



Republic of the Philippines  
 Supreme Court  
 Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES  
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**SULTAN CAWAL P. MANGONDAYA ABDULLATIF),** **G.R. No. 201763**  
**[HADJI**  
 Present:

Petitioner,

SERENO, *CJ., Chairperson,\**  
 LEONARDO-DE CASTRO,\*\*  
 DEL CASTILLO,  
 JARDELEZA, and  
 TIJAM, *JJ.*

-versus-

**NAGA AMPASO,**  
 Respondent.

Promulgated:

**MAR 21 2018**

X

DECISION

**JARDELEZA, J.:**

This is a petition for review on *certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Orders dated January 31, 2011,<sup>2</sup> January 16, 2012,<sup>3</sup> and March 23, 2012<sup>4</sup> of the Shari'a District Court (SDC), Fourth Shari'a Judicial District, Marawi City in Civil Case No. 206-10. These Orders dismissed petitioner Sultan Cawal P. Mangondaya's (petitioner) complaint for recovery of possession and ownership of a parcel of land.

On May 25, 2010, petitioner filed with the SDC a complaint<sup>5</sup> against respondent Naga Ampaso (respondent) for "Restitution of a Parcel of Land to the Owner and Damages." Petitioner claimed that he is the owner of a parcel of land situated in Dimayon, Calanogas, Lanao Del Sur, which he inherited from his mother, Pagompatun M. Marohom. In 1989, respondent cultivated it under *'ada* or customary law in Calanogas, which provides that a person can live and cultivate an uncultivated land even without the owner's consent but he cannot buy it from a person who is not the owner or sell it.<sup>6</sup>

\* On leave.

\*\* Designated as Acting Chairperson of the First Division per Special Order No. 2540 dated February 28, 2018.

<sup>1</sup> *Rollo*, pp. 3-8.

<sup>2</sup> *Records*, pp. 59-61.

<sup>3</sup> *Rollo*, pp. 13-14.

<sup>4</sup> *Id.* at 15.

<sup>5</sup> *Records*, pp. 9-12.

<sup>6</sup> *Id.* at 11-12.

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In 2007, respondent informed petitioner that he will sell the land. Petitioner objected and prohibited respondent from selling the land as it violates the *'ada*. In 2008, after petitioner learned that respondent already sold the land, petitioner demanded that respondent return it, but the latter refused.<sup>7</sup>

As a result, petitioner brought the matter before the Sultanate Community Civic Leader, Inc. of Brgy. Calalanoan, Calanogas, Lanao del Sur for resolution. It resolved the controversy in favor of petitioner.<sup>8</sup> Despite this ruling, however, respondent still refused to return the land to petitioner.

On November 5, 2010, respondent filed his answer<sup>9</sup> with affirmative defenses and prayer for damages. He alleged that the SDC had no jurisdiction over the subject matter of the action as no customary contract was involved. He also argued that the filing of the complaint with the SDC was premature since petitioner failed to bring the controversy before the *lupon* of the barangay and no barangay certification to file action was attached to the complaint.<sup>10</sup>

On the merits, respondent argued that he bought the land from its actual and lawful owner on July 21, 1987 evidenced by a deed of sale written in traditional Arabic writing. In good faith and in the concept of an owner, he occupied the land, built his family home, and cultivated it by planting trees and seasonal crops. Granting that petitioner has a claim over the land, petitioner's claim is already barred by laches. He also denied that the Sultanate Community Civic Leader, Inc. of Brgy. Calalanoan, Calanogas, Lanao del Sur has already resolved the controversy in favor of petitioner. In fact, its alleged decision, which petitioner attached to his complaint, was a forgery.<sup>11</sup> Respondent attached to his answer a joint affidavit<sup>12</sup> executed by the purported members of the group attesting that they have not conducted any proceeding nor issued any decision resolving the controversy between petitioner and respondent.

The case was initially scheduled for pre-trial conference on December 13, 2010.<sup>13</sup> On December 13, 2010, the SDC heard respondent on his defenses and treated his answer as his motion to dismiss. The SDC ordered that after the parties filed their respective pleadings, respondent's motion to dismiss will be submitted for resolution.<sup>14</sup>

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<sup>7</sup> *Id.* at 11.

<sup>8</sup> *Id.*

<sup>9</sup> Records, pp. 37-40.

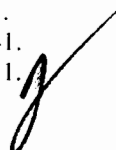
<sup>10</sup> *Id.* at 38.

<sup>11</sup> *Id.* at 39-40.

<sup>12</sup> *Id.* at 3.

<sup>13</sup> *Id.* at 41.

<sup>14</sup> *Id.* at 51.



Subsequently, without conducting a trial the SDC on January 31, 2011 issued its first assailed Order<sup>15</sup> dismissing petitioner's complaint. According to the SDC, petitioner failed to support his claim over the land. It gave more weight to respondent's assertion that he has been occupying the land for more than 20 years in good faith and in the concept of an owner under color of title and valid ownership. The SDC further held that assuming petitioner has a right to recover the land, he is already barred by laches since he failed to assert his right for an unreasonable and unexplained length of time. He already knew of the respondent's occupancy of the land in 1989 yet sought the recovery of the land only in 2010. Last, the SDC declared that petitioner's reliance on the 'äda in Calanogas, granting it exists, cannot be considered as it is against the law on laches, prescription, the Civil Code, public policy and public interest.<sup>16</sup>

On February 22, 2011, petitioner moved to reconsider<sup>17</sup> the SDC's January 31, 2011 Order. After respondent filed his comment,<sup>18</sup> the SDC required petitioner to submit evidence showing he is the owner of the land.<sup>19</sup>

On May 31, 2011, petitioner complied with the order of the SDC.<sup>20</sup> He submitted the following documents to prove his ownership of the land: (1) his own affidavit attesting that he inherited the land from his mother;<sup>21</sup> (2) an affidavit of Sultan Gaos Daud D. Bongaros stating that petitioner's father was buried in the land and a picture of the graveyard;<sup>22</sup> and (3) an affidavit of Macadaag B. Saliling stating that petitioner's great grandfather planted a mango tree in the land and a picture of the tree.<sup>23</sup>

On June 13, 2011, respondent filed his comment<sup>24</sup> and submitted affidavits of individuals disputing and denying the pieces of evidence petitioner submitted. Attached to his comment are the affidavits of: (1) Pundato Atampar Alug attesting that the picture of the land which petitioner submitted is not the land in dispute;<sup>25</sup> and (2) Camar Maruhom attesting that the graveyard shown in the picture which petitioner submitted is the graveyard of the former's father and not petitioner's father.<sup>26</sup>

On same date, the SDC issued its Order<sup>27</sup> granting petitioner's motion for reconsideration, reinstating the complaint and setting the case for pre-trial conference.

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<sup>15</sup> *Supra* note 2.

<sup>16</sup> Records, pp. 59-60.

<sup>17</sup> *Id.* at 62-65.

<sup>18</sup> *Id.* at 66-68.

<sup>19</sup> *Id.* at 74.

<sup>20</sup> *Id.* at 75-82.

<sup>21</sup> *Id.* at 92.

<sup>22</sup> *Id.* at 95-96.

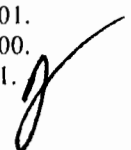
<sup>23</sup> *Id.* at 93-94.

<sup>24</sup> *Id.* at 102-103.

<sup>25</sup> *Id.* at 101.

<sup>26</sup> *Id.* at 100.

<sup>27</sup> *Id.* at 91.



Respondent moved to reconsider<sup>28</sup> the above Order. Petitioner filed his comment<sup>29</sup> on September 19, 2011. On October 17, 2011, instead of conducting the scheduled pre-trial conference, the SDC issued an Order<sup>30</sup> stating that the court's efforts to amicably settle the case have failed and that both parties wanted to proceed with the trial. It thus directed the parties to file their respective position papers or memoranda and submitted for resolution respondent's motion for reconsideration of the SDC's Order dated June 13, 2011 reinstating the petition.

Respondent filed his memorandum<sup>31</sup> on November 2, 2011. He reiterated his position that he purchased the land from its original owner on July 21, 1987 and has, since then, possessed, occupied and cultivated the land.<sup>32</sup> He claimed that petitioner's evidence are all false and non-existent. For his part, petitioner repeated in his memorandum<sup>33</sup> his claim over the land and asserted that the deed of sale respondent relies on cannot be the basis of respondent's title since respondent was not a party to it.<sup>34</sup>

On January 16, 2012, the SDC issued its second assailed Order<sup>35</sup> granting respondent's motion for reconsideration. It reinstated its first assailed Order dated January 31, 2011 which dismissed the complaint. The SDC also denied petitioner's motion for reconsideration<sup>36</sup> via its third assailed Order<sup>37</sup> dated March 23, 2012. Hence, this petition.

Petitioner argues that the assailed Orders violate the principle of procedural due process which requires that every litigant is entitled to his day in court, to cross-examine the witnesses of the adverse party and introduce rebuttal evidence. The SDC violated the mandate of the law when it issued the assailed Orders without trial.<sup>38</sup>

Petitioner asserts that the assailed Orders are also contrary to Section 7 of the Special Rules of Procedure in Shari'a Courts which provides:

Sec. 7. *Hearing or trial.* – (1) The plaintiff (*mudda'i*) has the burden of proof, and the taking of an oath (*yamin*) rests upon the defendant (*mudda'alai*). If the plaintiff has no evidence to prove his claim, the defendant shall take an oath and judgment shall be rendered in his favor by the court. Should the defendant refuse to take an oath, the plaintiff shall affirm his claim under oath in which case judgment shall be rendered in his favor. Should the plaintiff

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<sup>28</sup> *Id.* at 107-110.

<sup>29</sup> *Id.* at 113-115.

<sup>30</sup> *Id.* at 116.

<sup>31</sup> *Id.* at 117-119.

<sup>32</sup> *Id.* at 119.

<sup>33</sup> *Id.* at 120-122.

<sup>34</sup> *Id.* at 121.

<sup>35</sup> *Supra* note 3.

<sup>36</sup> Records, pp. 125-127.

<sup>37</sup> *Supra* note 4.

<sup>38</sup> *Rollo*, p. 5.

refuse to affirm his claim under oath, the case shall be dismissed. x x x (Italics in the original.)

As the SDC issued the assailed Orders without respondent's oath, petitioner contends that they must be reversed and judgment be rendered in his favor.

Our jurisdiction in a Rule 45 petition is limited to the review of pure questions of law. Negatively put, Rule 45 does not allow the review of questions of fact because we are not a trier of facts.<sup>39</sup> A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. The question, to be one of law, must rest solely on what the law provides on the given set of circumstances and should avoid the scrutiny of the probative value of the parties' evidence.<sup>40</sup>

The test of whether a question is one of law or fact is not the appellation given to such question by the party raising the same. It is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence and would only limit itself to the inquiry of whether the law was properly applied given the facts and supporting evidence.<sup>41</sup>

In this case, we find that while the petition categorizes the issues which we must resolve as issues which involve questions of law, we find that they are actually questions of fact.

In its first assailed Order dated January 31, 2011, the SDC made the following findings of fact:

- 1) Respondent occupied the land in good faith after buying it and in the concept of an owner. He has been occupying the land for more than 20 years.
- 2) Petitioner's right of action to recover ownership of the land in question, supposing he has any, has prescribed and is barred by laches. Petitioner failed to assert his right for an unreasonable and unexplained length of time as he knew of respondent's occupancy of the land in 1989 without his consent but he filed the case only on June 25, 2010. Respondent's occupation/possession of the land with color of title and good faith for more than 20 years satisfies the jurisprudential requirement of 10 years.
- 3) Petitioner's reliance on the *'ada* in Calanogas, granting it existed, cannot be given effect for such is contrary to the

<sup>39</sup> *General Mariano Alvarez Services Cooperative, Inc. (GEMASCO) v. National Housing Authority (NHA)*, G.R. No. 175417, February 9, 2015, 750 SCRA 156, 162.

<sup>40</sup> *Chu, Jr. v. Caparas*, G.R. No. 175428, April 15, 2013, 696 SCRA 324, 332-333. Citation omitted.

<sup>41</sup> *Mandaue Realty & Resources Corporation v. Court of Appeals*, G.R. No. 185082, November 28, 2016, 810 SCRA 447, 456-457. Citation omitted.

Constitution, Presidential Decree (P.D.) No. 1083,<sup>42</sup> Muslim law, public order, public policy or public interest.<sup>43</sup>

Petitioner disputes these findings. The resolution of who between petitioner and respondent is the real owner of the land and able to prove their title and claim over it require the reception and evaluation of evidence.<sup>44</sup> In questioning the SDC's failure to conduct a trial to determine this issue, petitioner is in fact asking us to make our own factual determination, which unfortunately, is outside of our authority to act upon in a petition for review on *certiorari*.

The same applies with the issues of prescription and laches. The question of prescription of an action involves the ascertainment of factual matters such as the date when the period to bring the action commenced to run.<sup>45</sup> Similarly, well-settled is the rule that the elements of laches must be proved positively. Laches is evidentiary in nature which could not be established by mere allegations in the pleadings. Whether or not the elements of laches are present is a question involving a factual determination by the trial court and each case is to be determined according to its particular circumstances.<sup>46</sup> The records, however, are bereft of any evidence establishing these. The assailed Orders are also without any basis for its conclusions that prescription and laches have set in. We thus find that ruling on these matters would once again require us to determine facts.

Meanwhile, the questions whether the customary law or *'äda* in Calanogas exists and whether it applies with respect to respondent's possession and occupation of the land are also questions of fact. Article 5 of P.D. No. 1083 provides:

Art. 5. *Proof of Muslim law and 'äda.* Muslim law and *'äda* not embodied in this Code shall be proven in evidence as a fact. No *'äda* which is contrary to the Constitution of the Philippines, this Code, Muslim law, public order, public policy or public interest shall be given any legal effect.

Here, petitioner presented an affidavit from the supposed members of the Sultanate Community Civic Leader, Inc. of Brgy. Calalanoan, Calanogas, Lanao del Sur to prove the existence of the *'äda* and that it has resolved the dispute in favor of petitioner. Respondent, on the other hand, presented countervailing affidavit disputing petitioner's evidence. Unfortunately, it is not our function to resolve conflicting evidence. Again,

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<sup>42</sup> Code of Muslim Personal Laws of the Philippines.

<sup>43</sup> Records, pp. 59-60.

<sup>44</sup> *Rollo*, p. 5.

<sup>45</sup> *Crisostomo v. Garcia, Jr.*, G.R. No. 164787, January 31, 2006, 481 SCRA 402, 410. Citation omitted.

<sup>46</sup> *Pineda v. Heirs of Eliseo Guevara*, G.R. No. 143188, February 14, 2007, 515 SCRA 627, 635. Citation omitted.



we are not a trier of facts<sup>47</sup> and it is not our function to analyze and weigh evidence.<sup>48</sup>

Regarding petitioner's argument that it was erroneous for the SDC to rule in favor of respondent without requiring the latter to take an oath in accordance with Section 7 of the Special Rules of Procedure in Shari'a Courts, we hold that the issue of whether the circumstances in this case call for the application of Section 7 likewise requires the determination of facts.

We emphasize the provisions of the Special Rules of Procedure in Shari'a Courts which should have been followed:

Sec. 6. *Pre-Trial*. – (1) Not later than thirty (30) days after the answer is filed, the case shall be calendared for pre-trial. Should the parties fail to arrive at an amicable settlement (*sulkh*), the court shall clarify and define the issues of the case which shall be set forth in a pre-trial order.

(2) Within then (10) days from receipt of such order, the parties or counsels shall forthwith submit to the court the statement of witnesses (*shuhud*) and other evidence (*bayyina*) pertinent to the issues so clarified and defined, together with the memoranda setting forth the law and the facts relied upon by them.

(3) Should the court find, upon consideration of the pleadings, evidence and memoranda, that a judgment may be rendered without need of a formal hearing, the court may do so within fifteen (15) days from the submission of the case for decision.

Sec. 7. *Hearing or Trial*. – (1) The plaintiff (*mudda'i*) has the burden of proof, and the taking of an oath (*yamin*) rests upon the defendant (*mudda'alai*). If the plaintiff has no evidence to prove his claim, the defendant shall take an oath and judgment shall be rendered in his favor by the court. Should the defendant refuse to take an oath, the plaintiff shall affirm his claim under oath in which case judgment shall be rendered in his favor. Should the plaintiff refuse to affirm his claim under oath, the case shall be dismissed.

(2) If the defendant admits the claim of the plaintiff, judgment shall be rendered in his favor by the court without further receiving evidence.

(3) If the defendant desires to offer defense, the party against whom judgment would be given on the pleadings and admission made, if no evidence was submitted, shall

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<sup>47</sup> *Supra* note 42.

<sup>48</sup> *Miano, Jr. v. Manila Electric Company (MERALCO)*, G.R. No. 205035, November 16, 2016, 809 SCRA 193, 198.

have the burden to prove his case. The statements submitted by the parties at the pre-trial shall constitute the direct testimony of the witnesses as basis for cross-examination. (*Italics in the original.*)

To recall, no pre-trial was conducted in this case. While the pre-trial conference was set and rescheduled for various reasons at least four times,<sup>49</sup> none was conducted. Rather than conducting a pre-trial in order to clarify and define the issues and proceeding with the trial as both parties had wanted, the SDC dismissed the case. Worse, the SDC's second and third assailed Orders dated January 16, 2012 and March 23, 2012, dismissing the complaint only summarized the parties' contending arguments; they were bereft of any discussion on the factual and legal basis for the dismissal itself.

Indeed, it was erroneous for the SDC to preemptorily conclude, on the basis of the parties' pleadings and their attachments, that petitioner failed to prove his claim over the land, that prescription and laches have set in, and that the *'äda*, assuming it exists, is contrary to the Constitution, laws and public policy. Had the SDC proceeded with the pre-trial and trial of the case, the parties would have had the opportunity to define and clarify the issues and matters to be resolved, present all their available evidence, both documentary and testimonial, and cross-examine, test and dispel each other's evidence. The SDC would, in turn, have the opportunity to carefully weigh, evaluate, and scrutinize them and have such sufficient evidence on which to anchor its factual findings. What appears to have happened though is a cursory determination of facts and termination of the case without the conduct of full-blown proceedings before the SDC. We affirm the following observation on the Special Rules of Procedure in Shari'a Courts:

When the plaintiff has evidence to prove his claim, and the defendant desires to offer defense, trial on the merits becomes necessary. The parties then will prove their respective claims and defenses by the introduction of testimonial (*shuhud*) and other evidence (*bayyina*). The statements of witnesses submitted at the pre-trial by the parties shall constitute the direct testimony as the basis for cross-examination.<sup>50</sup>

In view of the foregoing, we remand the case to the SDC for the conduct of pre-trial and further proceedings for the reception of evidence in order for it to thoroughly examine the claims and defenses of the parties, their respective evidence and make its conclusions after trial on the merits.

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<sup>49</sup> Records, pp. 51, 91, 111-112.

<sup>50</sup> Gubat, Mangonadawar M, *Special Rules of Procedure Governing Philippine Shari'a Courts Annotated*. (2016), p. 93.



**WHEREFORE**, we **GRANT** the petition **IN PART** and **SET ASIDE** the Orders dated January 31, 2011, January 16, 2012, and March 23, 2012 of the Shari'a District Court. Civil Case No. 206-10 is **REMANDED** to the Shari'a District Court for further proceedings and trial on the merits. The Shari'a District Court is ordered to resolve Civil Case No. 206-10 with utmost dispatch.

**SO ORDERED.**

  
**FRANCIS H. JARDELEZA**  
*Associate Justice*

WE CONCUR:


(*On Leave*)  
**MARIA LOURDES P. A. SERENO**  
*Chief Justice*  
*Chairperson*

   
**TERESITA J. LEONARDO-DE CASTRO** **MARIANO C. DEL CASTILLO**  
*Acting Chairperson* *Associate Justice*  
*Associate Justice*

  
**NOEL GIMENEZ TIJAM**  
*Associate Justice*

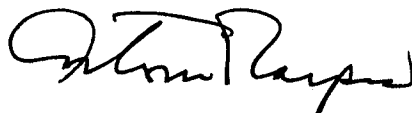
**ATTESTATION**

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

  
**TERESITA J. LEONARDO-DE CASTRO**  
*Acting Chairperson, First Division*  
*Associate Justice*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ANTONIO T. CARPIO***Acting Chief Justice*\*\*\*

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\*\*\* Designated as Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.

