Supreme Court E-Library

In fine, we fail to discern any taint of grave abuse of discretion on the part of respondent judge in denying petitioner's application for cancellation of the accused's cash bail.

WHEREFORE, the present petition is *DISMISSED*.

SO ORDERED.

Panganiban (Chairman) and *Corona, JJ.,* concur.

Carpio Morales, J., on official leave.

THIRD DIVISION

[G.R. No. 151149. September 7, 2004]

GEORGE KATON, *petitioner, vs.* **MANUEL PALANCA JR., LORENZO AGUSTIN, JESUS GAPILANGO and JUAN FRESNILLO,** *respondents*.

SYNOPSIS

Petitioner assailed the validity of the homestead patents and original certificates of title covering certain portions of Sombrero Island in Palawan issued in favor of respondents on the ground that the same were obtained through fraud. He claimed he has the exclusive right to file an application for homestead patent over the whole island since it was he who requested the conversion of the whole area from forest land to agricultural land. Petitioner prayed for the reconveyance of the whole island in his favor.

Respondents, on the other hand, averred that they are all *bona fide* and lawful possessors of their respective portions; that they have been faithfully paying taxes thereon for twenty years; that respondent Palanca, Jr. himself requested for the reclassification of the island; and that petitioner never filed any homestead application for the island. The RTC granted the Motion to Dismiss the case on the ground of petitioner's failure

Supreme Court E-Library

to amend his complaint. Subsequently, the petitioner's Motion for Reconsideration was denied on the erroneous ground that it was a third and prohibited motion when it was actually only his first motion..

On *certiorari*, the CA agreed with petitioner that the trial court had acted without jurisdiction in perfunctorily dismissing his Motion for Reconsideration. Nonetheless, pursuant to its "residual prerogative" under Section 1 of Rule 9 of the Rules of Court, the CA dismissed *motu proprio* the complaint for lack of jurisdiction and prescription.

On appeal, petitioner claimed the CA does not possess residual prerogative which refers to the power that the trial court, in the exercise of its original jurisdiction, may still validly exercise even after perfection of an appeal.

On appeal, the Supreme Court held: that the CA indeed acted *ultra jurisdictio* in ruling on the merits of the case when the only issue was the alleged grave abuse of discretion committed by the trial court in denying petitioner's Motion for Reconsideration; that petitioner has confused what the CA adverted to as its "residual prerogatives" under Section 1 of Rule 9 of the Rules of Court with the "residual jurisdiction" of trial courts over cases appealed to the CA; that in this case, what the CA referred to as residual prerogatives were the general residual powers of the courts to dismiss an action *motu proprio* upon "more fundamental grounds directly bearing on the lower court's lack of jurisdiction and for prescription of the action." The Supreme Court also held that dismissal of the complaint is proper also for lack of cause of action. The Complaint did not sufficiently allege an action for declaration of nullity of the free patent and certificate of title or, alternatively, for reconveyance or for reversion. Finally, assuming that petitioner is the proper party to bring the action for annulment of title or its reconveyance, the case should still be dismissed for being time-barred.

SYLLABUS

1. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; PETITION FOR *CERTIORARI;* PROPER REMEDY TO CORRECT ERRORS OF JURISDICTION BUT NOT TO REVIEW THE EVIDENCE; CASE AT BAR.— Suffice it to say that the

Supreme Court E-Library

appellate court indeed acted *ultra jurisdictio* in ruling on the merits of the case when the only issue that could have been, and was in fact, raised was the alleged grave abuse of discretion committed by the trial court in denying petitioner's Motion for Reconsideration. Settled is the doctrine that the sole office of a writ of *certiorari* is the correction of errors of jurisdiction. Such writ does not include a review of the evidence, more so when no determination of the merits has yet been made by the trial court, as in this case.

2. ID.; CIVIL PROCEDURE; "RESIDUAL PREROGATIVES" OF COURTS UNDER SEC. 1 RULE 9 AS DISTINGUISHED FROM THE TRIAL COURTS' "RESIDUAL JURISDICTION" OVER APPEALED CASES TO THE CA; CASE AT BAR.— Petitioner has confused what the CA adverted to as its "residual prerogatives" under Section 1 of Rule 9 of the Rules of Court with the "residual jurisdiction" of trial courts over cases appealed to the CA. Under Section 1 of Rule 9 of the Rules of Court, defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived, except when (1) lack of jurisdiction over the subject matter, (2) *litis pendentia*, (3) *res judicata* and (4) prescription are evident from the pleadings or the evidence on record. In the four excepted instances, the court shall *motu proprio* dismiss the claim or action. On the other hand, "residual jurisdiction" is embodied in Section 9 of Rule 41 of the Rules of Court. The "residual jurisdiction" of trial courts is available at a stage in which the court is normally deemed to have lost jurisdiction over the case or the subject matter involved in the appeal. This stage is reached upon the perfection of the appeals by the parties or upon the approval of the records on appeal, but prior to the transmittal of the original records or the records on appeal. In either instance, the trial court still retains its so-called residual jurisdiction to issue protective orders, approve compromises, permit appeals to indigent litigants, order execution pending appeal, and allow the withdrawal of the appeal.

3. ID.; ID.; ID.; COURT OF APPEALS' *MOTU PROPRIO* DISMISSAL OF COMPLAINT BASED ON LACK OF JURISDICTION OVER THE SUBJECT MATTER AND PRESCRIPTION, PROPER IN CASE AT BAR.— What the CA referred to as residual prerogatives were the general residual powers of the courts to dismiss an action *motu proprio*

Supreme Court E-Library

upon the grounds mentioned in Section 1 of Rule 9 of the Rules of Court and under authority of Section 2 of Rule 1 of the same rules. To be sure, the CA had the excepted instances in mind when it dismissed the Complaint *motu proprio* "on more fundamental grounds directly bearing on the lower court's lack of jurisdiction" and for prescription of the action. Indeed, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.

4. ID.; ID.; COMPLAINT FOR DECLARATION OF NULLITY OF FREE PATENT, RECONVEYANCE OR REVERSION; SUFFICIENCY OF ALLEGATIONS; CASE AT BAR.— The Complaint did not sufficiently make a case for declaration of nullity of the free patent and certificate of title or, alternatively, for reconveyance nor did it plead merely for reversion over which the trial court could have exercised jurisdiction. In an action for nullification of title or declaration of its nullity, the complaint must contain the following allegations: 1) that the contested land was *privately owned by the plaintiff* prior to the issuance of the assailed certificate of title to the defendant; and 2) that the defendant perpetuated a fraud or committed a mistake in obtaining a document of title over the parcel of land claimed by the plaintiff. In these cases, the nullity arises not from fraud or deceit, but from the fact that the director of the Land Management Bureau had no jurisdiction to bestow title; hence, the issued patent or certificate of title was void *ab initio.* In an alternative action for reconveyance, the certificate of title is also respected as incontrovertible, but the transfer of the property or title thereto is sought to be nullified on the ground that it was wrongfully or erroneously registered in the defendant's name. As with an annulment of title, a complaint must allege two facts that, if admitted, would entitle the plaintiff to recover title to the disputed land: (1) that the plaintiff was the owner of the land, and (2) that the defendant illegally dispossessed the plaintiff of the property. Therefore, the defendant who acquired the property through mistake or fraud is bound to hold and reconvey to the plaintiff the property or the title thereto. In the present case, nowhere in the Complaint did petitioner allege that he had previously held title to the land in question. On the contrary, he acknowledged that the disputed island was public land, that it had never been privately titled in his name, and that he had not applied for a homestead under the provisions of the Public Land Act. This Court has held that a complaint by a private

Supreme Court E-Library

party who alleges that a homestead patent was obtained by fraudulent means, and who consequently prays for its annulment, does not state a cause of action; hence, such complaint must be dismissed. Neither can petitioner's case be one for reversion. Section 101 of the Public Land Act categorically declares that only the solicitor general or the officer in his stead may institute such an action. A private person may not bring an action for reversion or any other action that would have the effect of canceling a free patent and its derivative title, with the result that the land thereby covered would again form part of the public domain.

5. CIVIL LAW; ACTION FOR ANNULMENT OF TITLE OR RECONVEYANCE BARRED BY PRESCRIPTION IN CASE AT BAR.— Finally, assuming that petitioner is the proper party to bring the action for annulment of title or its reconveyance, the case should still be dismissed for being time-barred. It is not disputed that a homestead patent and an Original Certificate of Title was issued to Palanca on February 21, 1977, while the Complaint was filed only on October 6, 1998. Clearly, the suit was brought way past ten years from the date of the issuance of the Certificate, the prescriptive period for reconveyance of fraudulently registered real property. It must likewise be stressed that Palanca's title – which attained the status of indefeasibility one year from the issuance of the patent and the Certificate of Title in February 1977 – is no longer open to review on the ground of actual fraud.

APPEARANCES OF COUNSEL

Abrogar & Associates for petitioner.
Roland E. Pay for respondent Agustin.
Zoilo C. Cruzat for respondents Palanca, Jr. Gapilango and Fesnillo.

D E C I S I O N

PANGANIBAN, *J.*:

Where prescription, lack of jurisdiction or failure to state a cause of action clearly appear from the complaint filed with the trial court, the action may be dismissed *motu proprio* by

Supreme Court E-Library

the Court of Appeals, even if the case has been elevated for review on different grounds. Verily, the dismissal of such cases appropriately ends useless litigations.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, assailing the December 8, 2000 Decision[2] and the November 20, 2001 Resolution[3] of the Court of Appeals in CA-GR SP No. 57496. The assailed Decision disposed as follows:

"Assuming that petitioner is correct in saying that he has the exclusive right in applying for the patent over the land in question, it appears that his action is already barred by laches because he slept on his alleged right for almost 23 years from the time the original certificate of title has been issued to respondent Manuel Palanca, Jr., or after 35 years from the time the land was certified as agricultural land. In addition, the proper party in the annulment of patents or titles acquired through fraud is the State; thus, the petitioner's action is deemed misplaced as he really does not have any right to assert or protect. What he had during the time he requested for the re-classification of the land was the privilege of applying for the patent over the same upon the land's conversion from forest to agricultural.

"WHEREFORE, the petition is hereby *DISMISSED*. No pronouncement as to cost."[4]

The assailed Resolution, on the other hand, denied the Motion for Reconsideration filed by petitioner. It affirmed the RTC's dismissal of his Complaint in Civil Case No. 3231, not on the grounds relied upon by the trial court, but because of prescription and lack of jurisdiction.

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[1] *Rollo*, pp. 8-18.

[2] *Id.*, pp. 19-26. Twelfth Division. Penned by Justice Eliezer R. de Los Santos and concurred in by Justices Eugenio S. Labitoria (Division chairman) and Eloy R. Bello Jr. (member).

[3] *Rollo*, pp. 27-31. Special Former Twelfth Division. Penned by Justice de Los Santos, and concurred in by Justices Remedios Salazar-Fernando and Rebecca de Guia-Salvador. Justices Labitoria and Bello dissented.

[4] CA Decision, p. 7; *rollo*, p. 25.

Supreme Court E-Library

The Antecedent Facts

The CA narrates the antecedent facts as follows:

"On August 2, 1963, herein [P]etitioner [George Katon] filed a request with the District Office of the Bureau of Forestry in Puerto Princesa, Palawan, for the re-classification of a piece of real property known as Sombrero Island, located in Tagpait, Aborlan, Palawan, which consists of approximately 18 hectares. Said property is within Timberland Block of LC Project No. 10-C of Aborlan, Palawan, per BF Map LC No. 1582.

"Thereafter, the Bureau of Forestry District Office, Puerto Princesa, Palawan, ordered the inspection, investigation and survey of the land subject of the petitioner's request for eventual conversion or re-classification from forest to agricultural land, and thereafter for George Katon to apply for a homestead patent.

"Gabriel Mandocdoc (now retired Land Classification Investigator) undertook the investigation, inspection and survey of the area in the presence of the petitioner, his brother Rodolfo Katon (deceased) and his cousin, [R]espondent Manuel Palanca, Jr. During said survey, there were no actual occupants on the island but there were some coconut trees claimed to have been planted by petitioner and [R]espondent Manuel Palanca, Jr. (alleged overseer of petitioner) who went to the island from time to time to undertake development work, like planting of additional coconut trees.

"The application for conversion of the whole Sombrero Island was favorably endorsed by the Forestry District Office of Puerto Princesa to its main office in Manila for appropriate action. The names of Felicisimo Corpuz, Clemente Magdayao and Jesus Gapilango and Juan Fresnillo were included in the endorsement as co-applicants of the petitioner.

"In a letter dated September 23, 1965, then Asst. Director of Forestry R.J.L. Utleg informed the Director of Lands, Manila, that since the subject land was no longer needed for forest purposes, the same is therefore certified and released as agricultural land for disposition under the Public Land Act.

"Petitioner contends that the whole area known as Sombrero Island had been classified from forest land to agricultural land and certified available for disposition upon his request and at his instance. However, Mr. Lucio Valera, then [l]and investigator of the District Land Office,

Supreme Court E-Library

Puerto Princesa, Palawan, favorably endorsed the request of [R]espondents Manuel Palanca Jr. and Lorenzo Agustin, for authority to survey on November 15, 1965. On November 22, a second endorsement was issued by Palawan District Officer Diomedes De Guzman with specific instruction to survey vacant portions of Sombrero Island for the respondents consisting of five (5) hectares each. On December 10, 1965, Survey Authority No. R III-342-65 was issued authorizing Deputy Public Land Surveyor Eduardo Salvador to survey ten (10) hectares of Sombrero Island for the respondents. On December 23, 1990, [R]espondent Lorenzo Agustin filed a homestead patent application for a portion of the subject island consisting of an area of 4.3 hectares.

"Records show that on November 8, 1996, [R]espondent Juan Fresnillo filed a homestead patent application for a portion of the island comprising 8.5 hectares. Records also reveal that [R]espondent Jesus Gapilango filed a homestead application on June 8, 1972. Respondent Manuel Palanca, Jr. was issued Homestead Patent No. 145927 and OCT No. G-7089 on March 3, 1977[5] with an area of 6.84 hectares of Sombrero Island.

"Petitioner assails the validity of the homestead patents and original certificates of title covering certain portions of Sombrero Island issued in favor of respondents on the ground that the same were obtained through fraud. Petitioner prays for the reconveyance of the whole island in his favor.

"On the other hand, [R]espondent Manuel Palanca, Jr. claims that he himself requested for the reclassification of the island in dispute and that on or about the time of such request, [R]espondents Fresnillo, Palanca and Gapilango already occupied their respective areas and introduced numerous improvements. In addition, Palanca said that petitioner never filed any homestead application for the island. Respondents deny that Gabriel Mandocdoc undertook the inspection and survey of the island.

"According to Mandocdoc, the island was uninhabited but the respondents insist that they already had their respective occupancy and improvements on the island. Palanca denies that he is a mere overseer of the petitioner because he said he was acting for himself in developing his own area and not as anybody's caretaker.

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[5] The date on the Certificate of Title is February 21, 1977. See CA *rollo*, p. 28.

Supreme Court E-Library

"Respondents aver that they are all *bona fide* and lawful possessors of their respective portions and have declared said portions for taxation purposes and that they have been faithfully paying taxes thereon for twenty years.

"Respondents contend that the petitioner has no legal capacity to sue insofar as the island is concerned because an action for reconveyance can only be brought by the owner and not a mere homestead applicant and that petitioner is guilty of estoppel by laches for his failure to assert his right over the land for an unreasonable and unexplained period of time.

"In the instant case, petitioner seeks to nullify the homestead patents and original certificates of title issued in favor of the respondents covering certain portions of the Sombrero Island as well as the reconveyance of the whole island in his favor. The petitioner claims that he has the exclusive right to file an application for homestead patent over the whole island since it was he who requested for its conversion from forest land to agricultural land."[6]

Respondents filed their Answer with Special and/or Affirmative Defenses and Counterclaim in due time. On June 30, 1999, they also filed a Motion to Dismiss on the ground of the alleged defiance by petitioner of the trial court's Order to amend his Complaint so he could thus effect a substitution by the legal heirs of the deceased, Respondent Gapilango. The Motion to Dismiss was granted by the RTC in its Order dated July 29, 1999.

Petitioner's Motion for Reconsideration of the July 29, 1999 Order was denied by the trial court in its Resolution dated December 17, 1999, for being a third and prohibited motion. In his Petition for *Certiorari* before the CA, petitioner charged the trial court with grave abuse of discretion on the ground that the denied Motion was his first and only Motion for Reconsideration of the aforesaid Order.

Ruling of the Court of Appeals

Instead of limiting itself to the allegation of grave abuse of discretion, the CA ruled on the merits. It held that while petitioner

[6] CA Decision, pp. 1-5; *rollo*, pp. 19-23.

Supreme Court E-Library

had caused the reclassification of Sombrero Island from forest to agricultural land, he never applied for a homestead patent under the Public Land Act. Hence, he never acquired title to that land.

The CA added that the annulment and cancellation of a homestead patent and the reversion of the property to the State were matters between the latter and the homestead grantee. Unless and until the government takes steps to annul the grant, the homesteader's right thereto stands.

Finally, granting arguendo that petitioner had the exclusive right to apply for a patent to the land in question, he was already barred by laches for having slept on his right for almost 23 years from the time Respondent Palanca's title had been issued.

In the Assailed Resolution, the CA acknowledged that it had erred when it ruled on the merits of the case. It agreed with petitioner that the trial court had acted without jurisdiction in perfunctorily dismissing his September 10, 1999 Motion for Reconsideration, on the erroneous ground that it was a third and prohibited motion when it was actually only his first motion.

Nonetheless, the Complaint was dismissed *motu proprio* by the challenged Resolution of the CA Special Division of five members — with two justices dissenting — pursuant to its "residual prerogative" under Section 1 of Rule 9 of the Rules of Court.

From the allegations of the Complaint, the appellate court opined that petitioner clearly had no standing to seek reconveyance of the disputed land, because he neither held title to it nor even applied for a homestead patent. It reiterated that only the State could sue for cancellation of the title issued upon a homestead patent, and for reversion of the land to the public domain.

Finally, it ruled that prescription had already barred the action for reconveyance. *First*, petitioner's action was brought 24 years after the issuance of Palanca's homestead patent. Under the Public Land Act, such action should have been taken within ten years from the issuance of the homestead certificate of title.

Supreme Court E-Library

Second, it appears from the submission (Annex "F" of the Complaint) of petitioner himself that Respondents Fresnillo and Palanca had been occupying six hectares of the island since 1965, or 33 years before he took legal steps to assert his right to the property. His action was filed beyond the 30-year prescriptive period under Articles 1141 and 1137 of the Civil Code.

Hence, this Petition.[7]

Issues

In his Memorandum, petitioner raises the following issues:

"1. Is the Court of Appeals correct in resolving the Petition for *Certiorari* based on an issue not raised (the merits of the case) in the Petition?

"2. Is the Court of Appeals correct in invoking its alleged 'residual prerogative' under Section 1, Rule 9 of the 1997 Rules of Civil Procedure in resolving the Petition on an issue not raised in the Petition?"[8]

The Court's Ruling

The Petition has no merit.

First Issue:

Propriety of Ruling on the Merits

This is not the first time that petitioner has taken issue with the propriety of the CA's ruling on the merits. He raised it with the appellate court when he moved for reconsideration of its December 8, 2000 Decision. The CA even corrected itself in its November 20, 2001 Resolution, as follows:

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[7] The Petition was deemed submitted for decision on March 12, 2003, upon the Court's receipt of the Memorandum of Respondents Palanca, Gapilango and Fresnillo signed by Atty. Zoilo C. Cruzat. Respondent Agustin's 3-page Memorandum, received on February 10, 2002, was signed by Atty. Roland E. Pay. Petitioner's Memorandum, signed by Atty. Manuel Abrogar III, was received on February 14, 2003.

[8] Petitioner's Memorandum, p. 9; *rollo*, p. 160.

Supreme Court E-Library

"Upon another review of the case, the Court concedes that it may indeed have lost its way and been waylaid by the variety, complexity and seeming importance of the interests and issues involved in the case below, the apparent reluctance of the judges, five in all, to hear the case, and the volume of the conflicting, often confusing, submissions bearing on incidental matters. We stand corrected."[9]

That explanation should have been enough to settle the issue. The CA's Resolution on this point has rendered petitioner's issue moot. Hence, there is no need to discuss it further. Suffice it to say that the appellate court indeed acted *ultra jurisdictio* in ruling on the merits of the case when the only issue that could have been, and was in fact, raised was the alleged grave abuse of discretion committed by the trial court in denying petitioner's Motion for Reconsideration. Settled is the doctrine that the sole office of a writ of *certiorari* is the correction of errors of jurisdiction. Such writ does not include a review of the evidence,[10] more so when no determination of the merits has yet been made by the trial court, as in this case.

Second Issue:

Dismissal for Prescription and Lack of Jurisdiction

Petitioner next submits that the CA erroneously invoked its "residual prerogatives" under Section 1 of Rule 9 of the Rules of Court when it *motu proprio* dismissed the Petition for lack of jurisdiction and prescription. According to him, residual prerogative refers to the power that the trial court, in the exercise of its original jurisdiction, may still validly exercise even after perfection of an appeal. It follows that such powers are not possessed by an appellate court.

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[9] CA Resolution, p. 2; *rollo*, p. 28.

[10] *Oro v. Diaz*, 413 Phil. 416, 427, July 11, 2001; *Negros Oriental Electric Cooperative 1 v. Secretary of Labor and Employment*, 357 SCRA 668, 673, May 9, 2001; *Spouses Ampeloquio Sr. v. CA*, 389 Phil. 13, 18-19, June 15, 2000.

Supreme Court E-Library

Petitioner has confused what the CA adverted to as its "residual prerogatives" under Section 1 of Rule 9 of the Rules of Court with the "residual jurisdiction" of trial courts over cases appealed to the CA.

Under Section 1 of Rule 9 of the Rules of Court, defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived, except when (1) lack of jurisdiction over the subject matter, (2) *litis pendentia*, (3) *res judicata* and (4) prescription are evident from the pleadings or the evidence on record. In the four excepted instances, the court shall *motu proprio* dismiss the claim or action. In *Gumabon v. Larin*[11] we explained thus:

"x x x [T]he *motu proprio* dismissal of a case was traditionally limited to instances when the court clearly had no jurisdiction over the subject matter and when the plaintiff did not appear during trial, *failed to prosecute his action for an unreasonable length of time* or neglected to comply with the rules or with any order of the court. Outside of these instances, any *motu proprio* dismissal would amount to a violation of the right of the plaintiff to be heard. Except for qualifying and expanding Section 2, Rule 9, and Section 3, Rule 17, of the Revised Rules of Court, the amendatory 1997 Rules of Civil Procedure brought about no radical change. *Under the new rules, a court may motu proprio dismiss a claim when it appears from the pleadings or evidence on record that it has no jurisdiction over the subject matter*; when there is another cause of action pending between the same parties for the same cause, *or where the action is barred by a prior judgment or by statute of limitations*. x x x."[12] (Italics supplied)

On the other hand, "residual jurisdiction" is embodied in Section 9 of Rule 41 of the Rules of Court, as follows:

"SEC. 9. *Perfection of appeal; effect thereof*. — A party's appeal by notice of appeal is deemed perfected as to him upon the filing of the notice of appeal in due time.

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[11] 422 Phil. 222, 230, November 27, 2001.

[12] *Ibid.*, per Vitug, *J.*

Supreme Court E-Library

"A party's appeal by record on appeal is deemed perfected as to him with respect to the subject matter thereof upon the approval of the record on appeal filed in due time.

"In appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.

"In appeals by record on appeal, the court loses jurisdiction only over the subject matter thereof upon the approval of the records on appeal filed in due time and the expiration of the time to appeal of the other parties.

"In either case, prior to the transmittal of the original record or the record on appeal, *the court may issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal in accordance with Section 2 of Rule 39, and allow withdrawal of the appeal*." (Italics supplied)

The "residual jurisdiction" of trial courts is available at a stage in which the court is normally deemed to have lost jurisdiction over the case or the subject matter involved in the appeal. This stage is reached upon the perfection of the appeals by the parties or upon the approval of the records on appeal, but prior to the transmittal of the original records or the records on appeal.[13] In either instance, the trial court still retains its so-called residual jurisdiction to issue protective orders, approve compromises, permit appeals of indigent litigants, order execution pending appeal, and allow the withdrawal of the appeal.

The CA's *motu proprio* dismissal of petitioner's Complaint could not have been based, therefore, on residual jurisdiction under Rule 41. Undeniably, such order of dismissal was not one for the protection and preservation of the rights of the parties, pending the disposition of the case on appeal. What the CA referred to as residual prerogatives were the general residual

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[13] *Zacate v. Commission on Elections*, 353 SCRA 441, 448, March 1, 2001. *See also* Regalado, *Remedial Law Compendium*, Vol. I (seventh rev. ed.), pp. 509-510.

Supreme Court E-Library

powers of the courts to dismiss an action *motu proprio* upon the grounds mentioned in Section 1 of Rule 9 of the Rules of Court and under authority of Section 2 of Rule 1[14] of the same rules.

To be sure, the CA had the excepted instances in mind when it dismissed the Complaint *motu proprio* "on more fundamental grounds directly bearing on the lower court's lack of jurisdiction"[15] and for prescription of the action. Indeed, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[16]

Jurisdiction over the subject matter is conferred by law and is determined by the allegations in the complaint and the character of the relief sought.[17] In his Complaint for "Nullification of Applications for Homestead and Original Certificate of Title No. G-7089 and for Reconveyance of Title,"[18] petitioner averred:

"2. That on November 10, 1965, without the knowledge of [petitioner, Respondent] Manuel Palanca Jr., [petitioner's] cousin, in connivance with his co-[respondent], Lorenzo Agustin, x x x fraudulently and in bad faith:

> 2.1. x x x made the request for authority to survey as a pre-requisite to the filing of an application for homestead patent in his name and that of his Co-[Respondent] Agustin, [despite being] fully aware that [Petitioner] KATON had previously applied or requested for re-classification and certification of the same land from forest land to agricultural land which request was favorably acted upon and approved as mentioned earlier; a clear case of intrinsic fraud and misrepresentation;

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[14] The said section provides that "[t]hese rules shall apply in all courts, except as otherwise provided by the Supreme Court."

[15] CA Resolution, p. 2; *rollo*, p. 28.

[16] *Zamora v. CA*, 183 SCRA 279, 285, March 19, 1990.

[17] *Alemar's (Sibal & Sons), Inc. v. CA*, 350 SCRA 333, 339, January 26, 2001; *Gochan v. Young*, 354 SCRA 207, 211 & 216, March 12, 2001; *Saura v. Saura Jr.*, 313 SCRA 465, 472, September 1, 1999.

[18] This is the case caption.

Supreme Court E-Library

x x x x x x x x x

2.3. In stating in his application for homestead patent that he was applying for the VACANT PORTION of Sombrero Island where there was none, the same constituted another clear case of fraud and misrepresentation;

"3. That the issuance of Homestead Patent No. 145927 and OCT No. G-7089 in the name of [Respondent] Manuel Palanca Jr. and the filing of Homestead Patent Applications in the names of [respondents], Lorenzo Agustin, Jesus Gapilango and Juan Fresnillo[,] having been done fraudulently and in bad faith, are *ipso facto* null and void and of no effect whatsoever."[19]

x x x x x x x x x

"x x x. By a wrongful act or a willful omission and intending the effects with natural necessity arise knowing from such act or omission, [Respondent Palanca] on account of his blood relation, first degree cousins, trust, interdependence and intimacy is guilty of intrinsic fraud [sic] x x x"[20]

Thereupon, petitioner prayed, among others, for a judgment (1) nullifying the homestead patent applications of Respondents Agustin, Fresnillo and Gapilango as well as Homestead Patent No. 145927 and OCT No. G-7089 in the name of Respondent Palanca; and (2) ordering the director of the Land Management Bureau to reconvey the Sombrero Island to petitioner.[21]

The question is, did the Complaint sufficiently allege an action for declaration of nullity of the free patent and certificate of title or, alternatively, for reconveyance? Or did it plead merely for reversion?

The Complaint did not sufficiently make a case for any of such actions, over which the trial court could have exercised jurisdiction.

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[19] Complaint, p. 5; *rollo*, p. 39. Citations omitted.

[20] *Id.*, pp. 4 & 38.

[21] *Id.*, pp. 8 & 42.

Supreme Court E-Library

In an action for nullification of title or declaration of its nullity, the complaint must contain the following allegations: 1) that the contested land was *privately owned by the plaintiff* prior to the issuance of the assailed certificate of title to the defendant; and 2) that the defendant perpetuated a fraud or committed a mistake in obtaining a document of title over the parcel of land claimed by the plaintiff.[22] In these cases, the nullity arises not from fraud or deceit, but from the fact that the director of the Land Management Bureau had no jurisdiction to bestow title; hence, the issued patent or certificate of title was void *ab initio*.[23]

In an alternative action for reconveyance, the certificate of title is also respected as incontrovertible, but the transfer of the property or title thereto is sought to be nullified on the ground that it was wrongfully or erroneously registered in the defendant's name.[24] As with an annulment of title, a complaint must allege two facts that, if admitted, would entitle the plaintiff to recover title to the disputed land: (1) that the plaintiff was the owner of the land, and (2) that the defendant illegally dispossessed the plaintiff of the property.[25] Therefore, the defendant who acquired the property through mistake or fraud is bound to hold and reconvey to the plaintiff the property or the title thereto.[26]

In the present case, nowhere in the Complaint did petitioner allege that he had previously held title to the land in question. On the contrary, he acknowledged that the disputed island was public land,[27] that it had never been privately titled in his name, and that he had not applied for a homestead under the provisions

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[22] *Heirs of Kionisala v. Heirs of Dacut*, 428 Phil. 249, 260, February 27, 2002.

[23] *Ibid*.

[24] *Id.*, p. 262.

[25] *Ibid*.

[26] *Id.*, p. 263.

[27] Complaint, par. 7, p. 3; *rollo*, p. 37.

Supreme Court E-Library

of the Public Land Act.[28] This Court has held that a complaint by a private party who alleges that a homestead patent was obtained by fraudulent means, and who consequently prays for its annulment, does not state a cause of action; hence, such complaint must be dismissed.[29]

Neither can petitioner's case be one for reversion. Section 101 of the Public Land Act categorically declares that only the solicitor general or the officer in his stead may institute such an action.[30] A private person may not bring an action for reversion or any other action that would have the effect of canceling a free patent and its derivative title, with the result that the land thereby covered would again form part of the public domain.[31]

Thus, when the plaintiff admits in the complaint that the disputed land will revert to the public domain even if the title is canceled or amended, the action is for reversion; and the proper party who may bring action is the government, to which the property will revert.[32] A mere homestead applicant, not being the real party in interest, has no cause of action in a suit for reconveyance.[33] As it is, vested rights over the land applied

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[28] On page 4 of his Complaint, petitioner averred that he "could not have filed an application for homestead because [Respondent] Manuel Palanca Jr., as an overseer of Sombrero Island for [petitioner] did not advise [him] of the receipt of the letter dated September 23, 1965 x x x"; *rollo*, p. 38.

[29] *Spouses Tankiko v. Cezar*, 362 Phil. 184, 194-195, February 2, 1999 (citing *Lucas v. Durian*, 102 Phil. 1157, 1157-1158, September 23, 1957).

[30] *Heirs of Kionisala v. Heirs of Dacut, supra*; *Spouses Tankiko v. Cezar, id*., pp. 193 & 195; *Peltan Development Inc. v. CA*, 336 Phil. 824, 836, March 19, 1997.

[31] *Lucas v. Durian, supra; Sumail v. Judge of the CFI*, 96 Phil. 946, 953, April 30, 1955.

[32] *Gabila v. Barriga*, 148-B Phil. 615, 618, September 30, 1971 (cited in *Heirs of Kionisala v. Heirs of Dacut, supra*).

[33] *Quinsay v. Intermediate Appellate Court*, 195 SCRA 268, 277, March 18, 1991; *Nebrada v. Heirs of Alivio*, 104 Phil. 126, 129-130, June 30, 1958.

Supreme Court E-Library

for under a homestead may be validly claimed only by the applicant, after approval by the director of the Land Management Bureau of the former's final proof of homestead patent.[34]

Consequently, the dismissal of the Complaint is proper not only because of lack of jurisdiction, but also because of the utter absence of a cause of action,[35] a defense raised by respondents in their Answer.[36] Section 2 of Rule 3 of the Rules of Court[37] ordains that every action must be prosecuted or defended in the name of the real party in interest, who stands to be benefited or injured by the judgment in the suit. Indeed, one who has no right or interest to protect has no cause of action by which to invoke, as a party-plaintiff, the jurisdiction of the court.[38]

Finally, assuming that petitioner is the proper party to bring the action for annulment of title or its reconveyance, the case should still be dismissed for being time-barred.[39] It is not disputed that a homestead patent and an Original Certificate of Title was issued to Palanca on February 21, 1977,[40] while the Complaint was filed only on October 6, 1998. Clearly, the suit was brought way past ten years from the date of the issuance

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[34] *Quinsay v. Intermediate Appellate Court, supra*.

[35] §1(g) of Rule 16 of the Rules of Court.

[36] Pp. 3-4 thereof; *rollo*, pp. 46-47. This affirmative defense was also raised by Respondent Agustin in his "Answer with Affirmative Defense" on p. 4 thereof; *rollo*, p. 53.

[37] §2 of Rule 3 of the Rules of Court reads:

"SEC. 2. *Parties in interest.* — A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest."

[38] *Borlongan v. Madrideo*, 380 Phil. 215, 224, January 25, 2000.

[39] Respondents raised this defense on p. 4 of their Answer; *rollo*, p. 47.

[40] CA *rollo*, p. 28. The title was issued pursuant to Section 122 of Act No. 496 (now Section 103 of PD 1529), which mandates the registration of patents like other deeds and conveyances.

Supreme Court E-Library

of the Certificate, the prescriptive period for reconveyance of fraudulently registered real property.[41]

It must likewise be stressed that Palanca's title — which attained the status of indefeasibility one year from the issuance of the patent and the Certificate of Title in February 1977 — is no longer open to review on the ground of actual fraud. *Ybanez v. Intermediate Appellate Court*[42] ruled that a certificate of title, issued under an administrative proceeding pursuant to a homestead patent, is as indefeasible as one issued under a judicial registration proceeding one year from its issuance; provided, however, that the land covered by it is disposable public land, as in this case.

In *Aldovino v. Alunan*,[43] the Court has held that when the plaintiff's own complaint shows clearly that the action has prescribed, such action may be dismissed even if the defense of prescription has not been invoked by the defendant. In *Gicano v. Gegato*,[44] we also explained thus:

"x x x [T]rial courts have authority and discretion to dismiss an action on the ground of prescription when the parties' pleadings or other facts on record show it to be indeed time-barred; (*Francisco v. Robles*, Feb. 15, 1954; *Sison v. McQuaid*, 50 O.G. 97; *Bambao v. Lednicky*, Jan. 28, 1961; *Cordova v. Cordova*, Jan. 14, 1958; *Convets, Inc. v. NDC*, Feb. 28, 1958; 32 SCRA 529; *Sinaon v. Sorongan*, 136 SCRA 408); and it may do so on the basis of a motion to dismiss (Sec. 1, f, Rule 16, Rules of Court), or an answer which sets up such ground as an affirmative defense (Sec. 5, Rule 16), or even if the ground is alleged after judgment on the merits, as in a motion for reconsideration (*Ferrer v. Ericta*, 84 SCRA 705); or even if the defense has not been asserted at all, as where no statement thereof is found

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[41] *Ybanez v. IAC*, 194 SCRA 743, 751, March 6, 1991 (citing *Caro v. CA*, 180 SCRA 401, 407, December 20, 1989). *See also* Article 1144 in relation to Article 1456 of the Civil Code.

[42] 194 SCRA 743, 748-749, March 6, 1991.

[43] *Yu Dino v. CA*, 411 Phil. 594, 604, June 20, 2001 (citing *Aldovino v. Alunan* III, 230 SCRA 825, 834, March 9, 1994).

[44] 157 SCRA 140, January 20, 1988 (cited in *Dino v. CA, supra*).

Supreme Court E-Library

in the pleadings (*Garcia v. Mathis,* 100 SCRA 250; *PNB v. Pacific Commission House*, 27 SCRA 766; *Chua Lamco v. Dioso, et al.*, 97 Phil. 821); or where a defendant has been declared in default (*PNB v. Perez*, 16 SCRA 270). *What is essential only, to repeat, is that the facts demonstrating the lapse of the prescriptive period be otherwise sufficiently and satisfactorily apparent on the record; either in the averments of the plaintiff's complaint, or otherwise established by the evidence."*[45] (Italics supplied)

Clearly then, the CA did not err in dismissing the present case. After all, if and when they are able to do so, courts must endeavor to settle entire controversies before them to prevent future litigations.[46]

WHEREFORE, the Petition is hereby *DENIED*, and the assailed Resolution *AFFIRMED*. The dismissal of the Complaint in Civil Case No. 3231 is *SUSTAINED* on the grounds of lack of jurisdiction, failure to state a cause of action and prescription. Costs against petitioner.

SO ORDERED.

Sandoval-Gutierrez and *Corona, JJ.,* concur.

Carpio Morales, J., on official leave.

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[45] *Ibid.*, pp. 145-146, per Narvasa, *J.* (later *CJ.*) See also *Garcia v. Mathis*, 100 SCRA, 250, 252, September 30, 1980.

[46] *Chua v. CA*, 338 Phil. 262, 270, April 18, 1997.