

EN BANC

[G.R. No. 182434, March 05, 2010]

SULTAN YAHYA "JERRY" M. TOMAWIS, PETITIONER, VS. HON. RASAD G. BALINDONG, AMNA A. PUMBAYA, JALILAH A. MANGOMPIA, AND RAMLA A. MUSOR, RESPONDENTS.

DECISION

VELASCO JR., J.:

This petition for certiorari, prohibition, and mandamus under Rule 65 seeks to nullify the Orders dated July 13, 2005, September 6, 2005, and February 6, 2008 issued by respondent Judge Rasad G. Balindong of the Shari'a District Court (SDC), Fourth Judicial District in Marawi City, in Civil Case No. 102-97 entitled *Amna A. Pumbaya, et al. v. Jerry Tomawis, et al.*

The Facts

Private respondents Amna A. Pumbaya, Jalilah A. Mangompia, and Ramla A. Musor are the daughters of the late Acraman Radia. On February 21, 1997, private respondents filed with the SDC an action for quieting of title of a parcel of land located in Banggolo, Marawi City, against petitioner Sultan Jerry Tomawis and one Mangoda Radia. In their complaint, styled as Petition^[1] and docketed as Civil Case No. 102-97, private respondents, as plaintiffs *a quo*, alleged the following:

(1) They were the absolute owners of the lot subject of the complaint, being the legal heirs of Acraman Radia, who had always been in peaceful, continuous, and adverse possession of the property; (2) Tomawis assumed ownership of the said property on the claim that he bought the same from Mangoda Radia, who, in turn, claimed that he inherited it from his late father; (3) in 1996, they "were informed that their land [was] leveled and the small houses [built] thereon with their permission were removed" upon the orders of Tomawis; and (4) they had been unlawfully deprived of their possession of the land, and Tomawis' actions had cast a cloud of doubt on their title.

In his answer, Tomawis debunked the sisters' claim of ownership and raised, as one of his affirmative defenses treated by the court as a motion to dismiss, SDC's lack of jurisdiction over the subject matter of the case.^[2] As argued, the regular civil court, not SDC, had such jurisdiction pursuant to *Batas Pambansa Blg.* (BP) 129 or the *Judiciary Reorganization Act of 1980*.^[3]

Following the hearing on the affirmative defenses, respondent Judge Rasad Balindong, by Order of April 1, 2003, denied the motion. Apropos the jurisdiction aspect of the motion, respondent judge asserted the SDC's original jurisdiction over the case, concurrently with the Regional Trial Court (RTC), by force of Article 143, paragraph 2(b) of Presidential Decree No. (PD) 1083 or the *Code of Muslim Personal*

Laws of the Philippines.

On June 16, 2005, Tomawis filed an *Urgent Motion to Dismiss with Prayer to Correct the Name of Defendants to Read Sultan Yahya "Jerry" M. Tomawis & Mangoda M. Radia*.^[4] In it, he alleged that title to or possession of real property or interest in it was clearly the subject matter of the complaint which, thus, brought it within the original exclusive jurisdiction of the regular courts in consonance with existing law.^[5] On July 13, 2005, the SDC denied this motion to dismiss.

Unsatisfied, Tomawis later interposed an *Urgent Motion for Reconsideration with Prayer to Cancel and Reset the Continuation of Trial Until After the Resolution of the Pending Incident*.^[6] Per Order^[7] dated September 6, 2005, the SDC denied Tomawis' urgent motion for reconsideration and ordered the continuation of trial.

Forthwith, Tomawis repaired to the Court of Appeals (CA), Mindanao Station, on a petition for certiorari, mandamus, and prohibition under Rule 65 to nullify, on jurisdictional grounds, the aforesaid SDC July 13, 2005 and September 6, 2005 Orders.

By Resolution^[8] of February 8, 2006, the appellate court dismissed the petition on the ground that the CA was "not empowered to resolve decisions, orders or final judgments of the [SDCs]." Justifying its disposition, the CA held that, pursuant to Art. 145^[9] of PD 1083, in relation to Art. VIII, Section 9^[10] of Republic Act No. (RA) 9054,^[11] the new organic law of the Autonomous Region in Muslim Mindanao, final decisions of the SDC are reviewable by the yet to be established Shari'a Appellate Court. Pending the reorganization of the Shari'a Appellate Court, the CA ruled that such intermediate appellate jurisdiction rests with the Supreme Court.

Undeterred by the foregoing setback before the CA, Tomawis interposed, on January 29, 2008, before the SDC another motion to dismiss on the same grounds as his previous motions to dismiss. The motion was rejected by respondent Judge Balindong per his order of February 6, 2008, denying the motion with finality.

Hence, this recourse on the sole issue of:

WHETHER OR NOT THE PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION IN DENYING PETITIONER'S MOTIONS TO DISMISS ON THE GROUND OF LACK OF JURISDICTION AND IN DENYING PETITIONER'S MOTION SEEKING RECONSIDERATION OF THE ORDER DENYING HIS MOTION TO DISMISS.

Simply put, the issue is whether or not the SDC can validly take cognizance of Civil Case No. 102-97.

The Court's Ruling

Prefatorily, the Court acknowledges the fact that decades after the enactment in 1989 of the law^[12] creating the Shari'a Appellate Court and after the Court, per Resolution of June 8, 1999,^[13] authorized its creation, the Shari'a Appellate Court

has yet to be organized with the appointment of a Presiding Justice and two Associate Justices. **Until such time that the Shari'a Appellate Court shall have been organized, however, appeals or petitions from final orders or decisions of the SDC filed with the CA shall be referred to a Special Division to be organized in any of the CA stations preferably composed of Muslim CA Justices.**

For cases where only errors or questions of law are raised or involved, the appeal shall be to this Court by a petition for review on certiorari under Rule 45 of the Rules of Court pursuant to Art. VIII, Sec. 5 of the Constitution and Sec. 2 of Rule 41 of the Rules.

To be sure, the Court has, on several occasions, passed upon and resolved petitions and cases emanating from Shari'a courts. Among these was one involving the issue of whether or not grave abuse of discretion attended the denial of a motion to implement a writ of execution.^[14] Still another involved the Shari'a courts' jurisdiction in custody and guardianship proceedings,^[15] nullity of marriage and divorce when the parties were both married in civil and Muslim rites,^[16] and settlement of estate proceedings where the deceased was alleged to be not a Muslim,^[17] or where the estate covered properties situated in different provinces.^[18]

The instant petition, involving only a question of law on the jurisdiction of the SDC over a complaint for quieting of title, was properly instituted before the Court.

Petitioner asserts that Sec. 19(2), in relation to Sec. 33(3) of BP 129, as amended--by vesting original exclusive jurisdiction to the RTCs or Municipal Trial Courts (MTCs), as the case may be, over civil actions that involve the title to, or possession of, real property--effectively removed the concurrent jurisdiction once pertaining to the SDC under Art. 143(2)(b) of PD 1083. In fine, petitioner contends that Art. 143 of PD 1083, insofar as it granted the SDC concurrent jurisdiction over certain real actions, was repealed by the BP 129 provisions adverted to.

Disagreeing as to be expected, private respondents balk at the notion of the implied repeal petitioner espouses, arguing that PD 1083, being a special, albeit a prior, law, has not been repealed by BP 129. Putting private respondents' contention in a narrower perspective, Art. 143(2)(b) of PD 1083 is of specific applicability and, hence, cannot, under the rules of legal hermeneutics, be superseded by laws of general application, absent an express repeal.

Petitioner's claim has no basis.

The allegations, as well as the relief sought by private respondents, the elimination of the "cloud of doubts on the title of ownership"^[19] on the subject land, are within the SDC's jurisdiction to grant.

A brief background. The Judiciary Act of 1948 (RA 296) was enacted on June 17, 1948. It vested the Courts of First Instance with original jurisdiction:

(b) In all civil actions which involve the title to or possession of real property, or any interest therein, or the legality of any tax, impost or assessment, except actions of forcible entry into and detainer on lands or buildings, original jurisdiction of which is conferred by this Act upon city and municipal courts.^[20] x x x

Subsequently, PD 1083, dated February 4, 1977, created the Shari'a courts, i.e., the SDC and the Shari'a Circuit Court, both of limited jurisdiction. In *Republic v. Asuncion*,^[21] the Court, citing the Administrative Code of 1987,^[22] classified Shari'a courts as "regular courts," meaning they are part of the judicial department.

Art. 143 of PD 1083 vests SDCs, in certain cases, with exclusive original jurisdiction and with concurrent original jurisdiction over certain causes of action. As far as relevant, Art. 143 reads as follows:

ARTICLE 143. Original jurisdiction.-- (1) The Shari'a District Court shall have exclusive original jurisdiction over:

x x x x

d) All actions arising from customary contracts in which the parties are Muslims, if they have not specified which law shall govern their relations; and

x x x x

(2) **Concurrently with existing civil courts**, the Shari'a District Court shall have original jurisdiction over:

x x x x

(b) All other personal and **real actions** not mentioned in paragraph 1 (d) **wherein the parties involved are Muslims except those for forcible entry and unlawful detainer**, which shall fall under the exclusive original jurisdiction of the Municipal Circuit Court. (Emphasis added.)

On August 14, 1981, BP 129 took effect. Sec. 19 of BP 129, as later amended by RA 7691,^[23] defining the jurisdiction of the RTCs, provides:

Section 1. Section 19 of Batas Pambansa Blg. 129, otherwise known as the "Judiciary Reorganization Act of 1980", is hereby amended to read as follows:

"Sec. 19. Jurisdiction in civil cases.--Regional Trial Courts shall exercise **exclusive original jurisdiction**:

x x x x

"(2) In all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds Twenty thousand pesos (P20,000.00) or, for civil actions in Metro Manila, where such value exceeds Fifty thousand pesos (P50,000.00) except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts." (Emphasis supplied.)

As things stood prior to the effectivity date of BP 129, the SDC had, by virtue of PD 1083, original jurisdiction, concurrently with the RTCs and MTCs, over all personal and real actions outside the purview of Art. 143(1)(d) of PD 1083, in which the parties involved were Muslims, except those for ejectment. Personal action is one that is founded on privity of contracts between the parties;^[24] and in which the plaintiff usually seeks the recovery of personal property, the enforcement of a contract, or recovery of damages.^[25] Real action, on the other hand, is one anchored on the privity of real estate,^[26] where the plaintiff seeks the recovery of ownership or possession of real property or interest in it.^[27]

On the other hand, BP 129, as amended, vests the RTC or the municipal trial court with exclusive original jurisdiction in all civil actions that involve the title to or possession of real property, or any interest in it, and the value of the property subject of the case or the jurisdictional amount, determining whether the case comes within the jurisdictional competence of the RTC or the MTC. *Orbeta v. Orbeta*^[28] differentiated personal action from real action in the following wise:

A real action, under Sec. 1, Rule 4 of the Rules of Court, is one that affects title to or possession of real property, or an interest therein. Such actions should be commenced and tried in the proper court which has jurisdiction over the area wherein the real property involved, or a portion thereof, is situated. All other actions are personal and may be commenced and tried where the plaintiff or any of the principal plaintiffs resides, or where the defendant or any of the principal defendants resides, or in the case of a non-resident defendant where he may be found, at the election of the plaintiff.

Civil Case No. 102-97, judging from the averments in the underlying complaint, is basically a suit for recovery of possession and eventual reconveyance of real property which, under BP 129, as amended, falls within the original jurisdiction of either the RTC or MTC. In an action for reconveyance, all that must be alleged in the complaint are two facts that, admitting them to be true, would entitle the plaintiff to recover title to the disputed land, namely: (1) that the plaintiff is the owner of the land or has possessed the land in the concept of owner; and (2) that the defendant has illegally dispossessed the plaintiff of the land.^[29] A cursory perusal of private respondents' complaint readily shows that that these requisites have been met: they alleged absolute ownership of the subject parcel of land, and they were illegally dispossessed of their land by petitioner. The allegations in the complaint, thus, make a case for an action for reconveyance.