan de Oro City, in LRA Case No. N-2000-084, which granted the application for original registration of title to land by respondent Rovency Realty and Development Corporation (RRDC).

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¹ Rollo, pp. 59-75.

² Id. at 76-77.

³ Id. at 78-91.

THE FACTS

On 22 March 2001, RRDC filed before the RTC an Amended Application for Registration⁴ covering a parcel of land identified as Lot No. 3009 (*subject land*) situated in Barangay Balulang, Cagayan de Oro City, described as follows:

A parcel of land (Lot No. 3009, Cad-237, Cagayan Cadastre) situated in the Barrio of Carmen, City of Cagayan de Oro, Island of Mindanao. Bounded on the S., along line 1-2 by Lot 6648; on the NW., along line 2-3 by Lot 30011; along line 3-4 by Lot 3010; along line 4-5 by Lot 3047; along line 5-6 by Lot 3020; on the N., along line 6-7 by Lot 3007; on the SE., along line 8-9 by Lot 6645; along line 9-1 by Lot 3008; all of Cad-237, Cagayan Cadastre.

Beginning at the point marked "1" on the plan being N. 51 deg. 24'W., 1091.05 m. from PBM No. 24, Cad-237, Thence;

1-2 S.	79 deg.	15'W.	260.92 m.
2-3 N.	19 deg.	02'E.	231.49 m.
3-4 N.	13 deg.	32'E.	489.77 m.
4-5 N.	61 deg.	39'E.	302.54 m.
5-6 N.	40 deg.	09'E.	146.06 m.
6-7 S.	82 deg.	14'E.	140.06 m.
7-8 S.	24 deg.	28'E.	152.88 m.
8-9 S.	34 deg.	00'W.	448.33 m.
9-1 S.	33 deg.	26'W.	445.73 m.

beginning; containing an area of THREE HUNDRED EIGHTEEN THOUSAND THREE HUNDRED FORTY FIVE (318,345) square meters more or less. All points referred to are indicated on the plan and marked on the ground by Old BL., cyl. conc. mons. 15 x 60 cm. Bearing true, date of Original Survey August 9 & 13, 1929, and that of the preparation June 29, 2000, executed by Crisanto M. Bagares, Geodetic Engineer and approved on August 1, 2000.⁵

RRDC alleged, among others, that it is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines; that it is the absolute owner in fee simple of the subject land having acquired the same from its previous owner, P.N. Roa Enterprises, Inc., by virtue of a notarized deed of absolute sale executed on 05 March 1997; that the subject land was assessed at ₱2,228,000.00 as shown in the Tax Declaration (*TD*) No. 141011; that it has registered the subject land for taxation purposes and paid the realty taxes due therein from its acquisition, to the filing of the application; that immediately after acquiring the subject land, it took actual physical possession of the same and has been continuously occupying the subject land; and that it and its predecessors-in-


⁴ CA *rollo*, pp. 466-470.

⁵ *Id.* at 474.

interest have been in open, continuous, adverse, and peaceful possession in concept of owner of the subject land since time immemorial, or for more than thirty (30) years.

Attached to the application are: original copy of the technical description of the subject land⁶; the Tracing Cloth Plan of the survey plan⁷; Certification in Lieu of Surveyor's/Geodetic Engineer's Certificate⁸ issued by the Chief of the Land Surveys Assistance Section, Department of Environment and Natural Resources, Region X; T.D. No. 141011 in the name of RRDC⁹; and the Deed of Absolute Sale between RRDC and P.N. Roa Enterprises, Inc., dated 5 March 1997.¹⁰

On 16 July 2001, an opposition to the application was filed by the Heirs of Paulino Avanceña. They alleged, that the subject land was already claimed and owned by the late Atty. Paulino Avanceña (*Paulino*), their father and predecessor-in-interest, as early as 1926; that Paulino had been in open, continuous, notorious, adverse, and exclusive possession and occupation of the subject land; that Paulino registered the subject land for taxation purposes and has paid the taxes due thereon in 1948; that their parents, Paulino and Rizalina Neri (*Rizalina*) merely allowed and tolerated Pedro N. Roa's (*Pedro*) possession of the subject land after the latter approached them and requested that he be allowed to use the subject land for his businesses; that Pedro is one of RRDC's predecessors-in-interest; that sometime in 1994, Rizalina demanded the return of the subject land from the heirs of Pedro, but to no avail; that in 1996, Rizalina died leaving the private oppositors as the rightful heirs of the subject land; that their parents never sold the subject land to Pedro nor to RRDC, and as such, no right or title over the subject land was passed on to RRDC. Thus, they prayed that RRDC's application be dismissed, and that their opposition be treated as their own application for registration.¹¹

On 3 August 2001, the petitioner Republic of the Philippines (*Republic*), through the Office of the Solicitor General (*OSG*), filed its opposition to the application on the following grounds: that neither RRDC nor its predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the land in question since 12 June 1945 or prior thereto; that the subject land exceeds the twelve (12)-hectare limit for confirmation of imperfect title set by Section 47 of Commonwealth Act (*C.A.*) No. 141, as amended by Republic Act (*R.A.*) No. 

⁶ Id.

⁷ Id. at 475.

⁸ Id. at 476.

⁹ Id. at 477.

¹⁰ Id. at 478-479.

¹¹ Id. at 480-484.

6940; and that the subject land forms part of the public domain belonging to the Republic and, thus, not subject to private appropriation.¹²

During trial, RRDC presented the following documents in support of its application: (i) Deed of Absolute Sale notarized by notary public Paulino Avanceña showing that the subject land was sold by Catalino Eballo to Nicolas Beja and Maximo Amper on 21 June 1937¹³; (ii) Deed of Absolute Sale notarized by notary public Paulino Avanceña showing that a portion of the subject land consisting of 159,178.5 square meters (*first portion*) was sold by Maximo Amper to Perfecto Virtudazo on 07 October 1940¹⁴; (iii) Deed of Absolute Sale notarized by notary public Troadio C. Ubay-ubay showing that the first portion consisting of 15 hectares, 91 ares and 72 centares (159,172 square meters) was sold by Trinidad Virtudazo, Israel Virtudazo, and Adelina Virtudazo to Victor D. Beja on 22 April 1961¹⁵; (iv) Deed of Absolute Sale showing that the first portion of the subject land consisting of 159,172 square meters was sold by Victor D. Beja to Pedro N. Roa on 01 February 1967¹⁶; (v) Deed of Absolute Sale notarized by notary public Troadio C. Ubay-ubay showing that the other portion (*second portion*) of the subject land was sold by Nicolas Beja to Victor Beja on 22 April 1961¹⁷; (vi) Deed of Sale showing that the second portion was sold by Victor Beja to Pedro N. Roa on 01 February 1967¹⁸; (vii) Deed of Exchange notarized by notary public Jose L. Sabio, Jr. showing that the two portions of the subject land were conveyed by Pedro N. Roa in favor of P.N. Roa Enterprises, Inc. on 23 September 1987;¹⁹ and (viii) Deed of Sale notarized by Rene C. Barbaso showing that the two (2) portions of the subject land were sold by P.N. Roa Enterprises, Inc. to RRDC on 25 July 1996.²⁰

RRDC also presented a certification²¹ from the Community Environment and Natural Resources Office (*CENRO*), Cagayan de Oro City, certifying that the subject land is alienable and disposable and not covered by any public land application patent and hence, no patent has been issued thereon. Lastly, RRDC presented several tax declarations in the name of its predecessors-in-interest, the earliest of which is T.D. No. 91264, which showed that realty taxes on the subject land have been paid in 1947.²²

¹² Id. at 489-490.

¹³ Id. at 500.

¹⁴ Id. at 501.

¹⁵ Id. at 502-503.

¹⁶ Id. at 504-505.

¹⁷ Id. at 507-508.

¹⁸ Id. at 509-511.

¹⁹ Id. at 512-514.

²⁰ Id. at 515-516.

²¹ Id. at 551.

²² Id. at 553.

On the other hand, to support their claim that a patent over the subject land had been issued in the name of their father, the private oppositors presented a certification²³ issued by the Records Management Division of the Lands Management Bureau of the Department of Environment and Natural Resources which merely states that "...according to the verification made by the Geodetic Surveys Division, survey plan no. Psu-45882 with an accession no. 284578 is located at Cagayan, Misamis, as per their EDP listing. It is unfortunate however that as of this moment, this office (Records Management Division) cannot locate said records despite diligent search made thereon."

The RTC Ruling

In its decision, dated 7 November 2003, the RTC granted RRDC's application for registration of the subject land. It opined that the CENRO certification, stating that the subject land is alienable and disposable and not covered by any public land application, is sufficient to show the character of the land. It further ruled, that RRDC and its predecessors-in-interest had been in open and continuous possession under a bona fide claim of ownership over the subject land based on the documentary and testimonial evidence offered by RRDC, without discussing how these pieces of evidence established the required possession.

The trial court further brushed aside the opposition interposed by the heirs of Paulino Avanceña. It was not convinced that the evidence they presented were sufficient to grant the application in their favor. It noted that the oppositors' claim that they were the rightful owners of the subject land does not hold water considering that the deeds of sale presented by RRDC in support of their claim were notarized by Paulino himself.

The dispositive portion of the RTC decision reads:

WHEREFORE, this Court considering the evidence of the applicant, the reports of the Land Registration Authority, Director of Lands and the Certification of the CENRO, DENR, Cagayan de Oro City, hereby declares that the applicant, Rovency Realty & Development Corporation, have sufficient title proper for registration over the parcel of land subject of this application. The opposition of the Heirs of Paulino Avanceña, is hereby ordered dismissed, being lack of merit.

Accordingly, in accordance with the prayer of the applicant herein, the Commissioner, or anyone acting on his behalf is hereby directed to ISSUE A DECREE OF REGISTRATION and the CORRESPONDING CERTIFICATE OF TITLE FOR THE PARCEL OF LAND described in



²³ Id. at 230.

the instant application in favor of ROVENCY REALTY and DEVELOPMENT CORPORATION. SO ORDERED.²⁴

Unconvinced, the Republic, through the OSG, and private oppositors heirs of Paulino Avancena, elevated their respective appeals to the CA.²⁵

The Republic contended that the trial court erred in granting the application for registration, considering that the land applied for is in excess of what is allowed by the Constitution; and that the Corporation Code further prohibits RRDC to acquire the subject land unless the acquisition thereof is reasonably necessary for its business. On the other hand, the Avanceña heirs insisted that they are the rightful owners of the subject land, by virtue of the homestead patent granted to their predecessor-in-interest.

The CA Ruling

In its assailed decision, dated 10 March 2009, the CA affirmed the 7 November 2003 RTC decision. The appellate court concurred with the trial court's findings that the subject land is alienable and disposable, and that RRDC has sufficiently established the required period and character of possession. Likewise, the appellate court was not persuaded by the claims of the heirs. It noted that the private oppositors anchored their claim on the alleged homestead grant to Paulino, their predecessor-in-interest, which claim was unsupported by sufficient documentary evidence.

The appellate court also ruled that the 12-hectare limit under the Constitution was not violated. It explained that Section 3 of Article XII of the 1987 Constitution, the constitutional provision which provided for the 12-hectare limit in the acquisition of land, covers only agricultural lands of the public domain. It ratiocinated that when the subject land was acquired through acquisitive prescription by RRDC's predecessors-in-interest, it was converted into a private property and, as such, it ceased to be part of the public domain. Thus, when RRDC acquired the subject land by purchase, it was no longer within the ambit of the constitutional limitation.

As to the contention that the Corporation Code bars RRDC to acquire the subject land, the appellate court simply stated that while the said code imposes certain limitations on the acquisition of real property, there is no such prohibition. It stressed that RRDC is an artificial being imbued with the power to purchase, hold, and convey real and personal property for such purposes that are within the objects of its creation. Considering that RRDC

²⁴ Id. at 557-558.

²⁵ Id. at 239-240, 279 and 432-433.



is a corporation engaged in realty business, it has the power to purchase real properties. The dispositive portion of said decision states:

WHEREFORE, the appeal is DENIED. The assailed November 7, 2003 Decision of the Regional Trial Court (RTC) of Misamis Oriental, Branch 41, Cagayan de Oro City is hereby AFFIRMED. SO ORDERED.²⁶

The Republic moved for reconsideration; while the Heirs of Paulino Avanceña adopted the Republic's motion for reconsideration as their own. In its resolution, dated 3 December 2009, the CA denied the motion for reconsideration.

Hence, this petition.

THE ISSUES

I.

THE TRIAL COURT ERRED IN GRANTING THE AMENDED APPLICATION FOR REGISTRATION AND ORDERING THE ISSUANCE OF A DECREE OF REGISTRATION AND THE CORRESPONDING CERTIFICATE OF TITLE FOR A PARCEL OF LAND CONTAINING AN AREA OF THREE HUNDRED EIGHTEEN THOUSAND THREE HUNDRED FORTY FIVE (318,345) SQUARE METERS IN FAVOR OF ROVENCY REALTY AND DEVELOPMENT CORPORATION, DESPITE THE FACTS THAT –

- (i) THE LAND APPLIED FOR REGISTRATION OF TITLE IS IN EXCESS OF WHAT IS ALLOWED BY LAW; AND,**
- (ii) RESPONDENT'S RIGHT TO ACQUIRE THE SUBJECT PARCEL OF LAND IS FURTHER LIMITED BY THE CORPORATION CODE.**

II.

RESPONDENT'S EVIDENCE IS INSUFFICIENT TO PROVE THAT IT OR ITS PREDECESSORS-IN-INTEREST HAVE BEEN IN OPEN, CONTINUOUS, EXCLUSIVE AND NOTORIOUS POSSESSION UNDER A BONA FIDE CLAIM OF OWNERSHIP SINCE JUNE 12, 1945 OR EARLIER AND THE SUBJECT



²⁶ Id. at 216.

**PROPERTY IS NO LONGER INTENDED FOR PUBLIC USE OR
FOR THE DEVELOPMENT OF THE NATIONAL WEALTH.²⁷**

THE COURT'S RULING

The petition is meritorious.

***12-hectare limit under Section 3,
Article XII of the 1987
Constitution***

The Republic argues that the trial and appellate courts erred in granting RRDC's application for the registration of the subject land, as the same has a total land area of 31.8 hectares, which is way beyond the 12-hectare limit under Section 3, Article XII of the 1987 Constitution, which provides:

SECTION 3. Lands of the public domain are classified into agricultural, forest or timber, mineral lands, and national parks. Agricultural lands of the public domain may be further classified by law according to the uses which they may be devoted. Alienable lands of the public domain shall be limited to agricultural lands. **Private corporations or associations may not hold such alienable lands of the public domain except by lease**, for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and not to exceed one thousand hectares in area. **Citizens of the Philippines may lease not more than five hundred hectares, or acquire not more than twelve hectares thereof by purchase, homestead, or grant.** [emphasis supplied]

As can be clearly gleaned from its language, Section 3, Article XII applies only to lands of the public domain. Private lands are, therefore, outside of the prohibitions and limitations stated therein. Thus, the appellate court correctly declared that the 12-hectare limitation on the acquisition of lands under Section 3, Article XII of the 1987 Constitution has no application to private lands.

A case in point is the absolute prohibition on private corporations from acquiring any kind of alienable land of the public domain. This prohibition could be traced to the 1973 Constitution which limited the alienation of lands of the public domain to individuals who were citizens of the Philippines. This constitutional prohibition, however, does not necessarily mean that corporations may not apply for original registration of title to lands. In fact, the Court, in several instances, affirmed the grant of

²⁷ *Rollo*, pp. 30-31.

applications for original registration filed by corporations,²⁸ for as long as the lands were already converted to private ownership by operation of law as a result of satisfying the requisite possession required by the Public Land Act.²⁹

In *Director of Lands v. Intermediate Appellate Court*³⁰ (*Director of Lands*), the Court granted the application for original registration of parcels of land filed by a corporation which acquired the lands by purchase from members of the Dumagat tribe. The Court ratiocinated that the lands applied for registration were already private lands even before the corporation acquired them. The Court observed that the sellers, being members of the national cultural minorities, had by themselves and through their predecessors, possessed and occupied the lands since time immemorial. As a consequence of their open, exclusive, and undisputed possession over the said lands for the period required by law for the acquisition of alienable lands of the public domain, said lands ceased to become part of the public land and were converted, by operation of law, into private ownership. As such, the sellers, if not for their conveyance of the lands in question to the corporation, were entitled to exercise the right granted to them by the Public Land Act to have their title judicially confirmed. Considering further that the lands in question were already private in character at the time the corporation acquired them, the constitutional prohibition does not apply to the corporation.

In *Republic v. T.A.N. Properties*³¹ (*T.A.N. Properties*), the Court stressed that what is determinative for the application of the doctrine in *Director of Lands* is for the corporate applicant for land registration to establish that when it acquired the land, the same was already private land by operation of law because the statutory acquisitive prescriptive period of 30 years had already lapsed.

The pronouncements in *Director of Lands* and *T.A.N. Properties* apply with equal force to the 12-hectare limitation, considering that both the limitation and the prohibition on corporations to acquire lands, do not cover ownership of private lands. Stated differently, whether RRDC can acquire the subject land and to what extent, depends on whether the pieces of evidence it presented before the trial court sufficiently established that the subject land is alienable and disposable land of the public domain; and that the nature and duration of the possession of its individual predecessors-in-interest converted the subject land to private land by operation of law.



²⁸ *Republic v. Sogod Development Corporation*, 781 Phil. 78, 89 (2016); *Director of Lands v. Bengzon*, 236 Phil. 396, 406 (1987).

²⁹ *Heirs of Mario Malabanan v. Republic*, 717 Phil. 141, 166 (2013).

³⁰ 230 Phil.590, 597 (1986).

³¹ 578 Phil. 441, 461 (2008).

Requirements for original registration of title to land

In *Republic of the Philippines vs. Cortez*,³² the Court explained that applicants for original registration of title to land must first establish compliance with the provisions of either Section 14(1) or Section 14(2) of P.D. No. 1529, which state:

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 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 provision of existing laws.

It must be emphasized that the requirements and bases for registration under these two provisions of law differ from one another. Section 14 (1) mandates registration on the basis of possession, while Section 14 (2) entitles registration on the basis of prescription.³³ Thus, it is important to ascertain under what provision of Section 14 the registration is sought.

A reading of the application, however, is unavailing. In its application, RRDC alleged that it and its predecessors-in-interest “had been in open, continuous, adverse, and peaceful possession in concept of owner of the subject property since time immemorial or for more than thirty years.” This allegation made it unclear whether registration is sought under Section 14(1) – possession since 12 June 1945 or earlier; or under Section 14(2) – possession for more than thirty years.

An examination of the 7 November 2003 RTC decision also proved futile considering that, and as previously pointed out, aside from enumerating the exhibits offered by the applicant, the trial court did not discuss how these pieces of evidence established the requisites for registration. Thus, for the proper resolution of the issues and arguments raised herein, it becomes necessary for the present application to be scrutinized based on the requirements of the provisions of Sections 14 (1) and (2) of P.D. No. 1529.



³² 726 Phil. 212, 220-221 (2014).

³³ *Espiritu v. Republic*, G.R. No. 219070, 21 June 2017.

***Registration under Section 14(1)
of P.D. No. 1529***

Under Section 14(1), applicants for registration of title must sufficiently establish the following requisites: *first*, that the subject land forms part of the disposable and alienable lands of the public domain; *second*, that the applicant and his predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the same; and *third*, that the possession is under a *bona fide* claim of ownership since 12 June 1945, or earlier.³⁴

The first requisite of Section 14(1) entails only that the property sought to be registered be alienable and disposable at the time of the filing of the application for registration.³⁵ To prove that the land sought to be registered is alienable and disposable, the present rule is that the application for original registration must be accompanied by (1) a CENRO or PENRO Certification; and (2) a copy of the original classification approved by the DENR Secretary, and certified as true copy by the legal custodian of the official records.³⁶ This strict requirement for the registration of lands enunciated in *T.A.N. Properties* had been consistently applied and affirmed by the Court in a plethora of cases.³⁷

In the present case, to prove that the subject land is alienable and disposable, RRDC presented a CENRO certification stating that the subject land is “alienable and disposable and not covered by any public land application.” RRDC, however, failed to present a certified true copy of the original classification approved by the DENR Secretary declaring the subject land alienable and disposable. Clearly, the evidence presented by RRDC falls short of the requirements in *T.A.N. Properties*. Thus, the trial and appellate courts erred when they ruled that the subject land is alienable and disposable part of the public domain and susceptible to original registration.

Furthermore, RRDC also failed to prove that it and its individual predecessors-in-interest sufficiently complied with the required period and nature of possession.

An applicant for land registration must exhibit that it and its predecessors-in-interest had been in open, continuous, exclusive, and

³⁴ *Republic v. Estate of Virginia Santos*, G.R. No. 218345, 07 December 2016.

³⁵ *Republic v. Roasa*, 752 Phil. 439, 447 (2015).

³⁶ *Republic v. De Guzman Vda. De Joson*, 728 Phil. 550, 563 (2014).

³⁷ *Republic v. Alora*, 762 Phil. 695, 704 (2015); *Republic v. Sps. Castuera*, 750 Phil. 884, 890-891 (2015); *Republic v. Lualhati*, 757 Phil. 119, 131 (2015); *Republic v. Sese*, 735 Phil. 108, 121 (2014).

notorious possession and occupation of the land under a *bona fide* claim of ownership since 12 June 1945 or earlier. It has been held that possession is open when it is patent, visible, apparent, notorious, and not clandestine; it is continuous when uninterrupted, unbroken, and not intermittent or occasional; it is exclusive when the adverse possessor can show exclusive dominion over the land and an appropriation of it to his own use and benefit; and notorious when it is so conspicuous, that it is generally known and talked of by the public or the people in the neighborhood.³⁸

In *Republic vs. Remman Enterprises, Inc.*,³⁹ the Court held that for purposes of land registration under Section 14(1) of P.D. No. 1529, proof of specific acts of ownership must be presented to substantiate the claim of open, continuous, exclusive, and notorious possession and occupation of the land subject of the application. Applicants for land registration cannot just offer general statements which are mere conclusions of law rather than factual evidence of possession. Actual possession is in the manifestation of acts of dominion over it of such nature as a party would actually exercise over his own property.

In *Republic v. Gielczyk*, the Court explained that “possession” and “occupation” are not synonymous to each other. Possession is broader than occupation because it includes constructive possession; whereas occupation delimits the all-encompassing effect of constructive possession. Thus, taken together with the words open, continuous, exclusive, and notorious, the word occupation means that for one’s title to land to be judicially recognized, his possession of the land must not be mere fiction.⁴⁰

In this case, aside from the deeds of absolute sale covering the subject land which were executed prior to 12 June 1945, RRDC did not present any evidence which would show that its predecessors-in-interest actually exercised acts of dominion over the subject land even before the cut-off period. As such, RRDC failed to prove that its possession of the land, or at the very least, its individual predecessors-in-interest’s possession over the same was not mere fiction.

Neither would the tax declarations presented by RRDC suffice to prove the required possession. To recall, the earliest of these tax declarations dates back only to 1948. Clearly, the required possession and occupation since 12 June 1945 or earlier, was not demonstrated.



³⁸ *Republic vs. Gielczyk*, 720 Phil. 385, 403 (2013).

³⁹ 727 Phil. 608, 625 (2014).

⁴⁰ Supra note 38 at 402.

From the foregoing, it is clear that RRDC failed to prove that its individual predecessors-in-interest had been in open, continuous, exclusive and notorious possession and occupation of the subject land under a *bona fide* claim of ownership since 12 June 1945 or earlier; and that said possession and occupation converted the subject land into a private property by operation of law. Consequently, the subject land cannot be registered in the name of RRDC under Section 14(1) of P.D. No. 1529.

***Requirements under Section 14(2)
of P.D. No. 1529***

RRDC also failed to establish compliance with the requirements for registration under Section 14(2).

In *Heirs of Mario Malabanan vs. Republic (Malabanan)*,⁴¹ the Court explained that when Section 14(2) of P.D. No. 1529 provides that persons “who have acquired ownership over private lands by prescription under the provisions of existing laws,” it unmistakably refers to the Civil Code as a valid basis for the registration of lands. The Civil Code is the only existing law that specifically allows the acquisition by prescription of private lands, including patrimonial property belonging to the State.

The Civil Code makes it clear that patrimonial property of the State may be acquired by private persons through prescription. This is brought about by Article 1113, which states that all things which are within the commerce of man are susceptible to prescription, and that property of the State or any of its subdivisions not patrimonial in character shall not be the object of prescription.⁴²

Nonetheless, this does not necessarily mean that when a piece of land is declared alienable and disposable part of the public domain, it can already be acquired by prescription. In *Malabanan*, this Court ruled that declaration of alienability and disposability is not enough – there must be an express declaration that the public domain property is no longer intended for public service or the development of the national wealth or that the property has been converted into patrimonial, thus:

“(2) In complying with Section 14(2) of the Property Registration Decree, consider that under the Civil Code, prescription is recognized as a mode of acquiring ownership of patrimonial property. However, public domain lands become only patrimonial property not only with a declaration that these are alienable or disposable. **There must also be an**

⁴¹ 605 Phil. 244, 274 (2009).

⁴² Id.



express government manifestation that the property is already patrimonial or no longer retained for public service or the development of national wealth, under Article 422 of the Civil Code. And only when the property has become patrimonial can the prescriptive period for the acquisition of property of the public dominion begin to run.”⁴³ [emphasis supplied]

The classification of the land as alienable and disposable land of the public domain does not change its status as property of the public dominion under Article 420(2) of the Civil Code. As such, said land, although classified as alienable and disposable, is insusceptible to acquisition by prescription.⁴⁴

In this case, RRDC did not present any evidence which would show that the subject land was expressly declared as no longer intended for public service or the development of the national wealth, or that the property has been converted into patrimonial. Hence, it failed to prove that acquisitive prescription has begun to run against the State, and that it has acquired title to the subject land by virtue thereof.

In fine, RRDC failed to satisfy all the requisites for registration of title to land under either Sections 14(1) or (2) of P.D. No. 1529. RRDC also failed to establish that when it or P.N. Roa Enterprises, Inc., also a corporation and its direct predecessor-in-interest, acquired the subject land, it had already been converted to private property, thus, the prohibition on the corporation’s acquisition of agricultural lands of the public domain under Section 3, Article XII of the 1987 Constitution applies. RRDC’s application for original registration of imperfect title over Lot No. 3009 must perforce be denied.

WHEREFORE, the instant petition is **GRANTED**. The 10 March 2009 Decision and 3 December 2009 Resolution of the Court of Appeals in CA-G.R. CV No. 00651, which affirmed the 7 November 2003 Decision of the Regional Trial Court, Branch 41, Cagayan de Oro City, in LRA Case No. N-2000-084, are hereby **REVERSED** and **SET ASIDE**. The Application for Registration of Lot No. 3009 filed by Rovency Realty and Development Corporation is **DENIED**.




⁴³ Id. at 285.

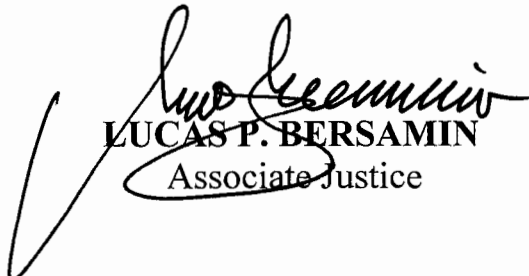
⁴⁴ Supra note 34.

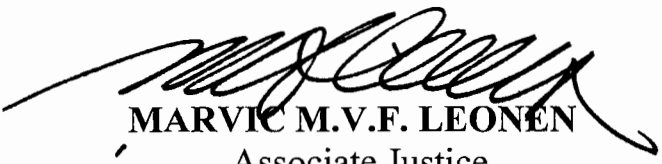
SO ORDERED.


SAMUEL B. MARTIRES
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

I attest 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.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

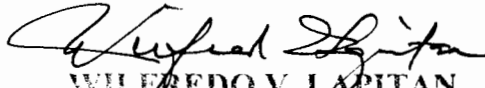
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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

CERTIFIED TRUE COPY



WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

FEB 20 2018