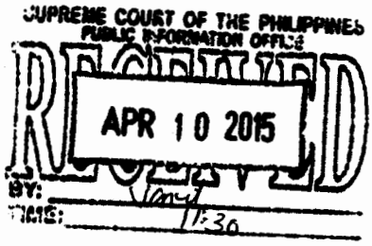
Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **March 25, 2015**, *which reads as follows:*

"G.R. No. 210472 ***(Republic of the Philippines vs. Ulysses S. Celis, rep. by attorney-in-fact Andres S. Bautista).*** – This is a petition for review under Rule 45 of the 1997 Revised Rules of Civil Procedure seeking to reverse and set aside the Decision of the Court of Appeals (CA) promulgated December 2, 2013 in CA-G.R. CV No. 98472, entitled *Ulysses S. Celis, represented by attorney-in-fact Andres S. Bautista v. the Republic of the Philippines*. The CA affirmed the January 18, 2012 Decision of the Regional Trial Court, Branch 12, Ligao City (RTC) in Land Registration Case No. 163, granting respondent Ulysses S. Celis' application for land registration.

On May 20, 2008, respondent filed before the RTC an application for the confirmation and registration of a parcel of land in his name pursuant to the Property Registration Decree (PD 1529) before the RTC. In it, he alleged that he is the owner and possessor of a two hundred sixty five (265)-square meter lot in Libon, Albay identified as Lot No. 295 of the PSU 240962 Cadastral Survey of Libon, Albay, which he acquired by purchase from Francisca Cuaderno as evidenced by a Deed of Sale dated January 29, 2003 and over which he has ever since been paying the real estate taxes.

In support of his application, respondent submitted the original survey plan in tracing cloth, the technical description thereof, monuments of title, certifications that the land is alienable and disposable and that it has not overlapped with any decreed property, as well as copies of the adverted Deed of Sale. Respondent also presented several tax declarations over the property, the earliest of which issued in 1948 in the name of Tiburcio Bergancia.

Finally, he asserted that the land is free from any encumbrance and from any adverse claim.

Only the Republic of the Philippines appeared to oppose the petition. Hence, the RTC issued an Order of general default. Trial then ensued.

On January 18, 2012, the RTC rendered a Decision granting the petition on the finding that respondent established that prior to the year 1945, his predecessors-in-interest had been in possession of the subject property and from the time he bought the property, he has been in continuous open, notorious and uninterrupted possession of the property, adverse to the whole world and in the concept of an owner. The RTC held that respondent has proven his imperfect title sufficient to have the same confirmed by the issuance of a title in his name in accordance with PD 1529. The RTC explained:

> Evaluating the evidence presented, this court finds sufficient evidence for a registerable title. Applicant has established that prior to the year 1945, his predecessors-in-interest *had been in possession of the property, publicly, openly, quietly, peacefully and without interruption in the concept of an owner, and adverse to the whole world.* In fact, the earliest Tax Declaration in the name of Tiburcio Bergancia was declared in the year 1948, presumably the year when the Municipality of Libon, Albay, started to have its own repository of records, Tax Declarations, included. Such possession by Tiburcio Bergancia, was continued by the Heirs of Justo Siapno, when the property was alienated, and continued by Francisca Cuaderno until she sold the property to applicant herein, [Ulysses S. Celis] on January 29, 2003, per Deed of Absolute Sale. Thereafter, from the time the property was transferred to the applicant, he continued such open, notorious and uninterrupted possession of the property, adverse to the whole world and in the concept of an owner up to the present. This continuous possession, when tacked together would already total to SIXTY FOUR (64) years dating back to year 1948 from the time the property was declared for taxation purposes.
>
> x x x x
>
> All told, the applicant has established his imperfect title sufficient to have the same confirmed by the issuance of the pertinent decree and title in his name in accordance with the requirements of PD 1529. These evidence consisted of the Deed of Absolute Sale executed by the applicant and Francisca Cuaderno on January 29, 2003, the several documents which were submitted to this Court and form part of the record, evincing ownership of Francisca Cuaderno, the series of Tax Declarations from 1948 up to the year 2011 as well as the updated Real Property Tax Clearance which depicts that Ulysses S. Celis has been religiously paying the taxes due over the lot subject matter of this application.[1]

The dispositive portion of the RTC Decision reads:

> WHEREFORE, premises considered and finding that ULYSSES S. CELIS had established his ownership and possession of Lot No. 295 described in the survey plan Psu-240962, Cad Survey of Libon, Albay, which is situated in Barangay San Miguel, Municipality of Libon, Albay, containing an area of Two Hundred SIXTY FIVE (265) SQUARE METERS in such concept and for such period of time required by PD 1529, the herein application is GRANTED and Lot No. 295 of Libon Cadastre, duly described in the Technical Description is hereby ordered registered and confirmed in the name of herein applicant, Ulysses S. Celis.

[1] *Rollo*, pp. 254-255.

The Register of Deeds of the Province of Albay is directed to issue, upon payment of the legal fees, the pertinent title to Ulysses S. Celis.

SO ORDERED.[2]

Therefrom, petitioner went to the CA on appeal and argued that respondent failed to prove: (1) that the property in question was alienable and disposable land of the public domain; and (2) that he or his 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 June 12, 1945 or earlier.

Petitioner argued that respondent's application for registration should have been denied since he submitted certifications issued merely by the Land Management Bureau and the Community Environment and Natural Resources Office of Legazpi City (CENRO), and not by the Secretary of the Department of Environment and Natural Resources (DENR), to establish the alienable nature of the subject lot. Petitioner, in this regard, cited *Republic v. T.A.N. Properties, Inc.*,[3] where the Court stated that "[*t*]*he 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*."

Also, petitioner insisted that respondent failed to give the specific details on the period and nature of occupancy of his predecessor-in-interest, Francisca Cuaderno. Hence, there was no showing that he and his said predecessor-in-interest have been in open possession of the subject property under a claim of ownership since June 12, 1945 or earlier.

By Decision[4] rendered on December 2, 2013 in CA-G.R. CV No. 98472, the CAdenied petitioner's appeal.

The CA pointed out that respondent's application for registration was filed on May 20, 2008, prior to the decision of the Court in *T.A.N. Properties, Inc.* requiring the submission of a copy of the original land classification approved by the DENR Secretary and certification by the legal custodian of the official records to prove that a land is alienable and disposable. The appellate court clarified that since there was no effective opposition from the government regarding the submissions of certifications from the CENRO of Legazpi City and the Land Management Bureau stating

---

[2] Id. at 256.

[3] G.R. No. 154953, June 26, 2008, 555 SCRA 477.

[4] Penned by Associate Justice Normandie B. Pizarro and concurred in by Associate Justices Andres B. Reyes, Jr. and Manuel M. Barrios.

that the land applied for is alienable and disposable, the substantial compliance rule enunciated in *Republic v. Vega*[5] shall, therefore, apply.

As did the RTC, the CA dismissed petitioner's insistence on respondent's lack of registrable right, it being argued that he has failed to present proof that he or his predecessors-in-interest had exercised the kind of possession required by law since June 12, 1945 or earlier.

The CA[6] held that while it is true that the tax declaration presented by respondent as proof of his bona fide claim of ownership was issued in 1948, or three years short of the June 12, 1945 reckoning date, registration in his name can still be had by virtue of prescription under Section 14(2) of the Property Registration Decree. The CA held:

> The Applicant-Appellee, just like the petitioners in the above-cited case, submitted incontrovertible pieces of evidence consisting of tax declarations showing the open, continuous, exclusive, and notorious possession by him and his predecessor-in-interest of the subject property since 1948, or for over sixty (60) years. *Ergo,* the subject property – alienable and disposable as it is as discussed elsewhere herein – had been effectively converted into a private property. Being so, the Applicant-Appellee, who has acquired ownership thereof through prescription, is entitled to have title through registration proceedings.[7]

Thus, petitioner filed this petition raising the following issues:

> 1. Whether the CA erred when it affirmed the RTC Decision finding that respondent proved that he or his 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 June 12, 1945 or earlier.
>
> 2. Whether the CA erred when it affirmed the RTC Decision finding that respondent proved that the property in question is alienable and disposable land of the public domain.

The petition is impressed with merit. Contrary to the trial and appellate courts' finding, respondent has not convincingly proved possession since June 12, 1945 or earlier, that the subject property is alienable and disposable, and that the same was acquired through prescription.

Section 14 of the Property Registration Decree tells us who may, or what is necessary to, apply for the original registration of title to land. It provides:

> Section 14. Who may apply – The following persons may file in the proper Court of the First Instance (now Regional Trial Court) an application for registration of title to land, whether personally or through their duly authorized representatives:

---

[5] G.R. No. 177790, January 17, 2011, 639 SCRA 541.
[6] Citing *Buenaventura v. Republic*, G.R. No. 166865, March 2, 2007, 517 SCRA 271.
[7] *Rollo*, pp. 24-25.

> (1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership since June 12, 1945, or earlier.
> (2) Those who have acquired ownership of private lands by prescription under the provisions of existing laws.

Respondent is not qualified to apply for original registration under any of the foregoing provisions.

Respondent failed to prove possession since June 12, 1945 or earlier and the alienable and disposable character of the subject property

Under the aforequoted Section 14(1), an applicant for the registration of title over a parcel of land must establish possession thereof under a bona fide claim of ownership, by himself or through his predecessors-in-interest, since June 12, 1945 or earlier, and that the property sought to be registered is alienable and disposable. *Heirs of Mario Malabanan v. Republic*[8] has clarified that said Section 14(1) requires possession since June 12, 1945, albeit it does not require that the lands should have been alienable and disposable during the entire period of possession. Hence, a possessor is entitled to secure judicial confirmation of his title over what was once a piece of land of the public domain as soon as it is declared alienable and disposable.[9] In other words, what is important is that the subject property has already been declared alienable and disposable at the time of the filing of the application and that the applicant can prove possession since June 12, 1945 or earlier.

Respondent cannot successfully invoke Section 14(1) of the Property Registration Decree as his basis for the registration of the subject property. Respondent, by himself and his predecessors in interest, may have been in possession of the subject property in the past. But the nagging reality is that there is no substantive evidence showing that the said possession started on *June 12, 1945 or earlier*. Further, respondent failed to submit sufficient evidence proving that the subject property is alienable and disposable.

On the issue of possession, the RTC recognized that the documentary evidence presented, in particular, the tax declaration issued to Tiburcio Bergancia, can date back respondent's predecessors' possession only until 1948. To reiterate, the RTC found:

> **Evaluating the evidence presented, this court finds sufficient evidence for a registerable title. Applicant has established that prior to the year 1945, his predecessors-in-interest *had been in possession of the property, publicly, openly, quietly, peacefully and without***

[8] G.R. No. 179987, April 29, 2009, 587 SCRA 172.
[9] Id. at 210.

> ***interruption in the concept of an owner, and adverse to the whole world.*** **In fact, the earliest Tax Declaration in the name of Tiburcio Bergancia was declared in the year 1948, presumably the year when the Municipality of Libon, Albay, started to have its own repository of records, Tax Declarations, included.** Such possession by Tiburcio Bergancia, was continued by the Heirs of Justo Siapno, when the property was alienated, and continued by Francisca Cuaderno until she sold the property to applicant herein, [Ulysses S. Celis] on January 29, 2003, per Deed of Absolute Sale. Thereafter, from the time the property was transferred to the applicant, he continued such open, notorious and uninterrupted possession of the property, adverse to the whole world and in the concept of an owner up to the present. **This continuous possession, when tacked together would already total to SIXTY FOUR (64) years dating back to year 1948 from the time the property was declared for taxation purposes.**[10] (Emphasis supplied.)

The RTC's finding on the length of respondent's possession strains credulity, for on one hand, the RTC states that respondent has sufficiently established possession since 1945, yet in the same breath, the trial court said that the earliest tax declaration was issued to respondent's predecessor in 1948. We could not accept the trial court's simplistic explanation that the probable reason why the tax declaration was issued only in 1948, even if possession began in 1945, was because the Municipality of Libon, Albay started to have its own repository of records only in 1948. The RTC offered nothing to support its bare presumption. It is as if the trial court was grasping at straws when it made this contrived, baseless and illogical rationalization. Other than the RTC's declaration, there is nothing in the records to support its conclusion that, indeed, respondent's possession dated back specifically to the year 1945.

Like the RTC, the CA categorically found that respondent was able to prove possession since 1948 only. In the CA's words: "[t]he tax declaration issued x x x and presented by the Applicant-Appellee as proof of his bona fide claim of ownership was in 1948, or three years short of June 12, 1945 reckoning date x x x."[11] Of the same tenor is the appellate court's ensuing statement: "The Applicant-Appellee x x x submitted incontrovertible pieces of evidence consisting of tax declarations showing the open, continuous, exclusive, and notorious possession by him and his predecessor-in-interest of the subject property since 1948, or for over sixty (60) years."[12]

Just as fatal to respondent's case is his inability to sufficiently prove that the subject property is alienable and disposable. In this case, respondent relied on certifications issued by CENRO-Legazpi City and the Land Management Bureau in a bid to prove that the subject property is alienable and disposable. The certification issued by CENRO Officer Ricardo B. Ramos states that the status of the property is "alienable and disposable, Block I, Proj. No 11, Libon, Albay, LC Map 871 certified on December 31,

---

[10] *Rollo*, pp. 254-255.
[11] Id. at 14.
[12] Id. at 13.

1930 by the then Director of Bureau of Forestry."[13] On the other hand, the certification from the Land Management Bureau states that no public land applications and land patents cover the property.[14]

These twin certifications fall short of the requirements envisaged in *T.A.N. Properties, Inc.*[15] to overturn the presumption that the land subject to an application for registration is inalienable. *T.A.N. Properties, Inc.* requires the applicant to show that the DENR Secretary has 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 Provincial Environment and Natural Resources Office or CENRO. *T.A.N. Properties, Inc.* also requires the applicant to 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. We have made this point clear in the recent case of *Republic v. San Mateo*,[16] thus:

> x x x A CENRO certification that a certain property is alienable, without the corresponding proof that the DENR Secretary had approved such certification, is insufficient to support a petition for registration of land. Both certification and approval are required to be presented as proofs that the land is alienable. Otherwise, the petition must be denied.

It is true that respondent indeed filed his application for registration before this Court rendered judgment in *T.A.N. Properties, Inc.* Yet, this Court cannot sustain the CA's argument that the requirements therein should not apply to him and that the rule on substantial compliance in *Republic v. Vega*[17] should apply instead. It must be remembered that the Court in *Vega* clarified that its ruling therein is *pro hac vice*, and should not be considered an exception or a departure from the ruling in *T.A.N. Properties, Inc.*[18]

We said as much in *San Mateo*, which is similar to this case. There, the Court did not apply the *pro hac vice* rule in *Vega* because there was ample opportunity for the registrants in the said case to comply with the requirements articulated in *T.A.N. Properties, Inc.*, considering that the RTC therein rendered its decision on November 23, 2010, when the rule on strict compliance was already in effect. It was explained in *San Mateo* that:

> In *Vega,* the Court was mindful of the fact that the trial court rendered its decision on November 13, 2013, way before the rule on strict compliance was laid down in *T.A.N. Properties* on June 26, 2008. Thus, the trial court was merely applying the rule prevailing at the time, which was substantial compliance. Thus, even if the case reached the Supreme Court after the promulgation of *T.A.N. Properties,* the Court allowed the application of substantial compliance, because there was no opportunity

[13] Id. at 258.
[14] Id. at 257, 304.
[15] Supra note 3.
[16] G.R. No. 203560, November 10, 2014.
[17] Supra note 5.
[18] Id. at 556.

> for the registrant to comply with the Court's ruling in *T.A.N. Properties,* the trial court and the CA already having decided the case prior to the promulgation of *T.A.N. Properties.*
>
> In the case here, however, the RTC Decision was only handed down on November 23, 2010, when the rule on strict compliance was already in effect. Thus, there was ample opportunity for the respondents to comply with the new rule, and present before the RTC evidence of the DENR Secretary's approval of the DENR-South CENRO Certification. This, they failed to do.[19] (Underscoring added.)

In the instant case, respondent Celis filed his application on May 20, 2008. Shortly thereafter, or on June 26, 2008, this Court promulgated its Decision in *T.A.N. Properties, Inc.* Almost four (4) long years after the application, the RTC handed down on January 18, 2012 its decision in favor of respondent. Hence, the latter verily had more than enough time to, but he did not, submit to the RTC the DENR Secretary's approval of the CENRO certification. Morever, the respondents in *Vega* presented other evidence, on top of the CENRO certification, that the subject land therein was alienable and disposable. Here, respondent only relied on the certification from the CENRO to prove that fact.

Respondent is not qualified under Section 14(2) for failing to prove that the land is alienable and disposable and part of the State's patrimonial property

The CA erred in holding that respondent may register the subject property by virtue of prescription under Section 14(2) of the Property Registration Decree.

Under Section 14(2), those who have acquired ownership of private lands by prescription under the provisions of existing laws are qualified to apply for original registration. The Civil Code provisions on prescription tell us that all things which are within the commerce of men are susceptible of prescription, except, among others, *property of the State not patrimonial in character.*[20] On this basis, this Court clarified in *Malabanan*[21] that a person may acquire ownership by prescription and, thus, apply for registration under Section 14(2) of the Property Registration Decree only when the land involved is patrimonial property, a term defined in Article 421[22] in relation to Article 420[23] of the Civil Code as property of the State

---

[19] Supra note 16.

[20] Civil Code, Article 1113. All things which are within the commerce of men are susceptible of prescription, unless otherwise provided. Property of the State or any of its subdivisions not patrimonial in character shall not be the object of prescription.

[21] Supra note 8.

[22] Article 421. All other property of the State, which is not of the character stated in the preceding article, is patrimonial property.

[23] Article 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 national wealth.

which is not intended for public use, public service, or for the development of national wealth.

There must be, as *Malabanan* held, 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 controverted into patrimonial. In other words, there must be a formal declaration of the withdrawal of the subject property from the public dominion. Without such declaration, the property, even if classified as alienable or disposable, remains property of the public dominion 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.[24]

Hence, it is clear that to be qualified under Section 14(2), a registrant must be able to show not only that the subject property is alienable or disposable but also that the same is patrimonial property of the state, no longer intended for public use or service or for the development of national wealth.

Applying the foregoing to the case at bar, We hold that respondent cannot properly invoke Section 14(2) as basis for registration.

First, as discussed above, respondent failed to submit substantial proof that the subject property is alienable and disposable in character. *Second*, assuming that the property was alienable and disposable, respondent has not submitted any evidence that it had been declared patrimonial or that it is no longer intended for public use or service or for the development of the national wealth, in accordance with the ruling in *Malabanan*. Again, respondent had enough time to comply with this ruling since the same was handed down by this Court as early as April 29, 2009, barely a year after respondent applied for original land registration and almost three (3) years before the trial court rendered its decision. Hence, We rule that absent such proof, the subject property may not be acquired by prescription.

Considering the foregoing, We find no need to discuss whether respondent sufficiently proved that he was in possession of the subject property for such a period of time sufficient for him to acquire the same through prescription.

WHEREFORE, the Court resolves to **GRANT** the petition. The Decision of the Court of Appeals dated December 2, 2013 in CA-G.R. CV No. 98472 and the Decision of the Regional Trial Court in Ligao City, Branch 12 dated January 18, 2012 in Land Registration Case No. 163 are

[24] Heirs of Mario Malabanan v. Republic, G.R. No. 179987, April 29, 2009, 587 SCRA 172, 203.

hereby **REVERSED** and **SET ASIDE**, and a new one entered **DENYING** respondent's application for registration of title. (**Jardeleza**, *J.*, no part, due to his prior action as Solicitor General; **Del Castillo**, *J.*, designated Additional Member per Raffle dated November 26, 2014)

SO ORDERED."

Very truly yours,

WILFREDO V. LAPITAN
Division Clerk of Court 4.1.15

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

The Clerk of Court
COURT OF APPEALS
CA G.R. CV No. 98472
1000 Manila

Atty. Emmanuel S. Ayo
Counsel for Respondent
2/F Room 4, Pena Bldg.
Cor. Rizal St. and Burgos St.
Sorsogon City, 4700 Sorsogon

The Presiding Judge
REGIONAL TRIAL COURT
Branch 12, Ligao City
4504 Albay
(LRC Case No. 163)

PUBLIC INFORMATION OFFICE
LIBRARY SERVICES
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila