

EN BANC

[G.R. No. 181284, October 20, 2015]

LOLOY UNDURAN, BARANGAY CAPTAIN ROMEO PACANA, NESTOR MACAPAYAG, RUPERTO DOGIA, JIMMY TALINO, ERMELITO ANGEL, PETOY BESTO, VICTORINO ANGEL, RUEL BOLING, JERMY ANGEL, BERTING SULOD, RIO BESTO, BENDIJO SIMBALAN, AND MARK BRAZIL, PETITIONERS, VS. RAMON ABERASTURI, CRISTINA C. LOPEZ, CESAR LOPEZ JR., DIONISIO A. LOPEZ, MERCEDES L. GASTON, AGNES H. LOPEZ, EUSEBIO S. LOPEZ, JOSE MARIA S. LOPEZ, ANTON B. ABERASTURI, MA. RAISSA A. VELEZ, ZOILO ANTONIO A. VELEZ, CRISTINA ABERASTURI, EDUARDO LOPEZ JR., ROSARIO S. LOPEZ, JUAN S. LOPEZ, CESAR ANTHONY R. LOPEZ, VENANCIO L. GASTON, ROSEMARIE S. LOPEZ, JAY A. ASUNCION, NICOLO ABERASTURI, LISA A. ASUNCION, INEZ A. VERAY, HERNAN A. ASUNCION, ASUNCION LOPEZ, THOMAS A. VELEZ, LUIS ENRIQUE VELEZ, ANTONIO H. LOPEZ, CHARLES H. LOPEZ, ANA L. ZAYCO, PILAR L. QUIROS, CRISTINA L. PICAZO, RENATO SANTOS, GERALDINE AGUIRRE, MARIA CARMENCITA T. LOPEZ, and as represented by attorney-in-fact RAMON ABERASTURI, RESPONDENTS.

D E C I S I O N

PERALTA, J.:

This is a petition for review on *certiorari*^[1] assailing the Decision^[2] dated August 17, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 00204-MIN, and the Resolution^[3] dated July 4, 2007, which denied petitioners' motion for reconsideration.

Petitioners, except for Mark Brazil and Nestor Macapayag, are members of the Miarayon, Lapok, Lirongan, Talaandig Tribal Association (*MILALITTRA*), or Talaandig tribe, who claimed to have been living since birth on the land located at *Barangay* Miarayon, Talakag, Bukidnon, Mindanao, which they inherited from their forefathers.

On the other hand, respondents, represented by attorney-in-fact Ramon Aberasturi, claimed to be the lawful owners and possessor of an unregistered parcel of agricultural land (Lot No. 7367 Cad 630-D), with an area of 105.7361 hectares, which appears to be located within the ancestral domain of the Talaandig tribe.

On March 3, 2004, respondents filed a Petition for *Accion Reivindicatoria*, with Prayer for the Issuance of a Temporary Restraining Order or Preliminary Prohibitory Injunction with Damages^[4] (*original complaint for accion reivindicatoria*) against petitioners before the Regional Trial Court of Manolo Fortich, Bukidnon (*RTC*). Docketed as Civil Case No. 04-03-01, the petition was raffled off to Branch 11.

On March 20, 2004, petitioners Macapayag and Brazil filed their Answer, alleging that respondents have no cause of action against them.

On March 23, 2004, the rest of the petitioners filed their Motion to Dismiss, alleging that the RTC had no jurisdiction over the case. Petitioners alleged that with the advent of Republic Act No. (RA) 8371, otherwise known as the Indigenous Peoples' Rights Act (IPRA), they, together with the rest of the tribe members, assisted the National Commission on Indigenous Peoples (NCIP) in the processing, validation, and delineation of their Ancestral Domain claim in May 2003. On July 25, 2003, Certificate of Ancestral Domain Title (CADT) No. R-10-TAL-0703-0010 was issued by virtue of NCIP *En Banc* Resolution No. 08-02003 to the Talaandig tribe over its ancestral domain in Talakag, Bukidnon, containing an area of 11,105.5657 hectares. On October 30, 2003, President Gloria Macapagal Arroyo awarded the said CADT to the Talaandig tribe. As awardees of a CADT, petitioners argued that NCIP has exclusive and original jurisdiction over the case, as the subject matter concerns a dispute and controversy over an ancestral land/domain of Indigenous Cultural Communities (ICCs)/Indigenous Peoples (IPs).

On July 1, 2004, the NCIP through Atty. Melanie Pimentel, filed a Motion to Refer the Case to the Regional Hearing Office-National Commission on Indigenous Peoples (RHO-NCIP), alleging that the RTC had no jurisdiction over the subject matter.

On July 5, 2004, respondents filed a Motion to Amend and Supplement Complaint from Accion Reivindicatoria to one for "Injunction, Damages, and Other Relief," with the attached Amended and Supplemental Complaint^[5] (*amended complaint for injunction*). On July 30, 2004, petitioners filed an Opposition thereto.

On August 1, 2004, petitioners filed a Motion to Dismiss the Amended and Supplemental Complaint, alleging that the RTC had no jurisdiction over the subject matter of the case and to issue a writ of injunction therein.

On August 10, 2004, the RTC issued an Order granting the Motion to Amend and Supplement Complaint, and declared petitioners' Motion to Refer the Case to the RHO-NCIP and Motion to Dismiss moot and academic as a consequence of the grant of the said motion to amend and supplement complaint.

On August 17, 2004, petitioners filed a Manifestation praying for an ocular inspection of the disputed land to determine the last, actual, peaceable, uncontested status of the area.

On August 25, 2004, petitioners filed another Motion to Refer the Case to the RHO-NCIP and Motion to Dismiss the Amended Complaint.

On September 14, 2004, respondents filed their Opposition and Motion for Judgment by Default.

On February 14, 2005, the RTC issued an Order^[6] resolving all pending incidents before it, the dispositive portion of which reads:

WHEREFORE, premises considered, defendant's [herein petitioners'] motion to refer the case to the RHO-NCIP and its manifestation for an

ocular inspection are hereby denied for being bereft of merit. Further, defendants [petitioners], except Macapayag and Brazil, are hereby declared in default for their failure to file their Answer to the Amended Complaint. Accordingly, let this case, as against defendants Macapayag and Brazil, be called for pre-trial and *ex-parte* presentation of evidence as against the rest of defendants [petitioners] on **May 2, 2005 at 9:00 o'clock in the morning**. Furthermore, the injunctive writ prayed for by the plaintiffs is hereby GRANTED for being meritorious. Accordingly, defendants [petitioners], their agents and privies, or any other or all persons acting for and in their behalves, are hereby ordered to observe, maintain and preserve the *status quo* subject of the action and/or the relation between the parties in order to protect the rights of the plaintiffs while the case is pending in court and to cease and desist from performing any acts that in one way or another contravene the tenor of this order, while awaiting final determination of the instant suit or until further orders of this court. Furthermore, to answer for whatever damage that defendants [petitioners] may sustain by reason of this injunction order if the court should finally decide that plaintiffs [respondents] are not entitled to the relief it prayed for, plaintiffs [respondents] are hereby directed to put up a bond in the amount of ONE HUNDRED THOUSAND PESOS (P100,000.00) executed in favor of the party enjoined.

SO ORDERED.^[7]

On April 12, 2005, petitioners filed before the Court of Appeals a Petition for *Certiorari* and Prohibition with Prayer for Preliminary Injunction and Issuance of a Temporary Restraining Order.

On August 17, 2006, the CA rendered a Decision affirming the RTC's February 14, 2005 Order, which in turn denied the referral of the case to the NCIP, the dispositive portion of which states:

WHEREFORE, in view of the foregoing, the petition is hereby partly GRANTED. The assailed Order dated February 14, 2005 is hereby AFFIRMED with MODIFICATION that the order of default against petitioners, except Macapayag and Brazil, is hereby LIFTED.

SO ORDERED.^[8]

The CA ruled that the RTC correctly granted the amendment of the complaint and properly refused to refer the case to the RHO-NCIP. Based on the allegations of both original complaint [*accion reivindicatoria*] and amended complaint [injunction], the CA found that the subject matter of both complaints is well within the jurisdiction of the RTC. The CA noted that the only substantial amendment made was with regard to the nature of the action which originally was one of *accion reivindicatoria* and then changed to one for damages. And except for some amendments as to petitioners' alleged violent acts and the prayer for declaration of their title to the subject property, the rest of the amended complaint was basically the same as the original one, including the reliefs prayed for by respondents. Anent the writ of

preliminary injunction, the CA held that the RTC's assailed February 14, 2005 Order is self-explanatory as to why the issuance of the same was proper considering the circumstances of the case.

On July 4, 2007, the CA denied petitioners' motion for reconsideration of its August 17, 2006 Decision.

Hence, this appeal on *certiorari* raising the following issues:

I. THE COURT OF APPEALS ERRED IN AFFIRMING THE JURISDICTION OF THE COURT A *QUO* OVER A COMPLAINT FOR INJUNCTION INVOLVING AN ANCESTRAL DOMAIN OF THE TALAANDIGS.

II. THE COURT OF APPEALS ERRED IN AFFIRMING THE RESOLUTION OF THE COURT A *QUO* ALLOWING THE AMENDMENT OF THE COMPLAINT, THE SOLE PURPOSE OF WHICH IS TO CONFER JURISDICTION ON THE LOWER COURT.

III. THE COURT OF APPEALS ERRED IN RESOLVING THAT EVIDENCE MUST BE PRESENTED BEFORE THE REGIONAL TRIAL COURT WHEN IN THE ORIGINAL ACTION FOR SPECIAL CIVIL ACTION FOR *CERTIORARI* BEFORE IT, THE COURT A *QUO* HAS ADMITTED THAT A CADT WAS ISSUED IN FAVOR OF PETITIONERS.^[9]

On the first issue, petitioners contend that the RTC has no jurisdiction over Civil Case No. 04-03-0 for Injunction, Damages and other Relief, because the 105.7361-hectare land claimed by respondents is undisputedly within the ancestral domain of the Talaandig tribe over which a CADT has already been issued. Petitioners insist that, even granting that the case is purely a personal action, the NCIP has exclusive and original jurisdiction over it as it concerns a claim and dispute involving rights of ICCs/IPs over their ancestral domain.

On the second issue, petitioners argue that the amendment of the complaint from *accion reivindicatoria* to injunction with damages was clearly meant to oust the NCIP of its jurisdiction over the case and confer it on the RTC by concealing the real issue in the case, which is the parties' conflicting claims over the 105.7361-hectare land in Miarrayon, Talakag Bukidnon. According to petitioners, the cause of action in the complaint for *accion reivindicatoria* is the claim of ownership and recovery of possession of the said land which is undisputedly found within the Talaandig tribe's ancestral domain covered by CADT No. R10-TAL-0703-0010; hence, a claim within the exclusive and original jurisdiction of the NCIP. Petitioners contend that respondents amended the complaint to one for injunction to downplay the real issue which is the dispute over a land that is within the Talaandig tribe's ancestral domain, and mainly capitalized on the acts complained of, such as harassment, threats, acts of terrorism, among others, supposedly committed against respondents.

On the third issue, petitioners fault the CA in ruling that whether the complaint is one for Injunction or *Accion Reivindicatoria*, the RTC has jurisdiction because nowhere in respondents' original and amended complaints is it stated that petitioners were members of the ICCs or IPs and that the disputed property was

part of their ancestral domain. Petitioners take exception to the rule that jurisdiction over the subject matter is determined by the allegations of the complaint, as strict adherence thereto would open the floodgates to the unscrupulous practice of litigants divesting the NCIP of jurisdiction by crafting their complaints in such a way as would confer jurisdiction on their court of choice. Petitioners contend that the literal averments of the complaint are not determinative of the jurisdiction over the subject matter where the actual issues are evidenced by subsequent pleadings; in certain cases, the real nature and character of the pleadings and issues are not merely found in the complaint, but also in the subsequent pleadings submitted by both parties. Petitioners stress that although the complaint banners the subject matter as one for injunction, the pleadings of respondents show that the subject matter is the conflicting ownership claims over the land. In fact, petitioners point out that the records of the case show that various pieces of evidence have been presented to prove that the dispute involves conflicting claims over a land covered by a CADT.

For their part, respondents contend that petitioners do not have legal capacity or standing and *locus standi* to file this petition, since they failed to make *prima facie* showing that they are members of IPs/ICCs, or that they were authorized to represent the Talaandig tribe. Respondents insist that based on the allegations in their amended complaint for injunction and damages, the RTC has jurisdiction over the subject matter which is a purely personal action and incapable of pecuniary estimation. Respondents assert that the real issue is whether or not petitioners are guilty of wrongful acts of violence, terrorism, destruction, intimidation, harassment, etc., to justify a permanent injunction and hold the latter liable for damages. Respondents also point out that petitioners cannot invoke protection under the IPRA 8731, because the conflict does not involve an ancestral domain and they (respondents) are not IPs so the condition precedent before bringing a dispute before the NCIP cannot be satisfied, *i.e.*, exhaustion of remedies under customary laws by the parties.

The petition has no merit.

On the procedural issue raised by respondents, the Court disagrees with their contention that petitioners do not have legal capacity or standing and *locus standi* to file the petition, for failure to show that they are members of IPs/ICCs, or that they are authorized to represent the Talaandig tribe.

Locus standi is defined as a right of appearance in a court of justice on a given question. In private suits, standing is governed by the "real parties in interest" rule found in Section 2,^[10] Rule 3 of the Rules of Court. Such concept of real party-in-interest is adapted in Section 2,^[11] Rule VI of the 2014 Revised Rules of Procedure before the NCIP. That petitioners are the real parties in interest can be gleaned from the Entry of Appearance with Motion to Refer the Case to the Regional Hearing Office of the NCIP^[12] filed by the NCIP Special Transition Team-Quick Response Unit (STRAT-QRU). The STRAT-QRU counsels alleged therein that the respondents' complaint for recovery of ownership (*accion reivindicatoria*) sought to recover an unregistered real property situated in Mirayon, Bukidnon, from petitioners, all of whom are, with the exception of Nestor Macapayag and Mark Brazil, member-beneficiaries of CADT No. R10-TAL-0703-0010 issued by the NCIP in the name of the Talaandig Indigenous Peoples, located at Talakag, Province of Bukidnon. In support