Republic of the Philippines
Supreme Court
Manila

**THIRD DIVISION**

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| **REPUBLIC OF THE PHILIPPINES,** *Petitioner,* | **G.R. No. 189723** Present: |
| - versus- | VELASCO, JR., *J., Chairperson* BERSAMIN, LEONEN,* MARTIRES and GESMUNDO, *JJ.* |
| **ALAMINOS ICE PLANT AND COLD STORAGE, INC., Represented by SAMUEL C. CHUA,** *Respondent.* | Promulgated: July 11, 2018 |

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# DECISION

**MARTIRES, *J.*:**

Through the present petition for review on certiorari,[1] the Republic assails the Decision,[2] dated 30 September 2009, of the Court of Appeals in CA G.R. CV. No. 90527, whereby the appellate court affirmed the ruling[3] of the Regional Trial Court of Alaminos City, dated 25 October 2005, in Land Registration Case No. A-637, which granted the application of Alaminos Ice Plant and Cold Storage, Inc., for the original registration of a piece of land in Alaminos City. In affirming the ruling, the appellate court found that the land was part of the alienable and disposable public domain based on a certification issued by the Community Environment and Natural Resources Office *(CENRO)*; said certification was submitted at the appellate proceedings.

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* On Official Leave.
1 *Rollo*, pp. 8-23; Filed under Rule 45 of the Rules of Court.
2 Id. at 24-30.
3 Id. at 42-46; Decision dated 25 October 2005.

We required[4] the parties to submit their respective Comment and Reply. They complied.[5]

## THE FACTS

### *ANTECEDENTS*

On 17 August 2004, respondent Alaminos Ice Plant and Cold Storage, Inc., a domestic corporation, filed an application for the original registration, under the Torrens system, of a 10,000-square meter piece of land located at Barangay Pogo, Alaminos City, and identified as Lot No. 6411-B, Cad-325-D of Plan CSD-01-013782-D. Said land is described as "*bounded on the NW. along line 1-2 by National Road (20.00 m. wide); on the E. along line 2-3 by lot 6411-C of the subdivision plan; on the SE. along line 3-4 also by lot 6411-C of the subdivision plan; on the W. along line 4-5 by lot 6947, Pogo Elem. School Site; along lines 5-6-7-8-9 by lot 4027 and along lines 9-10-1 by lot 6411-A of the subdivision plan.*"[6]

As found by the trial court, the original claimants of the land were Juan Duldulao and Leonora Duldulao, who then conveyed the land to their daughter Mary Jane Almazan;[7] parents and daughter were its tax declarants from 1951 to 1997.[8] Mary Jane Almazan later sold the land to Rissa Santos Cai, from whom respondent acquired the land in April 2002; this acquisition is memorialized in a Deed of Absolute Sale.[9] Thereafter, respondent enclosed the area with a concrete fence and constructed an ice plant thereon.[10]

The application for original registration was docketed as LRC Case No. A-637 before Branch 54 of the Regional Trial Court of Alaminos City.[11]

### *The RTC Ruling*

Germane to the present review is the following discussion, leading to the dispositive portion of the RTC ruling granting the application:

> The Government Oppositor Director of Lands, represented by the Solicitor General, thru City Prosecutor Abraham L. Ramos II, adduced no evidence in support of his opposition. Indeed, Prosecutor Ramos was convinced that the instant application for registration of land is

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4 *Rollo*, p. 71; Per Resolution dated 7 December 2009.
5 Id. at 83-90, Comment; pp. 100-107 Reply.
6 Id. at 25.
7 Id.
8 Id. at 44-45.
9 Id. at 25.
10 Id. at 52.
11 Id.

meritorious, the evidence of the applicants being sufficient and competent to confer title to the present owner Alaminos Ice Plant and Cold Storage, Inc.

**FROM THE EVIDENCE ADDUCED** in the above-entitled case and after careful scrutiny of the case, the Court finds that the applicant is owner in fee simple and together with its predecessors-in-interest, as testified to by its witness, have been in possession and occupation of the land sought to be registered in the concept of owner, openly, continuously, exclusively and notoriously under a bonafide claim of ownership for more than fifty (50) years now or from the year 1951, per Exhibit "R" and is free from any adverse claim or conflict. The applicant has therefore satisfactorily proven and established sufficient and competent title over the land subject of registration under the Land Registration Act, as amended by Presidential Decree No. 1529.

**WHEREFORE**, after confirming the Order of General Default and considering that all the publications, notices and posting required by law have been duly complied with, and finding the evidence adduced to be sufficient and complement, ***JUDGMENT*** is hereby rendered ordering the registration, in accordance with the Property Registration decree (Presidential Decree 1529) of the parcel of land denominated as Lot 6411-B of Plan Csd-01-013782-D, situated in Barangay Pogo, Municipality, Now City, of Alaminos, Province of Pangasinan, containing an area of Ten Thousand (10,000) SQUARE METERS in favor of the applicant **ALAMINOS ICEPLANT & COLD STORAGE, INC.**, a domestic corporation duly organized and existing under Philippine laws, with principal office at No. 178 6th Street, cor. 9th Avenue, Grace Park, Kalookan City.

Furnish copies of this Decision to the Honorable Solicitor General at 134 Amorsolo St., Legaspi Village, Makati City, and the parties accordingly.

Once this Decision becomes FINAL, let the corresponding Decree and Title issue to the applicant **ALAMINOS ICEPLANT & COLD STORAGE, INC.**[12]

IT IS SO ORDERED.

### *The CA Ruling*

On 4 November 2008, the Office of the Solicitor General, for the Republic, filed an appeal[13] imputing error on the grant of the application based on two points: *first*, that respondent failed to submit in evidence a certification that the subject land was alienable and disposable;[14] and *second*, that respondent failed to prove specific acts of possession for the requisite period of at least thirty (30) years.[15]

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12 Id. at 45.
13 Id. at 48-60; Appellant's Brief.
14 Id. at 54.
15 Id. at 57.

In its brief,[16] dated 29 January 2009, respondent countered that the land was not of the public domain, and so a certification of its alienability and disposability was unnecessary; at any rate, the Republic failed to present evidence of its non-alienability. Respondent emphasized the tax declarations it presented during trial, which it claims prove its continuous possession of the land as well as of its predecessors-in-interest beginning in 1951.

Interestingly, on 20 March 2009, respondent subsequently filed with the appellate court a document titled *Manifestation/Compliance with Comment to Appellant's Arguments.*[17] Apparently, the CA had ordered respondent to submit proof that the Office of the Solicitor General had received a copy of the appellant's brief.[18] Said document was thus filed in compliance with this order. In the same document, respondent reiterated that a certification of alienability and disposability was unnecessary as the land was an agricultural farm, not a land of the public domain.[19] Nevertheless, now appended to the document was a certification from the CENRO, the Department of Environment and Natural Resources *(DENR)*, Alaminos City, dated 9 March 2009. The certification identifies the land as alienable and disposable. It reads:

CERTIFICATION

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that based on map projection, Lot 6411-B, Csd-01-013782-D, identical to lot 16699, Cad. 325-D, Alaminos Cadastre falls within the Alienable and Disposable Area per Block III, Project No. 30, Alaminos Project, Land Classification Map No. 681, certified August 8, 1927.

This certification is issued upon the request of Atty. Artemio O. Amon, Counsel for Alaminos Ice Plant this 9th day of March, 2009 for whatever legal purpose it may serve.[20]

x x x x

It was on this certification that the appellate court solely based its finding that the subject land was alienable, disposable, hence registrable. Its assailed decision speaks for itself, in its full discussion and disposition on respondent's entitlement to the original registration of the land, *viz*:

Section 14 of Presidential Decree No. 1529 states:

SECTION 14. Who may apply.— The following persons may file in the proper Court of First Instance an application for

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16 Id. at 61-65.
17 Id. at 67-70.
18 Id. at 67.
19 Id. at 68.
20 Id. at 70.

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

Similarly, Section 48 of Commonwealth Act No. 141 or the Public Land Act, as amended, provides:

SECTION 48. The following described citizens of the Philippines, occupying lands of public domain or claiming to own 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 thereof, under the Land Registration Act, to wit: 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 agricultural lands of the public dominion, under a bona fide claim of ownership, since June 12, 1945, or earlier, immediately preceding the filing of the application 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.

It is evident from the above-cited provisions that an application for land registration must conform to three requisites: (1) the land is alienable public land; (2) the applicant's open, continuous, exclusive, and notorious possession and occupation thereof must be since 12 June 1945, or earlier; and (3) it is under a bona fide claim of ownership. **We are of the considered view that these requisites were satisfactorily established in this case.**

Any question concerning the nature of the subject parcel of land—whether it is alienable and disposable public land or not—has been answered by the certification issued by the Department of Environment and Natural Resources dated 9 March 2009. Said certification confirms that the subject parcel of land forms part of the alienable and disposable public domain. It states:

. . . based on map projection, Lot 6411-B, Csd-01-013782-D, identical to lot 16699, Cad. 325-D, Alaminos Cadastre falls within the Alienable and Disposable Area per Block III, Project No. 30, Alaminos Project, Land Classification Map No. 681, certified August 8, 1927.

**We are convinced that appellee and its predecessors-in-interest have been in open, continuous, exclusive, and notorious possession of**

> **the subject parcel of land since 1951 under a *bona fide* claim of ownership.** Appellee avows that from 1951, his predecessors-in-interest had exercised acts of dominion over the subject parcel of land by occupying and cultivating it, declared the same in their names, and paid taxes due thereon. From its acquisition of the subject parcel of land in 2002, appellee had also exercised acts of dominion over the subject parcel of land by occupying it and constructing structures thereon, declared the same in its name, and paid taxes due thereon. It is worth noting that in the trial court, no one contested the possession and claim of ownership of appellee and its predecessors-in-interest over the subject parcel of land despite due publication of their claim. Even the Republic, through the Director of Lands, presented no serious opposition on their claims. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the state and all other interested parties, but also the intention to contribute needed revenues to the Government. Further, although tax declarations or realty tax payments of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property. Such an act strengthens one's bona fide claim of acquisition of ownership. As is well known, the payment of taxes coupled with actual possession of the land covered by the tax declaration strongly supports a claim of ownership.
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> ***WHEREFORE***, in view of the foregoing, the 25 October 2005 decision of the Regional Trial Court of Alaminos City, Pangasinan (Branch 54), in Land Registration Case No. A-637 is ***AFFIRMED.***
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> **SO ORDERED.**[21]
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> [original emphasis retained]

### *The Petition for Review*

To impute reversible error on the appellate court, the present petition presents the following arguments. *First*, the appellate court erred, on a question of law, in giving evidentiary weight to the certification allegedly issued by the DENR-CENRO, as it was unoffered during the trial as well as unidentified.[22] *Second*, the appellate court erred, on a question of law, in ruling that respondent and its predecessors-in-interest had complied with the required period of possession and occupation.[23]

## OUR RULING

The petition is meritorious.

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21 *Rollo*, pp. 27-29.
22 Id. at 12.
23 Id. at 17.

Preliminarily, we deal with the notion, espoused by respondent, that in registration proceedings the Republic has a burden of proving that a piece of land is inalienable, indisposable, hence incapable of registration. There is no such burden of proof. The Regalian Doctrine, embodied in our Constitution, decrees that all lands of the public domain belong to the State, the source of any asserted right to any ownership of land. Corollary to the doctrine, lands not appearing to be clearly within private ownership are presumed to belong to the State. Hence, while a burden of proof in registration proceedings exists, it is this: that of overcoming the presumption of State ownership of lands of the public domain. Logically, such burden lies on the person applying for registration.[24] Stated differently, and as we held in *Republic v. Roche*,[25] the onus of proving that the land is alienable and disposable lies with the applicant in an original registration proceeding; the government, in opposing the purported nature of the land, need not adduce evidence to prove otherwise.

In order to overcome the presumption of State ownership of public dominion lands, the applicant must present incontrovertible evidence that the land subject of the application is alienable or disposable.[26]

The certification in the case at bar is no such evidence. In the 2008 *Republic v. T.A.N. Properties*,[27] this Court categorically held that it was not enough for the CENRO or the Provincial Environment and Natural Resources Office *(PENRO)* to certify that a certain parcel of land is alienable and disposable in order for said land to be registrable, *viz*:

> The certifications are not sufficient. DENR Administrative Order (DAO) No. 20, dated 30 May 1988, delineated the functions and authorities of the offices within the DENR. Under DAO No. 20, series of 1988, the CENRO issues certificates of land classification status for areas below 50 hectares. The Provincial Environment and Natural Resources Offices (PENRO) issues certificate of land classification status for lands covering over 50 hectares. DAO No. 38, dated 19 April 1990, amended DAO No. 20, series of 1988. DAO No. 38, series of 1990, retained the authority of the CENRO to issue certificates of land classification status for areas below 50 hectares, as well as the authority of the PENRO to issue certificates of land classification status for lands covering over 50 hectares. In this case, respondent applied for registration of Lot 10705-B. The area covered by Lot 10705-B is over 50 hectares (564,007 square meters). The CENRO certificate covered the entire Lot 10705 with an area of 596,116 square meters which, as per DAO No. 38, series of 1990, is beyond the authority of the CENRO to certify as alienable and disposable.

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24 *Republic v. Medida*, 692 Phil. 454, 463 (2012); citing *Republic v. Dela Paz*, 649 Phil. 106, 115 (2010).

25 638 Phil. 112, 117-118 (2010).

26 *Republic vs. Lualhati*, 757 Phil. 119, 129 (2015).

27 578 Phil. 441, 451-453 (2008).

> The Regional Technical Director, FMS-DENR, has no authority under DAO Nos. 20 and 38 to issue certificates of land classification. Under DAO No. 20, the Regional Technical Director, FMS-DENR:
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> 1. Issues original and renewal of ordinary minor products (OM) permits except rattan;
> 2. Approves renewal of resaw/mini-sawmill permits;
> 3. Approves renewal of special use permits covering over five hectares for public infrastructure projects; and
> 4. Issues renewal of certificates of registration for logs, poles, piles, and lumber dealers.
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> Under DAO No. 38, the Regional Technical Director, FMS-DENR:
>
> 1. Issues original and renewal of ordinary minor [products] (OM) permits except rattan;
> 2. Issues renewal of certificate of registration for logs, poles, and piles and lumber dealers;
> 3. Approves renewal of resaw/mini-sawmill permits;
> 4. Issues public gratuitous permits for 20 to 50 cubic meters within calamity declared areas for public infrastructure projects; and
> 5. Approves original and renewal of special use permits covering over five hectares for public infrastructure projects.
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> Hence, the certification issued by the Regional Technical Director, FMS-DENR, in the form of a memorandum to the trial court, has no probative value.
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> 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 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.

Clearly, the appellate court erred in relying solely on the CENRO certification in order to affirm the approval of the application for the original registration of the subject public land. Significantly – and this point serves to stress the gravity of the CA's mistake – the CA ruling came after this Court had promulgated *Republic v. T.A.N. Properties*, wherein the strict requirement in land registration cases for proving public dominion lands as alienable and disposable had been duly recognized.

The above pronouncements in *Republic v. T.A.N. Properties* remain current, and were current at the time of the CA ruling. Naturally, the pronouncements found iteration in succeeding cases,[28] notably in the 2011

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[28] *Republic of the Philippines v. Ruby Lee Tsai*, 608 Phil. 224, 235 (2009); *Republic of the Philippines v. Hanover Worldwide Trading Corp.*, 636 Phil. 739, 752 (2010); *Republic of the Philippines v.*

*pro hac vice* case of *Republic v. Vega*,[29] where the general rule was nevertheless summarized and reaffirmed in this wise:

> To establish that the land subject of the application is alienable and disposable public land, the general rule remains: all applications for original registration under the Property Registration Decree must include **both** (1) a CENRO or PENRO certification **and** (2) a certified true copy of the original classification made by the DENR Secretary.

Respondent failed to present a certified true copy of the DENR's original classification of the land. With this failure, the presumption that Lot 6411-B, Csd-01-013782-D, is inalienable public domain has not been overturned. The land is incapable of registration in this case. On the strength of this reason alone, we reverse the assailed ruling.

At any rate, the subject CENRO certification had not been formally offered. As petitioner correctly pointed out, a formal offer of evidence is necessary as courts must base their findings of fact and judgment solely on evidence formally offered at trial.[30] Absent formal offer, no evidentiary value can be given to the evidence.[31]

Moreover, as said certification had surfaced only during appeal, the appellate court based its ruling on a document not previously scrutinized by the lower court. We note, too, that the CENRO officer who had issued the certification had of course not been able to testify in open court as to the identity of the document and the veracity of its contents. In the conduct of review proceedings, an appellate court cannot rightly appreciate firsthand the genuineness of an unverified and unidentified document; much less, accord it evidentiary value.[32] Further, to allow a party to attach any document to his pleading and then expect the court to consider it as evidence, as what happened in this case, would draw unwarranted consequences; for instance, the opposing party would be deprived of the chance to examine the document and to object to its admissibility.[33] It is for such reasons that higher courts are precluded from entertaining matters neither alleged in the pleadings nor raised during the proceedings below, but ventilated for the first time only in a motion for reconsideration or on appeal.[34]

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*Vega*, 654 Phil. 511, 527 (2011); *Union Leaf Tobacco Corp. v. Republic of the Philippines*, 661 Phil. 277, 280-281 (2011); *Republic of the Philippines v. Castuera*, 750 Phil. 884, 890-891 (2015).

29 654 Phil. 511, 527 (2011).

30 *Fideldia v. Sps. Mulato*, 586 Phil. 1, 15 (2008).

31 *People v. Dela Cruz*, 296 Phil. 371, 384 (1993).

32 *People v. Sumalpong*, 3348 Phil. 501, 522 (1998).

33 *Candido v. Court of Appeals*, 323 Phil. 95, 100 (1996).

34 *Mendoza and Casiño v. Bautista*, 493 Phil. 804, 813 (2005); citing *Sesbreño v. Central Board of Assessment Appeals*, 337 Phil. 89, 107 (1997); *Manila Bay Club Corporation v. Court of Appeals*, 319 Phil. 413, 420 (1995); *DBP v. West Negros College, Inc.*, 472 Phil. 937, 949-950 (2004); *Solid Homes, Inc. v. Court of Appeals*, 341 Phil. 261, 277-278 (1997); *People v. Echegaray*, 335 Phil. 343, 349 (1997).

In fine, not only is the CENRO certification in this case insufficient, it is also of no evidentiary value.

**WHEREFORE**, based on the foregoing premises, the petition is **GRANTED**. The Decision, dated 30 September 2009, of the Court of Appeals in CA G.R. CV. No. 90527 affirming the ruling of the Regional Trial Court of Alaminos City, dated 25 October 2005, in Land Registration Case No. A-637, is **REVERSED** and **SET ASIDE**. The application for the registration of title filed by Alaminos Ice Plant and Cold Storage, Inc., in said registration case is hereby **DISMISSED**.

**SO ORDERED.**

**SAMUEL R. MARTIRES**
Associate Justice

**WE CONCUR:**

**PRESBITERO J. VELASCO, JR.**
Associate Justice
Chairperson

**LUCAS P. BERSAMIN**
Associate Justice

(On Official Leave)
**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 Courts Division.

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

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
JUL 30 2018