Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

IN RE: APPLICATION FOR LAND REGISTRATION

SUPREMA T. DUMO,
Petitioner,

- versus -

REPUBLIC OF THE PHILIPPINES,
Respondent.

G.R. No. 218269

Present:

CARPIO, *J.*, Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., *JJ.*

Promulgated:
06 JUN 2018

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DECISION

CARPIO, *J.*:

The Case

This is a petition for review on certiorari under Rule 45 of the Rules of Court. Petitioner Suprema T. Dumo (Dumo) challenges the 28 January 2014 Decision[1] and the 19 May 2015 Resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 95732, which modified the Joint Decision of the Regional Trial Court (RTC), Branch 67, Bauang, La Union, in Civil Case No. 1301-Bg for *Accion Reivindicatoria*[3] and LRC Case No. 270-Bg for Application for Land Registration.[4]

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1 *Rollo*, pp. 52-65. Penned by Associate Justice Rodil V. Zalameda, with Associate Justices Ramon M. Bato, Jr. and Agnes Reyes-Carpio concurring.

2 Id. at 98-102.

3 Severa Espinas, Erlinda Espinas, Aurora Espinas and Virginia Espinas, heirs of Marcelino Espinas (Plaintiffs) v. Leticia T. Valmonte, Lydia T. Nebab, Purita T. Tanag, Gloria T. Antolin, Nilo Trinidad, Elpidio Trinidad, Fresnida T. Saldana, Nefresha T. Tolentino, Suprema T. Dumo, heirs of Bernarda M. Trinidad (Defendants).

4 In Re: Application for Land Registration, Suprema T. Dumo (Applicant).

The Facts

Severa Espinas, Erlinda Espinas, Aurora Espinas, and Virginia Espinas filed a Complaint for Recovery of Ownership, Possession and Damages with Prayer for Writ of Preliminary Injunction against the heirs of Bernarda M. Trinidad (Trinidad), namely, Leticia T. Valmonte, Lydia T. Nebab, Purita T. Tanag, Gloria T. Antolin, Nilo Trinidad, Elpidio Trinidad, Fresnida T. Saldana, Nefresha T. Tolentino, and Dumo. The plaintiffs are the heirs of Marcelino Espinas (Espinas), who died intestate on 6 November 1991, leaving a parcel of land (Subject Property) covered by Tax Declaration No. 13823-A, which particularly described the property as follows:

> A parcel of land located [in] Paringao, Bauang, La Union classified as unirrigated Riceland with an area of 1,065 square meters covered by Tax Declaration No. 13823-A, bounded on the North by Felizarda N. Mabalay; on the East by Pedro Trinidad; on the South by Girl Scout[s] of the Philippines and on the West by China Sea and assessed at ₱460.00.[5]

The Subject Property was purchased by Espinas from Carlos Calica through a Deed of Absolute Sale dated 19 October 1943. Espinas exercised acts of dominion over the Subject Property by appointing a caretaker to oversee and administer the property. In 1963, Espinas executed an affidavit stating his claim of ownership over the Subject Property. Espinas had also been paying realty taxes on the Subject Property.

Meanwhile, on 6 February 1987, the heirs of Trinidad executed a Deed of Partition with Absolute Sale over a parcel of land covered by Tax Declaration No. 17276, which particularly described the property as follows:

> A parcel of sandy land located [in] Paringao, Bauang, La Union, bounded on the North by Emiliana Estepa, on the South by Carlos Calica and Girl Scout[s] Camp and on the West by China Sea, containing an area of 1[,]514 square meters more or less, with an assessed value [of] ₱130.00.[6]

Finding that the Deed of Partition with Absolute Sale executed by the heirs of Trinidad included the Subject Property, the heirs of Espinas filed a Complaint for Recovery of Ownership, Possession and Damages to protect their interests (Civil Case No. 1301-Bg). The heirs of Espinas also sought a Temporary Restraining Order to enjoin the Writ of Partial Execution of the Decision in Civil Case No. 881, a Forcible Entry complaint filed by the heirs of Trinidad against them.

In the Complaint for Recovery of Ownership, Possession and Damages, Dumo, one of the defendants therein, filed a Motion to Dismiss based on *res judicata*. Dumo argued that Espinas had already applied for the registration of the Subject Property and that such application had been

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5 *Rollo*, p. 54.

6 Id.

dismissed. The dismissal of the land registration application of Espinas was affirmed by the CA, and attained finality on 5 December 1980.

The Motion to Dismiss filed by Dumo was denied by the RTC, which held that the land registration case cannot operate as a bar to the Complaint for Recovery of Ownership, Possession and Damages because the decision in the land registration case did not definitively and conclusively adjudicate the ownership of the Subject Property in favor of any of the parties.

The heirs of Trinidad thereafter filed their collective Answer, where they denied the material allegations in the complaint.

Additionally, Dumo filed an application for registration of two parcels of land, covered by Advance Plan of Lot Nos. 400398 and 400399 with a total area of 1,273 square meters (LRC Case No. 270-Bg). Dumo alleged that the lots belonged to her mother and that she and her siblings inherited them upon their mother's death. She further alleged that through a Deed of Partition with Absolute Sale dated 6 February 1987, she acquired the subject lots from her siblings. Dumo traces her title from her mother, Trinidad, who purchased the lots from Florencio Mabalay in August 1951. Mabalay was Dumo's maternal grandfather. Mabalay, on the other hand, purchased the properties from Carlos Calica.

The heirs of Espinas opposed Dumo's application for land registration on the ground that the properties sought to be registered by Dumo are involved in the *accion reivindicatoria* case. Thus, the RTC consolidated the land registration case with the Complaint for Recovery of Ownership, Possession and Damages.

The Office of the Solicitor General entered its appearance and filed its opposition for the State in the land registration case.

The Ruling of the RTC

On 2 July 2010, the RTC rendered its Joint Decision, finding that the Subject Property was owned by the heirs of Espinas. The RTC ordered the dismissal of Dumo's land registration application on the ground of lack of registerable title, and ordered Dumo to restore ownership and possession of the lots to the heirs of Espinas. The dispositive portion of the Joint Decision reads:

> WHEREFORE, premises considered[,] judgment is rendered:
>
> In LRC Case No. 270-Bg: Ordering the dismissal of the land registration on [the] ground of lack of registerable title on the part of Suprema Dumo.

> In Civil Case No. 1301-Bg: Declaring the Heirs of Marcelino Espinas as the owners of the lots subject of [the] application; ordering the applicant-defendant Suprema Dumo to restore ownership and possession of the lots in question to the Heirs of Marcelino Espinas.
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> SO ORDERED.[7]

The RTC found that based on the evidence presented, the heirs of Espinas had a better right to the Subject Property. In particular, the RTC found that based on the records of the Bureau of Lands, the lot of Espinas was previously surveyed and approved by the Bureau of Lands and when the survey was made for Trinidad, there was already an approved plan for Espinas. Also, the RTC found that the tax declarations submitted by Dumo in support of her application failed to prove any rights over the land. Specifically, the tax declaration of Mabalay, from whom Dumo traces her title, showed that the land was first described as bounded on the west by Espinas. The subsequent tax declaration in the name of Trinidad, which cancelled the tax declaration in the name of Mabalay, showed that the land was no longer bounded on the west by Espinas, but rather, by the China Sea. The area of the lot also increased from 3,881 to 5,589 square meters. All of the subsequent tax declarations submitted by Dumo covering the lot in the name of her mother stated that the lot was no longer bounded on the west by Espinas, but rather, by the China Sea. The RTC held that the only logical explanation to the inconsistency in the description of the land and the corresponding area thereof is that the lot of Espinas was included in the survey conducted for Trinidad.

The RTC also rejected the theory of Dumo that the lot of Espinas was eaten by the sea. The RTC found that during the ocular inspection, it was established that the lots adjoining the lot of Espinas on the same shoreline were not inundated by the sea. To hold the theory posited by Dumo to be true, the RTC reasoned that all the adjoining lots should also have been inundated by the sea. However, it was established through the ocular inspection that the lots adjoining the property of Espinas on the same shoreline remained the same, and thus the Subject Property had not been eaten by the sea.

The Ruling of the CA

The CA rendered its Decision dated 28 January 2014, affirming the RTC's decision dismissing the application for land registration of Dumo, and finding that she failed to demonstrate that she and her predecessors-in-interest possessed the property in the manner required by law to merit the grant of her application for land registration.

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[7] Id. at 50.

The CA, however, modified the decision of the RTC insofar as it found that the Subject Property belonged to the heirs of Espinas. The CA found that since the property still belonged to the public domain, and the heirs of Espinas were not able to establish their open, continuous, exclusive and notorious possession and occupation of the land under a *bona fide* claim of ownership since 12 June 1945 or earlier, it was erroneous for the RTC to declare the heirs of Espinas as the owners of the Subject Property.

The dispositive portion of the Decision of the CA reads:

> WHEREFORE, premises considered, the Appeal is PARTLY GRANTED and the assailed Joint Decision issued by the court *a quo* is hereby MODIFIED in that the Complaint for *Accion Reivindicatoria* (Civil Case No. 1301-Bg) filed by plaintiffs-appellees is DISMISSED for lack of cause of action.
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> The Decision is AFFIRMED in all other respects.
>
> SO ORDERED.[8]

Dumo filed a Motion for Partial Reconsideration and subsequently, an Omnibus Motion for Entry of Judgment and to Resolve, asking the CA to issue an entry of judgment insofar as the civil case is concerned and to declare the land registration case submitted for resolution without any comment/opposition. The CA denied both motions in a Resolution dated 19 May 2015.[9]

Hence, this petition.

The Issues

In this petition, Dumo seeks a reversal of the decision of the CA, and raises the following arguments:

> A. THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN, IN DENYING THE PETITION FOR LAND REGISTRATION, IT WENT BEYOND THE ISSUES RAISED, THEREBY VIOLATING OR CONTRAVENING THE RULING OF THIS HONORABLE COURT IN, AMONG OTHERS, "*LAM V. CHUA, 426 SCRA 29; DEPARTMENT OF AGRARIAN REFORM V. FRANCO, 471 SCRA 74; BERNAS V. COURT OF APPEALS, 225 SCRA 119; PROVINCE OF QUEZON V. MARTE, 368 SCRA 145 AND FIVE STAR BUS CO., INC. V. COURT OF APPEALS, 259 SCRA 120.*"
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> B. THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN, IN DENYING THE PETITION FOR LAND [REGISTRATION], IT RULED THAT PETITIONER AND HER PREDECESSORS-IN-INTEREST FAILED TO PROVE CONTINUOUS, EXCLUSIVE, AND ADVERSE POSSESSION AND OCCUPATION OF

8 Id. at 65.

9 Id. at 98-102.

THE SUBJECT PROPERTY IN THE CONCEPT OF [AN] OWNER FROM JUNE 12, 1945 OR EARLIER, THEREBY VIOLATING OR CONTRAVENING THE RULING OF THIS HONORABLE COURT IN "*REPUBLIC OF THE PHILIPPINES VERSUS COURT OF APPEALS, 448 SCRA 442.*"

C. THAT, IN ANY EVENT, AND WITHOUT PREJUDICE TO THE FOREGOING, THE HONORABLE COURT OF AP[P]EALS COMMITTED A REVERSIBLE ERROR WHEN, IN DENYING THE PETITION FOR LAND REGISTRATION, IT FAILED TO CONSIDER PETITIONER'S EXHIBIT 'A' WHICH WAS FORMALLY OFFERED TO PROVE THAT THE SUBJECT PROPERTY WAS DISPOSIBLE [sic] AND ALIENABLE TO WHICH THE RESPONDENT MADE NO OBJECTION[.]

D. THAT FURTHER, AND WITHOUT PREJUDICE TO THE FOREGOING, THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN, IN DENYING THE PETITION FOR LAND REGISTRATION, IT FAILED TO CONSIDER THE SUPPORTING EVIDENCE THEREFOR, AGAIN, WITHOUT OBJECTION FROM THE RESPONDENT, THEREBY DEPRIVING PETITIONER OF HER FUNDAMENTAL RIGHT TO DUE PROCESS OF LAW.[10]

The Ruling of the Court

Essentially, Dumo argues that the CA committed a reversible error because (1) the issue of whether she was in open, continuous, exclusive and notorious possession of the land since 12 June 1945 was not an issue in the RTC; (2) the requirement of possession and occupation from 12 June 1945 is not essential to her application since she has acquired title over the land by prescription; (3) she has proven that the land applied for has already been declared alienable and disposable; and (4) her right to due process was violated since the issues considered by the CA were not properly raised during the trial.

We find that none of Dumo's arguments deserve any merit.

Going beyond the issues raised in the RTC and due process of law

Dumo argues that the issue of whether the possession started on 12 June 1945 or earlier was never raised in the RTC. She also argues that no issue was raised as to whether or not the land that she seeks to register is alienable and disposable. Thus, Dumo argues that the CA erred, and also violated her right to due process, when it considered these issues in determining whether or not the application for land registration should be granted.

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10 Id. at 16-17

We do not agree.

In an application for land registration, it is elementary that the applicant has the burden of proving, by clear, positive and convincing evidence, that her alleged possession and occupation were of the nature and duration required by law.[11] Thus, it was upon Dumo to prove that she and her predecessors-in-interest possessed and occupied the land sought to be registered in the nature and duration required by law.

Dumo cannot validly argue that she was not afforded due process when the CA considered to review the evidence she herself offered to support her application for land registration. On the contrary, she was given every opportunity to submit the documents to establish her right to register the land. She simply failed to do so.

When Dumo filed with the RTC the application for registration of her land, she was asking the RTC to confirm her incomplete title. The requirements for judicial confirmation of imperfect title are found in Section 14 of Presidential Decree No. 1529 (PD No. 1529), which provides:

> 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:
>
> (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.
>
> (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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> x x x x

Thus, it is necessary in an application for land registration that the court determines whether or not an applicant fulfills the requirements under any of the paragraphs of Section 14 of PD No. 1529.

Simply put, when Dumo filed her application for the registration of the lots she claims to have inherited from her mother and bought from her siblings, the issue of whether she complied with all the requirements was the

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[11] *Republic of the Philippines v. Tri-Plus Corporation*, 534 Phil. 181 (2006), citing *Republic of the Philippines v. Enciso*, 511 Phil. 323 (2005).

very crux of the application. It cannot be argued that because the Republic failed to oppose or raise the issue in the RTC, the CA may no longer consider this issue. On the contrary, the classification of the land sought to be registered, and the duration and nature of the possession and occupation have always been, and will always be the issues in an application for land registration. It would truly be absurd for Dumo, or any other applicant for land registration, to expect the courts to grant the application without first determining if the requisites under the law have been complied with.

The CA had every right to look into the compliance by Dumo with the requirements for the registration of the land, and we find that the CA correctly found that Dumo has acquired no registerable title to the lots she seeks to register.

Registration of land under Section 14(1)

To reiterate, under Section 14(1) of PD No. 1529, Dumo had the burden of proving the following:

(1) that the land or property forms part of the alienable and disposable lands of the public domain;
(2) that the applicant and his predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the same; and
(3) that it is under a *bona fide* claim of ownership since 12 June 1945, or earlier.[12]

The first requirement is to prove that the land sought to be registered is alienable and disposable land of the public domain. This is because under the Regalian Doctrine, as embodied in the 1987 Philippine Constitution, lands which do not clearly appear to be within private ownership are presumed to belong to the State.[13] Thus, in an application for land registration, the applicant has the burden of overcoming the presumption that the State owns the land applied for, and proving that the land has already been classified as alienable and disposable.[14] To overcome the presumption that the land belongs to the State, the applicant must prove by clear and incontrovertible evidence at the time of application that the land has been classified as alienable and disposable land of the public domain.

Classification of lands of the public domain may be found under Article XII of the 1987 Philippine Constitution. More specifically, Section 3 of Article XII classifies lands of the public domain into (1) agricultural,

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12 *Republic of the Philippines v. Estate of Santos,* G.R. No. 218345, 7 December 2016, 813 SCRA 541.

13 *Republic of the Philippines v. Heirs of Spouses Ocol*, G.R. No. 208350, 14 November 2016, 808 SCRA 549.

14 Id.

(2) forest or timber, (3) mineral lands, and (4) national parks.[15] Of these four classifications, only agricultural lands may be alienated and disposed of by the State.

The 1987 Philippine Constitution also provides that "agricultural lands of the public domain **may be further classified by law** according to the uses to which they may be devoted."[16] Based on the foregoing, it is clear that the classification of lands of the public domain is first and foremost provided by the Constitution itself. Of the classifications of lands of the public domain, agricultural lands may further be classified by law, according to the uses it may be devoted to.

The classification of lands of the public domain into agricultural lands, as well as their further classification into alienable and disposable lands of the public domain, is a legislative prerogative which may be exercised only through the enactment of a valid law. This prerogative has long been exercised by the legislative department through the enactment of Commonwealth Act No. 141 (CA No. 141) or the Public Land Act of 1936.[17] Section 6 of CA No. 141 remains to this day the existing general law governing the classification of lands of the public domain into alienable and disposable lands of the public domain.[18]

Section 1827[19] **of the Revised Administrative Code of 1917**[20] merely authorizes the Department Head to classify as agricultural lands those forest lands which are better adapted and more valuable for agricultural purposes. Section 1827 does not authorize the Department Head to classify agricultural lands as alienable and disposable lands as this power is expressly delegated by the same Revised Administrative Code of 1917 solely to the Governor-General.

The existing administrative code under the 1987 Philippine Constitution is Executive Order No. 292 or the Administrative Code of 1987. This existing code did not reenact Section 1827 of the Revised Administrative Code of 1917. Nevertheless, in the absence of incompatibility between Section 1827 of the Revised Administrative Code

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15 Sec. 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 to 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.

16 Id.

17 Approved on 7 November 1936.

18 *Chavez v. Public Estates Authority*, 433 Phil. 506 (2002).

19 Section 1827. Assignment of Forest Land for Agricultural Purposes. – Lands in public forests, not including forest reserves, upon the certification of the Director of Forestry that said lands are better adapted and more valuable for agricultural than for forest purposes and not required by the public interests to be kept under forest, shall be declared by the Department Head to be agricultural lands.

20 Act No. 2711. Took effect on 10 March 1917.

of 1917 and the provisions of the Administrative Code of 1987, we can grant that Section 1827 has not been repealed.[21] This is in view of the repealing clause in Section 27, Final Provisions, Book VII of the Administrative Code of 1987, which provides:

> Section 27. All laws, decrees, orders, rules and regulations, or portions thereof, inconsistent with this Code are hereby repealed or modified accordingly.

The authority of the Department Head under Section 1827 of the Revised Administrative Code of 1917 is merely to classify public forest lands as public agricultural lands. Agricultural lands of the public domain are, by themselves, not alienable and disposable. Section 1827 of the Revised Administrative Code of 1917 provides:

> Section 1827. Assignment of Forest Land for Agricultural Purposes. – Lands in public forests, not including forest reserves, upon the certification of the Director of Forestry that said lands are better adapted and more valuable for agricultural than for forest purposes and not required by the public interests to be kept under forest, **shall be declared by the Department Head to be agricultural lands.** (Emphasis supplied)

There is nothing in Section 1827 that authorizes the Department Head to classify agricultural lands into alienable or disposable lands of the public domain. The power to classify public lands as agricultural lands is separate and distinct from the power to declare agricultural lands as alienable and disposable. The power to alienate agricultural lands of the public domain can never be inferred from the power to classify public lands as agricultural. Thus, public lands classified as agricultural and used by the Bureau of Plant Industry of the Department of Agriculture for plant research or plant propagation are not necessarily alienable and disposable lands of the public domain despite being classified as agricultural lands. For such agricultural lands to be alienable and disposable, there must be an express proclamation by the President declaring such agricultural lands as alienable and disposable.

Agricultural land, the only classification of land which may be classified as alienable and disposable under the 1987 Philippine Constitution, may still be reserved for public or quasi-public purposes which

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[21] *Sayco v. People*, 571 Phil. 73, 87-88 (2008). In this case, the Court ruled:

> P.D. No. 1866 was later amended by R.A. No. 8294, which lowered the imposable penalties for illegal possession of firearm when no other crime is committed. However, neither law amended or repealed Section 879 of the 1917 Revised Administrative Code. Even Executive Order No. 292, otherwise known as the 1987 Administrative Code, left Section 879 untouched.
>
> As matters stand, therefore, Section 879, as construed by this Court in *Mapa and Neri*, and reinforced by paragraph 6, Section 1 of P.D. No. 1866, as amended by R.A. No. 8294, is still the basic law on the issuance, possession and carrying of government-owned firearms.

would prohibit the alienation or disposition of such land. Section 8 of CA No. 141 provides:

> Section 8. **Only those lands shall be declared open to disposition or concession** which have been officially delimited and classified and, when practicable, surveyed, **and which have not been reserved for public or quasi-public uses,** nor appropriated by the Government, nor in any manner become private property, nor those on which a private right authorized and recognized by this Act or any other valid law may be claimed, or which, having been reserved or appropriated, have ceased to be so. **However, the President may, for reasons of public interest, declare lands of the public domain open to disposition before the same have had their boundaries established or been surveyed, or may, for the same reason, suspend their concession or disposition until they are again declared open to concession or disposition by proclamation duly published or by Act of the National Assembly**. (Emphasis supplied)

Thus, to be alienable and disposable, lands of the public domain must be expressly declared as alienable and disposable by executive or administrative proclamation pursuant to law or by an Act of Congress.

Even if the Department Head has the power to classify public forest lands as agricultural under Section 1827 of the Revised Administrative Code of 1917, this does not include the power to classify public agricultural lands as alienable and disposable lands of the public domain. The power to ***further*** classify agricultural lands as alienable and disposable has not been granted in any way to the Department Head under the Revised Administrative Code of 1917. This authority was given only to the Governor-General under Section 64 of the Revised Administrative Code of 1917, as superseded by Section 9 of Republic Act (RA) No. 2874 (Public Land Act of 1919), and as in turn further superseded by Section 6 of CA No. 141 (Public Land Act of 1936), which is the existing specific provision of law governing the classification of lands of the public domain into alienable and disposable lands of the public domain. This delegated power is a discretionary power, to be exercised based on the sound discretion of the President.

Under Section 64 of the Revised Administrative Code of 1917, the classification of lands of the public domain into alienable and disposable lands of the public domain could **only** be made by the Governor-General. While Section 1827 of the Revised Administrative Code of 1917 gave to the Department Head the power to classify public forest lands as public agricultural lands, the very same law in its Section 64 expressly reserved to the Governor-General the power to declare for "**public sale x x x any of the public domain of the Philippines**." Section 64 of the Revised Administrative Code of 1917 provides:

> Section 64. Particular powers and duties of Governor-General of the Philippines. – In addition to his general supervisory authority, the Governor-General of the Philippines shall have such specific powers and

> duties as are expressly conferred or imposed on him by law and also, in particular, the powers and duties set forth in this chapter.
>
> Among such special powers and duties shall be:
>
> (a) x x x
>
> x x x x
>
> (d) **To reserve from settlement or *public sale* and for specific public uses any of the public domain of the (Philippine Islands) Philippines the use of which is not otherwise directed by law, the same thereafter remaining subject to the specific public uses indicated in the executive order by which such reservation is made, until otherwise provided by law or executive order**.
>
> (e) To reserve from sale or other disposition and for specific public uses or service, any land belonging to the private domain of the Government of the (Philippine Islands) Philippines, the use of which is not otherwise directed by law; and thereafter such land shall not be subject to sale or other disposition and shall be used for the specific purposes directed by such executive order until otherwise provided by law.
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> x x x x (Emphasis supplied)

Likewise, under Section 9 of RA No. 2874, the classification of lands of public domain into alienable and disposable lands could **only** be made by the Governor-General, thus:

> Section 9. For the purposes of their government and disposition, the lands of the public domain alienable or open to disposition shall be classified, according to the use or purposes to which such lands are destined, as follows:
>
> (a) Agricultural
>
> (b) Commercial, industrial, or for similar productive purposes.
>
> (c) Educational, charitable, and other similar purposes.
>
> (d) Reservations for town sites, and for public and quasi-public uses.
>
> **The Governor-General, upon recommendation by the Secretary of Agriculture and Natural Resources, shall from time to time make the classification provided for in this section, and may, at any time and in a similar manner, transfer lands from one class to another**. (Emphasis supplied)

Similarly, under Section 6 of CA No. 141, the existing law on the matter, **only** the President can classify lands of the public domain into alienable or disposable lands, thus:

> Section 6. **The President**, upon the recommendation of the Secretary of Agriculture and Commerce, **shall from time to time classify the lands of the public domain into —**

> **(a) Alienable or disposable,**
> (b) Timber, and
> (c) Mineral lands,
>
> and may at any time and in a like manner transfer such lands from one class to another, for the purposes of their administration and disposition. (Emphasis supplied)

Thus, under all laws during the American regime, from the Revised Administrative Code of 1917 up to and including CA No. 141, only the Governor-General or President could classify lands of the public domain into alienable and disposable lands. No other government official was empowered by statutory law during the American regime. Under the 1935,[22] 1973[23] and 1987[24] Philippine Constitutions, the power to declare or classify lands of the public domain as alienable and disposable lands belonged to Congress. This legislative power is still delegated to the President under Section 6 of CA No. 141 since this Section 6 was never repealed by Congress despite successive amendments to CA No. 141 after the adoption of the 1935, 1973 and the 1987 Philippine Constitutions.[25]

Under Section 13 of PD No. 705, otherwise known as the Revised Forestry Code of the Philippines, the Department of Environment and Natural Resources (DENR) Secretary has been delegated by law the discretionary power to classify as alienable and disposable forest lands of the public domain no longer needed for forest reserves. Section 13 of the Revised Forestry Code of the Philippines, which was enacted on 19 May 1975, provides:

> Section 13. System of Land Classification. – The Department Head shall study, devise, determine and prescribe the criteria, guidelines and methods for the proper and accurate classification and survey of all lands of the public domain into agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest, and grazing lands, and into such other classes as now or may hereafter be provided by law, rules and regulations.

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22 Section 3, Article XIII, 1935 Philippine Constitution reads: "The Congress of the Philippines may determine **by law** the size of private agricultural land which individuals, corporations or associations may acquire and hold, subject to rights existing prior to the enactment of such law." (Emphasis supplied)

23 Section 11, Article XIV, 1973 Philippine Constitution reads: "The Batasang Pambansa, taking into account conservation, ecological, and developmental requirements of the natural resources, shall determine **by law** the size of lands of the public domain which may be developed, held or acquired by, or leased to, any qualified individual, corporation or association, and conditions therefor. x x x." (Emphasis supplied)

24 Section 3, Article XII, 1987 Philippine Constitution reads: "x x x. Agricultural lands of the public domain may be further classified **by law** according to the uses which they may be devoted. x x x." (Emphasis supplied)

25 The amendments to CA No. 141 are: CA 292 (1938); CA 456 (1939); CA 615 (1941); RA 107 (1947); RA (1948); RA 436 (1950); RA 1172 (1954); RA 1240 (1955); RA 1242 (1955); RA 1273 (1955); RA (1957); RA 2061 (1958); RA 2694 (1960); RA 3106 (1961); RA 3872 (1964); RA 6236 (1964); RA 6516 (1972); PD 151 (1973); PD 152 (1973); PD 635 (1975); PD 763 (1975); PD 1073 (1977); PD 1361 (1978); BP 187 (1982); BP 205 (1982); BP 878 (1985); RA 6940 (1990); and RA 9176 (2002).

> In the meantime, the Department Head shall simplify through inter-bureau action the present system of determining which of the unclassified lands of the public domain are needed for forest purposes and declare them as permanent forest to form part of the forest reserves. **He shall declare those classified and determined not to be needed for forest purposes as alienable and disposable lands**, the administrative jurisdiction and management of which shall be transferred to the Bureau of Lands: Provided, That mangrove and other swamps not needed for shore protection and suitable for fishpond purposes shall be released to, and be placed under the administrative jurisdiction and management of, the Bureau of Fisheries and Aquatic Resources. Those still to be classified under the present system shall continue to remain as part of the public forest. (Emphasis supplied)

Section 3, Article XII of the 1987 Philippine Constitution states: "x x x. Alienable lands of the public domain shall be limited to agricultural lands. x x x." Thus, the unclassified lands of the public domain, not needed for forest reserve purposes, must first be declared agricultural lands of the public domain before the DENR Secretary can declare them alienable and disposable. Under the foregoing Section 13 of PD No. 705, the DENR Secretary has no discretionary power to classify unclassified lands of the public domain, not needed for forest reserve purposes, into agricultural lands. However, the DENR Secretary can invoke his power under Section 1827 of the Revised Administrative Code of 1917 to classify forest lands into agricultural lands. Once so declared as agricultural lands of the public domain, the DENR Secretary can then invoke his delegated power under Section 13 of PD No. 705 to declare such agricultural lands as alienable and disposable lands of the public domain.

This Court has recognized in numerous cases the authority of the DENR Secretary to classify agricultural lands of the public domain as alienable and disposable lands of the public domain.[26] As we declared in *Republic of the Philippines v. Heirs of Fabio*,[27] "the DENR Secretary is the only other public official empowered by law to approve a land classification and declare such land as alienable and disposable."

Consequently, as the President's and the DENR Secretary's discretionary power to classify land as alienable and disposable is merely delegated to them under CA No. 141 and PD No. 705, respectively, they may not redelegate the same to another office or officer. What has once been delegated by Congress can no longer be further delegated or redelegated by the original delegate to another, as expressed in the Latin maxim —

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26 *Republic of the Philippines v. Heirs of Spouses Ocol*, supra note 13; *Republic of the Philippines v. Lualhati*, 757 Phil. 119 (2015); *Republic of the Philippines v. Sese*, 735 Phil. 108 (2014); *Spouses Fortuna v. Republic of the Philippines*, 728 Phil. 373 (2014); *Republic of the Philippines v. Remman Enterprises, Inc.*, 727 Phil. 608 (2014); *Republic of the Philippines v. City of Parañaque*, 691 Phil. 476 (2012); *Republic of the Philippines v. Heirs of Fabio*, 595 Phil. 664 (2008); *Republic of the Philippines v. T.A.N. Properties, Inc.*, 578 Phil. 441 (2008).

27 595 Phil. 664, 686 (2008).

Delegata potestas non potest delegari.[28] Thus, in *Aquino-Sarmiento v. Morato*,[29] this Court ruled:

> The power to classify motion pictures into categories such as "General Patronage" or "For Adults Only" is vested with the respondent Board itself and not with the Chairman thereof (Sec. 3 [e], PD 1986). As Chief Executive Officer, respondent Morato's function as Chairman of the Board calls for the implementation and execution, not modification or reversal, of the decisions or orders of the latter (Sec. 5 [a], *Ibid.*). **The power of classification having been reposed by law exclusively with the respondent Board, it has no choice but to exercise the same as mandated by law, *i.e.*, as a collegial body, and not transfer it elsewhere or discharge said power through the intervening mind of another. *Delegata potestas non potest delegari* — a delegated power cannot be delegated. And since the act of classification involves an exercise of the Board's discretionary power with more reason the Board cannot, by way of the assailed resolution, delegate said power for it is an established rule in administrative law that discretionary authority cannot be a subject of delegation.** (Emphasis supplied)

Under the 1987 Philippine Constitution, the power to classify agricultural lands of the public domain into alienable and disposable lands of the public domain is exercised "by law" or through legislative enactment. In accordance with Section 6 of CA No. 141, this power is delegated to the President who may, based on his sound discretion, classify agricultural lands as alienable and disposable lands of the public domain. This delegated power to so classify public agricultural lands may no longer be redelegated by the President – what has once been delegated may no longer be delegated to another. Likewise, the same discretionary power has been delegated "by law" to the DENR Secretary who, of course, cannot redelegate the same to his subordinates.

As it is only the President or the DENR Secretary who may classify as alienable and disposable the lands of the public domain, an applicant for land registration must prove that the land sought to be registered has been declared by the President or DENR Secretary as alienable and disposable land of the public domain. To establish such character, jurisprudence has been clear on what an applicant must submit to clearly establish that the land forms part of the alienable and disposable lands of the public domain.

In *Republic of the Philippines v. T.A.N. Properties, Inc.*,[30] this Court has held that an applicant must present 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. Additionally, a certificate of land classification status issued by the Community Environment and Natural Resources Office (CENRO) or the Provincial Environment and Natural Resources Office (PENRO) of the DENR and approved by the DENR

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28 *Gonzales v. Philippine Amusement and Gaming Corporation*, 473 Phil. 582 (2004). See *Heirs of Santiago v. Lazaro*, 248 Phil. 593 (1988).

29 280 Phil. 560, 573-574 (1991).

30 578 Phil. 441 (2008).

Secretary must also be presented to prove that the land subject of the application for registration is alienable and disposable, and that it falls within the approved area per verification through survey by the PENRO or CENRO.[31] In *Republic of the Philippines v. Roche*,[32] we clearly stated:

> [T]he applicant bears the burden of proving the status of the land. In this connection, the Court has held that he must present a certificate of land classification status issued by the Community Environment and Natural Resources Office (CENRO) or the Provincial Environment and Natural Resources Office (PENRO) of the DENR. **He must also prove that the DENR Secretary had approved the land classification and released the land as alienable and disposable, and that it is within the approved area per verification through survey by the CENRO or PENRO.** Further, the applicant must present a copy of the original classification approved by the DENR Secretary and certified as true copy by the legal custodian of the official records. These facts must be established by the applicant to prove that the land is alienable and disposable.[33] (Emphasis supplied)

To repeat, there are two (2) documents which must be presented: *first,* a copy of the original classification approved by the Secretary of the DENR and certified as a true copy by the legal custodian of the official records, and *second*, a certificate of land classification status issued by the CENRO or the PENRO based on the land classification approved by the DENR Secretary. The requirement set by this Court in *Republic of the Philippines v. T.A.N. Properties, Inc.* that both these documents be based on the land classification approved by the DENR Secretary is not a mere superfluity. This requirement stems from the fact that the alienable and disposable classification of agricultural land may be made by the President or DENR Secretary. And while the DENR Secretary may perform this act in the regular course of business, this does not extend to the CENRO or PENRO – the DENR Secretary may no longer delegate the power to issue such certification as the power to classify lands of the public domain as alienable and disposable lands is in itself a delegated power under CA No. 141 and PD No. 705.

Moreover, we have repeatedly stated that a CENRO or PENRO certification is not enough to prove the alienable and disposable nature of the property sought to be registered because the **only** way to prove the classification of the land is through the original classification approved by the DENR Secretary or the President himself. This Court has clearly held:

> Further, it is not enough for the PENRO or 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 domain as alienable and disposable**, and that the land subject of the application for registration falls within the approved area per verification through survey

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31 Supra note 30.

32 638 Phil. 112 (2010).

33 Id. at 117-118, citing *Republic of the Philippines v. T.A.N. Properties, Inc.*, supra note 30.

> by the PENRO or CENRO. In addition, the applicant for land registration must present 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. These facts must be established to prove that the land is alienable and disposable. Respondent failed to do so because the certifications presented by respondent do not, by themselves, prove that the land is alienable and disposable.[34] (Emphasis supplied)

A CENRO or PENRO certification is insufficient to prove the alienable and disposable nature of the land sought to be registered – it is the original classification by the DENR Secretary or the President which is essential to prove that the land is indeed alienable and disposable. This has been consistently upheld by this Court in subsequent land registration cases. Recently, in *Republic of the Philippines v. Nicolas*,[35] which cited *Republic of the Philippines v. Lualhati*,[36] the Court rejected the attempt of the applicant to prove the alienable and disposable character of the land through PENRO or CENRO certifications. The Court held:

> [N]one 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,* 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 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

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34 *Republic of the Philippines v. T.A.N. Properties, Inc.*, supra note 30, at 452-453.

35 G.R. No. 181435, 2 October 2017.

36 757 Phil. 119 (2015).

> the alienable character of the lands subject herein. (Emphasis supplied)

In this case, Dumo failed to submit any of the documents required to prove that the land she seeks to register is alienable and disposable land of the public domain.

Response to the Concurring and Dissenting Opinion of Justice Caguioa

The Concurring and Dissenting Opinion of Justice Caguioa suggests that certifications of land classification status issued by the CENRO and PENRO should be deemed sufficient to prove the alienable and disposable character of the property if these certifications bear references to the land classification maps and the original classification issued and signed by the DENR Secretary. This suggestion clearly undermines the requirements set by this Court in *Republic of the Philippines v. T.A.N. Properties, Inc.*[37] where the Court expressly stated that it is not enough for the CENRO or PENRO to certify that the land sought to be registered is alienable and disposable. What is required from the applicant in a land registration proceeding is to prove that the DENR Secretary had approved the land classification and released the land of the public 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. Quite clearly, the Court definitively stated that to prove that the land is alienable and disposable, the applicant must present a certified true copy of the original classification approved by the DENR Secretary or the proclamation made by the President. Only the certified true copy of the original classification approved by the DENR Secretary or the President will prove to the courts that indeed, the land sought to be registered is alienable and disposable.

That the certifications of the CENRO or PENRO contain references to the original classification approved by the DENR Secretary is not enough to prove that the land is alienable and disposable. Mere references made in the certifications to the classification of land as approved by the DENR Secretary are simply insufficient. The trial court must be given a certified true copy of the classification made by the DENR Secretary or the President because it is the only acceptable and sufficient proof of the alienable and disposable character of the land. **In *Republic of the Philippines v. T.A.N. Properties, Inc.*,[38] the Court required the submission of the certified true copy of the land classification approved by the DENR Secretary precisely because mere references made by the CENRO and PENRO to the land classification were deemed insufficient**. For instance, CENRO and PENRO may inadvertently make references to an original classification approved by the DENR Secretary which does not cover the land sought to be registered, or worse, to a non-existent original classification. This is the very evil that the ruling in *Republic of the Philippines v. T.A.N. Properties,*

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37 Supra note 30.

38 Supra note 30.

Inc.[39] seeks to avoid. Justice Caguioa's suggestion resurrects the very evil banished by this Court in *Republic of the Philippines v. T.A.N. Properties, Inc.*[40]

Decisions of this Court form part of the legal system of the Philippines[41] and thus the CENRO, PENRO, and the DENR must follow the decision made by this Court in *Republic of the Philippines v. T.A.N. Properties, Inc.*[42] **The ruling of this Court requiring the submission of the certified true copy of the original classification as approved by the DENR Secretary cannot be overturned or amended by the CENRO or PENRO or even by the DENR.** The DENR, CENRO, and PENRO must follow the law as laid down by this Court in *Republic of the Philippines v. T.A.N. Properties, Inc.*[43] It is not this Court that should amend its ruling in *Republic of the Philippines v. T.A.N. Properties, Inc.*[44] to conform to the administrative rules of the DENR, CENRO, or PENRO reversing the final ruling of this Court in *Republic of the Philippines v. T.A.N. Properties, Inc.*[45] The authority given by the Administrative Order of the DENR to the CENRO and PENRO to issue certifications of land classification status does not and cannot reverse the clear requirement laid down by the Court for applicants of land registration to submit the certified true copy of the original classification approved by the DENR Secretary to prove the alienable and disposable character of the land.

To repeat, in a judicial confirmation of imperfect title under Section 14(1) of PD No. 1529, the applicant has the burden of proving that the land sought to be registered is alienable and disposable land of the public domain. In turn, the best evidence of the alienable and disposable nature of the land is the certified true copy of the original proclamation made by the President or DENR Secretary, in accordance with CA No. 141 or PD No. 705. Submitting a mere certification by the CENRO or PENRO with references to the original classification made by the President or the DENR Secretary is sorely inadequate since it has no probative value as a public document to prove the alienable and disposable character of the public land.

Under Section 19, Rule 132 of the Rules of Court, public documents are:

> (a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
>
> (b) Documents acknowledged before a notary public except last wills and testaments; and

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39 Supra note 30.
40 Supra note 30.
41 Article 8, Civil Code of the Philippines.
42 Supra note 30.
43 Supra note 30.
44 Supra note 30.
45 Supra note 30.

> (c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

In turn, for the record of public documents referred to in paragraph (a) of Section 19, Rule 132 to be admissible, it must be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy.[46] **Moreover, to be *prima facie* evidence of the facts stated in public documents, such documents must consist of entries in public records made in the performance of a duty by a public officer.**[47] This requirement can be satisfied only if a certified true copy of the proclamation by the President or the order of the DENR Secretary classifying the land as alienable and disposable is presented to the trial court.

Quite clearly, certifications by the CENRO or PENRO do not comply with the conditions for admissibility of evidence. The CENRO or the PENRO is not the official repository or legal custodian of the issuances of the President or DENR Secretary classifying lands as alienable and disposable lands of the public domain. Thus, the certifications made by the CENRO or PENRO cannot prove the alienable and disposable character of the land, which can only be ascertained through the classification made by the President or DENR Secretary, the only public officials who may classify lands into alienable and disposable lands of the public domain. The Concurring and Dissenting Opinion alleges that the CENRO serves as a repository of the land classification maps, and as such, authorizes the CENRO to issue certified true copies of the approved land classification maps. While the CENRO may issue certified true copies of these land classification maps, these maps are not the required certified true copy of the original proclamation or order classifying the public land as alienable and disposable. Moreover, these maps are not in the possession of the officials who have custody of the original proclamation or order classifying the public land as alienable and disposable. Again, the best evidence of the alienable and disposable nature of the land is the certified true copy of the classification made by the President or the DENR Secretary – not the certified true copy issued by the CENRO of its land classification maps.

It is also worthy to note that in *Republic of the Philippines v. T.A.N. Properties, Inc.*,[48] we have already discussed the value of certifications issued by the CENRO or PENRO in land registration cases:

> The CENRO and Regional Technical Director, FMS-DENR, certifications do not fall within the class of public documents contemplated in the first sentence of Section 23 of Rule 132. The certifications do not reflect "entries in public records made in the performance of a duty by a public officer", such as entries made by the Civil Registrar in the books of registries, or by a ship captain in the ship's logbook. **The certifications are not the certified copies or**

46 Section 24, Rule 132, Rules of Court.
47 Section 23, Rule 132, Rules of Court.
48 Supra note 30.

> **authenticated reproductions of original official records in the legal custody of a government office. The certifications are not even records of public documents. The certifications are conclusions unsupported by adequate proof, and thus have no probative value. Certainly, the certifications cannot be considered *prima facie* evidence of the facts stated therein.**
>
> The CENRO and Regional Technical Director, FMS-DENR, certifications do not prove that Lot 10705-B falls within the alienable and disposable land as proclaimed by the DENR Secretary. Such government certifications do not, by their mere issuance, prove the facts stated therein. Such government certifications may fall under the class of documents contemplated in the second sentence of Section 23 of Rule 132. As such, the certifications are *prima facie* evidence of their due execution and date of issuance but they do not constitute *prima facie* evidence of the facts stated therein.[49] (Emphasis supplied)

The certification issued by the CENRO or PENRO, by itself, does not prove the alienable and disposable character of the land sought to be registered. The certification should always be accompanied by the original or certified true copy of the original classification approved by the DENR Secretary or the President.

Substantial Compliance with the Requirements of Section 14(1)

Dumo argues that the Certification from the Regional Surveys Division, which was formally offered as Exhibit "A" and not opposed by the Republic, should be considered substantial compliance with the requirement that the applicant must submit the certified true copy of the original classification of the land as approved by the DENR Secretary.

We do not agree.

The fact that the Republic did not oppose the formal offer of evidence of Dumo in the RTC does not have the effect of proving or impliedly admitting that the land is alienable and disposable. The alienable and disposable character of the land must be proven by clear and incontrovertible evidence. It may not be impliedly admitted, as Dumo vehemently argues. It was the duty of Dumo to prove that the land she sought to register is alienable and disposable land of the public domain. This burden would have been discharged by submitting the required documents – a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian thereof, and a certificate of land classification status issued by the CENRO or the PENRO based on the approved land classification by the DENR Secretary. Without these, the applicant simply fails to prove that the land sought to be registered forms part of the alienable and disposable lands of the public domain and thus, it may not be susceptible to private ownership. As correctly pointed out by the CA, the land is presumed to belong to the State as part of the public domain.

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49 Supra note 30, at 454-455.

Another requirement under Section 14(1) of PD No. 1529 is to prove that the applicant and her predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the land under a *bona fide* claim of ownership since 12 June 1945 or earlier.

In this case, the CA found that Dumo and her predecessors-in-interest have been in possession of the land only from 1948, which is the earliest date of the tax declaration presented by Dumo. This fact is expressly admitted by Dumo. Thus, from this admission alone, it is clear that she failed to prove her and her predecessors-in-interest's possession and occupation of the land for the duration required by law – from 12 June 1945 or earlier.

Dumo, however, argues that it does not matter that her possession dates only back to 1948 because this Court has allegedly stated that even if the possession or occupation started after 12 June 1945, this does not bar the grant of an application for registration of land.

Again, we do not agree with Dumo.

To determine whether possession or occupation from 12 June 1945 or earlier is material, one has to distinguish if the application for the registration of land is being made under paragraph 1 or paragraph 2 of Section 14 of PD No. 1529. The relevant paragraphs provide:

> 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:
>
> > (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.
> >
> > x x x x

Thus, it is clear that if the applicant is applying for the registration of land under paragraph 1, possession and occupation of the alienable and disposable land of the public domain under a *bona fide* claim of ownership should have commenced from 12 June 1945 or earlier. If, however, the applicant is relying on the second paragraph of Section 14 to register the land, then it is true that a different set of requirements applies, and possession and occupation from 12 June 1945 or earlier are not required.

The reliance of Dumo on *Republic of the Philippines v. Court of Appeals*[50] is misplaced. The pronouncement of the Court in relation to the

[50] 489 Phil. 405 (2005).

phrase "June 12, 1945 or earlier" was that the alienable and disposable classification of the land need not be from 12 June 1945 or earlier, and that as long as such land is classified as alienable and disposable when the application is filed, then the first requirement under the law is fulfilled. The Court held:

> Petitioner suggests an interpretation that the alienable and disposable character of the land should have already been established since June 12, 1945 or earlier. This is not borne out by the plain meaning of Section 14(1). "Since June 12, 1945," as used in the provision, qualifies its antecedent phrase "under a *bona fide* claim of ownership." Generally speaking, qualifying words restrict or modify only the words or phrases to which they are immediately associated, and not those distantly or remotely located. *Ad proximum antecedents fiat relation nisi impediatur sentencia.*
>
> Besides, we are mindful of the absurdity that would result if we adopt petitioner's position. Absent a legislative amendment, the rule would be, adopting the OSG's view, that all lands of the public domain which were not declared alienable or disposable before June 12, 1945 would not be susceptible to original registration, no matter the length of unchallenged possession by the occupant. Such interpretation renders paragraph (1) of Section 14 virtually inoperative and even precludes the government from giving it effect even as it decides to reclassify public agricultural lands as alienable and disposable. The unreasonableness of the situation would even be aggravated considering that before June 12, 1945, the Philippines was not yet even considered an independent state.
>
> Instead, the more reasonable interpretation of Section 14(1) is that it merely requires the property sought to be registered as already alienable and disposable at the time the application for registration of title is filed. If the State, at the time the application is made, has not yet deemed it proper to release the property for alienation or disposition, the presumption is that the government is still reserving the right to utilize the property; hence, the need to preserve its ownership in the State irrespective of the length of adverse possession even if in good faith. However, if the property has already been classified as alienable and disposable, as it is in this case, then there is already an intention on the part of the State to abdicate its exclusive prerogative over the property.[51]

Thus, it did not state that the possession and occupation from 12 June 1945 or earlier are no longer required. It merely clarified **when** the land should have been classified as alienable and disposable to meet the requirements of Section 14(1) of PD No. 1529. The property sought to be registered must be declared alienable and disposable at the time of the filing of the application for registration.[52] This does not require that the land be declared alienable and disposable from 12 June 1945 or earlier.

Registration of land under Section 14(2)

Dumo also argues that she has the right to register the land because she and her predecessors-in-interest have already acquired the land through

51 Id. at 413-414.

52 *Republic of the Philippines v. Estate of Santos*, supra note 12.

prescription. She states that she and her predecessors-in-interest have been in possession and occupation of the land for fifty-six (56) years, and thus she has already acquired ownership of the land by prescription.

Again, we disagree.

It is true that under Section 14 of PD No. 1529, one may acquire ownership of the land by prescription. Particularly, paragraph 2 of Section 14 provides that "those who have acquired ownership of private lands by prescription under the provision of existing laws" may file an application for registration of title to land. The existing law mentioned in PD No. 1529 is the Civil Code of the Philippines. In *Heirs of Malabanan v. Republic of the Philippines*,[53] we applied the civil law concept of prescription as embodied in the Civil Code to interpret Section 14(2) of PD No. 1529. This Court held:

> The second source is Section 14(2) of P.D. 1529 itself, at least by implication, as **it applies the rules on prescription under the Civil Code, particularly Article 1113 in relation to Article 1137**. Note that there are two kinds of prescription under the Civil Code – ordinary acquisitive prescription and extraordinary acquisitive prescription, which, under Article 1137, is completed "through uninterrupted adverse possession... for thirty years, without need of title or of good faith."[54] (Boldfacing and underscoring supplied)

Section 14(2) of PD No. 1529 puts into operation the entire regime of prescription under the Civil Code, particularly Article 1113 in relation to Article 1137.[55] Article 1113 provides that "[p]roperty of the State or any of its subdivisions not patrimonial in character shall not be the object of prescription." Thus, it is clear that the land must be patrimonial before it may be susceptible of acquisitive prescription. Indeed, Section 14(2) of PD No. 1529 provides that one may acquire ownership of ***private lands*** by prescription.

Land of the public domain is converted into patrimonial property when there is an express declaration by the State that the public dominion property is no longer intended for public service or the development of the national wealth.[56] Without such declaration, acquisitive prescription does not start to run, even if such land is alienable and disposable and the applicant is in possession and occupation thereof. We have held:

> Accordingly, there must be an express declaration by the State that the public dominion property is no longer intended for public service or the development of the national wealth or that the property has been converted into patrimonial. Without such express declaration, the property, even if classified as alienable or disposable, remains property of the public

53 605 Phil. 244 (2009).
54 Id. at 276.
55 Id. at 277.
56 Id. at 285.

> dominion, pursuant to Article 420(2), and thus incapable of acquisition by prescription. It is only when such alienable and disposable lands are expressly declared by the State to be no longer intended for public service or for the development of the national wealth that the period of acquisitive prescription can begin to run. Such declaration shall be in the form of a law duly enacted by Congress or a Presidential Proclamation in cases where the President is duly authorized by law.[57]

Mere classification of agricultural land as alienable and disposable does not make such land patrimonial property of the State – an express declaration by the State that such land is no longer intended for public use, public service or the development of national wealth is imperative. This is because even with such classification, the land remains to be part of the lands of the public domain. In *Navy Officers' Village Association, Inc. v. Republic of the Philippines*,[58] we stated:

> Lands of the public domain classified as reservations for public or quasi-public uses are **non-alienable and shall not be subject to disposition, although they are, by the general classification under Section 6 of C.A. No. 141, alienable and disposable lands of the public domain, until declared open for disposition by proclamation of the President**. (Emphasis supplied)

Under CA No. 141, the power given to the President to classify lands as alienable and disposable extends only to ***lands of the public domain.*** Lands of the public domain are public lands intended for public use, or without being for public use, are intended for some public service or for the development of national wealth. Lands of the public domain, like alienable or disposable lands of the public domain, are not private lands. Article 420 of the Civil Code provides:

> Art. 420. The following things are property of public dominion:
>
> > (1) Those intended for public use, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, banks, shores, roadsteads, and others of similar character;
> >
> > (2) Those which belong to the State, without being for public use, and are intended for some public service or for the development of the national wealth.

Classifying lands as alienable and disposable does not take away from the fact that these lands still belong to the public domain. These lands belonged to the public domain before they were classified as alienable and disposable and they still remain to be lands of the public domain after such classification. **In fact, these lands are classified in Section 3, Article XII of the 1987 Philippine Constitution as "[a]lienable lands of the public domain."** The alienable and disposable character of the land merely gives the State the authority to alienate and dispose of such land if it deems that

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57 Id. at 279.

58 765 Phil. 429, 452 (2015).

the land is no longer needed for public use, public service or the development of national wealth.

Alienable and disposable lands of the public domain are those that are to be disposed of to private individuals by sale or application, because their disposition to private individuals is for the development of the national wealth. Thus, homesteads, which are granted to individuals from alienable and disposable lands of the public domain, are for the development of agriculture which would redound to the development of national wealth. **However, until the lands are alienated or disposed of to private individuals, they remain "*alienable lands of the public domain*," as expressly classified by the 1987 Philippine Constitution.**

Lands of the public domain become patrimonial property only when they are no longer intended for public use or public service or the development of national wealth. Articles 421 and 422 of the Civil Code expressly provide:

> Article 421. All other property of the State, which is not of the character stated in the preceding article, is patrimonial property
>
> Article 422. Property of public dominion, when no longer intended for public use or for public service, shall form part of the patrimonial property of the State.

In turn, the intention that the property is no longer needed for public use, public service or the development of national wealth may only be ascertained through an express declaration by the State. We have clearly held:

> Accordingly, there must be an express declaration by the State that the public dominion property is no longer intended for public service or the development of the national wealth or that the property has been converted into patrimonial. **Without such express declaration, the property, even if classified as alienable or disposable, remains property of the public dominion, pursuant to Article 420(2), and thus incapable of acquisition by prescription.** It is only when such alienable and disposable lands are expressly declared by the State to be no longer intended for public service or for the development of the national wealth that the period of acquisitive prescription can begin to run. Such declaration shall be in the form of a law duly enacted by Congress or a Presidential Proclamation in cases where the President is duly authorized by law.[59] (Emphasis supplied)

Without an express declaration that the land is no longer needed for public use, public service or the development of national wealth, it should be presumed that the lands of the public domain, whether alienable and disposable or not, remain belonging to the State under the Regalian Doctrine. We have already recognized that the classification of land as alienable and disposable does not make such property patrimonial. In *Dream*

[59] *Heirs of Malabanan v. Republic of the Philippines*, supra note 53, at 279.

Village Neighborhood Association, Inc. v. Bases Conversion Development Authority,[60] the Court held:

> One question laid before us is whether the area occupied by Dream Village is susceptible of acquisition by prescription. In *Heirs of Mario Malabanan v. Republic,* it was pointed out that from the moment R.A. No. 7227 was enacted, the subject military lands in Metro Manila became alienable and disposable. However, it was also clarified that the said lands did not thereby become patrimonial, since the BCDA law makes the express reservation that they are to be sold in order to raise funds for the conversion of the former American bases in Clark and Subic. The Court noted that the purpose of the law can be tied to either "public service" or "the development of national wealth" under Article 420(2) of the Civil Code, such that the lands remain property of the public dominion, albeit their status is now alienable and disposable. The Court then explained that **it is only upon their sale to a private person or entity as authorized by the BCDA law that they become private property and cease to be property of the public dominion**:
>
> > For as long as the property belongs to the State, **although already classified as alienable or disposable, it remains property of the public dominion if x x x it is "intended for some public service or for the development of the national wealth**."
>
> Thus, under Article 422 of the Civil Code, public domain lands become patrimonial property only if there is a declaration that these are alienable or disposable, together with an express government manifestation that the property is already patrimonial or no longer retained for public service or the development of national wealth. x x x. (Emphasis supplied)

The alienable and disposable character of public agricultural land does not convert the land to patrimonial property. It merely gives the State the authority to alienate or dispose the agricultural land, in accordance with law. It is only when (1) there is an express government manifestation that the land is already patrimonial or no longer intended for public use, public service or the development of national wealth, or (2) land which has been classified as alienable and disposable land is **actually alienated and disposed of by the State, that such land becomes patrimonial**.

In the present case, Dumo not only failed to prove that the land sought to be registered is alienable and disposable, but also utterly failed to submit any evidence to establish that such land has been converted into patrimonial property by an express declaration by the State. To repeat, acquisitive prescription only applies to ***private lands*** as expressly provided in Article 1113 of the Civil Code. To register land acquired by prescription under PD No. 1529 (in relation to the Civil Code of the Philippines), the applicant must prove that the land is not merely alienable and disposable, but that it has also been converted into patrimonial property of the State. Prescription

60 715 Phil. 211, 233-234 (2013).

will start to run only from the time the land has become patrimonial.[61] Unless the alienable and disposable land of the public domain is expressly converted into patrimonial property, there is no way for acquisitive prescription to set in under Article 1113 of the Civil Code.

However, another mode of prescription specifically governs the acquisitive prescription of **alienable and disposable lands of the public domain**. CA No. 141 provides for the modes of disposing alienable and disposable agricultural lands of the public domain:

> Section 11. **Public lands** suitable for agricultural purposes can be disposed of only as follows, and not otherwise:
> (1) For homestead settlement;
> (2) By sale;
> (3) By lease; and
> (4) By confirmation of imperfect or incomplete titles:
> (a) By judicial legalization; or
> (b) By administrative legalization (free patent). (Emphasis supplied)

In turn, Section 48 of the same law provides for those who may apply for confirmation of their imperfect or incomplete title by judicial application:

> Section 48. The following-described citizens of the Philippines, occupying **lands of the public domain** or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:
>
> 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 lands of the public domain**, under a bona fide claim of acquisition of ownership, since June 12, 1945, or earlier, immediately preceding the filing of the applications for confirmation of title, 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. (Emphasis supplied)

It is clear from the foregoing provisions that for lands of the public domain, one may apply for an administrative grant from the government, through homestead, sale, lease or free patent, or apply for the confirmation of their title in accordance with the conditions provided under Section 48(b) of CA No. 141. PD No. 1529 provides for the original registration procedure for the judicial confirmation of an imperfect or incomplete title. It must also

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[61] *Heirs of Malabanan v. Republic of the Philippines*, supra note 53, at 285.

be noted that the wording in Section 48(b) of CA No. 141 is similar to that found in Section 14(1) of PD No. 1529. The similarity in wording has already been explained by this Court when it recognized that Section 14(1) of PD No. 1529 works in relation to Section 48(b) of CA No. 141 in the registration of alienable and disposable lands of the public domain:

> It is clear that Section 48 of the Public Land Act is more descriptive of the nature of the right enjoyed by the possessor than Section 14 of the Property Registration Decree, which seems to presume the pre-existence of the right, rather than establishing the right itself for the first time. It is proper to assert that it is the Public Land Act, as amended by P.D. No. 1073 effective 25 January 1977, that has primarily established the right of a Filipino citizen who has 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 acquisition of ownership, since June 12, 1945" to perfect or complete his title by applying with the proper court for the confirmation of his ownership claim and the issuance of the corresponding certificate of title.
>
> Section 48 can be viewed in conjunction with the afore-quoted Section 11 of the Public Land Act, which provides that public lands suitable for agricultural purposes may be disposed of by confirmation of imperfect or incomplete titles, and given the notion that both provisions declare that it is indeed the Public Land Act that primarily establishes the substantive ownership of the possessor who has been in possession of the property since 12 June 1945. **In turn, Section 14(a) of the Property Registration Decree recognizes the substantive right granted under Section 48(b) of the Public Land Act, as well as provides the corresponding original registration procedure for the judicial confirmation of an imperfect or incomplete title.**[62] (Emphasis supplied)

Thus, the applicant for registration of the alienable and disposable land of the public domain claims his right to register the land under Section 48(b) of CA No. 141 and the procedure for registration is found under Section 14(1) of PD No. 1529 which provides that "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" may file in the proper court their application for land registration. The basis for application of judicial confirmation of title over alienable and disposable land of the public domain is not acquisitive prescription under the Civil Code, but rather, the fulfillment of the requirements under Section 48(b) of CA No. 141.

To summarize the discussion and reiterate the guidelines set by this Court in *Heirs of Malabanan v. Republic of the Philippines*,[63] we state:

> 1. If the applicant or his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the land sought to be registered under a *bona fide* claim of ownership

62 *Heirs of Malabanan v. Republic of the Philippines*, supra note 53, at 267.

63 Supra note 53.

since 12 June 1945 or earlier, the applicant must prove that the land has been classified by the Executive department as **alienable and disposable land of the public domain**. This is covered by Section 14(1) of PD No. 1529 in relation to Section 48(b) of CA No. 141.

While it is not necessary that the land has been alienable and disposable since 12 June 1945 or earlier, the applicant must prove that the President or DENR Secretary has classified the land as alienable and disposable land of the public domain at any time before the application was made.

2. If the occupation and possession of the land commenced at any time after 12 June 1945, the applicant may still register the land if he or his predecessors-in-interest have complied with the requirements of **acquisitive prescription** under the Civil Code **after** the land has been expressly declared as **patrimonial property** or no longer needed for public use, public service or the development of national wealth. This is governed by Section 14(2) of PD No. 1529 in relation to the Civil Code.

Under the Civil Code, acquisitive prescription, whether ordinary or extraordinary, applies only to private property. Thus, the applicant must prove **when** the land sought to be registered was **expressly declared** as patrimonial property because it is only from this time that the period for acquisitive prescription would start to run.

Based on the foregoing, we find that the CA committed no reversible error in finding that Dumo had no registerable title over the land she seeks to register. She failed to prove her right under either Section 14(1) or Section 14(2) of PD No. 1529. She failed to prove that the land she seeks to register was alienable and disposable land of the public domain. She failed to prove her and her predecessors-in-interest's possession and occupation since 12 June 1945 or earlier. Thus, she has no right under Section 14(1) of PD No. 1529. While she argues that she and her predecessors-in-interest have been in possession and occupation of the land for 56 years, she failed to prove that the land has been expressly declared as patrimonial property. Therefore, she also has no right under Section 14(2) of PD No. 1529.

WHEREFORE, the petition is **DENIED**. The assailed decision and resolution of the Court of Appeals are **AFFIRMED**.

SO ORDERED.

ANTONIO T. CARPIO
Senior Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice

See concurring & dissenting opinion

ESTELA M. PERLAS-BERNABE
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ANDRES B. REYES, JR.
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.

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)