



Republic of the Philippines
 Supreme Court
 Manila

Welford G. Velasco, Jr.
 WELFORD G. VELASCO, JR.
 Division Clerk of Court
 Third Division
 FEB 10 2017

THIRD DIVISION

THE MUNICIPALITY OF TANGKAL, PROVINCE OF LANA DEL NORTE,

G.R. No. 193340

Petitioner,

- versus -

HON. RASAD B. BALINDONG, in his capacity as Presiding Judge, Shari'a District Court, 4th Judicial District, Marawi City, and HEIRS OF THE LATE MACALABO ALOMPO, represented by SULTAN DIMNANG B. ALOMPO,

Present:
 VELASCO, JR., *J.*, *Chairperson*,
 BERSAMIN,
 REYES,
 JARDELEZA, and
 CAGUIOA, ** JJ.*

Respondents.

Promulgated:

January 11, 2017

Welford G. Velasco, Jr.

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DECISION

JARDELEZA, J.:

The Code of Muslim Personal Laws of the Philippines¹ (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 Complaint² with the Shari'a District Court of Marawi City (Shari'a District

* Designated as Fifth Member of the Third Division per Special Order No. 2417 dated January 4, 2017.
¹ Presidential Decree No. 1083 (1977).
² Rollo, pp. 39-47.

J

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 Dismiss³ 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 Order⁴ 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.⁵

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.⁶ The Municipality of Tangkal timely filed its answer⁷ 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 order⁸ (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.

³ *Id.* at 48-53.

⁴ *Id.* at 57-A.

⁵ *En Banc* Resolution promulgated by the Supreme Court on September 20, 1983.

⁶ *Rollo*, p. 76.

⁷ *Id.* at 84-89.

⁸ *Id.* at 6-37.

In their Comment,⁹ 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 TRO¹⁰ 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.¹¹ 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.¹²

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*:¹³

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.¹⁴

⁹ *Id.* at 96-105.

¹⁰ *Id.* at 122-123.

¹¹ *Id.* at 6-8.

¹² *Id.* at 96-97, citing the Special Rules of Procedure in Shari'a Courts, Sec. 13(a) & (f).

¹³ G.R. No. L-81969, September 26, 1988, 165 SCRA 771.

¹⁴ *Id.* at 777. Citations omitted.

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.¹⁵ Thus, in *Villagracia v. Fifth Shari'a District Court*,¹⁶ 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.¹⁷

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.¹⁸ 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,¹⁹ or when the denial of the motion to dismiss is tainted with grave abuse of discretion.²⁰

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 action²¹—to the extent that all proceedings before a court without jurisdiction are void.²² 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 143.²³ Consistent with the purpose of the law to provide for an effective

¹⁵ RULES OF COURT, Rule 9, Sec. 1.

¹⁶ G.R. No. 188832, April 23, 2014, 723 SCRA 550.

¹⁷ *Id.* at 565-566.

¹⁸ *Republic v. Transunion Corporation*, G.R. No. 191590, April 21, 2014, 722 SCRA 273, 279.

¹⁹ *Tung Ho Steel Enterprises Corporation v. Ting Guan Trading Corporation*, G.R. No. 182153, April 7, 2014, 720 SCRA 707, 720.

²⁰ *Republic v. Transunion Corporation*, *supra* at 279.

²¹ *Francel Realty Corporation v. Sycip*, G.R. No. 154684, September 8, 2005, 469 SCRA 424, 431.

²² *Monsanto v. Lim*, G.R. No. 178911, September 17, 2014, 735 SCRA 252, 265-266.

²³ Art. 143. *Original jurisdiction.* –

(1) The Shari'a District Court shall have exclusive original jurisdiction over:

- (a) All cases involving custody, guardianship, legitimacy, paternity and filiation arising under this Code;
- (b) All cases involving disposition, distribution and settlement of the estate of deceased Muslims, probate of wills, issuance of letters of administration or appointment of administrators or executors regardless of the nature or the aggregate value of the property;

administration and enforcement of Muslim personal laws among Muslims,²⁴ 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.²⁵ The Shari'a district courts' jurisdiction over these matters is concurrent with regular civil courts, *i.e.*, municipal trial courts and regional trial courts.²⁶ 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.²⁷

The complaint below, which is a real action²⁸ 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

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- (c) Petitions for the declaration of absence and death and for the cancellation or correction of entries in the Muslim Registries mentioned in Title VI of Book Two of this Code;
 - (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
 - (e) All petitions for *mandamus*, prohibition, injunction, *certiorari*, *habeas corpus*, and all other auxiliary writs and processes in aid of its appellate jurisdiction.
- (2) Concurrently with existing civil courts, the Shari'a District Court shall have original jurisdiction over:
- (a) Petitions by Muslims for the constitution of a family home, change of name and commitment of an insane person to an asylum;
 - (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; and
 - (c) All special civil actions for interpleader or declaratory relief wherein the parties are Muslims or the property involved belongs exclusively to Muslims.

²⁴ CODE OF MUSLIM PERSONAL LAWS, Art. 2(c).

²⁵ CODE OF MUSLIM PERSONAL LAWS, Art. 143(2)(b).

²⁶ *Tomawis v. Balindong*, G.R. No. 182434, March 5, 2010, 614 SCRA 354, 364-365.

²⁷ *Villagrancia v. Fifth Shari'a District Court*, supra note 16 at 566.

²⁸ A real action is one that affects title to or possession of real property, or an interest therein. RULES OF COURT, Rule 4, Sec. 1.

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;²⁹ the representative remains to be a third party to the action.³⁰ 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.”³¹ 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.³² 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 feelings, no thoughts, no desires.”³³ They are considered persons only by virtue of legal fiction. The Municipality of Tangkal falls under this category. Under the Local Government Code, a municipality is a body politic and corporate that exercises powers as a political subdivision of the national government and as a corporate entity representing the inhabitants of its territory.³⁴

Furthermore, as a government instrumentality, the Municipality of Tangkal can only act for secular purposes and in ways that have primarily secular effects³⁵—consistent with the non-establishment clause.³⁶ Hence,

²⁹ RULES OF COURT, Rule 3, Sec. 3.

³⁰ *Ang v. Ang*, G.R. No. 186993, August 22, 2012, 678 SCRA 699, 708-709.

³¹ CODE OF MUSLIM PERSONAL LAWS, Art. 7(g).

³² *Victoriano v. Elizalde Rope Workers' Union*, G.R. No. L-25246, September 12, 1974, 59 SCRA 54, 72.

³³ *Citizens United v. Federal Election Comm'n*, 558 U.S. 310, 466 (2010), J. Stevens, dissenting.

³⁴ LOCAL GOV'T CODE, Sec. 15.

³⁵ *Ang Ladlad LGBT Party v. Commission on Elections*, G.R. No. 190582, April 8, 2010, 618 SCRA 32, 59.

³⁶ CONSTITUTION, Art. III, Sec. 5. **No law shall be made respecting an establishment of religion**, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be

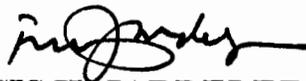
even if it is assumed that juridical persons are capable of practicing religion, the Municipality of Tangkal is constitutionally proscribed from adopting, much less exercising, any religion, including Islam.

The Shari'a District Court appears to have understood the foregoing principles, as it conceded that the Municipality of Tangkal "is neither a Muslim nor a Christian."³⁷ Yet it still proceeded to attribute the religious affiliation of the mayor to the municipality. This is manifest error on the part of the Shari'a District Court. It is an elementary principle that a municipality has a personality that is separate and distinct from its mayor, vice-mayor, *sanggunian*, and other officers composing it.³⁸ And under no circumstances can this corporate veil be pierced on purely religious considerations—as the Shari'a District Court has done—without running afoul the inviolability of the separation of Church and State enshrined in the Constitution.³⁹

In view of the foregoing, the Shari'a District Court had no jurisdiction under the law to decide private respondents' complaint because not all of the parties involved in the action are Muslims. Since it was clear from the complaint that the real party defendant was the Municipality of Tangkal, the Shari'a District Court should have simply applied the basic doctrine of separate juridical personality and *motu proprio* dismissed the case.

WHEREFORE, the petition is **GRANTED**. The assailed orders of the Shari'a District Court of Marawi City in Civil Case No. 201-09 are **REVERSED** and **SET ASIDE**. Accordingly, Civil Case No. 201-09 is **DISMISSED**.

SO ORDERED.



FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:



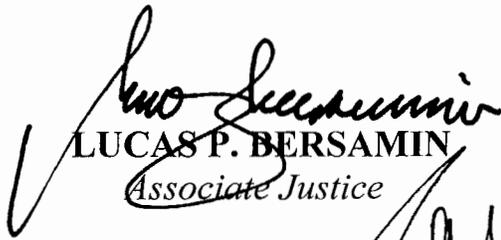
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

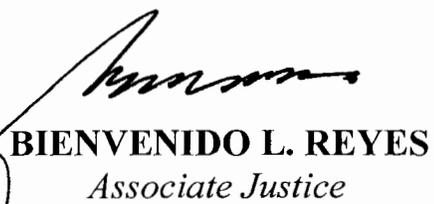
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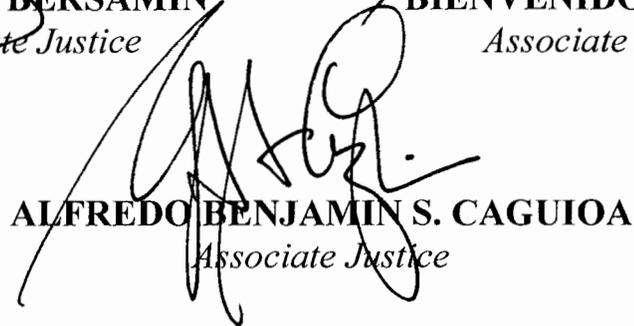
³⁷ *Rollo*, p. 57-A.

³⁸ *Torio v. Fontanilla*, G.R. No. L-29993, October 23, 1978, 85 SCRA 599, 615.

³⁹ CONSTITUTION, Article II, Sec. 6.

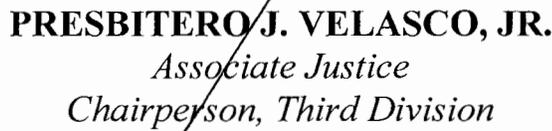

LUCAS P. BERSAMIN
Associate Justice


BIENVENIDO L. REYES
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

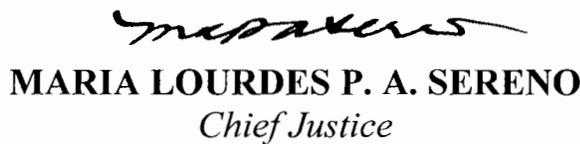
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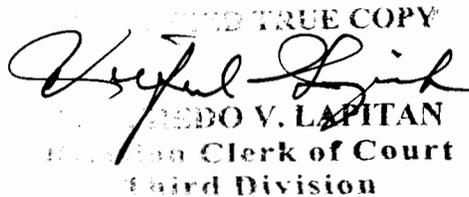
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's attestation, it is hereby certified 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

TRUE COPY

ALFREDO V. LAPITAN
 Clerk of Court
 Third Division

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