

## THIRD DIVISION

[ G.R. No. 193340, January 11, 2017 ]

**THE MUNICIPALITY OF TANGKAL, PROVINCE OF LANA DEL NORTE, PETITIONER, VS. HON. RASAD B. BALINDONG, IN HIS CAPACITY AS PRESIDING JUDGE, SHARI'A DISTRICT COURT, 4<sup>TH</sup> JUDICIAL DISTRICT, MARAWI CITY, AND HEIRS OF THE LATE MACALABO ALOMPO, REPRESENTED BY SULTAN DIMNANG B.ALOMPO, RESPONDENTS.**

### DECISION

**JARDELEZA, J.:**

The Code of Muslim Personal Laws of the Philippines<sup>[1]</sup> (Code of Muslim Personal Laws) vests concurrent jurisdiction upon Shari'a district courts over personal and real actions wherein the parties involved are Muslims, except those for forcible entry and unlawful detainer. The question presented is whether the Shari'a District Court of Marawi City has jurisdiction in an action for recovery of possession filed by Muslim individuals against a municipality whose mayor is a Muslim. The respondent judge held that it has. We reverse.

#### I

The private respondents, heirs of the late Macalabo Alompo, filed a Complaint<sup>[2]</sup> with the Shari'a District Court of Marawi City (Shari'a District Court) against the petitioner, Municipality of Tangkal, for recovery of possession and ownership of a parcel of land with an area of approximately 25 hectares located at Barangay Banisilon, Tangkal, Lanao del Norte. They alleged that Macalabo was the owner of the land, and that in 1962, he entered into an agreement with the Municipality of Tangkal allowing the latter to "borrow" the land to pave the way for the construction of the municipal hall and a health center building. The agreement allegedly imposed a condition upon the Municipality of Tangkal to pay the value of the land within 35 years, or until 1997; otherwise, ownership of the land would revert to Macalabo. Private respondents claimed that the Municipality of Tangkal neither paid the value of the land within the agreed period nor returned the land to its owner. Thus, they prayed that the land be returned to them as successors-in-interest of Macalabo.

The Municipality of Tangkal filed an Urgent Motion to Dismiss<sup>[3]</sup> on the ground of improper venue and lack of jurisdiction. It argued that since it has no religious affiliation and represents no cultural or ethnic tribe, it cannot be considered as a Muslim under the Code of Muslim Personal Laws. Moreover, since the complaint for recovery of land is a real action, it should have been filed in the appropriate Regional Trial Court of Lanao del Norte.

In its Order<sup>[4]</sup> dated March 9, 2010, the Shari'a District Court denied the

Municipality of Tangkal's motion to dismiss. It held that since the mayor of Tangkal, Abdulazis A.M. Batingolo, is a Muslim, the case "is an action involving Muslims, hence, the court has original jurisdiction concurrently with that of regular/civil courts." It added that venue was properly laid because the Shari'a District Court has territorial jurisdiction over the provinces of Lanao del Sur and Lanao del Norte, in addition to the cities of Marawi and Iligan. Moreover, the filing of a motion to dismiss is a disallowed pleading under the Special Rules of Procedure in Shari'a Courts.<sup>[5]</sup>

The Municipality of Tangkal moved for reconsideration, which was denied by the Shari'a District Court. The Shari'a District Court also ordered the Municipality of Tangkal to file its answer within 10 days.<sup>[6]</sup> The Municipality of Tangkal timely filed its answer<sup>[7]</sup> and raised as an affirmative defense the court's lack of jurisdiction.

Within the 60-day reglementary period, the Municipality of Tangkal elevated the case to us via petition for *certiorari*, prohibition, and *mandamus* with prayer for a temporary restraining order<sup>[8]</sup> (TRO). It reiterated its arguments in its earlier motion to dismiss and answer that the Shari'a District Court has no jurisdiction since one party is a municipality which has no religious affiliation.

In their Comment,<sup>[9]</sup> private respondents argue that under the Special Rules of Procedure in Shari'a Courts, a petition for *certiorari*, *mandamus*, or prohibition against any interlocutory order issued by the district court is a prohibited pleading. Likewise, the Municipality of Tangkal's motion to dismiss is disallowed by the rules. They also echo the reasoning of the Shari'a District Court that since both the plaintiffs below and the mayor of defendant municipality are Muslims, the Shari'a District Court has jurisdiction over the case.

In the meantime, we issued a TRO<sup>[10]</sup> against the Shari'a District Court and its presiding judge, Rasad Balindong, from holding any further proceedings in the case below.

## II

In its petition, the Municipality of Tangkal acknowledges that generally, neither *certiorari* nor prohibition is an available remedy to assail a court's interlocutory order denying a motion to dismiss. But it cites one of the exceptions to the rule, *i.e.*, when the denial is without or in excess of jurisdiction to justify its remedial action.<sup>[11]</sup> In rebuttal, private respondents rely on the Special Rules of Procedure in Shari'a Courts which expressly identifies a motion to dismiss and a petition for *certiorari*, *mandamus*, or prohibition against any interlocutory order issued by the court as prohibited pleadings.<sup>[12]</sup>

## A

Although the Special Rules of Procedure in Shari'a Courts prohibits the filing of a motion to dismiss, this procedural rule may be relaxed when the ground relied on is lack of jurisdiction which is patent on the face of the complaint. As we held in *Rulona-Al Awadhi v. Astih*:<sup>[13]</sup>

Instead of invoking a procedural technicality, the respondent court should have recognized its lack of jurisdiction over the parties and promptly dismissed the action, for, without jurisdiction, all its proceedings would be, as they were, a futile and invalid exercise. A summary rule prohibiting the filing of a motion to dismiss should not be a bar to the dismissal of the action for lack of jurisdiction when the jurisdictional infirmity is patent on the face of the complaint itself, in view of the fundamental procedural doctrine that the jurisdiction of a court may be challenged at anytime and at any stage of the action.<sup>[14]</sup>

Indeed, when it is apparent from the pleadings that the court has no jurisdiction over the subject matter, it is duty-bound to dismiss the case regardless of whether the defendant filed a motion to dismiss.<sup>[15]</sup> Thus, in *Villagracia v. Fifth Shari'a District Court*,<sup>[16]</sup> we held that once it became apparent that the Shari'a court has no jurisdiction over the subject matter because the defendant is not a Muslim, the court should have *motu proprio* dismissed the case.<sup>[17]</sup>

## B

An order denying a motion to dismiss is an interlocutory order which neither terminates nor finally disposes of a case as it leaves something to be done by the court before the case is finally decided on the merits. Thus, as a general rule, the denial of a motion to dismiss cannot be questioned in a special civil action for *certiorari* which is a remedy designed to correct errors of jurisdiction and not errors of judgment.<sup>[18]</sup> As exceptions, however, the defendant may avail of a petition for *certiorari* if the ground raised in the motion to dismiss is lack of jurisdiction over the person of the defendant or over the subject matter,<sup>[19]</sup> or when the denial of the motion to dismiss is tainted with grave abuse of discretion.<sup>[20]</sup>

The reason why lack of jurisdiction as a ground for dismissal is treated differently from others is because of the basic principle that jurisdiction is conferred by law, and lack of it affects the very authority of the court to take cognizance of and to render judgment on the action<sup>[21]</sup> to the extent that all proceedings before a court without jurisdiction are void.<sup>[22]</sup> We grant *certiorari* on this basis. As will be shown below, the Shari'a District Court's lack of jurisdiction over the subject matter is patent on the face of the complaint, and therefore, should have been dismissed outright.

## III

The matters over which Shari'a district courts have Jurisdiction are enumerated in the Code of Muslim Personal Laws, specifically in Article 143.<sup>[23]</sup> Consistent with the purpose of the law to provide for an effective administration and enforcement of Muslim personal laws among Muslims,<sup>[24]</sup> it has a catchall provision granting Shari'a district courts original jurisdiction over personal and real actions except those for forcible entry and unlawful detainer.<sup>[25]</sup> The Shari'a district courts' jurisdiction over these matters is concurrent with regular civil courts, *i.e.*, municipal trial courts and regional trial courts.<sup>[26]</sup> There is, however, a limit to the general jurisdiction of Shari'a district courts over matters ordinarily cognizable by regular courts: such

jurisdiction may only be invoked if both parties are Muslims. If one party is not a Muslim, the action must be filed before the regular courts.<sup>[27]</sup>

The complaint below, which is a real action<sup>[28]</sup> involving title to and possession of the land situated at Barangay Banisilon, Tangkal, was filed by private respondents before the Shari'a District Court pursuant to the general jurisdiction conferred by Article 143(2)(b). In determining whether the Shari'a District Court has jurisdiction over the case, the threshold question is whether both parties are Muslims. There is no disagreement that private respondents, as plaintiffs below, are Muslims. The only dispute is whether the requirement is satisfied because the mayor of the defendant municipality is also a Muslim.

When Article 143(2)(b) qualifies the conferment of jurisdiction to actions "wherein the parties involved are Muslims," the word "parties" necessarily refers to the real parties in interest. Section 2 of Rule 3 of the Rules of Court defines real parties in interest as those who stand to be benefited or injured by the judgment in the suit, or are entitled to the avails of the suit. In this case, the parties who will be directly benefited or injured are the private respondents, as real party plaintiffs, and the Municipality of Tangkal, as the real party defendant. In their complaint, private respondents claim that their predecessor-in-interest, Macalabo, entered into an agreement with the Municipality of Tangkal for the use of the land. Their cause of action is based on the Municipality of Tangkal's alleged failure and refusal to return the land or pay for its reasonable value in accordance with the agreement. Accordingly, they pray for the return of the land or the payment of reasonable rentals thereon. Thus, a judgment in favor of private respondents, either allowing them to recover possession or entitling them to rentals, would undoubtedly be beneficial to them; correlatively, it would be prejudicial to the Municipality of Tangkal which would either be deprived possession of the land on which its municipal hall currently stands or be required to allocate funds for payment of rent. Conversely, a judgment in favor of the Municipality of Tangkal would effectively quiet its title over the land and defeat the claims of private respondents.

It is clear from the title and the averments in the complaint that Mayor Batingolo was impleaded only in a representative capacity, as chief executive of the local government of Tangkal. When an action is defended by a representative, that representative is not-and neither does he become-a real party in interest. The person represented is deemed the real party in interest;<sup>[29]</sup> the representative remains to be a third party to the action.<sup>[30]</sup> That Mayor Batingolo is a Muslim is therefore irrelevant for purposes of complying with the jurisdictional requirement under Article 143(2)(b) that both parties be Muslims. To satisfy the requirement, it is the real party defendant, the Municipality of Tangkal, who must be a Muslim. Such a proposition, however, is a legal impossibility.

The Code of Muslim Personal Laws defines a "Muslim" as "a person who testifies to the oneness of God and the Prophethood of Muhammad and professes Islam."<sup>[31]</sup> Although the definition does not explicitly distinguish between natural and juridical persons, it nonetheless connotes the exercise of religion, which is a fundamental personal right.<sup>[32]</sup> The ability to testify to the "oneness of God and the Prophethood of Muhammad" and to profess Islam is, by its nature, restricted to natural persons. In contrast, juridical persons are artificial beings with "no consciences, no beliefs, no