Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

REPUBLIC OF THE PHILIPPINES, represented by Commander Raymond Alpuerto of the Naval Base Camillo Osias, Port San Vicente, Sta. Ana, Cagayan, *Petitioner*,	**G.R. No. 197472**
	Present:
- versus -	CARPIO, BRION, DEL CASTILLO, MENDOZA, *and* LEONEN, *JJ.*
REV. CLAUDIO R. CORTEZ, SR., *Respondent.*	Promulgated: 07 SEP 2015

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DECISION

DEL CASTILLO, *J.*:

An inalienable public land cannot be appropriated and thus may not be the proper object of possession. Hence, injunction cannot be issued in order to protect one's alleged right of possession over the same.

This Petition for Review on *Certiorari*[1] assails the June 29, 2011 Decision[2] of the Court of Appeals (CA) in CA-GR. CV No. 89968, which dismissed the appeal therewith and affirmed the July 3, 2007 Decision[3] of the Regional Trial Court (RTC) of Aparri, Cagayan, Branch 8 in Spl. Civil Action Case No. II-2403.

Factual Antecedents

Respondent Rev. Claudio R. Cortez, Sr. (Rev. Cortez), a missionary by vocation engaged in humanitarian and charitable activities, established an

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1 *Rollo*, pp. 8-48.

2 CA *rollo*, pp. 204-211; penned by Associate Justice Florito S. Macalino and concurred in by Associate Justices Juan Q. Enriquez, Jr. and Ramon M. Bato, Jr.

3 Records, pp. 233-241; penned by Presiding Judge Conrado F. Manauis.

orphanage and school in Punta Verde, Palaui Island, San Vicente, Sta. Ana, Cagayan. He claimed that since 1962, he has been in peaceful possession of about 50 hectares of land located in the western portion of Palaui Island in Sitio Siwangag, Sta. Ana, Cagayan which he, with the help of Aetas and other people under his care, cleared and developed for agricultural purposes in order to support his charitable, humanitarian and missionary works.[4]

On May 22, 1967, President Ferdinand E. Marcos issued Proclamation No. 201 reserving for military purposes a parcel of the public domain situated in Palaui Island. Pursuant thereto, 2,000 hectares of the southern half portion of the Palaui Island were withdrawn from sale or settlement and reserved for the use of the Philippine Navy, subject, however, to private rights if there be any.

More than two decades later or on August 16, 1994, President Fidel V. Ramos issued Proclamation No. 447 declaring Palaui Island and the surrounding waters situated in the Municipality of Sta. Ana, Cagayan as marine reserve. Again subject to any private rights, the entire Palaui Island consisting of an aggregate area of 7,415.48 hectares was accordingly reserved as a marine protected area.

On June 13, 2000, Rev. Cortez filed a Petition for Injunction with Prayer for the Issuance of a Writ of Preliminary Mandatory Injunction[5] against Rogelio C. Biñas (Biñas) in his capacity as Commanding Officer of the Philippine Naval Command in Port San Vicente, Sta. Ana, Cagayan. According to him, some members of the Philippine Navy, upon orders of Biñas, disturbed his peaceful and lawful possession of the said 50-hectare portion of Palaui Island when on March 15, 2000, they commanded him and his men, through the use of force and intimidation, to vacate the area. When he sought assistance from the Office of the Philippine Naval Command, he was met with sarcastic remarks and threatened with drastic military action if they do not vacate. Thus, Rev. Cortez and his men were constrained to leave the area. In view of these, Rev. Cortez filed the said Petition with the RTC seeking preliminary mandatory injunction ordering Biñas to restore to him possession and to not disturb the same, and further, for the said preliminary writ, if issued, to be made permanent.

Proceedings before the Regional Trial Court

After the conduct of hearing on the application for preliminary mandatory injunction[6] and the parties' submission of their respective memoranda,[7] the RTC issued an Order[8] dated February 21, 2002 granting the application for a writ of

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4 Id. at 1-2.

5 Id. at 1-4; docketed as Spl. Civil Action Case No. 11-2403.

6 See RTC Order dated June 30, 2000, id. at 9-11.

7 Id. at 17-24 and 52-63.

8 Id. at 66-72; penned by Judge Virgilio M. Alameda of RTC, Aparri, Cagayan, Branch 7. This case was eventually raffled off and transferred to Branch 8 upon the voluntary inhibition of Judge Andres Q. Cipriano. See April 18, 2006 Order, id. at 165.

preliminary mandatory injunction. However, the same pertained to five hectares (subject area) only, not to the whole 50 hectares claimed to have been occupied by Rev. Cortez, *viz*.:

> It should be noted that the claim of [Rev. Cortez] covers an area of 50 hectares more or less located at the western portion of Palaui Island which is within the Naval reservation. [Rev. Cortez] presented what he called as a survey map (Exh. "H") indicating the location of the area claimed by the Church of the Living God and/or Rev. Claudio Cortez with an approximate area of 50 hectares identified as Exh. "H-4". However, the Survey Map allegedly prepared by [a] DENR personnel is only a sketch map[,] not a survey map as claimed by [Rev. Cortez]. Likewise, the exact boundaries of the area [are] not specifically indicated. The sketch only shows some lines without indicating the exact boundaries of the 50 hectares claimed by [Rev. Cortez]. As such, the identification of the area and its exact boundaries have not been clearly defined and delineated in the sketch map. Therefore, the area of 50 hectares that [Rev. Cortez] claimed to have peacefully and lawfully possessed for the last 38 years cannot reasonably be determined or accurately identified.
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> For this reason, there is merit to the contention of [Biñas] that [Rev. Cortez]' claim to the 50 hectares of land identified as Exh. ["]H-4" is unclear and ambiguous. It is a settled jurisprudence that mandatory injunction is the strong arm of equity that never ought to be extended unless to cases of great injury, where courts of law cannot afford an adequate and commensurate remedy in damages. The right must be clear, the injury impending or threatened, so as to be averted only by the protecting preventive process of injunction. The reason for this doctrine is that before the issue of ownership is determined in the light of the evidence presented, justice and equity demand that the [*status quo* be maintained] so that no advantage may be given to one to the prejudice of the other. And so it was ruled that unless there is a clear pronouncement regarding ownership and possession of the land, or unless the land is covered by the torrens title pointing to one of the parties as the undisputed owner, a writ of preliminary injunction should not issue to take the property out of possession of one party to place it in the hands of another x x x.
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> Admittedly, the documentary exhibits of [Rev. Cortez] tended only to show that [he] has a pending application of patent with the DENR. Even so, [Rev. Cortez] failed to present in evidence the application for patent allegedly filed by [him] showing that he applied for patent on the entire 50 hectares of land which he possessed or occupied for a long period of time. Under the circumstances, therefore, the title of petitioner to the 50 hectares of land in Palaui Island remains unclear and doubtful, and [is] seriously disputed by the government.
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> More significantly, at the time that Proc. No. 201 was issued on May 22, 1967, [Rev. Cortez] has not perfected his right over the 50 hectares of land nor acquired any vested right thereto considering that he only occupied the land as alleged by him in 1962 or barely five (5) years before the issuance of the Presidential Proclamation. Proclamation No. 201 had the effect of removing Palaui Island from the alienable or disposable portion of the public domain and therefore the island, as of the date of [the] issuance [of the proclamation], has ceased to be disposable public land.

> However, the court is not unmindful that [Rev. Cortez] has lawfully possessed and occupied at least five (5) hectares of land situated at the western portion of the Palaui Island identified as Exh "H-4". During the hearing, Cmdr. Rogelio Biñas admitted that when he was assigned as Commanding Officer in December 1999, he went to Palaui Island and [saw only] two (2) baluga families tilling the land consisting of five (5) hectares. Therefore, it cannot be seriously disputed that [Rev. Cortez] and his baluga tribesmen cleared five (5) hectares of land for planting and cultivation since 1962 on the western portion identified as Exhibit "H-4". The Philippine Navy also admitted that they have no objection to settlers of the land prior to the Presidential Proclamation and [Rev. Cortez] had been identified as one of the early settlers of the area before the Presidential Proclamation. The DENR also acknowledged that [Rev. Cortez] has filed an application for patent on the western area and that he must be allowed to pursue his claim.
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> Although the court is not persuaded by the argument of [Rev. Cortez] that he has already acquired vested rights over the area claimed by him, the court must recognize that [Rev. Cortez] may have acquired some propriety rights over the area considering the directive of the DENR to allow [Rev. Cortez] to pursue his application for patent. However, the court wants to make clear that the application for patent by [Rev. Cortez] should be limited to an area not to exceed five (5) hectares situated at the western portion of x x x Palaui Island identified in the sketch map as Exh. "H-4." This area appears to be the portion where [Rev. Cortez] has clearly established his right or title by reason of his long possession and occupation of the land.[9]

In his Answer,[10] Biñas countered that: (1) Rev. Cortez has not proven that he has been in exclusive, open, continuous and adverse possession of the disputed land in the concept of an owner; (2) Rev. Cortez has not shown the exact boundaries and identification of the entire lot claimed by him; (3) Rev. Cortez has not substantiated his claim of exemption from Proclamation No. 201; (4) under Proclamation No. 447, the entire Palaui Island, which includes the land allegedly possessed and occupied by Rev. Cortez, was reserved as a marine protected area; and, (4) injunction is not a mode to wrest possession of a property from one person by another.

Pre-trial and trial thereafter ensued.

On July 3, 2007, the RTC rendered its Decision[11] making the injunction final and permanent. In so ruling, the said court made reference to the Indigenous Peoples' [Right] Act (IPRA) as follows:

> The Indigenous [Peoples' Right] Act should be given effect in this case. The affected community belongs to the group of indigenous people which are protected by the State of their rights to continue in their possession of the lands

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9 Id. at 71-72.
10 Id. at 101-104.
11 Id. at 233-241.

> they have been tilling since time immemorial. No subsequent passage of law or presidential decrees can alienate them from the land they are tilling.[12]

Ultimately, the RTC held, thus:

> WHEREFORE, finding the petition to be meritorious, the same is hereby GRANTED.
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> x x x x
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> SO DECIDED.[13]

Representing Biñas, the Office of the Solicitor General (OSG) filed a Notice of Appeal[14] which was given due course by the RTC in an Order[15] dated August 6, 2007.

Ruling of the Court of Appeals

In its brief,[16] the OSG pointed out that Rev. Cortez admitted during trial that he filed the Petition for injunction on behalf of the indigenous cultural communities in Palaui Island and not in his capacity as pastor or missionary of the Church of the Living God. He also claimed that he has no interest over the land. Based on these admissions, the OSG argued that the Petition should have been dismissed outright on the grounds that it did not include the name of the indigenous cultural communities that Rev. Cortez is supposedly representing and that the latter is not the real party-in-interest. In any case, the OSG averred that Rev. Cortez failed to show that he is entitled to the issuance of the writ of injunction. Moreover, the OSG questioned the RTC's reference to the IPRA and argued that it is not applicable to the present case since Rev. Cortez neither alleged in his Petition that he is claiming rights under the said act nor was there any showing that he is a member of the Indigenous Cultural Communities and/or the Indigenous Peoples as defined under the IPRA.

In its Decision[17] dated June 29, 2011, the CA upheld the RTC's issuance of a final injunction based on the following ratiocination:

> The requisites necesary for the issuance of a writ of preliminary injunction are: (1) the existence of a clear and unmistakable right that must be protected; and (2) an urgent and paramount necessity for the writ to prevent serious damage. Here, [Rev. Cortez] has shown the existence of a clear and

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12 Id. at 240.
13 Id. at 240-241.
14 Id. at 242.
15 Id. at 244.
16 See Brief for Appellant, CA *rollo*, pp. 110-145.
17 Id. at 204-211.

> unmistakable right that must be protected and an urgent and paramount necessity for the writ to prevent serious damage. Records reveal that [Rev. Cortez] has been in peaceful possession and occupation of the western portion of Palaui Island, Sitio Siwangag, San Vicente, Sta. Ana[,] Cagayan since 1962 or prior to the issuance of Proclamation Nos. 201 and 447 in 1967 and 1994, respectively. There he built an orphanage and a school for the benefit of the members of the Dumagat Tribe, in furtherance of his missionary and charitable works. There exists a clear and unmistakable right in favor [of Rev. Cortez] since he has been in open, continuous and notorious possession of a portion of Palaui island. To deny the issuance of a writ of injunction would cause grave and irreparable injury to [Rev. Cortez] since he will be displaced from the said area which he has occupied since 1962. It must be emphasized that Proclamation Nos. 201 and 447 stated that the same are subject to private rights, if there be [any]. Though Palaui Island has been declared to be part of the naval reservation and the whole [i]sland as a marine protected area, both recognized the existence of private rights prior to the issuance of the same.
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> From the foregoing, we rule that the trial court did not err when it made permanent the writ of preliminary mandatory injunction. Section 9, Rule 58 of the Rules of Court provides that if after the trial of the action it appears that the applicant is entitled to have the act or acts complained of permanently enjoined, the court shall grant a final injunction perpetually restraining the party or person enjoined from the commission or continuance of the act or acts or confirming the preliminary mandatory injunction.[18]

Anent the issue of Rev. Cortez not being a real party-in-interest, the CA noted that this was not raised before the RTC and therefore cannot be considered by it. Finally, with respect to the RTC's mention of the IPRA, the CA found the same to be a mere *obiter dictum*.

The dispositive portion of the CA Decision reads:

> WHEREFORE, premise[s] considered, the instant Appeal is hereby DENIED. The assailed 3 July 2007 Decision of the Regional Trial Court of Aparri, Cagayan, Branch 8 in Civil Case No. II-2403 is AFFIRMED.
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> SO ORDERED.[19]

Hence, this Petition brought by the OSG on behalf of the Republic of the Philippines (the Republic).

The Issue

The ultimate issue to be resolved in this case is whether Rev. Cortez is entitled to a final writ of mandatory injunction.

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[18] Id. at 209-210.
[19] Id. at 211.

The Parties' Arguments

The bone of contention as the OSG sees it is the injunctive writ since Rev. Cortez failed to prove his clear and positive right over the 5-hectare portion of Palaui Island covered by the same. This is considering that by his own admission, Rev. Cortez started to occupy the said area only in 1962. Hence, when the property was declared as a military reserve in 1967, he had been in possession of the 5-hectare area only for five years or short of the 30-year possession requirement for a *bona fide* claim of ownership under the law. The OSG thus argues that the phrase "subject to private rights" as contained in Proclamation No. 201 and Proclamation No. 447 cannot apply to him since it only pertains to those who have already complied with the requirements for perfection of title over the land prior to the issuance of the said proclamations.

Rev. Cortez, for his part, asserts that the arguments of the OSG pertaining to ownership are all immaterial as his Petition for injunction does not involve the right *to* possess based on ownership but on the right *of* possession which is a right independent from ownership. Rev. Cortez avers that since he has been in peaceful and continuous possession of the subject portion of Palaui Island, he has the right of possession over the same which is protected by law. He asserts that based on this right, the writ of injunction was correctly issued by the RTC in his favor and aptly affirmed by the CA. On the technical side, Rev. Cortez avers that the Republic has no legal personality to assail the CA Decision through the present Petition since it was not a party in the appeal before the CA.

The Court's Ruling

We grant the Petition.

For starters, the Court shall distinguish a preliminary injunction from a final injunction.

"Injunction is a judicial writ, process or proceeding whereby a party is directed either to do a particular act, in which case it is called a mandatory injunction, [as in this case,] or to refrain from doing a particular act, in which case it is called a prohibitory injunction."[20] "It may be the main action or merely a provisional remedy for and as an incident in the main action."[21]

"The main action for injunction is distinct from the provisional or ancillary

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[20] *Philippine Economic Zone Authority v. Carantes*, 635 Phil. 541, 548 (2010).

[21] *BP Phils. Inc. (Formerly Burmah Castrol Philippines, Inc.)* v. *Clark Trading Corporation*, G.R. No. 175284, September 19, 2012, 681 SCRA 365, 374-375, citing *Bacolod City Water District v. Labayen*, 487 Phil. 335, 346 (2004).

remedy of preliminary injunction."[22] A preliminary injunction does not determine the merits of a case or decide controverted facts.[23] Since it is a mere preventive remedy, it only seeks to prevent threatened wrong, further injury and irreparable harm or injustice until the rights of the parties are settled.[24] "It is usually granted when it is made to appear that there is a substantial controversy between the parties and one of them is committing an act or threatening the immediate commission of an act that will cause irreparable injury or destroy the *status quo* of the controversy before a full hearing can be had on the merits of the case."[25] A preliminary injunction is granted at any stage of an action or proceeding prior to judgment or final order.[26] For its issuance, the applicant is required to show, at least tentatively, that he has a right which is not vitiated by any substantial challenge or contradiction.[27] Simply stated, the applicant needs only to show that he has the ostensible right to the final relief prayed for in his complaint.[28] On the other hand, the main action for injunction seeks a judgment that embodies a final injunction.[29] A final injunction is one which perpetually restrains the party or person enjoined from the commission or continuance of an act, or in case of mandatory injunctive writ, one which confirms the preliminary mandatory injuction.[30] It is issued when the court, after trial on the merits, is convinced that the applicant is entitled to have the act or acts complained of permanently enjoined.[31] Otherwise stated, it is only after the court has come up with a definite pronouncement respecting an applicant's right and of the act violative of such right, based on its appreciation of the evidence presented, that a final injunction is issued. To be a basis for a final and permanant injunction, the right and the act violative thereof must be established by the applicant with absolute certainty.[32]

What was before the trial court at the time of the issuance of its July 3, 2007 Decision is whether a final injunction should issue. While the RTC seemed to realize this as it in fact made the injunction permanent, the Court, however, finds the same to be wanting in basis.

Indeed, the RTC endeavored to provide a narrow distinction between a preliminary injunction and a final injunction. Despite this, the RTC apparently confused itself. For one, what it cited in its Decision were jurisprudence relating to preliminary injunction and/or mandatory injunction as an ancillary writ and not as a final injunction. At that point, the duty of the RTC was to determine, based on the evidence presented during trial, if Rev. Cortez has *conclusively* established his

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22 Id.
23 *Bank of the Philippine Islands* v. *Judge Hontanosas, Jr.*, G.R. No. 157163, June 25, 2014.
24 Id.
25 *Buyco v. Baraquia*, 623 Phil. 596, 601 (2009).
26 Section 1, Rule 58, Rules of Court.
27 *Spouses Dela Rosa v. Heirs of Juan Valdez*, 670 Phil. 97, 110 (2011).
28 *Bank of the Philippine Islands* v. *Judge Hontanosas, Jr.*, supra note 23, citing *Saulog v. Court of Appeals*, 330 Phil. 590 (1996).
29 *Bacolod City Water District v. Hon. Labayen*, supra note 21.
30 Sec. 9, Rule 58 of the Rules of Court.
31 Id.
32 *City of Naga v. Hon. Asuncion*, 579 Phil. 781, 799 (2008).

claimed right (as opposed to preliminary injunction where an applicant only needs to at least *tentatively* show that he has a right) over the subject area. This is considering that the existence of such right plays an important part in determining whether the preliminary writ of mandatory injunction should be confirmed. Surprisingly, however, the said Decision is bereft of the trial court's factual findings on the matter as well as of its analysis of the same vis-a-vis applicable jurisprudence. As it is, the said Decision merely contains a restatement of the parties' respective allegations in the Complaint and the Answer, followed by a narration of the ensuing proceedings, an enumeration of the evidence submitted by Rev. Cortez, a recitation of jurisprudence relating to preliminary injunction and/or specifically, to mandatory injunction as an ancillary writ, a short reference to the IPRA which the Court finds to be irrelevant and finally, a conclusion that a final and permanent injunction should issue. No discussion whatsoever was made with respect to whether Rev. Cortez was able to establish with absolute certainty his claimed right over the subject area.

> Section 14, Article VIII of the Constitution, as well as Section 1 of Rule 36 and Section 1, Rule 120 of the Rules on Civil Procedure, similarly state that a decision, judgment or final order determining the merits of the case shall state, clearly and distinctly, the facts and the law on which it is based. Pertinently, the Court issued on January 28, 1988 Administrative Circular No. 1, which requires judges to make complete findings of facts in their decision, and scrutinize closely the legal aspects of the case in the light of the evidence presented, and avoid the tendency to generalize and to form conclusion without detailing the facts from which such conclusions are deduced.[33]

Clearly, the Decision of the RTC in this case failed to comply with the aforestated guidelines.

In cases such as this, the Court would normally remand the case to the court *a quo* for compliance with the form and substance of a Decision as required by the Constitution. In order, however, to avoid further delay, the Court deems it proper to resolve the case based on the merits.[34]

"Two requisites must concur for injunction to issue: (1) there must be a right to be protected and (2) the acts against which the injunction is to be directed are violative of said right."[35] Thus, it is necessary that the Court initially determine whether the right asserted by Rev. Cortez indeed exists. As earlier stressed, it is necessary that such right must have been established by him with absolute certainty.

Rev. Cortez argues that he is entitled to the injunctive writ based on the

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33 *Ongson v. People*, 504 Phil. 214, 224 (2005).
34 Id. at 226.
35 *Philippine Economic Zone Authority v. Carantes, supra* note 20.

right *of* possession (*jus possesionis*) by reason of his peaceful and continuous possession of the subject area since 1962. He avers that as this right is protected by law, he cannot be peremptorily dispossessed therefrom, or if already dispossessed, is entitled to be restored in possession. Hence, the mandatory injunctive writ was correctly issued in his favor.

Jus possessionis or possession in the concept of an owner[36] is one of the two concepts of possession provided under Article 525[37] of the Civil Code. Also referred to as adverse possession,[38] this kind of possesion is one which can ripen into ownership by prescription.[39] As correctly asserted by Rev. Cortez, a possessor in the concept of an owner has in his favor the legal presumption that he possesses with a just title and he cannot be obliged to show or prove it.[40] In the same manner, the law endows every possessor with the right to be respected in his possession.[41]

It must be emphasized, however, that only things and rights which are susceptible of being appropriated may be the object of possession.[42] The following cannot be appropriated and hence, cannot be possessed: *property of the public dominion*, common things (*res communes)* such as sunlight and air, and things specifically prohibited by law.[43]

Here, the Court notes that while Rev. Cortez relies heavily on his asserted right of possession, he, nevertheless, failed to show that the subject area over which he has a claim is not part of the public domain and therefore can be the proper object of possession.

Pursuant to the Regalian Doctrine, all lands of the public domain belong to the State.[44] Hence, "[a]ll lands not appearing to be clearly under private ownership are presumed to belong to the State. Also, public lands remain part of the inalienable land of the public domain unless the State is shown to have reclassified or alienated them to private persons."[45] To prove that a land is alienable, the existence of a positive act of the government, such as presidential proclamation or an executive order; an administrative action; investigation reports

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36 VITUG, JOSE, C., *Compendium of Civil Law and Jurisprudence*, 1993 Revised Edition, p. 303.

37 Art. 525. The possession of things or rights may be had in one of two concepts: either **in the concept of owner** or in that of the holder of the thing or right to keep or enjoy it, the ownership pertaining to another person. (Emphasis supplied)

38 PARAS, EDGARDO, L., *Civil Code of the Philippines, Annotated*, Sixteenth Edition, 2008, p. 457.

39 VITUG, JOSE, C., *Compendium of Civil Law and Jurisprudence*, 1993 Revised Edition, p. 304.

40 CIVIL CODE, Article 541.

41 CIVIL CODE, Article 539.

42 CIVIL CODE, Article 530.

43 TOLENTINO, ARTURO, M., *Commentaries and Jurisprudence on the Civil Code of the Philippines*, Vol. II, p. 228; PARAS, EDGARDO, L., *Civil Code of the Philippines, Annotated*, Sixteenth Edition, 2008, pp. 474-475.

44 *Heirs of Mario Malabanan v. Republic of the Philippines*, G.R. No. 179987, September 3, 2013, 704 SCRA 561, 575.

45 Id.

of Bureau of Lands investigators; and a legislative act or a statute declaring the land as alienable and disposable must be established.[46]

In this case, there is no such proof showing that the subject portion of Palaui Island has been declared alienable and disposable when Rev. Cortez started to occupy the same. Hence, it must be considered as still inalienable public domain. Being such, it cannot be appropriated and therefore not a proper subject of possession under Article 530 of the Civil Code. Viewed in this light, Rev. Cortez' claimed right of possession has no leg to stand on. His possession of the subject area, even if the same be in the concept of an owner or no matter how long, cannot produce any legal effect in his favor since the property cannot be lawfully possessed in the first place.

The same goes true even if Proclamation No. 201 and Proclamation No. 447 were made subject to private rights. The Court stated in *Republic v. Bacas*,[47] *viz*.:

> Regarding the subject lots, there was a reservation respecting 'private rights.' In *Republic v. Estonilo*, where the Court earlier declared that Lot No. 4319 was part of the Camp Evangelista Military Reservation and, therefore, not registrable, it noted the *proviso* in Presidential Proclamation No. 265 requiring the reservation to be subject to private rights as meaning that persons claiming rights over the reserved land were not precluded from proving their claims. Stated differently, the said *proviso* did not preclude the LRC from determining whether x x x the respondents indeed had registrable rights over the property.
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> **As there has been no showing that the subject parcels of land had been segregated from the military reservation, the respondents had to prove that the subject properties were alienable or disposable land of the public domain *prior* to its withdrawal from sale and settlement and reservation for military purposes under Presidential Proclamation No. 265.** The question is primordial importance because it is determinative if the land can in fact be subject to acquisitive prescription and, thus, registrable under the Torrens system. **Without first determining the nature and character of the land, all other requirements such as length and nature of possession and occupation over such land do not come into play. The required length of posssession does not operate when the land is part of the public domain.**
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> In this case, however, the respondents miserably failed to prove that, before the proclamation, the subject lands were already private lands. They merely relied on such 'recognition' of possible private rights. In their application, they alleged that at the time of their application, they had been in open, continuous, exclusive and notorious possession of the subject parcels of land for at least thirty (30) years and became its owners by prescription. There was, however, no allegation or showing that the government had earlier declared it open for sale or settlement, or that it was already pronounced as inalienable and disposable.[48]

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46 *Valiao v. Republic of the Philippines*, 677 Phil. 318, 327 (2011).
47 G.R. No. 182913, November 20, 2013, 710 SCRA 411.
48 Id. at 436-437; emphasis supplied; citations omitted.

In view of the foregoing, the Court finds that Rev. Cortez failed to conclusively establish his claimed right over the subject portion of Palaui Island as would entitle him to the issuance of a final injunction.

Anent the technical issue raised by Rev. Cortez, *i.e,* that the Republic has no personality to bring this Petition since it was not a party before the CA, the Court deems it prudent to set aside this procedural barrier. After all, "a party's standing before [the] Court is a [mere] procedural technicality which may, in the exercise of [its] discretion, be set aside in view of the importance of the issue raised."[49]

We note that Rev. Cortez alleged that he sought the injunction so that he could continue his humanitarian works. However, considering that inalienable public land was involved, this Court is constrained to rule in accordance with the aforementioned.

WHEREFORE, the Petition is **GRANTED**. The June 29, 2011 Decision of the Court of Appeals in CA-G.R. CV No. 89968 denying the appeal and affirming the July 3, 2007 Decision of the Regional Trial Court of Aparri, Cagayan-Branch 08 in Spl. Civil Action Case No. II-2403, is **REVERSED and SET ASIDE**. Accordingly, the final injunction issued in this case is ordered **DISSOLVED** and the Petition for Injunction in Spl. Civil Action Case No. II-2403, **DISMISSED**.

SO ORDERED.

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

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[49] *Henares, Jr. v. Land Transportation Franchising and Regulatory Board*, 535 Phil. 835, 845 (2006).

ARTURO D. BRION
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

MARVIC M.V.F. LEONEN
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.

ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.

MARIA LOURDES P. A. SERENO
Chief Justice