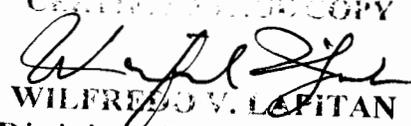
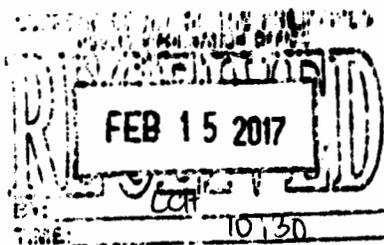




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 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
 FEB 14 2017

Republic of the Philippines
 Supreme Court
 Manila



THIRD DIVISION

REPUBLIC OF THE
 PHILIPPINES,

G.R. No. 168288

Petitioner,

Present:

VELASCO, JR., J.,
Chairperson,
 PERALTA,^{*}
 BERSAMIN,
 REYES, and
 CAGUIOA,^{**} JJ.

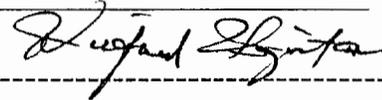
- versus -

HAROLD TIO GO,

Promulgated:

Respondent.

January 25, 2017

X-----X


DECISION

REYES, J.:

This is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court contesting the Decision² dated May 23, 2005 of the Court of Appeals (CA) in CA-G.R. CV No. 76801, which denied the appeal of the Republic of the Philippines (Republic) and affirmed *in toto* the Decision³ dated February 4, 2002 of the Regional Trial Court (RTC) of Mandaue City, Branch 55, in LRC Case No. N-588, an application for original registration of title.

* Designated Additional Member per Raffle dated January 23, 2017 *vice* Associate Justice Francis H. Jardeleza.

** Designated Fifth Member of the Third Division per Special Order No. 2417 dated January 4, 2017. *Rollo*, pp. 7-20.

¹ Penned by Associate Justice Arsenio J. Magpale, with Associate Justices Sesinando E. Villon and Enrico A. Lanzanas concurring; *id.* at 22-28.

³ Rendered by Judge Ulric R. Canete; records, pp. 124-127.

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Antecedent Facts

Respondent Harold Tio Go (Go) filed an application for original registration of title in 1999.⁴ His application covered two (2) parcels of land located in Liloan, Cebu, identified as Lot No. 9196, Pls-823 (identical to Lot No. 281-A) with an area of 404 square meters and Lot No. 9197 (identical to Lot No. 281-B) with an area of 2,061 sq m.

The Republic filed an opposition⁵ to the application on the grounds that: (1) Go or his predecessors-in-interest have not been in open, continuous, exclusive and notorious possession of the property since June 12, 1945 or prior thereto; (2) Go failed to adduce evidence showing *bona fide* acquisition of the land applied for; (3) the claim of ownership can no longer be availed of by Go since he failed to file an application within six months from February 16, 1976 as required by Presidential Decree No. 892; and (4) the parcels of land applied for belong to a portion of the public domain.⁶ Despite its written opposition, the Republic failed to appear during the initial hearing of the case.⁷ After reception of Go's evidence, the RTC granted his application in its Decision⁸ dated February 4, 2002, the dispositive portion of which provides:

WHEREFORE, foregoing premises considered, an order is hereby issued, to wit:

1. Admitting Exhibits "A up to Y" and all its submarkings formally offered by applicants [sic] as part of the testimonies of the [applicant's] witnesses and for the purpose/s for which they were being offered;
2. Ordering the issuance of title to the land, **Lot No. 281-A with an area of 404 [sq m], more or less; and Lot No. 281-B, consisting a total area of 2,061 [sq m], more or less,** situated at Barrio Tayud, Municipality of Liloan, Province of Cebu, Philippines, covered by approved Subdivision Plan, Csd-07-003219, and approved Technical Descriptions, for and in the name of [GO], Filipino citizen, legal age, married to Mich Y. Go, with residence and postal address at 14 Lakandula St., Cebu City, Philippines.

Upon finality of this decision, let a corresponding decree of registration be issued in favor of applicant, [Go] in accordance with Sec. 39 of PD 1529.

Notify parties accordingly.

⁴ *Rollo*, pp. 29-31.

⁵ *Id.* at 32-35.

⁶ *Id.* at 32-33.

⁷ Order dated July 27, 2000; records, pp. 68-69.

⁸ *Id.* at 124-127.

SO ORDERED.⁹

The Republic appealed the RTC decision on the ground that the trial court erred in granting Go's application in the absence of proof that the land applied for is within alienable and disposable land of the public domain.¹⁰

In the assailed decision, the CA denied the Republic's appeal and affirmed the RTC decision, taking into account the Community Environment and Natural Resources Office (CENRO) Certification dated September 15, 2003 issued by CENR Officer Elpidio R. Palaca (Palaca), which was attached to Go's appellee's brief. The certification stated, in part:

This is to certify that per projection conducted by Forester Anastacio C. Cabalejo, a tract of land, Lot No. 281, PLS 823, containing an area of TWO THOUSAND FOUR HUNDRED SIXTY[-]FIVE (2,465) [sq m], more or less situated at Tayud, Liloan, Cebu as shown and described in the plan at the back hereof, x x x was found to be **within the Alienable and Disposable Land, Land Classification Project 29 Per map 1391 of Liloan, Cebu FAO 4-537 dated July 31, 1940.**¹¹ (Emphasis ours)

The CA concluded that Go's submission of the certificate "settles the issue on whether or not the subject lots in this case are alienable and disposable in the affirmative."¹²

Now before the Court, the Republic objects to the admission of the CENRO Certification by the CA, arguing that:

THE [CA] ERRED X X X WHEN IT AFFIRMED THE TRIAL COURT'S GRANT OF THE APPLICATION FOR ORIGINAL REGISTRATION DESPITE THE ABSENCE OF EVIDENCE THAT [GO] HAD COMPLIED WITH THE PERIOD OF POSSESSION AND OCCUPATION REQUIRED BY LAW.¹³

The main contention of the Republic is that the CENRO Certification should not have been admitted by the CA as it was not adduced and marked as evidence during the trial, and consequently not formally offered and admitted by the trial court, in violation of Rule 132, Section 34 of the Rules of Court.¹⁴

⁹ Id. at 127.

¹⁰ *Rollo*, p. 26.

¹¹ Id.

¹² Id. at 27.

¹³ Id. at 12.

¹⁴ Id. at 16.

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Ruling of the Court

The issue in this petition is whether the CA committed a reversible error in admitting the CENRO Certification. A corollary issue is whether Go sufficiently established the alienability and disposability of the subject properties.

Indeed, the rule is that the court shall consider no evidence which has not been formally offered.¹⁵ The Court, however, in the interest of justice, allowed in certain cases the belated submission on appeal of a Department of Environment and Natural Resources (DENR) or CENRO Certification as proof that a land is already alienable and disposable land of the public domain. Thus, in *Victoria v. Republic of the Philippines*,¹⁶ the Court admitted the DENR Certification, which was submitted by therein petitioner only on appeal to the CA. The Court reversed the CA decision and reinstated the judgment of the Metropolitan Trial Court of Taguig, which granted therein petitioner's application for registration of title to a 1,729-sq-m lot in Bambang, Taguig City. The Court stated:

The rules of procedure being mere tools designed to facilitate the attainment of justice, the Court is empowered to suspend their application to a particular case when its rigid application tends to frustrate rather than promote the ends of justice. **Denying the application for registration now on the ground of failure to present proof of the status of the land before the trial court and allowing Victoria to re-file her application would merely unnecessarily duplicate the entire process, cause additional expense and add to the number of cases that courts must resolve.** It would be more prudent to recognize the DENR Certification and resolve the matter now.¹⁷ (Citation omitted and emphasis ours)

Meanwhile, in *Spouses Llanes v. Republic of the Philippines*,¹⁸ the Court accepted the corrected CENRO Certification even though it was submitted by the Spouses Llanes only during the appeal in the CA. The Court ruled:

If the Court strictly applies the aforequoted provision of law [Section 34, Rule 132 of the Rules of Court on Offer of Evidence], it would simply pronounce that the [CA] could not have admitted the corrected CENRO Certification because it was not formally offered as evidence before the MCTC during the trial stage. **Nevertheless, since the determination of the true date when the subject property became alienable and disposable is material to the resolution of this case, it**

¹⁵ RULES OF COURT, Rule 132, Section 34.

¹⁶ 666 Phil. 519 (2011).

¹⁷ Id. at 527.

¹⁸ 592 Phil. 623 (2008).

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behooves this Court, in the interest of substantial justice, fairness, and equity, to consider the corrected CENRO Certification even though it was only presented during the appeal to the [CA]. Since rules of procedure are mere tools designed to facilitate the attainment of justice, it is well recognized that the Court is empowered to suspend its rules or to exempt a particular case from the application of a general rule, when the rigid application thereof tends to frustrate rather than promote the ends of justice.¹⁹ (Citation omitted and emphasis ours)

Clearly, therefore, the CA took the prudent action in admitting the CENRO Certification, albeit belatedly submitted, as it would be more in keeping with the ends of substantial justice.

In keeping with *Victoria*,²⁰ the Court also issued Resolution²¹ dated September 18, 2013 requiring Go to submit the following documents: (1) verification from the DENR whether Palaca has authority to issue certifications regarding status of public land as alienable and disposable land, and (2) certified true copy of the administrative order or proclamation declaring the area where the two parcels of land applied for in this case is located as alienable and disposable, if any. In compliance, Go submitted a certification from the DENR Region VII, which stated, among others, that “the Municipality of Lilo-an is under the jurisdiction of CENRO Carmen and that any employee of said office acting as CENR Officer has the authority to issue certifications which would include the status of public land as alienable and disposable land.”²² The certification also stated that “we have no available copy of [Forestry Administrative Order (FAO)] No[.] 4-537 dated July 31, 1940 x x x.”²³ Go also submitted a certification from the National Mapping and Resource Information Authority (NAMRIA) certifying that FAO No. 4-537 dated July 31, 1940 is not available in the records of NAMRIA.²⁴

More importantly, Go has adequately established his and his predecessors-in-interest’s open, continuous, exclusive and notorious possession of the properties subject of the application.

¹⁹ Id. at 633-634.

²⁰ Supra note 16. In *Victoria*, the Court, in its Resolution dated July 28, 2010, required the Office of the Solicitor General to verify from the DENR whether the Senior Forest Management Specialist of its National Capital Region, Office of the Regional Technical Director for Forest Management Services, who issued the Certification, is authorized to issue certifications on the status of public lands as alienable and disposable, and to submit a copy of the administrative order or proclamation that declares as alienable and disposable the area where the property involved in this case is located, if any there be. In this case, however, the OSG declined and sought excuse from complying with the Court’s resolution; thus, the Court required Go to submit the pertinent documents.

²¹ *Rollo*, pp. 113-114.

²² Id. at 128.

²³ Id.

²⁴ Id. at 130.

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Lot No. 9196, Pls-823 and Lot No. 9197 were originally known as Lot No. 281 and, as certified by the CENRO, part of alienable and disposable land of Liloan, Cebu as early as July 31, 1940. Lot No. 281 was owned by Rufina Pepito (Rufina), married to Felimon Cagang (Felimon), with whom she had two sons, Ambrosio and Leonardo. The Cagang family occupied the property as early as 1953, based on the testimony of Rufina's nephew, Elpido Pepito (Elpido), who was born in 1943. Rufina, however, declared Lot No. 281 for tax purposes only from 1965 and until 1993.²⁵ According to Elpido, bananas, *buli* and mango were planted by the Cagang family on the property.²⁶

After Rufina's death in 1987, Felimon, Ambrosio and Leonardo assumed ownership and took possession of Lot No. 281. In 1990, Felimon and Ambrosio sold a 404-sq-m (Lot No. 281-A) portion to the Spouses Rosendo and Carmen Pilapil (Spouses Pilapil).²⁷ Thereafter, Felimon and Leandro sold in 1992 another portion of Lot No. 281 with an area of 620 sq m (Lot No. 281-B-part), also to the Spouses Pilapil.²⁸ The latter then assumed ownership and possession of Lots Nos. 281-A and 281-B-part and declared the property for tax purposes in 1991 (Lot No. 281-A) and 1993 (Lot No. 281-B-part). The remaining 1,441-sq-m portion of Lot No. 281 (Lot No. 281-B-part) was eventually sold by Leonardo to Go in 1994.²⁹ Go immediately assumed possession and declared Lot No. 281-B-part for tax purposes in 1994.³⁰ Finally, in 1998, Go was able to consolidate ownership over the entire Lot No. 281 when the Spouses Pilapil sold Lots Nos. 281-A and 281-B-part to him.³¹ Go also assumed possession and declared Lots Nos. 281-A³² and 281-B-part³³ for tax purposes in 1998. In 1999, Go filed the application for registration of title. Thus, as found by the RTC:

In carefully evaluating the evidences [sic] presented by applicants, both oral and documentary, the Court is convinced and so holds, that applicant, [GO], married to Mich Y. Go, is entitled to the reliefs prayed for in his application. His possession of the subject property, x x x, including his predecessors-in-interest is more than thirty (30) years, which is open, public, peaceful, continuous and uninterrupted in the concept of an owner and against the whole world. Thus, applicant, [Go,] is entitled to the issuance of title over the subject land and the same should be registered and confirmed.³⁴

²⁵ Records, pp. 97-100, 105-106.
²⁶ TSN dated February 26, 2000, p. 8.
²⁷ Records, p. 95.
²⁸ Id. at 94.
²⁹ Id. at 12.
³⁰ Id.
³¹ Id. at 10-11.
³² Id. at 17-18.
³³ Id. at 15-16.
³⁴ Id. at 127.

It should be stressed that the factual findings and conclusion of the RTC on the issue of Go's possession and occupation were neither controverted nor refuted by the Office of the Solicitor General on appeal to the CA or on review to this Court. The rule is that "issues or grounds not raised below cannot be resolved on review by the Supreme Court, for to allow the parties to raise new issues is antithetical to the sporting idea of fair play, justice and due process."³⁵ For all intents and purposes, the matter of Go's possession and occupation is already settled and considering that the CA correctly admitted the CENRO Certification, there is, therefore, no more obstacle to the issuance of title in the name of Go for Lot No. 9196 and Lot No. 9197, Pls-823.

WHEREFORE, the petition is **DENIED**. The Decision dated May 23, 2005 of the Court of Appeals in CA-G.R. CV No. 76801 is **AFFIRMED**.

SO ORDERED.



BIENVENIDO L. REYES
Associate Justice

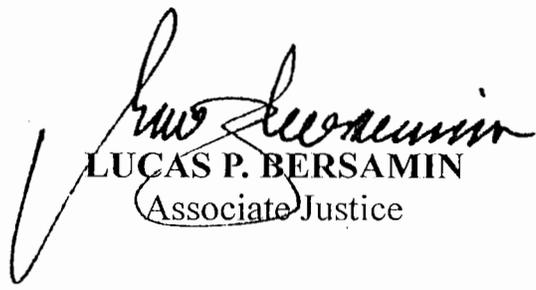
WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice

³⁵ *Cuenco v. Talisay Tourist Sports Complex, Inc., et al.*, 611 Phil. 780, 783-784 (2009); see *Ong Lim Sing, Jr. v. FEB Leasing & Finance Corp.*, 551 Phil. 768, 779-780 (2007); *General Credit Corp. v. Alsons Dev't. and Investment Corp.*, 542 Phil. 219, 229 (2007)



ALFREDO BENJAMIN S. CAGUIOA
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.



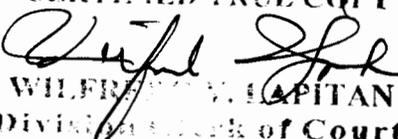
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. CAPITAN
 Division Clerk of Court
 Third Division
 FEB 14 2017

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