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FIRST DIVISION

[G.R. No. 59979. August 30, 1990]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **CAMILO PAREJA, LEONARDO CALAYO, AQUILINA MIRA, BALBINA CALAYO, JORGE JESALVA AND CARLITO MIRA,** *defendants-appellants.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; JUDGMENTS; FINAL AND EXECUTORY JUDGMENT, WHEN SET ASIDE. — A judgment which has become final and executory may be set aside in any of the three ways allowed by our present rules: (1) by petition for relief from judgment under Rule 38, Revised Rules of Court; (2) by direct action to annul and enjoin the enforcement of the judgment where the alleged defect is not apparent on its face or from the recitals contained in the judgment; and (3) by direct action, as *certiorari*, or by a collateral attack against the challenged judgment which is void upon its face or that the nullity of the judgment is apparent from its own recitals. In case of a collateral attack such as in this case, the appellants must show from the fact of the record itself that the challenged judgment is utterly void based not on mere errors or defects of judgment but on the ground that the court had no power or authority to grant the relief or no jurisdiction over the subject matter or over the parties or both.

2. CIVIL LAW; PUBLIC LAND ACT; PUBLIC LANDS; THE ADMINISTRATION AND DISPOSITION THEREOF ARE ENTRUSTED TO THE DIRECTOR OF LANDS PRIMARILY, AND ULTIMATELY, TO THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES. — Under the Public Land Act, the administration and disposition of public lands are entrusted to the Director of Lands primarily, and ultimately, to the Secretary of Agriculture and Natural Resources. Thus, the Director of Lands has the exclusive authority to grant licenses, permits, leases and contracts or approve, reject, reinstate or cancel applications or decide conflicting applications. Nonetheless, the authority of the Lands Department to administer, dispose of and alienate public lands, does not deprive other branches of

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the government of their respective functions or powers such as the authority of the police forces to stop disorders and quell breaches of peace and the authority on the part of the courts to take jurisdiction over *possessory actions arising therefrom not involving, directly or indirectly alienation and disposition.* The possessory actions aforementioned relate to cases of forcible entry and *accion publiciana* where the basis of the remedy is mere possession as a fact, of physical possession, not legal possession

3. REMEDIAL LAW; CIVIL PROCEDURE; JURISDICTION; JURISDICTION OVER THE SUBJECT MATTER; EXPLAINED. — In *Commissioner of Internal Revenue v. Villa*, We ruled that: "Jurisdiction over the subject matter is fundamental for a court to act on a given controversy. It is conferred by law not by consent of the parties. It can be challenged at any stage of the proceedings and for lack of it, a court can dismiss a case *ex mero motu*. Once a judgment is declared void, the same becomes non-existent and thus, it leaves the parties litigants in the same position they were in before the trial.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Ireneo B. Escandor for defendants-appellants.

D E C I S I O N

MEDIALDEA, *J.*:

This is an appeal from the resolution of the Court of First Instance of Sorsogon, Branch II dated March 29, 1978, finding Camilo Pareja, Leonardo Calayo, Aquilina Mira, Balbina Calayo, her husband Jorge Jesalva and Carlito Mira who were defendants in Civil Case No. 2548 (*Victorio Llona, et al. v. Camilo Pareja, et al.*) guilty of contempt of court for having returned to the unregistered parcels of lands subject of the action and gathered products therein after the possession thereof had been delivered to the plaintiffs pursuant to the final judgment in the case. Appellants contend that they could not be cited for contempt

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inasmuch as the motion for contempt is an incident of the decision in Civil Case No. 2548 which has become *functus oficio* considering that the lands in dispute are disposable and alienable part of the public domain and that during the pendency of the contempt proceedings, they were awarded titles over the disputed lands pursuant to their free patent applications with the Bureau of Lands which has the authority under the law to dispose of public lands.

The resolution of the Court of First Instance of Sorsogon was appealed to the Court of Appeals but the latter court certified the appeal to Us since only pure questions of law are involved.

The facts of the case, being uncontroverted, are stated by the Court of Appeals as follows:

"On March 5, 1971, the spouses Victorio Llona and Victoria Llave filed an action to quiet title to two adjoining parcels of land (with a total area of 14 hectares more or less) and recover damages, against Camilo Pareja, Leona Martinez, Leonardo Calayo, Jorge Jesalva and Aquilina Mira. It was docketed as *Civil Case No. 2548* of the Court of First Instance of Sorsogon.

"On November 11, 1971, the lower court rendered a decision *by default* which is quoted in full hereunder.

> 'This is a case filed by the spouses Victorio Llona and Victoria Llave against Camilo Pareja, Leona Martinez, Leonardo Calayo, Jorge Jesalva and Aquilina Mira, for the quieting of title to two parcels of land described in the complaint as follows:
>
> > 'Parcel 1 — A parcel of coconut and cogon land, situated at Malawaan, Bonga, Castilla, Sorsogon, containing an area of 6.0585 hectares, more or less, bounded on the North by Silvino Llona; on the East by Macario Garcia; on the South by a Brook; and on the West by Silvino Llona. The permanent improvements are coconuts; declared under Tax Declaration No. 4693 in the name of Victorio Llona, and assessed at ₱490.00.
> >
> > 'Parcel 2 — A parcel of coconut and cogon land situated in Malawaan, Bonga, Castilla, Sorsogon, containing an area of 81,730 square meters, more or less, bounded on the North by Silvino Llona; on the East by

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> Catalino Lastrilla; on the South by Silvino Llona; and on the West by Consolacion Velasco. The permanent improvements are coconut; declared under Tax Declaration No. 7875 in the name of Victorio Llona and assessed at ₱920.00.'

with a prayer for the issuance of a writ of preliminary mandatory injunction.

'The record of the case shows that summons and copies of the complaint were served on the 15th and 16th day of March, 1971 upon the defendants Camilo Pareja, Leona Martinez, Leonardo Calayo, Jorge Jesalva and Aquilina Mira. Despite their having been served with summons and copies and copies of the complaint none of the defendants filed an answer to the complaint.

'On May 7, 1971, upon motion of the plaintiffs, thru counsel. this Court issued an order declaring the defendants in default and allowing the plaintiffs to present evidence in support of the complaint before the Deputy Clerk of Court.

'When this case was called for the reception of evidence, the plaintiffs and their counsel appeared. Two witnesses — the plaintiff Victorio Llona and Paulino Levantino — were presented.

'In the course of the testimony of Victorio Llona, the following evidence were adduced: Parcel 1 was originally owned by Catalino Lastrilla whose ownership and possession started as far back as 1906 (Exh. L); subsequently or in 1944, Felicidad P. Tiamzon became the declared owner of the same parcel of land (Exh. L); in 1946, Eleuterio Tiamzon (husband of Felicidad P. Tiamzon) sold said parcel to Silvino Leona (father of the plaintiff Victorio Llona) as shown by the deed of the absolute sale (Exh. D) executed by Eleuterio Tiamzon; the same deed of absolute sale was registered at the Register of Deeds of Sorsogon on March 12, 1946 as shown by the annotation of registration (Exh. D-1); sometime after the death of Silvino Leona or on the 28th day of February, 1966, Victorio Llona who is one of the plaintiffs acquired said Parcel 1 from the his brothers and sisters (Exh. H); Victorio Llona caused this parcel of land to be declared in his name and paid the land taxes of said parcel (Exhs. J-4 and J-5); Tax Declaration No. 8426, in the name of

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Victorio Llona, was subsequently revised or cancelled by Tax Declaration No. 4693 (Exh. I), also in the name of Victorio Llona, when the area of said parcel was found after the survey to be 60,585 square meters only instead of 120,000 square meters as shown in the deed of absolute sale (Exh. D) and deed of quit-claim (Exh. H);

'As regards Parcel 2, was originally owned by Uy Haveria *alias* Uy Sit Co (husband of Maria Laroga) who acquired this parcel in 1912 (Exh. M); on June 19, 1943 Maria Laroga sold this parcel of land to the spouses Felicidad de Tiamzon and Eleuterio Tiamzon, the deed of sale (Exh. M) of which was duly registered at the Register of Deeds of Sorsogon as shown also by Exh. M; this Parcel 1 (Exh. D-2) was later sold by Eleuterio Tiamzon to Silvino Leona, the deed of absolute sale (Exh. D) of which was duly registered at the Register of Deeds of Sorsogon, as shown by the annotation of registration (Exh. D-1); on April 11, 1957, the heirs of Silvino Llona sold this parcel of land to Simon Laroga (Exh. C); on July 19, 1963, the spouses Simon Laroga and Maria Ocampo sold the same parcel of land to the spouses Agustin Maldonado and Estelita Dellosa (Exh. B); Agustin Maldonado had this parcel of land declared in his name, Tax Declaration No. 6841 (Exh. C), which cancelled Tax Declaration No. 4866 in the name of the previous owner, Simon Laroga; on February 7, 1966, Estelita Dellosa (widow of Agustin Maldonado) sold this parcel 1 to plaintiffs Victorio Llona and Victoria Llave (Exh. A); said sale in favor of the plaintiffs Victorio Llona and Victoria Llave was duly registered at the Register of Deeds of Sorsogon (Exh. A-1); this same parcel of land was then declared for taxation purposes in the name of Victorio Llona under Tax Declaration No. 7875 (Exh. F), which was later cancelled by Tax Declaration No. 4692, also in the name of Victorio Llona (Exh. E); the land taxes of this property were paid as shown by Official Receipts Nos. A-7247440 (Exh. J), B-0349215 (Exh. J-1), C-6826070 (Exh. J-2), D-584973 (Exh. J-3) and F-18119840 (Exhs. (*sic*) J-6);

'Motivated by the desire to have Parcel 1 and Parcel 2, which are adjacent to each other, titled, the plaintiffs had the said two parcels of land surveyed (Exh. K), and had Parcel 1 and Parcel 2 consolidated during the survey into one parcel only (Exh. K-1);

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'Victorio Llona declared further that: the defendants entered the land in question every now and then to gather coconuts; Camilo Pareja entered the land in question three times — the first time he entered he gathered and got 96 coconuts, the second time he took away 185 coconuts, and the third time he gathered and carried away 400 coconuts; Leona Martinez, Leonardo Calayo, Jorge Jesalva and Aquilina Mira are claiming interests over certain portions of the land in question only because, upon request and intercession of Leona Martinez, they were allowed by the father of plaintiff Victorio Llona to cultivate certain portions of the land in question; they, the plaintiffs, together with the predecessors in interest had been in possession of the land in question openly, publicly, adversely, notoriously, peacefully, continuously and uninterruptedly in concept of owners since 1912 over Parcel 2, and as far back as 1906 over Parcel 1, (Exhs. in and L); as a consequence of the filing of this case against the defendants, the plaintiffs incurred ₱600.00 for attorney's fee, ₱300.00 for incidental expenses, and ₱1,000.00 for actual damages.

'The evidence presented during the reception of evidence sufficiently proved the ownership and possession of the plaintiffs over Parcel 1 and Parcel 2, subject of this case. Their possession, together with those of their predecessors in interest, which was open, public, peaceful, adverse, notorious, continuous, uninterrupted and in concept of owner, started as far back as 1906 for Parcel 1 and 1912 for Parcel 2. For which reasons, whatever rights any other persons may have over said property, if there be any, have already prescribed.

'Furthermore, the records of this case show that the defendants were duly served with summons and copies of the complaint in this case. Instead of filing an answer to the complaint within the reglementary period as required of them by law, thereby availing of their rights to protect their interests over the property, they chose to ignore the same and attempted to show some semblance or color of ownership by entering the property every now and then to gather the products therefrom which is a clear indication that the defendants are wanting in monuments of title and other evidence in their possession to prove their ownership over the property in question.

'WHEREFORE, premises considered and as prayed for, this Court hereby renders judgment declaring the plaintiffs the rightful

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owners of Parcel 1 and Parcel 2, subject of this case and entitled to the peaceful possession of said property. The defendants, as well as their agents, laborers or representatives, are hereby ordered to refrain from asserting any interest or rights over the property in question.

'The defendants are also ordered jointly and solidarily to pay the plaintiffs ₱500.00 for attorney's fee, ₱300.00 for incidental expenses, and ₱500.00 for actual damages.

'SO ORDERED.'

"On November 29, 1971, the defendants received a copy of the decision.

"On December 20, 1971, they filed a motion to set it aside (p. 37, Rec.). Pareja claimed that he was the rightful owner of Parcel 2 and that Aquilina Mira and Jorge Jesalva were the owners of portions of Parcel 1. The motion was opposed by the plaintiffs. The trial court denied the motion on January 19, 1972 on the ground that the defendants were bound by the negligence and mistake of their lawyer, Atty. Lumen Policarpio, who failed to answer the complaint (p. 48, Rec.). The defendants did not appeal.

"On plaintiffs' motion, the trial court ordered the execution of the judgment on March 23, 1972 (p. 52, Rec.). A writ of execution was issued on March 28, 1972 (p. 54, Rec.).

"The sheriffs return on the writ of execution certified that —

'x x x I have caused to be served this writ to the defendants mentioned therein and respective copies of this writ were given to each and everyone of said defendants who refused to acknowledge receipts of the same in the presence of PC Sgt. Welfredo Granpon and Patrolman Rogelio Cal Ortiz, of the Municipal Police Force of Castilla, Sorsogon, and the plaintiffs Victorio Llona and his spouse, on the 27th day of June, 1972, at Malawaan, Bongña, Castilla, Sorsogon, and that possession was delivered physically to the plaintiffs.

'Sorsogon, Sorsogon, June 28, 1972.

/s/ Gumersindo A. Aquino
/t/ GUMERSINDO A. AQUINO
Deputy Provincial Sheriff'

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"On July 24, 1972, the plaintiffs asked for a writ of demolition because the defendants refused to vacate the property (p. 55, Rec.).

"Over the defendants' opposition the court issued a writ of demolition on February 19, 1973, Deputy Provincial Sheriff Oscar D. Calolot's return of the writ reads as follows:

> 'In compliance of the Order of the Court dated February 19, 1973, issued by Honorable Feliciano Gonzales, Judge of the Court of First Instance of Sorsogon, Branch I in Civil Case No. 2548, *Victorio Llona, et al., versus Camilo Pareja, et al*., the undersigned received the writ on August 2, 1973 and served on the 3rd day of August, 1973, the proceedings thereon being:
>
> '1. That the defendants, Camilo Pareja, *et al.*, were furnished a copy of the Writ of Demolition each as shown or evidenced by signature and thumbmark and remarks at the dorsal side of this writ.
>
> '2. Hired two (2) carpenters, Martiniano Docta and Antonio Laguardia in the demolition of the houses of the defendants.
>
> '3. Request two (2) PC soldiers escort namely: T/Sgt. Conchito Magello and S/Sgt. Antonio Sarmiento for the security of the Sheriff.
>
> '4. *Demolished the houses of defendants, Jorge Jesalva, Leona Martinez, Aquilina Mira and Gloria Calayo, wife of Leonardo Calayo.*
>
> '5. Advised the defendants to respect the right and lawful possession of the plaintiffs over the land in question.
>
> 'In Witness Whereof, I have hereunto set my hand this 6th day of August, 1973.' (Exh. B-1, Motion for Contempt, p. 74, Rec.).

"More than two (2) years later, on August 14, 1975, the plaintiffs filed a motion for contempt against the defendants on the ground that in March 1975 they reentered the property. The motion was supported by the affidavit of plaintiffs' tenant, Sebastian Calayo, stating that defendants Camilo Pareja and Balbina Calayo and their workers, Danilo Las Piñas, Mariano Calayo and Luis Las Piñas Jr., had gathered coconuts from the land; and that Balbina Calayo, wife of defendant Jorge Jesalva, occupied the house of plaintiffs' tenant, Salvador Latuga. The affidavit of Salvador Latuga stated that Camilo Pareja, Leonardo Calayo and Aquilina Mira built new houses on the

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land. He confirmed that Balbina Calayo drove him (Latuga) out of his house (p. 79, Rec.).

"Defendants answered the motion for contempt. They did not deny that they have reentered the land, but they alleged that it is public agricultural land whose administration and disposition pertains to the Director of Lands; that the decision of the trial court adjudicating its ownership to the plaintiffs was null and void for lack of jurisdiction; and that, hence, they are not guilty of contempt of court for disobeying the void judgment. They asked that the motion for contempt be denied (p. 85, Rec.).

"On November 24, 1975, the trial court ordered Deputy Provincial Sheriff Oscar Calolot to inspect the land which was reentered by the defendants and to identify the portions respectively occupied by them (p. 113, Rec.). Calolot's return of service reads as follows:

'In compliance with the order of the Court dated November 24, 1975, issued by the Honorable Feliciano S. Gonzales, Judge of the C.F.I. of Sorsogon, Branch 1, in Civil Case No. 2548 of the above-entitled case, the undersigned had accomplished on December 1, 1975 the following services:

'1. That during our ocular inspection on the land in question at Bonga, Castilla, Sorsogon, it was found out that respondent Camilo Pareja had constructed a residential house made of coconut leaves and bamboo materials right in the same premises where the previous house of Leona Martinez was built and demolished by the undersigned in the year 1973. That at the infront (sic) yard of Camilo Pareja's house we saw a pile of coconuts and upon inquiry he (Camilo Pareja) admitted that he gathered 400 coconuts from the said land he had occupied.

'2. On the other hand, in the northern portion of the land in question, the place where the previous house of Aquilina Mira was demolished in 1973 is also occupied by Leonardo Calayo, co-accused of Jorge Jesalva in the Criminal complaint filed against them of the death of the plaintiff in this case. A residential house was built by Leonardo Calayo on the said land.

'3. On the upper portion of the land in the Northern part, a house was constructed by Carlito Mira, son of Aquilina Mira, one of the respondents in this case.

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4. Likewise, Mrs. Balbina Jesalva, wife of Jorge Jesalva had remained in the land in question and built also a hut of her own just a few meters away from her previous house which was demolished in 1973 and found out to have gathered coconuts from the said land.

5. Furnished copy of the order of Camilo Pareja and Leonardo Calayo the respondents present during the time of service as evidenced by their signatures on the dorsal side of the Order.'

"During the hearing of the contempt motion, the defendants proved that:

"Seven months before the plaintiffs commenced Civil Case No. 2548, Land Inspector Maximo Estolonio, had submitted a report to the Director of Lands on *July 30, 1970* wherein he certified that a parcel of six hectares, subject of opposing claims of Catalino Lastrilla (predecessor-in-interest of defendants Aquilina Mira and Jorge Jesalva) and Victorio Leona @ 'Llona' (plaintiff herein), is a*lienable and disposable public agricultural land*. His report reads as follows:

'The District Land Officer
Land District Office No. IV-2,
Bureau of Lands, Sorsogon, Sor.

Sir:

'In compliance with order of that office dated May 5, 1970, I have the honor to report that an ocular investigation was conducted in the premises May 28, 1970 and the following were ascertained:

'That *the land subject of this investigation is a Public Land* situated in Sitio Look, Barrio Bogña, Municipality of Castilla, Province of Sorsogon;

'That this *parcel of land* is bounded: On the North, Lot 653, Pls-202 of Inocencio Doctor, Lot 654, Pls-202 of Fausto Lotino; on the East by, Nazario Garcia (homestead); on the South by, Creek, and on the West by, Public Land occupied by Policarpio Camacho (before) now Epifania Albania, *having an area of 6 hectares*, more or less;

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'That *this parcel of land* falls inside Block II, project 3, certified as *alienable and disposable area* December 10, 1968 by the Bureau of Forestry;

'*That this area was found planted* to: 627 coconut trees with ages from 2-5, from B-12 and from 20-25 years old, root crops, other fruit trees, *and houses of — (1) Victorio Calayo, (2) Jorge Jesalva, (3) Leonardo Calayo, and (4) Leona Vda. de Calayo, all found inside the area* in question and tenants of Catalino Lastrilla;

'That said *Catalino Lastrilla claims said land* and the improvements thereon and to have been in his occupation since before the last global war (1941) and declared for taxation purposes in the name of Rufina Latonero Pareja;

'That the area was formerly planted to abaca;

'That in an interview with *Victorio Leona during the ocular investigation he also claims ownership of the land* as part and parcel of the bigger area south of the land subject of this investigation;

'That he claims this area to have been possessed from Felicidad Tiamzon in 1946 and declared for taxation purposes in the name of Felicidad Tiamzon in 1949 and previously declared in the name of Catalino Lastrilla in 1928 as per records in his possession; and.

'Attached hereto is the tentative sketch plan of the land in question with improvements indicated thereon.

'In view of the foregoing, the above findings is respectfully submitted.' (Exh. 2).

"On December 21, 1970, another parcel of 81,811 square meters was surveyed for defendant Camilo Pareja (Exh. 1, Contempt, p. 167, Rec.). This corresponds to parcel No. 2 in Civil Case No. 2548.

"On March 5, 1971, or eight months after Lands Inspector Estolonio had submitted his report (Exh. 2), Victorio Llona filed Civil Case No. 2548 to quiet title to both parcels of land, with damages. The pendency of the administrative investigation in the Bureau of Lands concerning these portions of the public domain was not disclosed to the court in Civil Case No. 2548. As previously stated, the defendants were declared in default, and a judgment by default

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was rendered against them on November 11, 1971, and executed on August 6, 1973 by the demolition of their houses thereon.

"Subsequently, Aquilina Lasalla Mira and Balbina Calayo, wife of Jorge Jesalva, filed free patent applications, FPA No. V-3-15140 for Lot No. 3-Psu in Castilla, Sorsogon (Exh. 8-Contempt, p. 177, Rec.), and FPA No. V-3-15141 for Lot Not. 1-Psu (Exh. 9-Contempt, p. 179, Rec.), respectively.

"In March 1975, the defendants Pareja, Mira and Jesalva reentered the parcels of land in question.

"On June 6, 1975, Pareja filed a free patent application FPA No. V-3-11291 for the 8 hectares (corresponding to plaintiffs' parcel No. 2) which had been surveyed for him in 1970 (Exh. 4-Contempt, p. 171, Rec.).

"Pareja's free patent application was opposed by plaintiff Victoria *Vda. de* Lleona (or Llona).

"On August 14, 1975, the plaintiffs filed a motion to declare the defendants in contempt of court. The defendants opposed the motion.

"While the contempt motion was pending in the court, the administrative case was also being heard by the District Land Officer, Perfecto Julianda.

"On July 30, 1976, Julianda ordered the parties `to observe *status quo* in the possession and cultivation of the land' (Exh. 5-Contempt, p. 173, Rec.).

"On October 1, 1976, Director of Lands Ramon N. Casanova, dismissed Llona's protest and directed the District Land Officer `to continue with the formal investigation of this case and thereafter submit a report to this office for appropriate disposition (Exh. 6-Contempt, p. 174, Rec.). The Director of Lands opined that, in view of the provisions of Sections 2 and 4 of the Public Land Act, `it is the Bureau of Lands and not any other agency which has exclusive jurisdiction to determine to whom and in what manner lands of the public domain should be disposed of.' he added that —

> 'In the course of the formal investigation, Victoria *Vda. de* Leona, thru counsel, questioned the authority of the Bureau of Lands to continue with the hearing of this case citing the decision in Civil Case No. 2548 for quieting of title with damages involving the same parties and subject-matter wherein an adverse

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> resolution was rendered by the court against Camilo Pareja. In reply thereto, Camilo Pareja claimed that the Bureau of Lands still has the power to continue with the trial contending that the decision mentioned was a mere judgment by default, and that the land in question is still a public land, having been released by the Bureau of Forest Development as alienable and disposable only in 1968. Consequently, the court lacks the authority to adjudicate the land in favor of the client.' (Exh. 6-A, Contempt, p. 174, Rec.).

"On March 29, 1978, the lower court rendered judgment finding the defendants guilty of contempt of court. In due time they appealed.

"During the pendency of the appeal in this Court, Aquilina Mira received on August 3, 1978, Free Patent No. 004922 for the parcel of 1.2659 hectares which she applied for, and which is a portion of parcel 1 subject of the plaintiffs' complaint in Civil Case No. 2548. On August 7, 1978, OCT P-16550 was issued to her for the lot (Annex B, Appellants' Brief).

"On August 3, 1978, Balbina Jesalva Calayo received Free Patent No. 004920 for the parcel of 2.64 hectares that she had applied for. This piece of land is also a portion of parcel 1 which had been adjudicated to the plaintiffs under the decision in Civil Case No. 2548. On August 7, 1978 OCT No. P-16548 was issued to her for said parcel of land (Annex A, Appellants' Brief).

"On March 20, 1979, defendant Camilo Pareja received Free Patent No. 586956 for the 8.1811 hectares which he caused to be surveyed in 1970 and which was adjudicated to the plaintiffs as parcel No. 2 in Civil Case No. 2548. On May 10, 1979, Pareja received OCT No. P-17333 for that lot (Annex C, Appellants' Brief).

"In the light of the above undisputed facts, the only questions that present themselves for resolution are legal questions which are set forth in the appellants' assignment of error as follows:

> '1. that the court erred in giving due course to the motion for contempt since it amounted to a 'prejudicial interference' on the power of the Director of Lands to control the disposition and alienation of public lands;
>
> '2. that the supervening facts and events after the decision was executed — had changed materially the legal position of the parties in relation to the possession of the property

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in question as to render the decision in this case incapable of execution and/or its enforcement unjust and inequitable; and.

'3. that the court erred in holding the appellants guilty of contempt of court.'

"Stated in another way, the issues in this appeal, may be reduced to the following questions:

"(1) Did the lower court in Civil Case No. 2548 have jurisdiction to adjudicate to the plaintiffs the ownership of unregistered lands?

"(2) Who has the legal title to the parcels of land occupied by the appellants: Is it the plaintiffs, by virtue of the default judgment in Civil Case No. 2548? Or, the appellants, by virtue of the free patents issued to them by the Director of Lands?

"(3) If the free patents should prevail as the legal and valid disposition of the lots occupied by the appellants, can they be held guilty of contempt of court for having reentered and repossessed the parcels of land which are covered by their free patent titles?" (*Rollo*, pp. 52-65)

We reverse.

A judgment which has become final and executory may be set aside in any of the three ways allowed by our present rules: (1) by petition for relief from judgment under Rule 38, Revised Rules of Court; (2) by direct action to annul and enjoin the enforcement of the judgment where the alleged defect is not apparent on its face or from the recitals contained in the judgment; and (3) by direct action, as *certiorari*, or by a collateral attack against the challenged judgment which is void upon its face or that the nullity of the judgment is apparent from its own recitals (see *Macabingkil v. People's Homesite and Housing Corporation*, L-29080, August 17, 1976, 72 SCRA 326). In case of a collateral attack such as in this case, the appellants must show from the fact of the record itself that the challenged judgment is utterly void based not on mere errors or defects of judgment but on the ground that the court had no power or authority to grant the relief or no jurisdiction over the subject matter or over the parties or both (see *Reyes, et al. v.*

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Datu, 94 Phil. 446, citing I Freeman on Judgments, Sec. 322, p. 642 and Sec. 326, p. 650).

The records reveal that the disputed parcels of land were already declared by the Director of Lands as alienable and disposable public agricultural lands seven months before the complaint was filed in the trial court. Considering the nature of the land, the trial court never acquired jurisdiction over it. While it was true that the said court was never informed of the true nature of the land until later, such omission however, could not alter the public character of the land as to confer jurisdiction to it. Under the Public Land Act, the administration and disposition of public lands are entrusted to the Director of Lands primarily, and ultimately, to the Secretary of Agriculture and Natural Resources (Com. Act No. 141, as amended, Sec. 4 thereof; see *Guerrero v. Amores, Secretary of Agriculture and Natural Resources*, G.R. No. 34492, March 28, 1988, 159 SCRA 374). Thus, the Director of Lands has the exclusive authority to grant licenses, permits, leases and contracts or approve, reject, reinstate or cancel applications or decide conflicting applications (See *Espinosa v. Makalintal*, 79 Phil. 134). Nonetheless, the authority of the Lands Department to administer, dispose of and alienate public lands, does not deprive other branches of the government of their respective functions or powers such as the authority of the police forces to stop disorders and quell breaches of peace and the authority on the part of the courts to take jurisdiction over *possessory actions arising therefrom not involving, directly or indirectly alienation and disposition* (See *Pitarque v. Sorilla*, 92 Phil. 5, italics supplied). The possessory actions aforementioned relate to cases of forcible entry and *accion publiciana* where the basis of the remedy is mere possession as a fact, of physical possession, not legal possession (*Pitarque v. Sorilla, ibid*, p. 131). However, the action filed in this case was for quieting of title of unregistered lands which involves a determination of ownership. It is a question which the Bureau of Lands, not the courts, should properly resolve after due investigation. Since from the onset, the trial court lacked jurisdiction to try Civil Case No. 2548, its decision of November 11, 1971 and its resolution of March 29, 1978 should be set

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aside for being null and void. In *Commissioner of Internal Revenue v. Villa*, We ruled that: "Jurisdiction over the subject matter is fundamental for a court to act on a given controversy. It is conferred by law not by consent of the parties. It can be challenged at any stage of the proceedings and for lack of it, a court can dismiss a case *ex mero motu* (L-23988, January 2, 1968, 22 SCRA 3). Once a judgment is declared void, the same becomes non-existent and thus, it leaves the parties litigants in the same position they were in before the trial (see *Metropolitan Waterworks and Sewerage System v. Sison*, L-40309, August 31, 1983, 124 SCRA 394).

We find that the Director of Lands, who was never a party to this case, had already made an administrative investigation on the rights of the parties to the disputed parcels of land and thereafter, issued free patents to the appellants. In fact, appellants already received their respective certificates of titles. The correctness of the final decision of the Director of Lands is not herein involved but it is valid and binding until reversed in a proper proceeding by the court (see *Hernandez, et al. v. Clapis, et al.*, 98 Phil. 684).

ACCORDINGLY, the decision of the Court of First Instance of Sorsogon, 10th Judicial District, Branch 11, dated November 11, 1971 in Civil Case No. 2548 and its resolution dated March 29, 1978 are hereby REVERSED AND SET ASIDE for lack of jurisdiction. No pronouncement as to costs.

SO ORDERED.

Narvasa (Chairman), Cruz, and *Gancayco, JJ.*, concur.

Griño-Aquino, J., took no part.