

Mariano Tanenglian Petitioner, vs. Silvestre Lorenzo, Mario Dapnisan, Timoteo Dapnisan, Felix Dapnisan, Tonas Tampic, Regina Tobanes, Norma Simeon, Rodolfo Lachica, Arnes Seril,...

G.R. No. 173415. March 28, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is an appeal by certiorari under Rule 45 of the 1997 Rules of Civil Procedure seeking the reversal and setting aside of the Resolution[1] dated 5 April 2006 of the Court of Appeals in CA-G.R. SP No. 93668 dismissing outright the petition for certiorari filed therewith by petitioner Mariano Tanenglian on the grounds that it was the wrong remedy and it was filed beyond the 15-day reglementary period. Likewise assailed herein is the Resolution[2] dated 4 July 2006 of the appellate court denying petitioner's Motion for Reconsideration.

This case involves two parcels of land (subject properties), located and adjacent to the Sto. Tomas Baguio Road, with areas of 7,860 square meters and 21,882 square meters, covered respectively by Transfer Certificates of Title (TCT) No. T-29281 and T-29282 registered in the Registry of Deeds of Baguio City both in the name of petitioner.

Respondents Silvestre Lorenzo, et al., members of the Indigenous Cultural Minority of the Cordillera Administrative Region, filed a Petition[3] for Redemption under Sec. 12, Republic Act No. 3844[4] dated 29 July 1998 before the Department of Agrarian Reform Adjudication Board (DARAB) praying that: (1) they be allowed to exercise their right of redemption over the subject properties; (2) TCTs No. T-29281 and T-29282 in the name of petitioner be declared null and void; (3) the subject properties be declared as ancestral land pursuant to Section 9 of Republic Act No. 6657;[5] and (4) petitioner be ordered to pay disturbance compensation to respondents.

In a Decision dated 16 August 1999, the Regional Adjudicator held:

WHEREFORE, ALL THE PREMISES CONSIDERED AND IN THE BEST INTEREST OF AGRARIAN JUSTICE, JUDGMENT IS HEREBY RENDERED IN FAVOR OF [HEREIN RESPONDENTS] AND AGAINST [HEREIN PETITIONER] AS FOLLOWS:

- Declaring that the parcels of land respectively occupied by [respondents] as ancestral lands pursuant to the provisions of Section 9 of Republic Act No. 6657.
- Declaring [respondents] as the ancestral landowners of the parcels of land which they are occupying and tilling;
- Ordering the Department of Agrarian Reform through its Regional Office, the Cordillera Administrative Region, Baguio City to acquire the said parcels of land respectively occupied by [respondents] for distribution to them in order to ensure their economic, social and cultural well-being pursuant to provisions of Section 9 of RA No. 6657;
- Ordering the Regional Engineering Office of DAR-CAR, Baguio City to conduct subdivision survey on the

said parcels of land occupied by [respondents] and for DAR-CAR to issue individual Certificate of Land Ownership Awards (CLOA's) and have the same registered with the Office of the Registry of Deeds of Baguio City;

- Ordering [petitioner] or anybody under his command not to disturb the peaceful possession of [respondents]' ancestral landholdings; and

- Ordering the Office of the Register of Deeds, Baguio City to cancel Transfer Certificates of Title Nos. T-29281 and T-29282 both in the name of [petitioner] and for the latter to surrender to the Office of the Register of Deeds of Baguio City the owner's duplicate certificate copies of said titles.[6]

Petitioner received a copy of the afore-quoted Decision on 27 August 1999. He filed with the Regional Adjudicator a motion for reconsideration thereof on 13 September 1999, which the Regional Adjudicator denied in his Order dated 11 October 1999. Petitioner received the Regional Adjudicator's Order denying his motion on 19 October 1999. On the same day, 19 October 1999, petitioner filed a Notice of Appeal,[7] but the appeal fee of P500.00 in postal money order was postmarked 20 October 1999. Petitioner's Notice of Appeal was denied by the Regional Adjudicator in his Order dated 26 October 1999.[8] The Regional Adjudicator's latest Order reads:

ORDER

Submitted before the Board through this Adjudicator is a "NOTICE OF APPEAL," dated October 19, 1999, of the DECISION in the above-entitled case dated August 16, 1999 with a POSTAL MONEY ORDER in the amount of FIVE HUNDRED PESOS (P500.00) ONLY (APPEAL FEE) POSTMARKED Makati Central Post Office, M.M., dated October 20, 1999 filed by [herein petitioner] through counsel.

It is noteworthy that both the aforesaid "NOTICE OF APPEAL" and "APPEAL FEE" were not filed and paid, respectively, within the REGLEMENTARY PERIOD as provided for by the DARAB NEW RULES OF PROCEDURE under Section 5, Rule XIII which states:

SECTION 5. Requisites and perfection of the Appeal.

a) The Notice of Appeal shall be filed within the reglementary period as provided for in Section 1 of this Rule.
x x x

b) An appeal fee of Five Hundred Pesos (P500.00) shall be paid by the appellant within the reglementary period to the DAR Cashier where the Office of the Adjudicator is situated. x x x.

Under the 3[rd] paragraph of said SECTION 5, it further states:

Non-compliance with the above-mentioned requisites shall be a ground for the dismissal of the appeal."

The records of this case show that the [petitioner] through counsel filed his "Motion for Reconsideration" of the Decision of this case on September 13, 1999 which was the 15[th] day of said Reglementary Period. The 15[th] day was supposed to have been on September 11, 1999 counted from August 28, 1999, the following day after [petitioner] through counsel received a copy of the Decision on August 27, 1999 but because September 11, 1999 was a Saturday, the 15[th] day was September 13, 1999, the following working day. Now, nowhere on the records of this case show that the required "Appeal Fee" was paid on or before the 15[th] day of the Reglementary Period.

The records of this case also show that this instant "NOTICE OF APPEAL" was filed on October 19, 1999, (Postmarked Makati Central P.O., M.M.) the day when [petitioner] through counsel received copy of the Denial of the said "MOTION FOR RECONSIDERATION." Since September 13, 1999 was the 15[th] day of said 15-day reglementary period, this instant "NOTICE OF APPEAL" is considered filed out of time. Even the "Appeal Fee" of Five Hundred Pesos (P500.00) in POSTAL MONEY ORDER, it is postmarked October 20, 1999, MAKATI CENTRAL P.O. M.M. Since September 13, 1999 was the 15[th] day of said 15-day reglementary period, this

"APPEAL FEE" is considered paid out of time.

Additionally, even granting without admitting that this instant "NOTICE OF APPEAL" and "APPEAL FEE" were filed and paid, respectively, within the required reglementary period, [petitioner] through counsel miserably failed to state any ground in the Notice of Appeal as provided for under SECTION 2, RULE XIII of the DARAB NEW RULES OF PROCEDURE.[9]

WHEREFORE, premises considered, and pursuant to the provisions of SECTION 5 and SECTION 2, Rule XIII of the DARAB NEW RULES OF PROCEDURE, this instant "NOTICE OF APPEAL" is hereby DENIED.[10]

Petitioner filed a Motion for Reconsideration on 5 November 1999 but the same was denied by the Regional Adjudicator on 15 November 1999.

Respondents filed a Motion for Execution on 27 October 1999. The Regional Adjudicator issued a Writ of Execution dated 17 November 1999.[11]

Petitioner thereafter filed an original action for certiorari before the DARAB to annul the Order dated 26 October 1999, Order dated 15 November 1999 and the Writ of Execution dated 17 November 1999, all issued by the Regional Adjudicator. In a Resolution dated 5 May 2005, the DARAB denied petitioner's petition for certiorari for lack of merit,[12] holding that:

While it is true that the filing of the Notice of Appeal dated October 19, 1999 was made within the reglementary period to perfect the same, however, the required appeal fee was not paid within the reglementary period because the last day to perfect an appeal is October 19, 1999, while the appeal fee in a form of postal money order is postmarked October 20, 1999. Precisely, there is no payment of appeal fee within the 15-day reglementary period to perfect an appeal. Therefore, the order of the [Regional Adjudicator] denying the notice of appeal of the petitioner is well within the ambit of the provisions of the above-quoted Rule, particularly the last paragraph thereof, hence the instant petition must necessarily fail.[13]

Petitioner's motion for reconsideration of the foregoing resolution was denied by the DARAB in another Resolution dated 17 January 2006,[14] a copy of which was received by petitioner on 2 February 2006.

Refusing to concede, petitioner filed a Petition for Certiorari[15] under Rule 65 with the Court of Appeals on 17 March 2006.

In a Resolution dated 5 April 2006, the Court of Appeals dismissed the Petition, reasoning as follows:

Sections 1 and 4, Rule 43 of the 1997 Rules of Civil Procedure provide that an appeal from the award, judgment, final order or resolution of the Department of Agrarian Reform under Republic Act No. 6657, among other quasi-judicial agencies, shall be taken by filing with the Court of Appeals a petition for review within fifteen (15) days from notice thereof, or of the denial of the motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency a quo.

x x x x

Even if we consider the instant petition for certiorari as a petition for review, the same must still be dismissed for having been filed beyond the reglementary period of fifteen (15) days from receipt of a copy of the Resolution dated January 17, 2006. As pointed out in the above-cited case, appeals from all quasi-judicial bodies shall be made by way of petition for review with the Court of Appeals regardless of the nature of the question raised.

Well-settled is the rule that certiorari is not available where the proper remedy is appeal in due course and such remedy was lost because of respondent's failure to take an appeal. The special civil action of certiorari is not and can not be made a substitute for appeal or a lost appeal.[16]

Petitioner's motion for reconsideration of the afore-quoted ruling was denied by the appellate court in a Resolution dated 4 July 2006.

Hence, the present Petition, raising the following issues:

- (a) Whether or not the Court of Appeals correctly dismissed the Petition under Rule 65 filed by the Petitioner mainly on the ground that the proper remedy is a Petition under Rule 43 of the Rules of Court.
- (b) Whether or not the Regional Adjudicator acted within his authority when he declared the subject parcels of land as "ancestral lands."
- (c) Whether or not the Regional Adjudicator acted within his authority when he declared that the titles of the petitioner should be declared null and void.

Preliminarily, petitioner is actually asking us to rule on the propriety of (1) the denial of his Notice of Appeal by the Regional Adjudicator, affirmed by the DARAB; and (2) the dismissal of his Petition for Certiorari by the Court of Appeals.

The Regional Adjudicator denied petitioner's Notice of Appeal because the latter was delayed for one day in the payment of appeal fee.

The 2003 Rules of Procedure of the DARAB lays down the following procedure:

RULE XIV

APPEALS

Section 1. Appeal to the Board. An appeal may be taken to the Board from a resolution, decision or final order of the Adjudicator that completely disposes of the case by either or both of the parties within a period of fifteen (15) days from receipt of the resolution/decision/final order appealed from or of the denial of the movant's motion for reconsideration in accordance with Section 12, Rule IX, by:

- 1.1 filing a Notice of Appeal with the Adjudicator who rendered the decision or final order appealed from;
- 1.2 furnishing copies of said Notice of Appeal to all parties and the Board; and
- 1.3 paying an appeal fee of Seven Hundred Pesos (Php700.00) to the DAR Cashier where the Office of the Adjudicator is situated or through postal money order, payable to the DAR Cashier where the Office of the Adjudicator is situated, at the option of the appellant.

A pauper litigant shall be exempt from the payment of the appeal fee.

Proof of service of Notice of Appeal to the affected parties and to the Board and payment of appeal fee shall be filed, within the reglementary period, with the Adjudicator a quo and shall form part of the records of the case.

Non-compliance with the foregoing shall be a ground for dismissal of the appeal.

SECTION 4. Perfection of Appeal. An appeal is deemed perfected upon compliance with Section 1 of this Rule.

A pauper litigant's appeal is deemed perfected upon the filing of the Notice of Appeal in accordance with said Section 1 of this Rule.

The general rule is that appeal is perfected by filing a notice of appeal and paying the requisite docket fees and other lawful fees.[17]

However, all general rules admit of certain exceptions. In *Mactan Cebu International Airport Authority v.*

Mangubat[18] where the docket fees were paid six days late, we said that where the party showed willingness to abide by the rules by immediately paying the required fees and taking into consideration the importance of the issues raised in the case, the same calls for judicial leniency, thus:

In all, what emerges from all of the above is that the rules of procedure in the matter of paying the docket fees must be followed. However, there are exceptions to the stringent requirement as to call for a relaxation of the application of the rules, such as: (1) most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; (4) the existence of special or compelling circumstances; (5) the merits of the case; (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake or excusable negligence without appellant's fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances. Concomitant to a liberal interpretation of the rules of procedure should be an effort on the part of the party invoking liberality to adequately explain his failure to abide by the rules. Anyone seeking exemption from the application of the Rule has the burden of proving that exceptionally meritorious instances exist which warrant such departure.[19]

We have not been oblivious to or unmindful of the extraordinary situations that merit liberal application of the Rules, allowing us, depending on the circumstances, to set aside technical infirmities and give due course to the appeal. In cases where we dispense with the technicalities, we do not mean to undermine the force and effectivity of the periods set by law. In those rare cases where we did not stringently apply the procedural rules, there always existed a clear need to prevent the commission of a grave injustice. Our judicial system and the courts have always tried to maintain a healthy balance between the strict enforcement of procedural laws and the guarantee that every litigant be given the full opportunity for the just and proper disposition of his cause.[20] If the Highest Court of the land itself relaxes its rules in the interest of substantive justice, then what more the administrative bodies which exercise quasi-judicial functions? It must be emphasized that the goal of courts and quasi-judicial bodies, above else, must be to render substantial justice to the parties.

In this case, petitioner was only one day late in paying the appeal fee, and he already stands to lose his titles to the subject properties. We find this too harsh a consequence for a day's delay. Worthy to note is the fact that petitioner actually paid the appeal fee; only, he was a day late. That petitioner immediately paid the requisite appeal fee a day after the deadline displays his willingness to comply with the requirement therefor.

When petitioner sought recourse to the Court of Appeals via a Petition for Certiorari under Rule 65 of the Rules of Court, his Petition was dismissed. The Court of Appeals held that the petitioner availed himself of the wrong remedy as an appeal from the order, award, judgment or final order of the DARAB shall be taken to the Court of Appeals by filing a petition for review under Rule 43 of the Rules of Court and not a petition for certiorari under Rule 65.

On this point, we agree with the Court of Appeals.

Pertinent provisions of Rule 43 of the Rules of Court governing appeals from quasi-judicial agencies to the Court of Appeals, provide:

SECTION 1. Scope. - This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land

Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law.

x x x x

SEC. 3. Where to appeal. - An appeal under this Rule may be taken to the Court of Appeals within the period and in the manner herein provided, whether the appeal involves questions of fact, of law, or mixed questions of fact and law.

SEC. 4. Period of appeal. - The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency a quo. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

In *Nippon Paint Employees Union-Olalia v. Court of Appeals*,^[21] we clarified:

It is elementary in remedial law that the use of an erroneous mode of appeal is cause for dismissal of the petition for certiorari and it has been repeatedly stressed that a petition for certiorari is not a substitute for a lost appeal. This is due to the nature of a Rule 65 petition for certiorari which lies only where there is "no appeal," and "no plain, speedy and adequate remedy in the ordinary course of law." As previously ruled by this Court:
 x x x We have time and again reminded members of the bench and bar that a special civil action for certiorari under Rule 65 lies only when "there is no appeal nor plain, speedy and adequate remedy in the ordinary course of law." Certiorari can not be allowed when a party to a case fails to appeal a judgment despite the availability of that remedy, certiorari not being a substitute for lost appeal. The remedies of appeal and certiorari are mutually exclusive and not alternative or successive.

Petitioner clearly availed himself of the wrong mode of appeal in bringing his case before the Court of Appeals for review.

Petitioner filed with the Court of Appeals the special civil action of certiorari under Rule 65 of the Rules of Court instead of a petition for review under Rule 43, not because it was the only plain, speedy, and adequate remedy available to him under the law, but, obviously, to make up for the loss of his right to an ordinary appeal. It is elementary that the special civil action of certiorari is not and cannot be a substitute for an appeal, where the latter remedy is available, as it was in this case. A special civil action under Rule 65 of the Rules of Court cannot cure a party's failure to timely file a petition for review under Rule 43 of the Rules of Court. Rule 65 is an independent action that cannot be availed of as a substitute for the lost remedy of an ordinary appeal, including that under Rule 43, especially if such loss or lapse was occasioned by a party's neglect or error in the choice of remedies.^[22]

All things considered, however, we do not agree in the conclusion of the Court of Appeals dismissing petitioner's Petition based on a procedural faux pax. While a petition for certiorari is dismissible for being the wrong remedy, there are exceptions to this rule, to wit: (a) when public welfare and the advancement of public policy dictates; (b) when the broader interest of justice so requires; (c) when the writs issued are null and void; or (d) when the questioned order amounts to an oppressive exercise of judicial authority.^[23]

In *Sebastian v. Morales*,^[24] we ruled that rules of procedure must be faithfully followed except only when, for persuasive reasons, they may be relaxed to relieve a litigant of an injustice not commensurate with his failure to comply with the prescribed procedure, thus:

[C]onsidering that the petitioner has presented a good cause for the proper and just determination of his case, the appellate court should have relaxed the stringent application of technical rules of procedure and yielded to consideration of substantial justice.^[25]

The Court has allowed some meritorious cases to proceed despite inherent procedural defects and lapses. This is in keeping with the principle that rules of procedure are mere tools designed to facilitate the attainment of justice and that strict and rigid application of rules which would result in technicalities that tend to frustrate rather than promote substantial justice must always be avoided. It is a far better and more prudent cause of action for the court to excuse a technical lapse and afford the parties a review of the case to attain the ends of justice, rather than dispose of the case on technicality and cause grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.^[26]

We find that petitioner's case fits more the exception rather than the general rule. Taking into account the importance of the issues raised in the Petition, and what petitioner stands to lose, the Court of Appeals should have given due course to the said Petition and treated it as a petition for review. By dismissing the Petition outright, the Court of Appeals absolutely foreclosed the resolution of the issues raised therein. Indubitably, justice would have been better served if the Court of Appeals resolved the issues that were raised in the Petition.

Conspicuously, the period to appeal had lapsed so that even if the Court of Appeals considered the petition as one for review under Rule 43 of the Rules of Court, still the petition was filed beyond the reglementary period. But, there can be no blinking at the fact that under Rule 43, Section 4 of the Rules of Court, "the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review." By any reckoning, the Court of Appeals may even grant an additional period of fifteen (15) days within which to file the petition under Rule 43 of the Rules of Court. In other words, the period to appeal from quasi-judicial agencies to the Court of Appeals under Rule 43 is neither an impregnable nor an unyielding rule.

The issue involved in this case is no less than the jurisdiction of the Regional Arbitrator to render its Decision dated 16 August 1999 declaring the subject properties as ancestral lands. As well, it is too flagrant to be ignored that these lands are covered by a Torrens title in the name of the petitioner. The Court of Appeals should have looked past rules of technicality to resolve the case on its merits.

For DARAB to have jurisdiction over a case, there must exist a tenancy relationship between the parties. A tenancy relationship cannot be presumed. There must be evidence to prove the tenancy relations such that all its indispensable elements must be established, to wit: (1) the parties are the landowner and the tenant; (2) the subject is agricultural land; (3) there is consent by the landowner; (4) the purpose is agricultural production; (5) there is personal cultivation; and (6) there is sharing of the harvests. All these requisites are necessary to create tenancy relationship, and the absence of one or more requisites will not make the alleged tenant a de facto tenant.^[27]

In *Heirs of Rafael Magpily v. De Jesus*, ^[28] tenants are defined as persons who - in themselves and with the aid available from within their immediate farm householders - they cultivate the lands belonging to or possessed by another with the latter's consent; for purposes of production, they share the produce with the landholder under the share tenancy system, or pay to the landholder a price certain or ascertainable in produce of money or both under the leasehold tenancy system.

In this case, respondents did not allege much less prove that they are tenants of the subject properties. There is likewise no independent evidence to prove any of the requisites of a tenancy relationship between petitioner and

respondents. What they insist upon is that they are occupying their ancestral lands covered by the protection of the law.

In his Decision, the Regional Adjudicator himself found that there was no tenancy relationship between petitioner and respondents, to wit:

[Herein petitioner] pleaded for his defense to the claims of [herein respondents] right of redemption contending that the [respondents] have not proven any tenurial relationship with him. Indeed, the records show that herein [respondents] have not proven their tenurial relationship with [petitioner], hence Section 12 of Republic Act No. 3844, as amended, does not apply to the said claim of right of redemption.

As to the claim of [respondents], that is, for "disturbance compensation" under Section 36(1) of Republic Act No. 3844, said provision of law to the opinion of the Board through this Adjudicator, cannot apply in the said claim since [respondents] have not also proven tenancy-relationship which is a requirement to be entitled to "disturbance compensation." [29]

Under law and settled jurisprudence, and based on the records of this case, the Regional Adjudicator evidently has no jurisdiction to hear and resolve respondents' complaint. In the absence of a tenancy relationship, the case falls outside the jurisdiction of the DARAB; it is cognizable by the Regular Courts. [30]

Moreover, the Regional Adjudicator in his Decision dated 16 August 1999 found that:

The third claim of herein Petitioners as prayed for is their right to "ancestral lands" under Section 9 of Republic Act No. 6657 which provides as follows:

SECTION 9. ANCESTRAL LANDS. - For purposes of this act, ancestral lands of each indigenous cultural community shall include but not limited to lands in the actual, continuous and open possession and occupation of the community and its members: Provided, that the Torrens System shall be respected.

The rights of these communities of their ancestral land shall be protected to insure their economic, social and cultural well-being. In line with the principles of self-determination and autonomy, the system of land ownership, land use and the modes of settling land disputes of all these communities must be recognized and respected. (Underscoring Supplied.)

Any provision of law to the contrary notwithstanding, the PARC may suspend the implementation of the act with respect to ancestral lands for the purpose of identifying and delineating such lands; Provided, that in the autonomous regions, the respective legislatures may enact their own laws in ancestral domain subject to the provisions of the constitution and the principles enumerated, initiated in this Act and other (sic).

Applying the aforecited provisions of law, it is clear without fear of contradiction that herein Petitioners are members of the indigenous cultural community (the Kankanaïs and Ibalois) of the Cordillera Administrative Region (CAR). It is also clear that they have been in the actual, continuous and in open possession and occupation of the community as evidenced by residential houses, tax declarations and improvements as seen during the ocular inspection (the property in question).

While it is true that the aforecited provisions of law provides an exception - that is: "Provided, that the Torrens System shall be respected," so that in this instant case, there is a CONFLICT in that while the property in question is occupied by herein Petitioners, the same property is titled (T-29281 and T-29282) in the name of herein Respondent, MARIANO TAN ENG LIAN married to ALETA SO TUN (a Chinese) who are not members of the cultural minority.

In this case, the Torrens System shall be respected. But under the 2nd paragraph of said law, it went further to say, "THE RIGHT OF THESE COMMUNITIES TO THEIR ANCESTRAL LANDS SHALL BE

PROTECTED TO ENSURE THEIR ECONOMIC, SOCIAL AND CULTURAL WELL-BEING. IN LINE WITH THE PRINCIPLES OF SELF-DETERMINATION AND AUTONOMY, THE SYSTEM OF LAND OWNERSHIP, LAND USE AND THE MODES OF SETTLING LAND DISPUTES OF ALL THESE COMMUNITIES MUST BE RECOGNIZED AND RESPECTED. (Underscoring supplied.) It is therefore the considered opinion of the Board through this Adjudicator that the property subject of this case which is an ancestral land be acquired by the government (through the Regional Office of the Department of Agrarian Reform of the Cordillera Administrative Region, Baguio City), for eventual distribution to the herein Petitioners. This is the spirit of the law.[31]

It is worthy to note that the Regional Adjudicator, in ruling that the subject properties are ancestral lands of the respondents, relied solely on the definition of ancestral lands under Section 9 of Republic Act No. 6657. However, a special law, Republic Act No. 8371, otherwise known as the Indigenous People's Rights Act of 1997, specifically governs the rights of indigenous people to their ancestral domains and lands.

Section 3(a) and (b)[32] of Republic Act No. 8371 provides a more thorough definition of ancestral domains and ancestral lands:

SECTION 3. Definition of Terms. - For purposes of this Act, the following terms shall mean:

a) Ancestral Domains - Subject to Section 56 hereof, refers to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators;

b) Ancestral Lands - Subject to Section 56 hereof, refers to lands occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously, to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individuals/corporations, including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots.

Republic Act No. 8371 creates the National Commission on Indigenous Cultural Communities/Indigenous People (NCIP) which shall be the primary government agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the indigenous cultural communities/indigenous people (ICCs/IPs) and the recognition of their ancestral domains as well as their rights thereto.[33]

Prior to Republic Act No. 8371, ancestral domains and lands were delineated under the Department of Environment and Natural Resources (DENR) and governed by DENR Administrative Order No. 2, series of 1993. Presently, the process of delineation and recognition of ancestral domains and lands is guided by the principle of self-delineation and is set forth under Sections 52 and 53, Chapter VIII of Republic Act No. 8371;[34] and in Part I, Rule VII of NCIP Administrative Order No. 01-98 (Rules and Regulations Implementing Republic Act No.

8371).[35] Official delineation is under the jurisdiction of the Ancestral Domains Office (ADO) of the NCIP.[36]

It is irrefragable, therefore, that the Regional Adjudicator overstepped the boundaries of his jurisdiction when he made a declaration that the subject properties are ancestral lands and proceeded to award the same to the respondents, when jurisdiction over the delineation and recognition of the same is explicitly conferred on the NCIP.

The Regional Adjudicator even made the following disposition on petitioner's TCTs:

As to the two (2) TCT's (T-29281 and T-29282) issued to herein respondent, the records (Annex "C" for Respondent) of this case show under the 3[rd] and 4[th] paragraphs of the DECISION dated June 28, 1991 provides:

The subject parcels of land were originally titled in the name of ULBANA ALSIO under Original Certificate of Title No. 0-131 which she obtained on July 15, 1965 (Exhibit "D") through a petition for the judicial reopening of Civil Reservation Case No. 1, G.L.R.O. Record No. 211` (Exhibits "A" and "B") that was granted by the Court of First Instance of the City of Baguio in its decision dated February 08, 1965 (Exhibit "C") subsequently by Alsio to Jose Perez (Exhibit "I") in turn to Rosario Oreta (Exhibit "J") and then to Lutgarda Platon on April 30, 1972 (Exhibit "K"). At the time Platon acquired the property, it was already subdivided into two (2) lots hence, she was issued TCT Nos. T-20830 (Exhibit "G") and T-20831 (Exhibit "H").

Meanwhile, on December 22, 1977, P.D. 1271 was issued nullifying all decrees of registration and certificates of title issued pursuant to decisions of the Court of First Instance of Baguio and Benguet in petition for the judicial reopening of Civil Reservation Case No. 1, G.L.R.O. Record No. 211 on the ground of lack of jurisdiction but allowed time to the title holders concerned to apply for the validation of their titles under certain conditions.

The aforecited two (2) paragraphs give credence to the allegation of the Petitioners in their original petition (nos. 16, 17 and 18) that the titles of Respondent's predecessors-in-interest were secured through fraud. They referred as an example a letter (Annex "E" for Petitioners) coming from the Land Management Bureau, Manila which made the recommendation as follows:

RECOMMENDATION

In view of the foregoing findings, it is respectfully recommended that the steps be taken in the proper court of justice for the cancellation of the Original Certificates of Title No. 0-131 of Urbano Alsio and its corresponding derivative titles so that the land be reverted to the mass of the public domain and thereafter, dispose the same to qualified applicants under the provisions of RA No. 730.[37]

Once more, the Regional Adjudicator acted without jurisdiction in entertaining a collateral attack on petitioner's TCTs.

In an earlier case for quieting of title instituted by the petitioner before the trial court, which reached this Court as G.R. No. 118515,[38] petitioner's ownership and titles to the subject properties had been affirmed with finality, with entry of judgment having been made therein on 15 January 1996. A suit for quieting of title is an action quasi in rem,[39] which is conclusive only to the parties to the suit. It is too glaring to escape our attention that several of the respondents herein were the defendants in the suit for quieting of title before the trial court and the subsequent petitioners in G.R. No. 118515.[40] The finality of the Decision in G.R. No. 118515 is therefore binding upon them.[41] Although the Decision in G.R. No. 118515 is not binding on the other respondents who were not parties thereto, said respondents are still confronted with petitioner's TCTs which they must directly challenge before the appropriate tribunal.

Respondents, thus, cannot pray for the Regional Adjudicator to declare petitioner's TCTs null and void, for such would constitute a collateral attack on petitioner's titles which is not allowed under the law. A Torrens title cannot be collaterally attacked.[42] A collateral attack is made when, in another action to obtain a different relief, an attack on the judgment is made as an incident to said action,[43] as opposed to a direct attack against a judgment which is made through an action or proceeding, the main object of which is to annul, set aside, or enjoin the enforcement of such judgment, if not yet carried into effect; or, if the property has been disposed of, the aggrieved party may sue for recovery.[44]

The petitioner's titles to the subject properties have acquired the character of indefeasibility, being registered under the Torrens System of registration. Once a decree of registration is made under the Torrens System, and the reglementary period has passed within which the decree may be questioned, the title is perfected and cannot be collaterally questioned later on.[45] To permit a collateral attack on petitioner's title, such as what respondents attempt, would reduce the vaunted legal indefeasibility of a Torrens title to meaningless verbiage.[46] It has, therefore, become an ancient rule that the issue on the validity of title, i.e., whether or not it was fraudulently issued, can only be raised in an action expressly instituted for that purpose.[47]

Any decision rendered without jurisdiction is a total nullity and may be struck down anytime.[48] In *Tambunting, Jr. v. Sumabat*,[49] we declared that a void judgment is in legal effect no judgment, by which no rights are divested, from which no rights can be obtained, which neither binds nor bonds anyone, and under which all acts performed and all claims flowing therefrom are void. In the Petition at bar, since the Regional Adjudicator is evidently without jurisdiction to rule on respondents' complaint without the existence of a tenancy relationship between them and the petitioner, then the Decision he rendered is void.

Wherefore, premises considered, the instant petition is Granted. The Resolutions of the Court of Appeals dated 5 April 2006 and 4 July 2006 are REVERSED and SET ASIDE. The Decision dated 16 August 1999 of the Regional Adjudicator in Cases No. DCN NO 0117-98 B CAR to DCN 0140-98 B CAR is declared NULL and VOID, and the respondents' petition therein is ordered DISMISSED, without prejudice to the filing of the proper case before the appropriate tribunal. No costs.

SO ORDERED.

Austria-Martinez, (Acting Chairperson), Tinga,[*] Chico-Nazario, Nachura, and Reyes, JJ., concur.

[*]Per Special Order No. 497, dated 14 March 2008, signed by Chief Justice Reynato S. Puno designating Associate Justice Dante O. Tinga to replace Associate Justice Consuelo Ynares-Santiago, who is on official leave under the Court's Wellness Program and assigning Associate Justice Alicia Austria-Martinez as Acting Chairperson.

[1] Penned by Associate Justice Marina L. Buzon with Associate Justices Aurora Santiago-Lagman and Arcangelita Romilla-Lontok, concurring. Rollo pp. 30-34.

[2] Id. at 36-41.

[3] Docketed as DCN 0117-98-B-CAR to CN-0140-98-B-CAR.

[4] Code of Agrarian Reform of the Philippines also known as "An Act To Ordain The Agricultural Land Reform Code And To Institute Land Reforms In The Philippines, Including The Abolition Of Tenancy And The Channeling Of Capital Into Industry, Provide For The Necessary Implementing Agencies, Appropriate Funds Therefor And For Other Purposes." Section 12 reads:

Sec. 12. Lessee's Right of Redemption. - In case the landholding is sold to a third person without the knowledge of the agricultural lessee, the latter shall have the right to redeem the same at a reasonable price and consideration: x x x.

[5] The Comprehensive Agrarian Reform Law of 1988.

[6] Rollo, pp. 81-82.

[7] Id. at 83.

[8] Id. at 85.

[9] Section 1. Grounds. - The aggrieved party may appeal to the Board from a final order, resolution or decision of the Adjudicator on any of the following grounds:

a) That errors in the findings of facts or conclusions of laws were committed which, if not corrected, would cause grave and irreparable damage or injury to the appellant;

x x x x

c) That the order, resolution or decision was obtained through fraud or coercion.

[10] Rollo, pp. 85-86.

[11] Memorandum of Respondents, temporary rollo, p. 3.

[12] Rollo, p. 89.

[13] Id. at 94-95.

[14] Id. at 99.

[15] Id. at 103.

[16] Id. at 31-34.

[17] *Baniqued v. Ramos*, G.R. No. 158615, 4 March 2005, 452 SCRA 813, 818.

[18] 371 Phil. 394 (1999).

[19] *KLT Fruits, Inc. v. WSR Fruits, Inc.*, G.R. No. 174219, 23 November 2007; *Villena v. Rupisan*, G.R. No. 167620, 3 April 2007, 520 SCRA 346, 367-368.

[20] *Neypes v. Court of Appeals*, G.R. No. 141524, 14 September 2005, 469 SCRA 633, 643.

[21] G.R. No. 159010, 19 November 2004, 443 SCRA 286, 291.

[22] See *Centro Escolar University Faculty and Allied Workers Union-Independent v. Court of Appeals*, G.R. No. 165486, 31 May 2006, 490 SCRA 61, 69; *Hanjin Engineering and Construction Co., Ltd. v. Court of Appeals*, G.R. No. 165910, 10 April 2006, 487 SCRA 78, 100.

[23] *Hanjin Engineering and Construction Co., Ltd. v. Court of Appeals*, *ibid.*

[24] 445 Phil 595, 604 (2003).

[25] *Vallejo v. Court of Appeals*. G.R. No. 156413, 14 April 2004, 427 SCRA 658, 668.

[26] Id.

[27] Suarez v. Saul, G.R. No. 166664, 20 October 2005, 473 SCRA 628, 634.

[28] G.R. No. 167748, 8 November 2005, 474 SCRA 366, 375.

[29] Rollo, p. 78.

[30] Suarez v. Saul, supra note 27 at 634.

[31] Rollo, pp. 78-79.

[32] The Indigenous People's Rights Act of 1997.

[33] Section 38.

[34] Sec. 52. Delineation Process. - The identification and delineation of ancestral domains shall be done in accordance with the following procedures:

a) Ancestral Domains Delineated Prior to this Act. - The provisions hereunder shall not apply to ancestral domains/lands already delineated according to DENR Administrative Order No. 2, series of 1993, nor to ancestral lands and domains delineated under any other community/ancestral domain program prior to the enactment of this law. ICCs/IPs whose ancestral lands/domains were officially delineated prior to the enactment of this law shall have the rights to apply for the issuance of a Certificate of Ancestral Domain Title (CADT) over the area without going through the process outlined hereunder;

b) Petition for Delineation. - The process of delineating a specific perimeter may be initiated by the NCIP with the consent of the ICC/IP concerned, or through a Petition for Delineation filed with the NCIP, by a majority of the members of the ICCs/IPs;

c) Delineation Proper. - The official delineation of ancestral domain boundaries including census of all community members therein, shall be immediately undertaken by the Ancestral Domains Office upon filing of the application by the ICCs/IPs concerned. Delineation will be done in coordination with the community concerned and shall at all times include genuine involvement and participation by the members of the communities concerned;

d) Proof Required. - Proof of Ancestral Domain claims shall include the testimony of elders or community under oath, and other documents directly or indirectly attesting to the possession or occupation of the area since time immemorial by such ICCs/IPs in the concept of owners which shall be any one (1) of the following authentic documents:

(1) Written accounts of the ICCs/IPs customs and traditions;

(2) Written accounts of the ICCs/IPs political structure and institution;

(3) Pictures showing long term occupation such as those of old improvements, burial grounds, sacred places and old villages;

(4) Historical accounts, including pacts and agreements concerning boundaries entered into by the ICCs/IPs concerned with other ICCs/IPs;

(5) Survey plans and sketch maps;

(6) Anthropological data;

(7) Genealogical surveys;

(8) Pictures and descriptive histories of traditional communal forests and hunting grounds;

(9) Pictures and descriptive histories of traditional landmarks such as mountains, rivers, creeks, ridges, hills, terraces and the like; and

(10) Write-ups of names and places derived from the native dialect of the community.

e) Preparation of Maps. - On the basis of such investigation and the findings of fact based thereon, the Ancestral Domains Office of the NCIP shall prepare a perimeter map, complete with technical description, and a description of the natural features and landmarks embraced therein;

f) Report of Investigation and Other Documents. - A complete copy of the preliminary census and a report of investigation, shall be prepared by the Ancestral Domains Office of the NCIP.

g) Notice and Publication. - A copy of each document, including a translation in the native language of the ICCs/IPs concerned shall be posted in a prominent place therein for at least fifteen (15) days. A copy of the document shall also be posted at the local, provincial and regional offices of the NCIP, and shall be published in a newspaper of general circulation once a week for two (2) consecutive weeks to allow other claimants to file opposition thereto within fifteen (15) days from date of such publication: Provided, That in areas where no such newspaper exists, broadcasting in a radio station will be a valid substitute: Provided, further, That mere posting shall be deemed sufficient if both newspaper and radio station are not available.

h) Endorsement to NCIP. - Within fifteen (15) days from publication, and of the inspection process, the Ancestral Domains Office shall prepare a report to the NCIP endorsing a favorable action upon a claim that is deemed to have sufficient proof. However, if the proof is deemed insufficient, the Ancestral Domains Office shall require the submission of additional evidence: Provided, That the Ancestral Domains Office shall reject any claim that is deemed patently false or fraudulent after inspection and verification: Provided, further, That in case of rejection, the Ancestral Domains Office shall give the applicant due notice, copy furnished all concerned, containing the grounds for denial. The denial shall be appealable to the NCIP: Provided, furthermore, That in cases where there are conflicting claims among ICCs/IPs on the boundaries of ancestral domain claims, the Ancestral Domains Office shall cause the contending parties to meet and assist them in coming up with a preliminary resolution of the conflict, without prejudice to its full adjudication according to the section below;

i) Turnover of Areas Within Ancestral Domains Managed by Other Government Agencies. - The Chairperson of the NCIP shall certify that the area covered is an ancestral domain. The secretaries of the Department of Agrarian Reform, Department of Environment and Natural Resources, Department of the Interior and Local Government, and Department of Justice, the Commissioner of the National Development Corporation, and any other government agency claiming jurisdiction over the area shall be notified thereof. Such notification shall terminate any legal basis for the jurisdiction previously claimed;

j) Issuance of CADT. - ICCs/IPs whose ancestral domains have been officially delineated and determined by the NCIP shall be issued a CADT in the name of the community concerned, containing a list of all those identified in the census; and

k) Registration of CADTs. - The NCIP shall register issued certificates of ancestral domain titles and certificates of ancestral lands titles before the Register of Deeds in the place where the property is situated.

SEC. 53. Identification, Delineation and Certification of Ancestral Lands;

a) The allocation of lands within any ancestral domain to individual or indigenous corporate (family or clan) claimants shall be left to the ICCs/IPs concerned to decide in accordance with customs and traditions;

b) Individual and indigenous corporate claimants of ancestral lands which are not within ancestral domains, may

have their claims officially established by filing applications for the identification and delineation of their claims with the Ancestral Domains Office. An individual or recognized head of a family or clan may file such application in his behalf or in behalf of his family or clan, respectively;

c) Proofs of such claims shall accompany the application form which shall include the testimony under oath of elders of the community and other documents directly or indirectly attesting to the possession or occupation of the areas since time immemorial by the individual or corporate claimants in the concept of owners which shall be any of the authentic documents enumerated under Sec. 52(d) of this Act, including tax declarations and proofs of payment of taxes;

d) The Ancestral Domains Office may require from each ancestral claimant the submission of such other documents, Sworn Statements and the like, which in its opinion, may shed light on the veracity of the contents of the application/claim;

e) Upon receipt of the applications for delineation and recognition of ancestral land claims, the Ancestral Domains Office shall cause the publication of the application and a copy of each document submitted including a translation in the native language of the ICCs/IPs concerned in a prominent place therein for at least fifteen (15) days. A copy of the document shall also be posted at the local, provincial, and regional offices of the NCIP and shall be published in a newspaper of general circulation once a week for two (2) consecutive weeks to allow other claimants to file opposition thereto within fifteen (15) days from the date of such publication: Provided, That in area where no such newspaper exists, broadcasting in a radio station will be a valid substitute: Provided, further, That mere posting shall be deemed sufficient if both newspapers and radio station are not available;

f) Fifteen (15) days after such publication, the Ancestral Domains Office shall investigate and inspect each application, and if found to be meritorious, shall cause a parcellary survey of the area being claimed. The Ancestral Domains Office shall reject any claim that is deemed patently false or fraudulent after inspection and verification. In case of rejection, the Ancestral Domains Office shall give the applicant due notice, copy furnished all concerned, containing the grounds for denial. The denial shall be appealable to the NCIP. In case of conflicting claims among individual or indigenous corporate claimants, the Ancestral Domains Office shall cause the contending parties to meet and assist them in coming up with a preliminary resolution of the conflict, without prejudice to its full adjudication according to Sec. 62 of this Act. In all proceedings for the identification or delineation of the ancestral domains as herein provided, the Director of Lands shall represent the interest of the Republic of the Philippines; and

g) The Ancestral Domains Office shall prepare and submit a report on each and every application surveyed and delineated to the NCIP which shall, in turn, evaluate the report submitted. If the NCIP finds such claim meritorious, it shall issue a certificate of ancestral land, declaring and certifying the claim of each individual or corporate (family or clan) claimant over ancestral lands.

[35]NCIP ADMINISTRATIVE ORDER NO. 01-98. RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 8371. RULE VIII, Delineation and Recognition of Ancestral Domains, PART I, Delineation and Recognition of Ancestral Domains/Lands:

SECTION 1. Principle of Self Delineation. - Ancestral domains shall be identified and delineated by the ICCs/IPs themselves through their respective Council of Elders/Leaders whose members are identified by them through customary processes. The metes and bounds of ancestral domains shall be established through traditionally recognized physical landmarks, such as, but not limited to, burial grounds, mountains, ridges, hills, rivers, creeks, stone formations and the like.

Political or administrative boundaries, existing land uses, leases, programs and projects or presence of non-ICCs in the area shall not limit the extent of an ancestral domain nor shall these be used to reduce its area.

x x x x

SECTION 2. Procedure on Ancestral Domain Delineation. - The Ancestral Domains Office (ADO) shall be responsible for the official delineation of ancestral domains and lands. For this purpose the ADO, at its option and as far as practicable, may create mechanisms to facilitate the delineation process, such as the organization of teams of facilitators which may include, among others, an NGO representative chosen by the community, the Municipal Planning and Development Officer of the local government units where the domain or portions thereof is located, and representatives from the IP community whose domains are to be delineated. The ADO will ensure that the mechanisms created are adequately supported financially and expedient delineation of the ancestral domains.

[36] Section 46(a), Republic Act No. 8371, provides that: "The Ancestral Domains Office (ADO) shall be responsible for the official delineation of ancestral domains and lands. x x x"

[37] Rollo, p. 81.

[38] Entitled, *Maximo Lapid v. Court of Appeals*, Annex H, rollo, p. 74.

[39] Suits to quiet title are characterized as proceedings quasi in rem. Technically they are neither in rem nor in personam. In an action quasi in rem, an individual is named as defendant.

[40] Mario Dapnisan, Rodolfo Lachica, Silvestre Lorenzo and Timoteo Dapnisan, who are among the respondents in the petition herein, were also among the petitioners in G.R. No. 118515, rollo, p. 61.

[41] *Portic v. Cristobal*, G.R. No. 156171, 22 April 2005, 456 SCRA 577, 585.

[42] [A] decree of registration and the certificate of title issued pursuant thereto may be attacked on the ground of actual fraud within one (1) year from the date of its entry. Such an attack must be direct and not by a collateral proceeding (Section 48, Presidential Decree No. 1526; *Legarda v. Saleeby*, 31 Phil. 590 (1915); *Ybañez v. Intermediate Appellate Court*, G.R. No. 68291, 6 March 1991, 194 SCRA 743, 749). The validity of the certificate of title in this regard can be threshed out only in an action expressly filed for the purpose. (*Magay v. Estiandan*, G.R. No. L-28975, 27 February 1976, 69 SCRA 48; *Ybañez v. Intermediate Appellate Court*, id.)

[43] *Noblejas and Noblejas*, *Registration of Land Titles and Deeds* (1992 Revised Ed.).

[44] *Banco Español-Filipino v. Palanca*, 37 Phil. 921 (1918).

[45] *Abad v. Government of the Philippines*, 103 Phil. 247, 251 (1958)

[46] *Tichangco v. Enriquez*, G.R. No. 150629, 30 June 2004, 433 SCRA 324, 337.

[47] *Halili v. Court of Industrial Relations*, 326 Phil. 982, 992 (1996); *Hemedes v. Court of Appeals*, 374 Phil. 692, 713 (1999); *Cruz v. Court of Appeals*, 346 Phil. 506, 512 (1997); *Payongayong v. Court of Appeals*, G.R. No. 144576, 28 May 2004, 430 SCRA 210; *Baloloy v. Hular*, G.R. No. 157767, 9 September 2004, 438 SCRA 80, 92; *Pelayo v. Perez*, G.R. No. 141323, 8 June 2005, 459 SCRA 475.

[48] *Suntay v. Gocolay*, G.R. No. 144892, 23 September 2005, 470 SCRA 627, 638.

[49] G.R. No. 144101, 16 September 2005, 470 SCRA 92, 97.

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