Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

HEIRS OF ZOSIMO Q. MARAVILLA, namely, ZOSIMO W. MARAVILLA, JR., YVETTE MARAVILLA and RICHARD MARAVILLA, represented by ZOSIMO W. MARAVILLA, JR., Petitioners,	**G.R. No. 192132** **Present:** VELASCO, JR., *J.*, *Chairperson,* PERALTA, PEREZ, REYES, and JARDELEZA, *JJ.*
- versus -	**Promulgated:** September 14, 2016
PRIVALDO TUPAS, Respondent.	

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D E C I S I O N

PERALTA, *J.*:

Indeed, the well-settled principle of immutability of final judgments demands that once a judgment has become final, the winning party should not, through a mere subterfuge, be deprived of the fruits of the verdict.[1] There are, however, recognized exceptions to the execution as a matter of right of a final and immutable judgment, one of which is the existence of a supervening event.[2]

This is to resolve the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated May 25, 2010 seeking to set aside the Decision[3] dated November 11, 2009 and the Resolution dated March 17, 2010 of the Court of Appeals (CA) that declared null and void and set aside the Orders

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1 *Gomez v. Hon. Presiding Judge, RTC, Br. 15, Ozamis City*, 319 Phil. 555, 562 (1995); *Johnson & Johnson (Phils.), Inc., v. CA*, 330 Phil. 856, 871 (1996).

2 *Natalia Realty, Inc. v. Court of Appeals*, 440 Phil. 1, 23 (2002).

3 Penned by Associate Justice Franchito N. Diamante, with the concurrence of Associate Justices Edgardo L. Delos Santos and Samuel H. Gaerlan.

dated February 2, 2009 and April 7, 2009 of the Regional Trial Court (RTC), Kalibo, Aklan directing the execution of the latter's Decision dated March 31, 2003 that became final and executory on May 21, 2007.

The facts follow.

According to respondent, he, along with the other heirs of the late Asiclo S. Tupas, has maintained the occupation and possession of certain portions of the property subject of this case. Thereafter, the late Zosimo Maravilla claimed ownership over 10,000 square meters of said property by virtue of a Deed of Sale dated February 8, 1975, purportedly executed between him and the late Asiclo S. Tupas. The property situated in Diniwid, Barangay Balabag, Malay, Aklan, is more particularly described as follows:

> A parcel of land situated at Barangay Balabag, Malay, Aklan bounded on the North by Gil Aguirre, F. Flores; South by Antonio Tupas & T. Sacapaño, East by Asicio (sic) Tupas, and West by Seashore L. Villanueva of approximately 1,000 hectares, assessed at ₱2,610.00 under Tax Declaration No. 1304, in the name of Maravilla, Ozosimo A. for the year of 1985.

Maravilla filed a case for quieting of title with recovery of possession and damages before Branch 9 of the RTC of Kalibo, Aklan, docketed as Civil Case No. 4338. The dispositive portion of the Decision[4] reads:

> WHEREFORE, decision is hereby rendered as follows:
>
> 1. Declaring the deed of sale (Exhs. A & 1) executed by Asiclo Tupas in favor of plaintiff Zosimo Maravilla over one-half (½) portion or about 5,000 sq. m. of the conjugal property of the former as legal and valid;
>
> 2. Ordering that the portion sold be delineated from the shoreline with a length of at least 28 m. long from the southwestern direction traversing in a straight line towards northeastern part between points 5-6 embracing an area of about 5,000 sq. m., depicted in Exh. G, interpreted in relation to amended commissioner's report and sketch plan, dated August 25, 1992 (Exh. L) across Lots B and A; with the northern portion of 5,000 sq. m. awarded to the defendants and the southern portion of 5,000 sq. m. to plaintiff; Defendants' cottages that may be found in plaintiff's one- half portion shall be removed by the former at their expense within 30 days from the finality of this decision. The existing muniments of the parties to the land in question like tax declarations, certificates of title, and other related documents are ordered modified or corrected to conform to this decision;

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4 Penned by Judge Pedro M. Icamina.

> 3. Defendants are ordered jointly and severally, to refund plaintiff the amount of seven thousand pesos (₱7,000.00), Philippine currency, representing the consideration of the ½ portion of the land in question herein awarded to them; and
>
> 4. Plaintiff is ordered to pay defendants for attorney's fees and litigation expenses in the sum of ten thousand pesos (₱10,000.00) and the costs of the suit.
>
> SO ORDERED.[5]

Maravilla filed an appeal with the CA questioning the RTC's decision that he is only entitled to ½ of the area sold even if the validity of the deed of sale was upheld. The CA, in a Decision[6] dated August 28, 1996, ruled that:

> WHEREFORE, the Decision of the court *a quo* is SET ASIDE and another judgment is issued declaring Zosimo Maravilla the owner of 10,000 sq. m. undivided share in the 36,382 sq. m. parcel of land of Asiclo S. Tupas and Francisca Aguirre and directing that this land be partitioned, either extra-judicially or judicially, and that Maravilla's portion of the property be determined; and ordering the defendants to turn over possession of the portion allocated to Maravilla.
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> Special Proceedings No. 39517 is DISMISSED.
>
> No pronouncement as to costs.
>
> SO ORDERED.[7]

On October 21, 1999, Maravilla filed another case for partition and damages before the RTC of Kalibo, Aklan, Branch 6, and on March 31, 2003, it disposed of the case as follows:[8]

> WHEREFORE, judgment is hereby rendered containing that the one-hectare portion in the Sketch Plan [Annex B-1; Complaint] is the rightful share of the plaintiff.
>
> Defendants are ordered to restore possession thereof to the plaintiff, and to pay jointly and severally the latter the agreed monthly reasonable compensation for the use and occupation thereof of ₱5,000.00 starting in 1990 until possession is fully restored to plaintiff.
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> Costs against the defendants.

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5 *Rollo*, pp. 145-146.

6 Penned by Associate Justice Salome A. Montoya, with the concurrence of Associate Justices Godardo A. Jacinto and Maximiano C. Asuncion.

7 *Rollo*, p. 154.

8 Penned by Judge Niovady M. Marin.

SO ORDERED.[9]

Respondent appealed the decision with the CA, and in a Decision[10] dated April 13, 2007, the latter dismissed the appeal on the ground of *res judicata*. The CA opined that the first case, the one for quieting of title and the second case for partition, both presented identity of facts and evidence and that the truth of the matter is, part of the judgment of the first case ordered for partition of the subject parcel of land to delimit the portion owned by herein petitioner.

On October 31, 2008, Maravilla filed a Motion for Execution[11] of the March 31, 2003 Decision of the RTC-Branch 6 of Kalibo, Aklan.

While the motion for execution was pending before the RTC-Branch 6 of Kalibo, Aklan, this Court, on October 8, 2008, declared Boracay as government property in the consolidated cases of *The Secretary of the Department of Environment and Natural Resources (DENR), et al. v. Yap, et al.* and *Sacay, et al. v. the Secretary of the DENR, et al.* (Boracay Decision)[12]

On February 2, 2009, a Resolution was issued by the RTC granting the motion for execution.

Respondent filed a motion for reconsideration, but the RTC denied the same in an Order dated April 7, 2009.

Thus, respondent filed a petition for *certiorari* with the CA assailing the Resolution and the Order issued by the RTC. Respondent raised as an issue that the grant of the motion for execution is not in accordance with this Court's decision in *The Secretary of the Department of Environment and Natural Resources (DENR), et al. v. Yap, et al.* and *Sacay, et al. v. the Secretary of the DENR, et al.*, a supervening event, and that the RTC erred in not declaring as null and void the deed of sale of unregistered land considering that Boracay has been classified as an inalienable land. The CA granted the petition, thus:

> Withal, the Petition is hereby GRANTED. The assailed Orders dated February 2, 2009 and April 7, 2009, respectively, issued by public respondent are hereby declared NULL and VOID and SET ASIDE.

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9 *Rollo*, pp. 119-120.

10 Penned by Associate Justice Francisco P. Acosta, with the concurrence of Associate Justices Arsenio J. Magpale and Agustin S. Dizon.

11 *Rollo*, pp. 179-183.

12 589 Phil. 156 (2008).

SO ORDERED.[13]

Maravilla's motion for reconsideration was denied in a Resolution dated March 17, 2010, hence, the present petition.[14]

Petitioners (the heirs of Maravilla) raise the following grounds:

> In rendering the assailed Decision and Resolution, petitioners most humbly submit that the Court of Appeals gravely erred in making the following legal conclusions that warrants the power of review and supervision by the Honorable Supreme Court:
>
> I. The Court of Appeals so far departed from the accepted and usual course of judicial proceedings when it set aside the Orders of the Regional Trial Court granting execution of the 31 March 2003 Decision of the Regional Trial Court in relation to the 28 August 1996 [Decision] of the Court of Appeals, both of which judgments have long become final and executory.
>
> II. The Court of Appeals' finding that the Boracay Decision is a supervening event that prevents the trial court from implementing the writ of execution is not in accord with the applicable decisions of this Honorable Supreme Court. The Court of Appeals erred in finding that:
>
> > a. the Boracay Decision had a direct effect on the issue litigated and settled with finality between the parties, and substantially changed the rights and relations between the parties;
> >
> > b. with the declaration of Boracay as state-owned, the claim of herein petitioners of rights to the Property is already without basis;
> >
> > c. to allow execution of the judgment would be to give undue advantage to herein petitioners and would be a miscarriage of justice.[15]

They also bring up the following arguments:

> I. Petitioners are entitled as a matter of right to the execution of the judgments that have long become final and executory.
>
> II. The pronouncement of the Supreme Court in the Boracay Decision is not a supervening event:

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13 *Rollo*, p. 26.

14 Penned by Associate Justice Edgardo L. Delos Santos, with Associate Justices Samuel H. Gaerlan and Socorro B. Inting, concurring; *id.* at 30-31.

15 *Rollo*, pp. 67-68.

> A. The settled dispute between the parties as to who has the better right to the Property is distinct and separate from the issue of titling sought in the Boracay Decision;
>
> B. The Boracay Decision does not substantially change the rights and relations between the petitioners and respondent that were already decided by the courts with finality;
>
> C. Notwithstanding the Boracay Decision, it is still possible to execute the decision regarding the partition and restoration of the possession of Property in favor of petitioners as against respondent;
>
> III. The Boracay Decision does not render the execution sought by [the] petition as unjust or inequitable that precludes the execution of the final and executory judgments.[16]

Petitioners insist that the CA's Decision dated August 28, 1996 in the original case for Quieting of Title with Recovery of Possession and Damages entitled petitioners to the restoration of their possession of the property consisting of 10,000 sq. m. out of the 36,382 sq. m. tract of land, after the validity of the sale to Maravilla by respondent's predecessor has been upheld by the court with finality. They further claim that it is well entrenched in Our rules and jurisprudence that the prevailing party may move for the execution of a decision that has become final and executory as a matter of right and the issuance of the writ of execution becomes a ministerial duty of the court.

The pronouncement in the Boracay Decision, according to petitioners, is not a supervening event. The Boracay Decision is simply a recognition of the right of the State to classify the island and to pave the way for the eventual titling or formalization of ownership claims of lands classified as alienable and disposable, and as to whether or not petitioners may secure title to the property is an issue that has not yet ripened into a legal controversy between petitioners and the State. Petitioners argue that the settled dispute between the parties as to who has the better right to the property is distinct and separate from the issue of titling sought in the Boracay Decision by the claimants therein.

Furthermore, petitioners do not contest the legal status of the land; what they assert is the satisfaction of their right to enjoy whatever imperfect rights that their predecessors had validly acquired from respondent's predecessor, as confirmed with finality by the courts.

The petition lacks merit.

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16 *Id.* at 68-69.

The basic issue to be resolved is whether or not this Court's decision in *The Secretary of the Department of Environment and Natural Resources (DENR), et al. v. Yap, et al.* and *Sacay, et al. v. the Secretary of the DENR, et al.* can be considered as supervening event and if so, whether or not such supervening event can prevent the execution of a judgment that has already attained finality.

In the present case, petitioners' basis of their claim over the subject property is the Deed of Sale of Unregistered Land that the late Zosimo Maravilla executed with the late Asiclo S. Tupas. This Deed of Sale has been acknowledged and adjudged by the RTC to be binding between the parties, and in fact, has attained finality. This Court, however, in *The Secretary of the Department of Environment and Natural Resources (DENR), et al. v. Yap, et al.* and *Sacay, et al. v. the Secretary of the DENR, et al.,* ruled that the entire island of Boracay as state-owned except for lands already covered by existing titles. To have a clearer view of the antecedents of the said case, the following are thus quoted:

> On April 14, 1976, the Department of Environment and Natural Resources (DENR) approved the National Reservation Survey of Boracay Island, which identified several lots as being occupied or claimed by named persons.
>
> On November 10, 1978, then President Ferdinand Marcos issued Proclamation No. 1801 declaring Boracay Island, among other islands, caves and peninsulas in the Philippines, as tourist zones and marine reserves under the administration of the Philippine Tourism Authority (PTA). President Marcos later approved the issuance of PTA Circular 3-82 dated September 3, 1982, to implement Proclamation No. 1801.
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> Claiming that Proclamation No. 1801 and PTA Circular No. 3-82 precluded them from filing an application for judicial confirmation of imperfect title or survey of land for titling purposes, respondents-claimants Mayor Jose S. Yap, Jr., Libertad Talapian, Mila Y. Sumndad, and Aniceto Yap filed a petition for declaratory relief with the RTC in Kalibo, Aklan.
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> In their petition, respondents-claimants alleged that Proclamation No. 1801 and PTA Circular No. 3-82 raised doubts on their right to secure titles over their occupied lands. They declared that they themselves, or through their predecessors-in-interest, had been in open, continuous, exclusive, and notorious possession and occupation in Boracay since June 12, 1945, or earlier since time immemorial. They declared their lands for tax purposes and paid realty taxes on them.
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> Respondents-claimants posited that Proclamation No. 1801 and its implementing Circular did not place Boracay beyond the commerce of man. Since the Island was classified as a tourist zone, it was susceptible of private ownership. Under Section 48 (b) of Commonwealth Act (CA) No. 141, otherwise known as the Public Land Act, they had the right to have the lots registered in their names through judicial confirmation of imperfect titles.

The Republic, through the Office of the Solicitor General (OSG), opposed the petition for declaratory relief. The OSG countered that Boracay Island was an unclassified land of the public domain. It formed part of the mass of lands classified as "public forest", which was not available for disposition pursuant to Section 3 (a) of Presidential Decree (PD) No. 705 or the Revised Forestry Code, as amended.

The OSG maintained that respondents-claimants' reliance on PD No. 1801 and PTA Circular No. 3-82 was misplaced. Their right to judicial confirmation of title was governed by CA No. 141 and PD No. 705. Since Boracay Island had not been classified as alienable and disposable, whatever possession they had cannot ripen into ownership.

During pre-trial, respondents-claimants and the OSG stipulated on the following facts: (1) respondents-claimants were presently in possession of parcels of land in Boracay Island; (2) these parcels of land were planted with coconut trees and other natural growing trees; (3) the coconut trees had heights of more or less twenty (20) meters and were planted more or less fifty (50) years ago; and (4) respondents-claimants declared the land they were occupying for tax purposes.

The parties also agreed that the principal issue for resolution was purely legal: whether Proclamation No. 1801 posed any legal hindrance or impediment to the titling of the lands in Boracay. They decided to forego with the trial and to submit the case for resolution upon submission of their respective memoranda.

The RTC took judicial notice that certain parcels of land in Boracay Island, more particularly Lots 1 and 30, Plan PSU-5344, were covered by Original Certificate of Title No. 19502 (RO 2222) in the name of the Heirs of Ciriaco S. Tirol. These lots were involved in Civil Case Nos. 5222 and 5262 filed before the RTC of Kalibo, Aklan. The titles were issued on August 7, 1933.

RTC and CA Dispositions

On July 14, 1999, the RTC rendered a decision in favor of respondents-claimants, with a fallo reading:

> WHEREFORE, in view of the foregoing, the Court declares that Proclamation No. 1801 and PTA Circular No. 3-82 pose no legal obstacle to the petitioners and those similarly situated to acquire title to their lands in Boracay, in accordance with the applicable laws and in the manner prescribed therein; and to have their lands surveyed and approved by respondent Regional Technical Director of Lands as the approved survey does not in itself constitute a title to the land.
>
> SO ORDERED.

The RTC upheld respondents-claimants' right to have their occupied lands titled in their name. It ruled that neither Proclamation No. 1801 nor PTA Circular No. 3-82 mentioned that lands in Boracay were

inalienable or could not be the subject of disposition. The Circular itself recognized private ownership of lands. The trial court cited Sections 87 and 53 of the Public Land Act as basis for acknowledging private ownership of lands in Boracay and that only those forested areas in public lands were declared as part of the forest reserve.

The OSG moved for reconsideration, but its motion was denied. The Republic then appealed to the CA.

On December 9, 2004, the appellate court affirmed *in toto* the RTC decision, disposing as follows:

> WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DENYING the appeal filed in this case and AFFIRMING the decision of the lower court.

The CA held that respondents-claimants could not be prejudiced by a declaration that the lands they occupied since time immemorial were part of a forest reserve.

Again, the OSG sought reconsideration but it was similarly denied. Hence, the present petition under Rule 45.

G.R. No. 173775

On May 22, 2006, during the pendency of G.R. No. 167707, President Gloria Macapagal-Arroyo issued Proclamation No. 1064 classifying Boracay Island into four hundred (400) hectares of reserved forest land (protection purposes) and six hundred twenty-eight and 96/100 (628.96) hectares of agricultural land (alienable and disposable). The Proclamation likewise provided for a fifteen-meter buffer zone on each side of the centerline of roads and trails, reserved for right-of-way and which shall form part of the area reserved for forest land protection purposes.

On August 10, 2006, petitioners-claimants Dr. Orlando Sacay, Wilfredo Gelito, and other landowners in Boracay filed with this Court an original petition for prohibition, *mandamus*, and nullification of Proclamation No. 1064. They alleged that the Proclamation infringed on their "prior vested rights" over portions of Boracay. They have been in continued possession of their respective lots in Boracay since time immemorial. They have also invested billions of pesos in developing their lands and building internationally-renowned first class resorts on their lots.

Petitioners-claimants contended that there is no need for a proclamation reclassifying Boracay into agricultural land. Being classified as neither mineral nor timber land, the island is deemed agricultural pursuant to the Philippine Bill of 1902 and Act No. 926, known as the first Public Land Act. Thus, their possession in the concept of owner for the required period entitled them to judicial confirmation of imperfect title.

Opposing the petition, the OSG argued that petitioners-claimants do not have a vested right over their occupied portions in the island. Boracay is an unclassified public forest land pursuant to Section 3 (a) of

> PD No. 705. Being public forest, the claimed portions of the island are inalienable and cannot be the subject of judicial confirmation of imperfect title. It is only the executive department, not the courts, which has authority to reclassify lands of the public domain into alienable and disposable lands. There is a need for a positive government act in order to release the lots for disposition.
>
> On November 21, 2006, this Court ordered the consolidation of the two petitions as they principally involve the same issues on the land classification of Boracay Island.[17]

The consolidated petitions basically raise the issue of whether or not private individuals may acquire vested right of ownership over the island, considering that they have been in open and continued possession for several years. With such factual antecedents, this Court adjudicated that Boracay is classified as a public land, in particular, a forest land, thus:

> Except for lands already covered by existing titles, Boracay was an unclassified land of the public domain prior to Proclamation No. 1064. Such unclassified lands are considered public forest under PD No. 705. The DENR 109 and the National Mapping and Resource Information Authority certify that Boracay Island is an unclassified land of the public domain.
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> PD No. 705 issued by President Marcos categorized all unclassified lands of the public domain as public forest. Section 3 (a) of PD No. 705 defines a public forest as "a mass of lands of the public domain which has not been the subject of the present system of classification for the determination of which lands are needed for forest purpose and which are not". Applying PD No. 705, all unclassified lands, including those in Boracay Island, are *ipso facto* considered public forests. PD No. 705, however, respects titles already existing prior to its effectivity.
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> The Court notes that the classification of Boracay as a forest land under PD No. 705 may seem to be out of touch with the present realities in the island. Boracay, no doubt, has been partly stripped of its forest cover to pave the way for commercial developments. As a premier tourist destination for local and foreign tourists, Boracay appears more of a commercial island resort, rather than a forest land.
>
> Nevertheless, that the occupants of Boracay have built multi-million peso beach resorts on the island; that the island has already been stripped of its forest cover; or that the implementation of Proclamation No. 1064 will destroy the island's tourism industry, do not negate its character as public forest.
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> Forests, in the context of both the Public Land Act and the Constitution classifying lands of the public domain into "agricultural, forest or timber, mineral lands, and national parks", do not necessarily

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[17] *The Secretary of the Department of Environment and Natural Resources (DENR), et al. v. Yap, et al.* and *Sacay, et al. v. the Secretary of the DENR, et al.*, *supra* note 12, at 168-173. (Citations omitted)

refer to large tracts of wooded land or expanses covered by dense growths of trees and underbrushes. The discussion in *Heirs of Amunategui v. Director of Forestry* is particularly instructive:

> A forested area classified as forest land of the public domain does not lose such classification simply because loggers or settlers may have stripped it of its forest cover. Parcels of land classified as forest land may actually be covered with grass or planted to crops by kaingin cultivators or other farmers. "Forest lands" do not have to be on mountains or in out of the way places. Swampy areas covered by mangrove trees, nipa palms, and other trees growing in brackish or sea water may also be classified as forest land. The classification is descriptive of its legal nature or status and does not have to be descriptive of what the land actually looks like. Unless and until the land classified as "forest" is released in an official proclamation to that effect so that it may form part of the disposable agricultural lands of the public domain, the rules on confirmation of imperfect title do not apply.
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> There is a big difference between "forest" as defined in a dictionary and "forest or timber land" as a classification of lands of the public domain as appearing in our statutes. One is descriptive of what appears on the land while the other is a legal status, a classification for legal purposes. At any rate, the Court is tasked to determine the legal status of Boracay Island, and not look into its physical layout. Hence, even if its forest cover has been replaced by beach resorts, restaurants and other commercial establishments, it has not been automatically converted from public forest to alienable agricultural land.

Private claimants cannot rely on Proclamation No. 1801 as basis for judicial confirmation of imperfect title. The proclamation did not convert Boracay into an agricultural land. However, private claimants argue that Proclamation No. 1801 issued by then President Marcos in 1978 entitles them to judicial confirmation of imperfect title. The Proclamation classified Boracay, among other islands, as a tourist zone. Private claimants assert that, as a tourist spot, the island is susceptible of private ownership.

Proclamation No. 1801 or PTA Circular No. 3-82 did not convert the whole of Boracay into an agricultural land. There is nothing in the law or the Circular which made Boracay Island an agricultural land. The reference in Circular No. 3-82 to "private lands" and "areas declared as alienable and disposable" does not by itself classify the entire island as agricultural. Notably, Circular No. 3-82 makes reference not only to private lands and areas but also to public forested lands. Rule VIII, Section 3 provides:

> No trees in forested private lands may be cut without prior authority from the PTA. All forested areas in public lands are declared forest reserves.

Clearly, the reference in the Circular to both private and public lands merely recognizes that the island can be classified by the Executive department pursuant to its powers under CA No. 141. In fact, Section 5 of the Circular recognizes the then Bureau of Forest Development's authority to declare areas in the island as alienable and disposable when it provides:

Subsistence farming, in areas declared as alienable and disposable by the Bureau of Forest Development.

Therefore, Proclamation No. 1801 cannot be deemed the positive act needed to classify Boracay Island as alienable and disposable land. If President Marcos intended to classify the island as alienable and disposable or forest, or both, he would have identified the specific limits of each, as President Arroyo did in Proclamation No. 1064. This was not done in Proclamation No. 1801.

The Whereas clauses of Proclamation No. 1801 also explain the rationale behind the declaration of Boracay Island, together with other islands, coves and peninsulas in the Philippines, as a tourist zone and marine reserve to be administered by the PTA — to ensure the concentrated efforts of the public and private sectors in the development of the areas' tourism potential with due regard for ecological balance in the marine environment. Simply put, the proclamation is aimed at administering the islands for tourism and ecological purposes. It does not address the areas' alienability.

More importantly, Proclamation No. 1801 covers not only Boracay Island, but sixty-four (64) other islands, coves, and peninsulas in the Philippines, such as Fortune and Verde Islands in Batangas, Port Galera in Oriental Mindoro, Panglao and Balicasag Islands in Bohol, Coron Island, Puerto Princesa and surrounding areas in Palawan, Camiguin Island in Cagayan de Oro, and Misamis Oriental, to name a few. If the designation of Boracay Island as tourist zone makes it alienable and disposable by virtue of Proclamation No. 1801, all the other areas mentioned would likewise be declared wide open for private disposition. That could not have been, and is clearly beyond, the intent of the proclamation.

It was Proclamation No. 1064 of 2006 which positively declared part of Boracay as alienable and opened the same to private ownership. Sections 6 and 7 of CA No. 141 provide that it is only the President, upon the recommendation of the proper department head, who has the authority to classify the lands of the public domain into alienable or disposable, timber and mineral lands.

In issuing Proclamation No. 1064, President Gloria Macapagal-Arroyo merely exercised the authority granted to her to classify lands of the public domain, presumably subject to existing vested rights. Classification of public lands is the exclusive prerogative of the Executive Department, through the Office of the President. Courts have no authority to do so. Absent such classification, the land remains unclassified until released and rendered open to disposition.

Proclamation No. 1064 classifies Boracay into 400 hectares of reserved forest land and 628.96 hectares of agricultural land. The Proclamation likewise provides for a 15-meter buffer zone on each side of the center line of roads and trails, which are reserved for right of way and which shall form part of the area reserved for forest land protection purposes.

Contrary to private claimants' argument, there was nothing invalid or irregular, much less unconstitutional, about the classification of Boracay

> Island made by the President through Proclamation No. 1064. It was within her authority to make such classification, subject to existing vested rights.[18]

Therefore, the island, being owned by the State, can only be declared or made subject of private ownership by the Government. And only the Government can determine the manner in which the island should be disposed of or conveyed to private individuals, pursuant to the Regalian Doctrine as this Court ruled in *Secretary of the Department of Environment and Natural Resources v. Yap*:[19]

> The Regalian Doctrine dictates that all lands of the public domain belong to the State, that the State is the source of any asserted right to ownership of land and charged with the conservation of such patrimony.[20] The doctrine has been consistently adopted under the 1935, 1973, and 1987 Constitutions.[21]
>
> All lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State.[22] Thus, all lands that have not been acquired from the government, either by purchase or by grant, belong to the State as part of the inalienable public domain.[23] Necessarily, it is up to the State to determine if lands of the public domain will be disposed of for private ownership. The government, as the agent of the state, is possessed of the plenary power as the persona in law to determine who shall be the favored recipients of public lands, as well as under what terms they may be granted such privilege, not excluding the placing of obstacles in the way of their exercise of what otherwise would be ordinary acts of ownership.[24]

It was only in 2006 when certain parts of Boracay became agricultural land when then President Gloria Macapagal-Arroyo issued Proclamation No. 1064, positively declaring parts of Boracay as alienable and opening the same to private ownership.

As such, the CA is then correct in ruling that with this Court's pronouncement that Boracay is state-owned, petitioners' claim of ownership over the subject property is negated, thus:

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18 *Id.* at 190-195.

19 *Supra* note 12, at 176-177.

20 *Zarate v. Director of Lands,* G.R. No. 131501, July 14, 2004, 434 SCRA 322; *Reyes v. Court of Appeals*, 356 Phil. 606, 624 (1998).

21 *Republic v. Estonilo*, G.R. No. 157306, November 25, 2005, 476 SCRA 265.

22 *Zarate v. Director of Lands*, *supra* note 20; *Collado v. Court of Appeals,* G.R. No. 107764, October 4, 2002, 390 SCRA 343; *Director of Lands v. Intermediate Appellate Court*, G.R. No. 73246, March 2, 1993, 219 SCRA 339.

23 *Republic v. Estonilo*, *supra* note 21; *Zarate v. Director of Lands, supra* 20.

24 *De los Reyes v. Ramolete*, G.R. No. L-47331, June 21, 1983, 122 SCRA 652, citing *Gonzaga v. Court of Appeals*, G.R. No. L-27455, June 28, 1973, 51 SCRA 381.

> With the latest pronouncement of the Supreme Court of Boracay as state-owned, private respondent's ownership over the property in dispute is defeated. As discussed at length by the highest tribunal in the consolidated cases of The Secretary of DENR, et al. v. Yap, et al. in G.R. No. 167707 and Sacay, et al. v. The Secretary of DENR, et al. in G.R. No. 173775, Boracay is an unclassified land of public domain. Thus, where land is not alienable and disposable, possession of the land, no matter how long cannot confer ownership or possessory right.
>
> It follows then that Asicio (sic) S. Tupas was not in a position to sell that which he did not own in the first place. This is because at the time the sale was entered into between private respondent and the late Asicio (sic) S. Tupas, the land in dispute was not alienable and subject to disposition. Since private respondent derives title from whatever right his predecessor-in-interest had, which unfortunately Asicio (sic) S. Tupas had none, his claim is no longer tenable. Private respondent cannot acquire a right greater than what his predecessor-in-interest had. To allow the execution of judgment would be to give undue advantage to private respondent whose very basis of claim is no longer tenable.[25]

The above reasoning of the CA has its basis on a simple logic that one cannot dispose of a thing he does not own. In this case, at the time of the sale of the subject property, the late Asiclo S. Tupas had no right to sell a property that has not been declared alienable by the State; hence, he cannot pass unto another any right or title to own or possess the land. Therefore, the "Sale of Unregistered Land" entered into between the late Asiclo S. Tupas and the late Zosimo Maravilla on February 8, 1975, previously considered valid and legitimate and became the basis used by the RTC to settle the dispute between the parties as to who has the better to right to the property, has become null and void because the subject property of the contract is a forest land and cannot be alienated at the time the said deed of sale was executed. Article 1347 of the Civil Code provides that only things, which are not outside the commerce of man, including future things, may be the objects of the contracts and Article 1409 of the Civil Code also states that contracts whose objects are outside the commerce of man are non-existent and void *ab initio*.

With the above disquisitions, this Court's decision in *The Secretary of the Department of Environment and Natural Resources (DENR), et al. v. Yap, et al.* and *Sacay, et al. v. the Secretary of the DENR, et al.* is, therefore, considered as a supervening event that can stay the execution of a judgment that has already attained finality. In *Abrigo, et al. v. Flores, et al.*[26] this Court ruled that:

> Once a judgment becomes immutable and unalterable by virtue of its finality, its execution should follow as a matter of course. A

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25 *Rollo*, pp. 23-24.

26 711 Phil. 251 (2013).

> supervening event, to be sufficient to stay or stop the execution, must alter or modify the situation of the parties under the decision as to render the execution inequitable, impossible, or unfair. The supervening event cannot rest on unproved or uncertain facts.
>
> x x x x
>
> We deem it highly relevant to point out that a supervening event is an exception to the execution as a matter of right of a final and immutable judgment rule, only if it directly affects the matter already litigated and settled, or substantially changes the rights or relations of the parties therein as to render the execution unjust, impossible or inequitable.[27] A supervening event consists of facts that transpire after the judgment became final and executory, or of new circumstances that develop after the judgment attained finality, including matters that the parties were not aware of prior to or during the trial because such matters were not yet in existence at that time.[28] In that event, the interested party may properly seek the stay of execution or the quashal of the writ of execution,[29] or he may move the court to modify or alter the judgment in order to harmonize it with justice and the supervening event.[30] The party who alleges a supervening event to stay the execution should necessarily establish the facts by competent evidence; otherwise, it would become all too easy to frustrate the conclusive effects of a final and immutable judgment.[31]

WHEREFORE, the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated May 25, 2010 of petitioners heirs of Zosimo Q. Maravilla is **DENIED** for lack of merit. Consequently, the Decision dated November 11, 2009 and the Resolution dated March 17, 2010 of the Court of Appeals are **AFFIRMED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

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27 *Javier v. Court of Appeals,* G.R. No. 96086, July 21, 1993, 224 SCRA 704, 712.

28 *Natalia Realty, Inc. v. Court of Appeals*, G.R. No. 126462, November 12, 2002, 391 SCRA 370, 387.

29 *Dee Ping Wee v. Lee Hiong Wee*, G.R. No. 169345, August 25, 2010, 629 SCRA 145, 168; *Ramirez v. Court of Appeals*, G.R. No. 85469, March 18, 1992, 207 SCRA 287, 292; *Chua Lee A.H. v. Mapa,* 51 Phil. 624, 628 (1928); *Li Kim Tho v. Go Siu Kao*, 82 Phil. 776, 778 (1949).

30 *Serrano v. Court of Appeals,* G.R. No. 133883, December 10, 2003, 417 SCRA 415, 424-425; *Limpin, Jr. v. Intermediate Appellate Court*, No. L-70987, January 30, 1987, 147 SCRA 516, 522-523.

31 *Abrigo v. Flores, supra*, at 253; 261-262.

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

JOSE PORTUGAL PEREZ
Associate Justice

BIENVENIDO L. REYES
Associate Justice

FRANCIS H. JARDELEZA
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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

TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

OCT 04 2016