

## SECOND DIVISION

[ G.R. No. 210738, August 14, 2019 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. SPOUSES  
GUILLERMO ALONSO\* AND INOCENCIA BRITANICO-ALONSO,  
RESPONDENTS.**

### DECISION

**REYES, J. JR., J.:**

This is a Petition for Review on *Certiorari* filed by the Republic of the Philippines (Republic), represented by the Office of the Solicitor General (OSG) assailing the Decision<sup>[1]</sup> dated May 31, 2013, and Resolution<sup>[2]</sup> dated December 12, 2013, of the Court of Appeals-Cebu City (CA) in CA-G.R. CV No. 03510 which ordered the registration of Lot 2209, Cad. 24, Iloilo Cadastre, AP-06-005399.

#### The Relevant Antecedents

A petition for registration of Lot 2209 (subject land), Cad. 24, Iloilo Cadastre, AP-06-005399, situated in Poblacion, Oton, Iloilo, with an area of approximately 724 square meters, was filed by spouses Guillermo Alonso and Inocencia Britanico-Alonso (spouses Alonso).<sup>[3]</sup>

In their petition, spouses Alonso claimed that the subject land being an alienable and disposable land of public domain, was previously owned and possessed by spouses Rafael C. Montalvo and Manuel a Garnica (spouses Montalvo) way back in 1945. After the latter's death, their heirs executed an Extrajudicial Settlement Among Heirs with Waiver of Hereditary Shares<sup>[4]</sup> and sold the subject land in their favor evidenced by a Deed of Sale<sup>[5]</sup> dated January 27, 1998. As such, spouses Alonso asserted that tacking their possession with that of their predecessors-in-interest, they have been in open, continuous, exclusive, and notorious possession of the subject land under a bona fide claim of ownership since time immemorial, thereby warranting the registration of the property in their names.<sup>[6]</sup>

In an Order<sup>[7]</sup> dated December 29, 2009, the Regional Trial Court of Iloilo City, Branch 22 (RTC), dismissed the petition. The RTC ruled that spouses Alonso failed to prove that their and their predecessors-in-interest's possession has been open, continuous, exclusive, and notorious since time immemorial or earlier than 1945, thus:

All told, the instant petition for registration is hereby dismissed for failure of the petitioners to substantiate their claim by preponderance of evidence.

SO ORDERED.

Aggrieved, spouses Alonso filed a Motion for Reconsideration, which was denied in an Order<sup>[8]</sup> dated April 26, 2010.

Spouses Alonso elevated the matter before the CA *via* appeal. In sum, they insisted that their and their predecessors-in-interest's possession of the subject lot since time immemorial has been proven.<sup>[9]</sup>

Disputing the allegations of spouses Alonso, the Republic, through the OSG, countered that spouses Alonso's bare assertion of their ownership over the property does not suffice as it was not proven that they exercised acts of possession over the same.<sup>[10]</sup>

In the assailed Decision<sup>[11]</sup> dated May 31, 2013, the CA granted the appeal and approved the registration of the subject land. The CA found that the open, continuous, exclusive, and notorious possession requirement was met for the registration of the subject land, thus:

**WHEREFORE**, premises considered, the appeal is **GRANTED**. The assailed Order dated 29 December 2009 of the Regional Trial Court, Branch 22, Iloilo City, in Cadastral Case No. 19 is **REVERSED and SET ASIDE**. A new judgment is hereby rendered granting and approving the registration of Lot 2209, Cad. 24, Iloilo Cadastre, AP-06-005399, situated in Poblacion, Oton, Iloilo, in the names of spouses Guillermo Alonso and Inocencia Britanico-Alonso. Upon finality of this decision, let a corresponding decree of registration be issued in petitioners-appellants' favor.

**SO ORDERED.**<sup>[12]</sup>

Similarly, the Resolution<sup>[13]</sup> dated December 12, 2013, denied the assertions of the Republic in their Motion for Reconsideration.

Seeking recourse to this Court, the Republic, through the OSG, filed this instant petition, contending that aside from their failure to prove the possession requirement, spouses Alonso likewise failed to prove that the subject land is alienable and disposable.<sup>[14]</sup>

### **The Issue**

Whether or not the registration of the subject land is proper.

### **The Court's Ruling**

Presidential Decree No. 1529<sup>[15]</sup> explicitly provides for the requirements in an application for registration of land, to wit:

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.** (Emphasis supplied)

(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.

Under Section 14 (1), it is necessary that: (a) the land or property forms part of the alienable and disposable lands of the public domain; (b) the applicant and his predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the same; and (c) it is under a bona fide claim of ownership since June 12, 1945, or earlier.<sup>[16]</sup>

Anent the first element, jurisprudence is replete with cases which emphasize that a positive act of the Executive Department, specifically certifications from the Community Environment and Natural Resources (CENRO) or Provincial Environment and Natural Resources Office (PENRO), and the Department of Environment and Natural Resources (DENR) Secretary, is indispensable for the determination of the nature of land as alienable and disposable, to wit:

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

<sup>[17]</sup> (Citations omitted)

The import of the concurrence of these requirements was belabored in the case of *Republic of the Philippines v. Spouses Go*,<sup>[18]</sup> citing, *Republic of the Philippines v. T.A.N. Properties, Inc.*,<sup>[19]</sup> to wit:

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.

In this case, it must be noted that the RTC and the CA did not exhaustively discuss whether the subject property is classifiable as alienable and disposable as the focal point of their rulings was the determination of spouses Alonso's compliance with the occupation and possession requirement.

On this note, this Court accentuates that in an application for registration, the foremost consideration is the nature and classification of the land in question. This is based on the presumption that all lands of the public domain belong to the State or the Regalian doctrine. Thus, without the determination of which, all other requirements necessary for registration are purposeless and futile.

Thus, in a land registration proceeding, the applicant bears the burden of overcoming the presumption of State ownership.

The records of the case reveal that the only basis for the RTC in considering the subject lot as alienable and disposable is the testimony of Henry Belmones as the Chief of Land Evaluation Party of the DENR, who merely relied on Control Map No. 18, which was not offered and presented in evidence and a survey plan. Notably, the pieces of evidence are deficient to prove the nature of the property as alienable and disposable. Spouses Alonso failed to submit a CENRO or PENRO certification and an issuance by the DENR Secretary signifying his approval for the release of the subject land of the public domain as alienable and disposable. Ergo, spouses Alonso fail to discharge the burden of proof.

As the first element is clearly lacking, the occupation and possession of the subject land by spouses Alonso, no matter how long, cannot ripen into ownership. Consequently, a title cannot be issued in their favor.<sup>[20]</sup>

**WHEREFORE**, premises considered, the petition is hereby **GRANTED**. Accordingly, the Decision dated May 31, 2013, and the Resolution dated December 12, 2013 of the Court of Appeals-Cebu City in CA-G.R. CV No. 03510 are **REVERSED and SET ASIDE**. The petition for registration of Lot 2209, Cadastral No. 24, Iloilo Cadastre, AP-06-005399 filed by respondents spouses Guillermo Alonso and Inocencia Britanico-Alonso is hereby **DENIED**.

**SO ORDERED.**

*Lazaro-Javier, and Zalameda, JJ., concur.*

*Carpio, Senior Associate Justice, (Chairperson), J., on official leave.*

*Caguioa, (Acting Chairperson), J., See Separate Opinion.*

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\* "Alonzo" in some parts of the *rollo*.

[1] Penned by Executive Justice Pampio A. Abarintos, with Associate Justices Gabriel T. Ingles and Marilyn B. Lagura-Yap, concurring; *rollo*, pp. 59-66.

[2] *Id.* at 68-69.

[3] *Id.* at 60.

[4] Id. at 90-94.

[5] Id. at 97-99.

[6] Id. at 60-61.

[7] Penned by Judge Guilljie D. Delfin-Lim; id. at 308-320.

[8] Id. at 331-332.

[9] Id. at 346.

[10] Id. at 367.

[11] Supra note 1.

[12] Id. at 65.

[13] Supra note 2.

[14] Id. at 42-43.

[15] AMENDING AND CODIFYING THE LAWS RELATIVE TO REGISTRATION OF PROPERTY AND FOR OTHER PURPOSES. Approved June 11, 1978.

[16] *Dumo v. Republic of the Philippines*, G.R. No. 218269, June 6, 2018.

[17] *Republic v. Nicolas*, G.R. No. 181435, October 2, 2017, 841 SCRA 328, 345.

[18] 815 Phil. 306, 325 (2017).

[19] 578 Phil. 441, 452-453 (2008).

[20] *Republic v. Heirs of Maxima Lachica*, 730 Phil. 414, 423 (2014).

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#### SEPARATE OPINION

CAGUIOA, J.:

On the basis of *Republic v. T.A.N. Properties*<sup>[1]</sup> (*T.A.N.*), which requires the presentation of (i) a certificate of land classification status issued by the Community Environment and Natural Resources Office (CENRO) or Provincial Environment and Natural Resources Office (PENRO) of the Department of Environment and Natural Resources (DENR); **and (ii)** 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,<sup>[2]</sup> the *ponencia* holds that respondents failed to prove that the subject