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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

FIRST DIVISION

[G.R. No. 156022. July 6, 2015]

AURELLANO AGNES, EDUARDO AGNES, ESPIRITU AGNES, ESTELLA AGNES, PANTALEON AGNES, FILOTEO APUEN, IMELDA APUEN, MOISES APUEN, ROGELIO APUEN, GONZALO AUSTRIA, JAVIER AUSTRIA, BONIFACIO EGUIA, LYDIA EGUIA, MANUEL GABARDA, SR., MELECIO GARCIA, CRISTOBAL LOQUIB, MARIA LOQUIB, MATERNO LOQUIB, GEORGE MACANAS, MODESTO MANLEBTEN, JUANITO AUSTRIA, CONCHITA BERNAL, AURELIO BERNAL, PABLITO BOGANTE, FELICIANO CANTON, ALFREDO CAÑETE, CECILIA CAÑETE, CHERRY DE MESA, ROBERTO NOVERO, PERLITO PABIA, RODRIGO SABROSO, JUAN TALORDA, and RAFAELA TRADIO, *petitioners*, *vs.* **REPUBLIC OF THE PHILIPPINES,** *respondent*.

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; INDIGENOUS PEOPLES; RIGHT TO POSSESS AND OWN ANCESTRAL DOMAIN; CERTIFICATE OF ANCESTRAL DOMAIN TITLE, EXPLAINED.— To be precise, Section 7 of Republic Act No.

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8371 recognizes that the rights to ancestral domains carry with it the rights of ownership and possession of ICCs/IPs to their ancestral domains. x x x Precisely, under the law, a Certificate of Ancestral Domain Title "refers to a title formally recognizing the rights of possession and ownership of ICCs/[Indigenous Peoples (IPs)] over their ancestral domains identified and delineated in accordance with [the] law."

2. **ID.; ID.; ID.; ID.; ID.; AUTHORITY OF TAGBANUA ICC.—** Under the CADT, the Tagbanua ICC is given authority "TO HAVE AND HOLD IN OWNERSHIP, *the x x x described ancestral domain as their private but community property, which belongs to all generations of the said Indigenous Cultural Community/Indigenous Peoples*"; and "TO DEVELOP, CONTROL, MANAGE *and* UTILIZE COLLECTIVELY *the said* ANCESTRAL DOMAIN *with all the rights, privileges and responsibilities appurtenant thereto, subject to the condition that the said ancestral domain shall* NOT be SOLD, DISPOSED, *nor* DESTROYED." x x x And the CADT was issued notwithstanding the existence of Presidential Proclamation No. 1578, which recognized the existence of private rights already extant at the time. Thus, although the issuance of the CADT in favor of the Tagbanua ICC to develop, control, manage, and utilize Calauit does not affect the propriety or impropriety of the execution of the *Resettlement Agreements* ***per se***, the same, however, gainsays the avowed consequence of said contracts, that is, to remove and transfer the settlers from Calauit to the resettlement areas in Halsey and Burabod. x x x The issuance by the respondent of CADT No. R04-BUS-0308-062 over 3,683.2324 (the entire area subject of the *Resettlement Agreements*) in favor of the settlers, including the petitioners, provide their occupation and/or settlement on the subject land an apparent color of authority at the very least by virtue of Republic Act No. 8371.

3. **REMEDIAL LAW; PROCEDURAL RULES; POINTS OF LAW, ISSUES, THEORIES, AND APPLICATION; COURTS OF JUSTICE WILL NOT CONSIDER MOOT CASES.—** Verily, in *Gancho-on v. Secretary of Labor and Employment*, this Court emphasized that: It is a rule of universal application, almost, that courts of justice constituted to pass upon substantial rights will not consider questions in which no

actual interests are involved; they decline jurisdiction of moot cases. And where the issue has become moot and academic, there is no justiciable controversy, so that a declaration thereon would be of no practical use or value. There is no actual substantial relief to which petitioners would be entitled and which would be negated by the dismissal of the petition. x x x Therefore, the settlers continued stay in Calauit has become a non-issue. As such, any discussion on the matter of the propriety of the Resettlement Agreements and their effects would be mere surplusage.

4. ID.; ID.; ID.; ID.; CASE AT BAR.— From the above pronouncement, there is no justiciable controversy anymore in the instant petition in view of the issuance of CADT. There is no longer any purpose in determining whether the Court of Appeals erred in affirming the Decision of the RTC since any declaration thereon would be of no practical use or value. Clearly, any decision of this Court on the present petition, whether it be an affirmance or a reversal of the assailed Decision of the Court of Appeals, would be equivalent in effect to an affirmance or an invalidation of the challenged Decision of the RTC. But the Office of the President's issuance of a 2008 *Certificate of Ancestral Domain Title* in favor of the settlers, including the petitioners, negates the need to resolve the issues raised in the *Complaint* and *Answer with Counterclaims* – whether or not the petitioners may be compelled to vacate Calauit by virtue of their obligations enumerated in the *Resettlement Agreements*.

5. POLITICAL LAW; CONSTITUTIONAL LAW; INDIGENOUS PEOPLES; RIGHT TO POSSESS AND OWN ANCESTRAL DOMAIN; OPTION TO SECURE TITLE TO INDIVIDUALLY OWNED ANCESTRAL LANDS MUST BE IN ACCORDANCE WITH THE PROVISIONS OF THE LAND REGISTRATION ACT 496.— Relative to the recent prayer of the petitioners that they be awarded individual titles of ownership over portions of Calauit as the issuance of CADT in favor of the Tagbanua ICC amounts to an affirmation and recognition of the property rights of their ancestors from whom they trace their present individual claims, this Court points out that under Section 12 of Republic Act No. 8371, individual members of cultural communities, with respect to individually owned ancestral lands, the option to secure title to the same must

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be done in accordance with the provisions of Commonwealth Act No. 141, as amended, or the Land Registration Act 496.

APPEARANCES OF COUNSEL

Sedigo &Associates, Leonard de Vera, Hector L. Hofileña, Victor D. Cabaluna, Hilado Hagad & Hilado, and *Cochingyan & Peralta Law Offices* for petitioners.

R E S O L U T I O N

LEONARDO-DE CASTRO, *J.*:

Before Us is a Petition for Review on *Certiorari*[1] essentially seeking the reversal of the April 24, 2002 Decision[2] of the Court of Appeals in CA-G.R. CV No. 46222, entitled "*Republic of the Philippines v. Agnes, et al.,*" which affirmed the February 23, 1994 Decision[3] of the Regional Trial Court (RTC) of Palawan, Branch 49, Fourth Judicial Region, Puerto Princesa City in Civil Case No. 2262, entitled "*Republic of the Philippines v. Aurellano Agnes, et al*."

The facts, as culled from the records, are as follows:

Calauit Island (Calauit) is a 3,600-hectare island that forms part of the Calamianes Island group in the Province of Palawan.

The petitioners claim to be among the more than 250 families ("settlers") who lived in Calauit[4] as successors of the early settlers therein. They are members of the "*Balik Calauit Movement*," which was organized for the purpose of reclaiming the lands they used to occupy. The settlers lay claim on the lands of Calauit either (1) through a predecessor,

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[1] Rule 45 of the 1997 Rules of Court.

[2] *Rollo*, pp. 105-119; penned by Associate Justice Mercedes Gozo-Dadole with Associate Justices Josefina Guevara-Salonga and Amelita G. Tolentino, concurring.

[3] *Id*. at 120-133.

[4] *Id*. at 176.

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who had become a titled owner by virtue of Act No. 926;[5] or (2) by means of an imperfect title, which they, by themselves or their ancestors, had acquired by way of "unbroken, continuous, exclusive and notorious possession and cultivation"[6] of the lands therein until their relocation in 1977.

In 1973, the Bureau of Lands started to survey Calauit. After some time, the surveyors met some resistance to the continued survey, but the settlers were told that it was being done for purposes of titling the latter's landholdings, as well as to determine how much land may be apportioned for people coming from Busuanga who were to be relocated in the area in view of the establishment of the Yulo King Ranch. In 1975, however, the settlers were told that the supposed titling of their landholdings was not going to push through as the island was going to be set up as a zoo for rare and exotic animals from other countries.[7] Further, they were told that instead, they would be resettled in Halsey and Burabod in Culion, where the lands were claimed to be more fertile and where full government services and facilities such as irrigation, electricity, waterworks, public markets, roads, housing, school, and health care, would be provided by the government.[8]

The petitioners alleged that, along with the other settlers, they could not refuse the offer because they were harassed and intimidated by members of the Philippine Constabulary (PC). In their petition and answers to written interrogatories, they mentioned instances of violence and harassment by PC soldiers.[9] They were also told that they had no choice but to leave Calauit, as the island was government property and that, as illegal settlers, they could be sued.[10]

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[5] *Id*. at 203-211;Certificate of Title (CTC) No. 402 issued to Narcisa de la Cruz; CTC No. E-397 issued to Nicolas Mondragon; CTC No. E-483 issued to Romulo Loquib and CTC No. G-173 issued to Agapita Delgado.

[6] *Id*. at 13.

[7] *Id*. at 176-177.

[8] *Id*. at 644.

[9] *Id*. at 646-647.

[10] *Id*. at 642.

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The terms of the proposed relocation was later embodied in individual *Resettlement Agreements*[11] wherein the government, through the Secretary of Natural Resources, among other things, undertook to provide the signatory settler the following: (1) an agricultural lot in exchange for the area he would be vacating; and (2) payment for the improvements on the properties to be vacated, as ascertained in individualized appraisal sheets.[12] In exchange, the signatory settler agreed to (1) be resettled to any selected resettlement area in Busuanga; (2) relinquish "totally his rights and claim (*sic*) over the land thereon in favor of the Government;" and (3) vacate the premises upon receipt of fifty percent (50%) of the total amount of the appraised value of the improvements, with the other half to be paid upon proof of actual evacuation from the property.[13]

On August 31, 1976, then President Ferdinand E. Marcos (Pres. Marcos) signed Presidential Proclamation No. 1578, which declared the Island of Calauit as a Game Preserve and Wildlife Sanctuary, *viz.*:

PROCLAMATION NO. 1578

DECLARING AS A GAME PRESERVE AND WILDLIFE SANCTUARY A CERTAIN PARCEL OF LAND OF THE PUBLIC DOMAIN EMBRACED AND SITUATED IN THE ISLAND OF CALAUIT, MUNICIPALITY OF NEW BUSUANGA, ISLAND OF BUSUANGA, PROVINCE OF PALAWAN.

Upon recommendation of the Secretary of Natural Resources and pursuant to the authority vested in me by law, I, FERDINAND E. MARCOS, President of the Philippines, do hereby withdraw from sale, settlement, exploration or exploitation and set aside and declare, subject to private rights, if any there be, as a Game Preserve and Wildlife sanctuary a certain parcel of land of the public domain embraced and situated in the island of Calauit, Municipality of New Busuanga, island of Busuanga, province of Palawan, which tract of land is more particularly described as follows:

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[11] Exhibits (Defendants) Vol. II, pp. 253-393.

[12] *Rollo*, p. 642.

[13] Exhibits (Plaintiff), Vol. I, p. 7.

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"A parcel of land (Calauit Island) bounded on the North by Mindoro Strait; on the East by Mindoro Strait; on the South by the Municipality of New Busuanga, Palawan and Illultuk Bay; and on the West by the South China Sea; situated in the Municipality of New Busuanga, Calamianes Group, Province of Palawan, Island of Busuanga; containing an area of THREE THOUSAND FOUR HUNDRED (3,400) HECTARES, more or less."

NOTE: These data are approximate and subject to future survey.

The hunting, wounding, taking or killing within said territory of any wild animals or birds and/or the destruction of any vegetation or any act causing disturbance to the habitat of the wildlife herein protected are hereby prohibited.

IN WITNESS WHEREOF, I hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 31st day of August in the year of Our Lord, nineteen hundred and seventy-six.

(SGD.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(SGD.) JUAN C. TUVERA
Presidential Assistant

Thereafter, the Department of Natural Resources[14] (DNR) established the Calauit Special Project (CSP) to manage and operate the Calauit Sanctuary.

On March 11, 1977, President Marcos issued Proclamation No. 1626, declaring certain portions of the Culion Leper Colony Reservation excluded from the Reservation and opening them to disposition under the provisions of the Public Land Act. These portions, known as Halsey and Burabod, became the resettlement areas for the settlers of Calauit.

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[14] Now Department of Environment and Natural Resources.

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In 1981, the Presidential Committee for the Conservation of the Tamaraw (PCCT) absorbed the CSP; and in 1985, it entered into a contract with the Conservation and Resource Management Foundation, Inc. (CRMF) to carry out the functions of the CSP.

According to petitioners, life in the resettlement areas was unbearable. They claimed that the lands in Halsey and Burabod were unsuitable for habitation and agriculture; and that the government failed to comply with the promised services and facilities.[15]

After the EDSA People Power and the ouster of Pres. Marcos, the settlers formed the "*Balik Calauit Movement*," and aired their collective grievances to the new administration of then President Corazon C. Aquino (Pres. Aquino).[16]

Some of the settlers tried to return to the Island but were driven away by the CRMF; thus, they went to the Philippine Commission on Human Rights (PCHR) to file a complaint against the government and CRMF. A fact-finding commission was established by the PCHR and dialogues were held among the parties. On February 17 and 23, 1987, the fact-finding commission submitted two memoranda[17] recommending (1) the repeal of Proclamation No. 1578 for being violative of the settlers' Bill of Rights; and (2) the immediate return of the settlers to Calauit.

In June 1987, the petitioners, with the other settlers, once again tried to return to Calauit, with success this time around.

Meantime, the PCHR referred the aforementioned complaint to then DNR Secretary Fulgencio Factoran, who, on July 14, 1987 issued an Order[18] directing the settlers who returned to Calauit to "immediately vacate the sanctuary and return to their resettlement areas of Halsey [and] Burabod."

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[15] *Rollo*, pp. 650-651.

[16] *Id*. at 653.

[17] *Id*. at 176-190.

[18] Records, Vol. I, p. 8.

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In response to the above Order, the concerned settlers filed a Petition for *Certiorari* with this Court, docketed as **G.R. No. 80034**, entitled "*Reynaldo Rufino, et al. v. Hon. Secretary Fulgencio Factoran, et al.*" In a Resolution[19] dated February 16, 1988, this Court dismissed the petition for being factual in nature, to wit:

> G.R. No. 80034 (Reynaldo Rufino, et al. vs. Hon. Secretary Fulgencio Factoran, et al.). It appearing from the allegations and arguments of the parties in their respective pleadings that the issues presented to the Court for determination are mainly factual in nature, among them the manner of the petitioners' transfer from Calawit to Halsey and Burabod, the conditions obtaining in the places to which they have been relocated, the terms and conditions of their resettlement, including the benefits, if any, extended to them by the government, the number of persons involved in the Back-to-Calawit Movement, and whether or not there have really been violations of human rights against the petitioners, the Court, not being a trier of facts, Resolved to DISMISS the petition, without prejudice to the filing by the petitioners of the appropriate action before the regional trial court for trial and determination of the said factual issues.[20]

On March 10, 1988, the petitioners filed a petition with the RTC, Branch 134, Makati, Metro Manila, docketed as **Civil Case No. 88-298,** entitled "*Reynaldo Rufino, et al. v. Hon. Fulgencio Factoran, et al.*," for the issuance of a preliminary injunction against the Department of Environment and Natural Resources (DENR), to enjoin the latter from implementing Secretary Factoran's July 14, 1987 Order, and for the declaration of nullity of Proclamation No. 1578 for being unconstitutional.[21]

In an Order dated April 6, 1988, the RTC of Makati, denied the motion for the issuance of a writ of preliminary injunction, and upheld the constitutionality of Proclamation No. 1578.[22]

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[19] The Resolution became final on March 11, 1988 per Entry of Judgment dated August 5, 1988.

[20] *Rollo*, p. 217.

[21] *Id*. at 664.

[22] Records, Vol. I, pp. 9, 77.

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On April 17, 1989, the RTC of Makati issued another Order[23] dismissing the case without prejudice, to wit:

> On motion of counsel for defendants and there being no objection on the part of counsel for the plaintiffs, the instant case is hereby ordered dismissed without prejudice.

The foregoing Order was prompted by petitioners' manifestation that they had a pending appeal before the Office of the President relative to the July 14, 1987 Order of DENR Secretary Factoran directing the petitioners and the other settlers to leave Calauit and return to their resettlement areas in Halsey and Burabod.[24] The Office of the President ultimately denied said appeal.

Some of the settlers failed to comply with Secretary Factoran's July 14, 1987 Order to vacate Calauit; thus, the Republic of the Philippines (herein respondent), represented by the DENR Secretary, filed a Complaint for Specific Performance and Recovery of Possession with Prayer for Preliminary Injunction against herein petitioners before the RTC, Branch 49, Puerto Princesa City.[25] The complaint was docketed as Civil Case No. 2262, entitled "*Republic of the Philippines v. Aurellano Agnes, et al.*"

In said Complaint, herein respondent alleged that the petitioners' repossession and reoccupation of portions of Calauit are patently unlawful and grossly reproachable as they had already waived and relinquished whatever rights they had on the island when they signed and executed their respective Resettlement Agreements. The respondent claimed that by returning to Calauit, the petitioners breached their contracts, the Resettlement Agreements, which they voluntarily and freely executed. Moreover, by virtue of Proclamation No. 1578, which closed Calauit to exploitation and settlement, the respondent contended that the petitioners are staying on the island as

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[23] *Rollo*, p. 219.

[24] *Id*. at 536.

[25] Records, Vol. I, pp. 1-17.

"squatters" on public land. The respondent also complained of the great damage and disturbance the petitioners were doing to the natural resources and the protected animals in Calauit.[26]

In their "Answer with Counterclaims,"[27] herein petitioners alleged that the Resettlement Agreements were executed with deceit, intimidation, misrepresentation, and fraud; hence they are illegal and void. They also contested their admissibility on the ground that they are private documents, which have not been authenticated. They also claim that it was actually the respondent who breached its contract by providing poor resettlement areas, which resulted in their subhuman and marginal existence. The petitioners denied causing damage to the island and the animals in Calauit, as they only occupied the coastal areas, away from the animals' roaming grounds and habitat. The petitioners then prayed for the nullification of the Resettlement Agreements for having been procured through violence, intimidation, deceit, misrepresentation, and fraud. In the alternative, they called for the rescission of the contracts for respondent's material breach of its obligations. Lastly, they asked for Twenty-Five Thousand (₱25,000.00) Pesos each as temperate, exemplary, and moral damages.

Ruling of the RTC

On February 23, 1994, the RTC of Puerto Princesa City rendered a Decision, the dispositive portion of which reads:

WHEREFORE, the Court hereby orders the defendants (with the exception of Alfredo Aunang, Juana Apuen, Eufricinia Bello, Bartolome Darol, Eduardo de Mesa, Aurora Eco, Eleuterio Fresnillo, Jovita Gabarda, Fausto Lledo, Pampilo Sabroso, Ismael, Rafaela and Regalado Tradio)[28] and anyone claiming under them to vacate the respective areas where they have resettled at Calauit Island, Busuanga, Palawan.

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[26] *Id*. at 11-14.

[27] *Id*. at 69-93.

[28] The petitioners individually named are those who do not appear to have executed Resettlement Agreements, hence the RTC held that no waiver of rights in Calauit is appreciated on their part. (*Rollo*, p. 132).

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Plaintiff-Republic through the Secretary of the Department of Natural Resources, is ordered to procure another suitable Relocation Sites for defendants within six months from receipt of this Decision.[29]

The RTC held that the Resettlement Agreements, being duplicates of the originals and records of the Republic of the Philippines, are public documents notwithstanding their lack of notarization. As such, they are admissible in evidence even if the parties' signatures were not authenticated. The RTC also held that the vices of consent allegedly attached to the Resettlement Agreements would have served to render the agreements merely voidable and not void. However, the four-year period within which the petitioners could bring an action for annulment had long prescribed. On the issue of rescission, the RTC held that even assuming that the petitioners had grounds for rescission, they "could not unilaterally rescind the agreements, since the right to rescind must be invoked judicially."[30]

The RTC, in deciding against the petitioners' return to Calauit, proclaimed:

> National Interest in the preservation of Calauit as Game Preserve and Sanctuary is the overriding factor which argues against the right of [petitioners] to return to Calauit. Assuming that the Resettlement Areas provided by [Respondent]-Republic did not measure up to the expectations of [petitioners], the recourse was not to renege on their Agreements by returning to Calauit and contributing to the disturbance or destruction of the Preserve, but to demand that [Respondent] deliver the fair value of the properties they vacated.
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> [Respondent]-Republic is not entirely free from blame for what appears to have been an unwise choice of Relocation Sites and should be given an opportunity to rectify the mistake.[31]

The petitioners sought the Court of Appeals' reversal of the RTC's decision in their Appeal docketed as CA-G.R. CV No.

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[29] *Rollo*, p. 133.

[30] *Id*. at 129-132.

[31] *Id*. at 133.

46222, entitled "*Republic of the Philippines v. Aurellano Agnes, et al.*"

Ruling of the Court of Appeals

In a Decision promulgated on April 24, 2002, the Court of Appeals affirmed the assailed ruling of the RTC, *viz.:*

WHEREFORE, premises considered, the appealed Decision dated February 23, 1994, of the Regional Trial Court of Palawan and Puerto Princesa City, Branch 49, Fourth Judicial Regional, Palawan docketed as Civil Case No. 2262, is hereby **AFFIRMED**. No pronouncement as to costs.[32]

The Court of Appeals concurred in the findings and conclusions of the RTC. In addition, it disputed the petitioners' claim of ownership on the lands of Calauit; and held that absent any proof to the contrary, the presumption that Calauit is of public domain and thus belongs to the State stands. The Court of Appeals explained its pronouncement in this wise:

Pursuant to [Article XII, Section 2 of the 1987 Constitution], all lands of the public domain belong to the State, and that the State is the source of any asserted right to ownership in land and charged with the conservation of such patrimony. Corollarily, all lands not otherwise appearing to be within private ownership are presumed to belong to the State. Ergo, a positive act of the government is needed to declassify a forest land into alienable or disposable land for agricultural or other purposes. x x x. Therefore, to acquire ownership of public land, the same must first be released from its original classification and reclassified as alienable or disposable land. In the absence of such classification, the land remains unclassified public land until released therefrom and rendered open to disposition. Thus, the burden of proof in overcoming the presumption of state ownership of land lies upon the claimant. x x x.

xxx xxx xxx

x x x [T]he law itself stated that only alienable and disposable lands, particularly agricultural lands, can be acquired through

[32] *Id*. at 119.

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possession and occupation for at least 30 years. Since the subject property is still unclassified when [the petitioners] and their ancestors occupied the same, whatever possession they or their predecessors may have had and however long, cannot ripen into private ownership. Moreover, the fact that the disputed property may have been declared for taxation purposes in the names of [petitioners] or their predecessors-in-interest does not necessarily prove ownership. This is due to the fact that tax declarations and receipts are not conclusive evidence of ownership or of the right to possess land when not supported by evidence or other persuasive proof to substantiate their claim. They are merely indicia of a claim of ownership.

Considering that the [petitioners] failed to present convincing evidence and persuasive proof to substantiate their claim, the presumption of State ownership stands. It is also well to note that the bases of [respondent]'s superior right of possession and ownership was sufficiently supported both by law and jurisprudence.[33] (Citations omitted.)

The petitioners moved for the reconsideration[34] of the aforequoted Decision, which was subsequently denied in a Resolution[35] dated November 18, 2002.

Hence, this Petition for Review on *Certiorari* premised on the following assignments of error:

Issues

I. THE COURT *A QUO'S* RULING REJECTING PETITIONERS' CLAIMS OF OWNERSHIP OF THE LANDHOLDINGS IN DISPUTE, ABSENT "POSITIVE" PROOF OF ALIENABILITY THEREOF, IS CONTRARY NOT ONLY TO THE APPLICABLE LAW AND THE CONTROLLING DECISIONS OF THIS HONORABLE COURT BUT TO THE UNCONTROVERTED DOCUMENTARY EVIDENCE ON RECORD AND THE RESPONDENT'S ADMISSIONS AS WELL.

II. IN REJECTING THE PETITIONERS' CLAIMS OF OWNERSHIP OF THE LANDHOLDINGS IN DISPUTE, THE COURT

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[33] *Id*. at 113-115.

[34] CA *rollo*, pp. 354-387.

[35] *Id*. at 405-406.

A QUO HAS GONE BEYOND THE ISSUES RAISED BY RESPONDENT AND HAS IN EFFECT COLLATERALLY ATTACKED AND NULLIFIED THE CERTIFICATES OF TITLE IN THE NAMES OF PETITIONERS' ANCESTORS, CONTRARY TO ESTABLISHED JURISPRUDENCE.[36]

III. THE COURT *A QUO'S* IMPOSITION OF THE REQUIREMENT OF THE PRESENTATION OF AN EXECUTIVE DECLARATION OF ALIENABILITY AS A CONDITION TO THE RECOGNITION OF PETITIONERS' ALREADY PERFECTED CLAIM OF OWNERSHIP IS NOT IN ACCORD WITH LAW AND APPLICABLE DECISIONS OF THIS HONORABLE COURT.[37]

IV. THE COURT *A QUO*'S RULING WITHHOLDING RECOGNITION OF PETITIONERS' PERFECTED CLAIMS TO THEIR CALAUIT LANDHOLDINGS RUNS COUNTER TO THE CONTROLLING CASE OF ***Sta. Monica Industrial and Development Corp. v. Court of Appeals*** INVOLVING CLOSELY SIMILAR FACTS.[38]

V. THE COURT *A QUO* VIOLATED THE BASIC RULES OF EVIDENCE AND CONTRAVENED SETTLED JURISPRUDENCE IN ADMITTING THE UNNOTARIZED RESETTLEMENT AGREEMENTS IN DISPUTE DESPITE THE FACT THAT NOT A SINGLE WITNESS WAS PRESENTED TO DISCLOSE THEIR SOURCE AND TO ATTEST TO THEIR DUE EXECUTION AND DESPITE THE ABSENCE OF THE OFFICIAL APPROVALS REQUIRED FOR THEIR COMPLETENESS AS OFFICIAL DOCUMENTS.[39]

VI. THE DECISION HAS IGNORED THE UNREBUTTED TESTIMONIAL EVIDENCE AND THE DOCUMENTED ADMISSIONS OF RESPONDENT ESTABLISHING THE VIOLENCE, THREATS, FRAUD AND DECEIT EMPLOYED TO COMPEL PETITIONERS TO SUBMIT TO THEIR RELOCATION, AND WARRANTING A DECLARATION OF THE NULLITY OF THE RESETTLEMENT AGREEMENTS, ASSUMING THEIR EXECUTION BY PETITIONERS.

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[36] *Rollo*, p. 9.

[37] *Id*. at 32.

[38] *Id*. at 35.

[39] *Id*. at 37.

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VII. THE COURT A QUO FURTHER IGNORED THE UNCONTROVERTED TESTIMONIAL EVIDENCE AND THE DOCUMENTED ADMISSIONS OF RESPONDENT, ESTABLISHING THE NON-ARABLE CHARACTER OF THE LANDS ALLOTTED TO PETITIONERS IN THE RESETTLEMENT SITES AND THE SUB-HUMAN CONDITIONS PREVAILING THEREIN WHICH JUSTIFIED THE UNILATERAL RESCISSION OF THE RESETTLEMENT AGREEMENTS, ASSUMING *ARGUENDO* THEIR EXECUTION BY PETITIONERS.[40]

VIII. THE TRIAL COURT AND [THE] COURT OF APPEALS HA[VE] ABUSED THEIR DISCRETION IN GRANTING RESPONDENT THE RIGHT TO EVICT PETITIONERS AGAIN AND TO HAVE THEM RELOCATED IN "A MORE SUITABLE" RESETTLEMENT SITE.[41]

IX. IN DENYING PETITIONERS' CLAIM FOR DAMAGES THE COURT *A QUO* HAS OVERLOOKED AND IGNORED THE UNCONTRADICTED FACTS OF THE PRESENT CASE.[42]

Initially, this petition was denied in a Resolution[43] dated February 3, 2003 for noncompliance with the Rules of Court, to wit:

ACCORDINGLY, the Court Resolved to *DENY* the petition for review on certiorari of the decision dated April 24, 2002 of the Court of Appeals in CA-G.R. CV No. 46222 for failure to comply with requirement no. three (3), as the copy of the assailed decision submitted is not duly certified as a true copy thereof. Also, it lacks a written explanation why the service or filing thereof was not done personally [Section 11, Rule 13, Rules of Civil Procedure].

In any event, even if the petition complied with the aforesaid requirements, it would still be denied, as petitioners failed to show that a reversible error had been committed by the appellate court.

The petitioners filed a Motion for Reconsideration[44] on March 19, 2003, which this Court denied with finality on April 7, 2003.[45]

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[40] *Id*. at 50.

[41] *Id*. at 90.

[42] *Id*. at 92.

[43] *Id*. at 405A-405B.

[44] *Id*. at 411-446.

[45] *Id*. at 463.

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On June 2, 2003, the petitioners filed a Motion to Admit Second Motion for Reconsideration with their Second Motion for Reconsideration, wherein their "*pro bono*" counsels pleaded for leniency for "their shortcomings."[46] From June 2 to 20, 2003, the Court received several pleadings[47] from various lawyers who were entering their appearances as collaborating *pro bono* counsels for the petitioners and who manifested that they were adopting the Second Motion for Reconsideration filed on June 2, 2003.

On June 9, 2003, the Bishop of the Apostolic Vicariate of Taytay, Palawan, also wrote then Chief Justice Hilario Davide to plead for the admission of the Second Motion for Reconsideration filed by the petitioners, whom he claimed were under his pastoral jurisdiction as he was their parish priest in 1977-1978 and 1985-1989.[48]

In consideration of all the above pleadings, in a Resolution dated June 25, 2003, this Court resolved to: (1) grant the petitioners' motion to admit their Second Motion for Reconsideration; (2) set aside its February 3, 2003 Resolution; (3) reinstate the present petition; (4) require the respondent to comment to the petition; and (5) note the other pleadings and letters filed before it.[49]

In the meantime, on March 25, 2008, pursuant to Republic Act No. 8371, entitled "*The Indigenous Peoples' Rights Act of 1997*," the Office of the President, through the National Commission on Indigenous Peoples (NCIP),[50] issued a Certificate of Ancestral Domain Title (CADT) No. R04-BUS-0308-062[51] over 3,683.2324 hectares of land in the Municipality of Busuanga, Province of Palawan, in favor of the Tagbanua Indigenous Cultural Community, which comprised the communities of

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[46] *Id*. at 465-480.

[47] *Id*. at 481-487, 505-515.

[48] *Id*. at 488A.

[49] *Id*. at 508A-508B.

[50] Created pursuant to Republic Act No. 8371.

[51] *Rollo*, pp. 846-851.

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Barangays Calauit and Quezon, Calauit Island, and Municipality of Busuanga. The pertinent portions of the CADT read as follows:

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, *pursuant to the mandates of the 1987 Philippine Constitution to protect the rights of Indigenous Cultural Communities to their ancestral lands and domains, respect and preserve their culture and ensure their economic, social and cultural well-being, and in accordance with the provisions of R.A.* 8371, 'AN ACT TO RECOGNIZE AND PROMOTE THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES/ INDIGENOUS PEOPLES, CREATING THE NATIONAL COMMISSION ON INDIGENOUS PEOPLES, ESTABLISHING IMPLEMENTING MECHANISMS, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES,' *the members of the indigenous Cultural Community/ies belonging to the* **TAGBANUA ***** *indigenous peoples, located at* **Municipality of Busuanga, Province of Palawan** *and comprising the communities of* **Barangays Calauit and Quezon, Calauit Island, Municipality of Busuanga, Province of Palawan, having continuously occupied, possessed and utilized, since time immemorial, under a claim of ownership certain ancestral domain situated in Municipality of Busuanga, Province of Palawan, Island of Luzon, Philippines** *containing an area of* **Three Thousand Six Hundred Eighty-Three and 2324/10000 (3,683.2324)** *hectares more or less, more particularly bounded and described on Page 2 hereof are hereby recognized of their rights thereto.*

NOW THEREFORE, *said Indigenous Cultural Community of* **TAGBANUA***** *Indigenous Peoples, whose members at the time of this issuance appear hereunder as Annex A, is hereby issued this Certificate of Ancestral Domain Title:*

TO HAVE AND TO HOLD IN OWNERSHIP**,** *the above described ancestral domain as their private but community property, which belongs to all generations of the said Indigenous Cultural Community/Indigenous Peoples.*

TO DEVELOP, CONTROL, MANAGE *and* UTILIZE COLLECTIVELY *the said* ANCESTRAL DOMAIN *with all the rights, privileges and responsibilities appurtenant thereto, subject to the condition that the said ancestral domain shall* NOT be SOLD, DISPOSED, *nor* DESTROYED.

IN TESTIMONY WHEREOF, *and by authority of R.A. 8371, the National Commission on Indigenous Peoples, hereby causes these letters to be made patent and the seal of the National Commission on Indigenous Peoples to be hereunto affixed.*

Issued in Quezon City, Philippines on this **25th** *day of* **March**, **2008**.[52]

In view of the foregoing development on October 19, 2011, this Court issued a Resolution[53] requiring the parties "to move in the premises by informing the Court, within ten (10) days from notice, of supervening events and/or subsequent developments pertinent to the case which may be of help to the Court in its immediate disposition x x x."

The petitioners, in a Manifestation,[54] emphasized at the outset that no event has transpired, which may have rendered the case herein moot and academic. The petitioners reiterated that the relief they are after is their **individual titles** to the areas they are currently occupying in the Calauit Island.

And, in their Compliance[55] the petitioners averred further that the issuance of the CADT "in favor of the Tagbanua Indigenous Cultural Community amounts to an affirmation and recognition of the property rights of their ancestors from whom [they] traced their present individual claims." **Thus, the petitioners claim that there is factual and legal bases for this Court to proceed and confirm their right of ownership over the subject properties in the Calauit Island.**

On the other hand, the Office of the Solicitor General (OSG) for the respondent Republic of the Philippines manifested that per Memorandum dated March 5, 2012 by the *Regional Executive Director*, DENR-IV-MIMAROPA, the following are the updates on the ground:

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[52] *Id*. at 846.

[53] *Id*. at 835.

[54] *Id*. at 841-845.

[55] *Id*. at 928-933.

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3. Verification made by this office on the status of occupation of the Balik Calauit Movement (BCM) as stated in Civil Case No. 2262 particularly the forty-seven (47) defendants (Aurellano Agnes, *et al*.) and as confirmed by Bgy. Chairman Gabarda of Bgy. Buluang Busuanga, Palawan wherein Calauit Island is a Sitio of said Barangay, disclosed that forty (40) are at present in the Calauit Island and seven (7) are outside Calauit Island. The latter are Eufricina Bello, Cherry Demesa, Eduardo Demesa, Jovita Gabarda, Manuel Gabarda, Sr., Ismael Tradio and Rafaella Tradio who settled to adjacent and other Barangay[s] of Busuanga, Palawan. Further, of the forty-seven (47) BCM members, nine (9) of them were already dead (Juana Apuen, Javier Austria, Conchita Barcebal, Aurora Eco, Lydia Equia, Fausto Lledo, Materno Loquib, George Macanas and Juan Talorda) and one (1) was put in jail (Bonifacio Equia) at the Provincial Jail in Puerto Princesa City x x x.

4. During the resettlement of BCM, Barangay[s] Halsey and Burabod in Culion, Palawan are the barangay[s] which were identified as resettlement sites. With this, some BCM members have applied and awarded with titles. They are Eduardo Agnes, Espiritu Agnes, Pantaleon Agnes, Filatea Apuen, Juana Apuen, Moises Apuen, Alfredo Aunang, Javier Austria, Aurelio Bernal, Pablito Bogante, Alfredo Canete, Bartolome Darol, Melecia Garcia, Modesto Manlebten, Roberto Novero, Perlita Pabia, Pampilo Sabroso, Rodrigo Sabroso, Ismael Tradio, Regalado Tradio, and Tirso Ustares, Jr. aside from other land areas they have acquired in Busuanga, Palawan x x x.

5. Recent documents acquired from National Commission on Indigenous Peoples (NCIP)-Provincial Office, Puerto Princesa City particularly the photocopied technical descriptions of the awarded Ancestral Domain showed that the Island of Calauit as plotted by this Office was covered by Certificate of Ancestral Domain Title (CADT) R04-BUS-0308-062 bearing **CADT-Lot No. 1-Ade-0403-005-Gni covering 3,572.9731 hectares, more or less** aside from other islets included known as Lot No. 2-Maltanobong Island-Ade-0403-005, Lot. No. 3-Dimipac Island-Ade-0403-005-Gni, Lot No. 4-Ade-0403-005-Gni, and Lot No. 5-Ade-0403-005-Gni with corresponding areas which are adjacent to Calauit Island x x x.

6. At present, [a] certain Roy Dabuit is the Acting Chairman of the Tagbanua Indigenous Cultural Community who is the recipient of the said CADT in Calauit Island and other islets.

7. Furthermore, the undersigned was able to take pictures on the portions of Calauit Island which were occupied by the BCM and Indigenous People belonging to the Tagbanua Tribe. They have built houses made of light materials, school (elementary and day care), small causeway and tribal hall.

8. Moreover, the Calauit Preserve and Wildlife Sanctuary still exist in the Island of Calauit and placed under the management of the Provincial Government of Palawan thru an Executive Order. The issuance of CADT over Calauit Island including the Calauit Preserve and Wildlife Sanctuary under Presidential Proclamation 1578 is another current problem.[56]

Thus, the OSG submitted that "the instant petition must be decided on the merits considering that the area in dispute remains to be a Game and Wildlife Preserve and petitioners persist on their illegal occupation thereof."[57]

Notwithstanding the matters raised by the petitioners in this case, a review of the *Complaint, Answer with Counterclaims,* and the rest of the record of the instant petition readily reveals that the fundamental issue of the controversy between the parties may be summed up into these: whether or not the *Resettlement Agreements* are valid; and, more importantly, whether or not the petitioners may be compelled to vacate Calauit by virtue of their obligations enumerated in the *Resettlement Agreements.*

Ruling of this Court

With the issuance by the Office of the President of the CADT, an *ostensive* successor to the *Resettlement Agreements*, to the Tagbanua Indigenous Cultural Community (ICC), the resolution of the question on the propriety or impropriety of the latter contract and their effects on the continued stay of the settlers on Calauit appears to have been rendered moot and academic.

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[56] *Id*. at 1016-1017.

[57] *Id*. at 995.

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Under the CADT, the Tagbanua ICC is given authority "TO HAVE AND HOLD IN OWNERSHIP**,** *the x x x described ancestral domain as their private but community property, which belongs to all generations of the said Indigenous Cultural Community/Indigenous Peoples*"; *and* "TO DEVELOP, CONTROL, MANAGE *and* UTILIZE COLLECTIVELY *the said* ANCESTRAL DOMAIN *with all the rights, privileges and responsibilities appurtenant thereto, subject to the condition that the said ancestral domain shall* NOT be SOLD, DISPOSED, *nor* DESTROYED."

To be precise, Section 7 of Republic Act No. 8371 recognizes that the rights to ancestral domains carry with it the rights of ownership and possession of ICCs/IPs to their ancestral domains, which shall include the following:

Section 7. ***Rights to Ancestral Domains.*** — The rights of ownership and possession of ICCs/IPs to their ancestral domains shall be recognized and protected. Such rights shall include:

a. *Rights of Ownership.*— The right to claim ownership over lands, bodies of water traditionally and actually occupied by ICCs/IPs, sacred places, traditional hunting and fishing grounds, and all improvements made by them at any time within the domains;

b. *Right to Develop Lands and Natural Resources*. — Subject to Section 56 hereof, right to develop, control and use lands and territories traditionally occupied, owned, or used; to manage and conserve natural resources within the territories and uphold the responsibilities for future generations; to benefit and share the profits from allocation and utilization of the natural resources found therein; the right to negotiate the terms and conditions for the exploration of natural resources in the areas for the purpose of ensuring ecological, environmental protection and the conservation measures, pursuant to national and customary laws; the right to an informed and intelligent participation in the formulation and implementation of any project, government or private, that will affect or impact upon the ancestral domains and to receive just and fair compensation for any damages which

they may sustain as a result of the project; and the right to effective measures by the government to prevent any interference with, alienation and encroachment upon these rights;

c. *Right to Stay in the Territories* — The right to stay in the territory and not to be removed therefrom. No ICCs/IPs will be relocated without their free and prior informed consent, nor through any means other than eminent domain. Where relocation is considered necessary as an exceptional measure, such relocation shall take place only with the free and prior informed consent of the ICCs/IPs concerned and whenever possible, they shall be guaranteed the right to return to their ancestral domains, as soon as the grounds for relocation cease to exist. When such return is not possible, as determined by agreement or through appropriate procedures, ICCs/IPs shall be provided in all possible cases with lands of quality and legal status at least equal to that of the land previously occupied by them, suitable to provide for their present needs and future development. Persons thus relocated shall likewise be fully compensated for any resulting loss or injury;

d. *Right in Case of Displacement*. — In case displacement occurs as a result of natural catastrophes, the State shall endeavor to resettle the displaced ICCs/IPs in suitable areas where they can have temporary life support systems: *Provided*, That the displaced ICCs/IPs shall have the right to return to their abandoned lands until such time that the normalcy and safety of such lands shall be determined: *Provided, further*, That should their ancestral domain cease to exist and normalcy and safety of the previous settlements are not possible, displaced ICCs/IPs shall enjoy security of tenure over lands to which they have been resettled: *Provided, furthermore*, That basic services and livelihood shall be provided to them to ensure that their needs are adequately addressed;

e. *Right to Regulate Entry of Migrants*. — Right to regulate the entry of migrant settlers and organizations into the domains;

f. *Right to Safe and Clean Air and Water*. — For this purpose, the ICCs/IPs shall have access to integrated systems for the management of their inland waters and air space;

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g. *Right to Claim Parts of Reservations*. — The right to claim parts of the ancestral domains which have been reserved for various purposes, except those reserved and intended for common and public welfare and service; and

h. *Right to Resolve Conflict*. — Right to resolve land conflicts in accordance with customary laws of the area where the land is located, and only in default thereof shall the complaints be submitted to amicable settlement and to the Courts of Justice whenever necessary. (Emphasis supplied.)

More significantly, the aforequoted provision provides that the right to ancestral domain carries with it the right to "stay in the territory and not to be removed therefrom." And the CADT was issued notwithstanding the existence of Presidential Proclamation No. 1578, which recognized the existence of private rights already extant at the time. Thus, although the issuance of the CADT in favor of the Tagbanua ICC to develop, control, manage, and utilize Calauit does not affect the propriety or impropriety of the execution of the *Resettlement Agreements* ***per se***, the same, however, gainsays the avowed consequence of said contracts, that is, to remove and transfer the settlers from Calauit to the resettlement areas in Halsey and Burabod.

Verily, in *Gancho-on v. Secretary of Labor and Employment*,[58] this Court emphasized that:

> It is a rule of universal application, almost, that courts of justice constituted to pass upon substantial rights will not consider questions in which no actual interests are involved; they decline jurisdiction of moot cases. And where the issue has become moot and academic, there is no justiciable controversy, so that a declaration thereon would be of no practical use or value. There is no actual substantial relief to which petitioners would be entitled and which would be negated by the dismissal of the petition. (Citations omitted.)

From the above pronouncement, there is no justiciable controversy anymore in the instant petition in view of the issuance of CADT. There is no longer any purpose in determining whether the Court of Appeals erred in affirming the Decision of the RTC since any

[58] 337 Phil. 654, 658 (1997).

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declaration thereon would be of no practical use or value.

Clearly, any decision of this Court on the present petition, whether it be an affirmance or a reversal of the assailed Decision of the Court of Appeals, would be equivalent in effect to an affirmance or an invalidation of the challenged Decision of the RTC. But the Office of the President's issuance of a 2008 *Certificate of Ancestral Domain Title* in favor of the settlers, including the petitioners, negates the need to resolve the issues raised in the *Complaint* and *Answer with Counterclaims* – whether or not the petitioners may be compelled to vacate Calauit by virtue of their obligations enumerated in the *Resettlement Agreements*.

The issuance by the respondent of CADT No. R04-BUS-0308-062 over 3,683.2324 (the entire area subject of the *Resettlement Agreements*) in favor of the settlers, including the petitioners, provide their occupation and/or settlement on the subject land an apparent color of authority at the very least by virtue of Republic Act No. 8371. Precisely, under the law, a Certificate of Ancestral Domain Title "refers to a title formally recognizing the rights of possession and ownership of ICCs/[Indigenous Peoples (IPs)] over their ancestral domains[59] identified and delineated in accordance with

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[59] Under Section 3(a), Republic Act No. 8371, the term "ancestral domains" is defined as "[s]ubject to Section 56 hereof [property rights within the ancestral domains already existing and/or vested upon the effectivity of this Act, shall be recognized and respected], refers to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, *force majeure* or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators."

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[the] law."[60] Therefore, the settlers continued stay in Calauit has become a non-issue. As such, any discussion on the matter of the propriety of the Resettlement Agreements and their effects would be mere surplusage.

Although the moot and academic principle admits of certain exceptions,[61] none are applicable in this case.

But emphasis must be made that the disposition of the instant petition does not at all touch on the propriety or impropriety of the issuance of the CADT. Such a question is not for this Court to take on at this time as, in fact, it is not raised herein.

Relative to the recent prayer of the petitioners that they be awarded individual titles of ownership over portions of Calauit as the issuance of CADT in favor of the Tagbanua ICC amounts to an affirmation and recognition of the property rights of their ancestors from whom they trace their present individual claims,[62] this Court points out that under Section 12 of Republic Act No. 8371, individual members of cultural communities, with respect to individually owned ancestral lands, the option to secure title to the same must be done in accordance with the provisions of Commonwealth Act No. 141, as amended, or the Land Registration Act 496.

In light of the foregoing, the issues invoked by the parties no longer need to be discussed.

WHEREFORE, the April 24, 2002 Decision of the Court of Appeals in CA-G.R. CV No. 46222 is **SET ASIDE**, and Civil Case No. 2262 is **DISMISSED**, for being moot and academic. No costs.

SO ORDERED.

Sereno, C.J. (Chairperson), Bersamin, Perez, and *Perlas-Bernabe, JJ.,* concur.

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[60] Republic Act No. 8371, Section 3(c).

[61] *David v. Macapagal-Arroyo*, 522 Phil. 705, 754 (2006).

[62] *Rollo*, p. 929.