

Admissibility of Lawsuits Based on Interest under Algerian Civil and Administrative Procedures

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Abstract

This study examines the impact of interests on the admissibility of civil and administrative lawsuits in Algeria under the Administrative and Civil Procedures Code in the country. The research utilized a normative research method that integrated legal concepts and approaches. It drew on primary legal sources such as laws, regulations, and court decisions, as well as secondary sources including documents, literature, and articles. The study aims to raise awareness among both legal professionals and the general public about the significance of interests in civil lawsuits and how it can impact the admissibility or inadmissibility of lawsuits filed before the court. This will help enhance judicial efficiency by allowing courts to prioritize cases with significant impact on the parties or broader societal relevance. The research manifested that interests are pivotal in determining a lawsuit's validity and that for a lawsuit to be heard, interests must be legal, legitimate, and actual. It also highlighted that the concept of interest in civil lawsuits acts as a crucial mechanism to safeguard the integrity, fairness, and efficiency of the judicial system. Objections based on the unenforceability of interests serve as a key procedural tool, enabling the dismissal of lawsuits that do not meet this criterion. Thus, interest is essential not only for forming the basis of a lawsuit but also for maintaining judicial integrity and effectiveness.

1. Introduction

Interest Interest is one of the conditions for the lawsuit's admissibility before the court in accordance with the provisions of Article 13 of the Civil and Administrative Procedures Code. Interest must be legal, valid, and current. If these conditions are not met in the interest, the opposing party may plead for inadmissibility for lack of interest.¹

Interest in the context of a lawsuit before a court in Algeria, as provided for in Article 13 of the Civil and Administrative procedures' code², is an important aspect that should not be overlooked. This means that any lawsuit filed must be based on legitimate, real, and actual interests. The party filing the lawsuit must have a concrete and direct interest, indicating a legal need that must be met or legal protection that must be provided. If the opposing party finds that the interest is not valid or the claim lacks a strong enough basis to support legal or protective needs, they have the right to question the legitimacy of the claim.³

In this case, the counterparty may request the court to dismiss the lawsuit on the grounds of lack of interest. It reflects the legal principle that the court will only hear cases that have a strong,⁴ legitimate basis of interest and are relevant to the existing legal situation in order to ensure that judicial resources are used effectively and fairly.⁵

¹ Misha Ariana Plagis, "Jurisdiction and Admissibility: African Court on Human and Peoples' Rights (ACtHPR)," *Oxford Public International Law*, 2021, <https://opil.ouplaw.com/display/10.1093/law-mpeipro/e3760.013.3760/law-mpeipro-e3760>.

² Article 13 of the Civil and Administrative procedures' code

³ Ben Zoubir Omar, "The Qualification and Interest as a Condition for Accepting Civil Claims.," *The Academic Journal of Legal and Political Research* 6, no. 2 (2022).

⁴ Dedi Sumanto, Titin Samsudin, and Fikri Hi Asnawi Amirudin, "The Existence of the Religious Court in Handling Divorce Cases on the Reason of Domestic Violence," *Jambura Law Review* 3, no. 2 (July 27, 2021): 214–30, <https://doi.org/10.33756/jlr.v3i2.11651>.

⁵ Daniel Bertram, "Environmental Justice 'Light'? Transnational Tort Litigation in the Corporate Anthropocene," *German Law Journal* 23, no. 5 (2022): 738–55, <https://doi.org/DOI:10.1017/glj.2022.45>.

The provisions for pleading of inadmissibility in general differ from formal and subjective pleas.⁶ With regards to pleading for inadmissibility for lack of interest, the matter becomes more nuanced as it addresses the characteristics of the interest. If the interest is a condition for the lawsuit's admissibility, it may take forms related to the subject matter of the dispute, just as it may take forms related to the formal conditions for performing the right to legal action.⁷

When a court considers whether to accept an application for a lawsuit, it often involves complex and multifaceted considerations. This appeal, in general, can be based on both formal and subjective aspects.⁸ However, the complexity of the petition increases when the absence of interest serves as its basis because it directly relates to the essence and nature of the interest presented before the court.⁹

Interest plays a crucial role in determining whether a lawsuit can be accepted, as it has various dimensions.¹⁰ In this context, interests not only relate to the substance or subject matter of the dispute but can also relate to the formal conditions for filing such a lawsuit. That is, the interests must be concrete and have a direct link with the subject matter. Furthermore, applicable laws or regulations often define certain formal

⁶ Formal pleas are those means by which the defendant challenges the validity of the legal claim or the legitimacy of procedures of denials the court competence and it is one of the procedural rights, therefore; it becomes a right for anyone confirmed as a defendant in the legal dispute as a general rule. Article 13 of Civil and Procedures Law. These pleas are legal means set forth by the legislator and do not arise from the agreement of the parties as a general rule, according to Article 49 of the Civil and Administrative Procedures Law.

As for the subjective pleas, they are the effective means granted by the law to the defendant for the purpose of pleading the subjective claim raised by the plaintiff through the legal action. It is considered one of the procedural rights and is linked to the procedural right, whether it exists or not.

The purpose of the defendant in making these subjective pleas is to deny the subjective claim directed against them and to urge the court not to rule in favor of the plaintiff, Article 48 of the Civil and Administrative Procedures Law.

⁷ Anees Mansour Al-Mansour and Tamara Yacoub Nasereddin, "Effect of Decision No (10) of 2013 Issued by the Jordanian Constitutional Court on Referral Between Civil and Administrative Courts Due to Lack of Jurisdiction," *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique* 36, no. 2 (April 1, 2023): 731–43, <https://doi.org/10.1007/s11196-021-09874-2>.

⁸ Amedeo Santosuosso and Giulia Pinotti, "Bottleneck or Crossroad? Problems of Legal Sources Annotation and Some Theoretical Thoughts," *Stats*, 2020, <https://doi.org/10.3390/stats3030024>.

⁹ Ben Zoubir Omar, "The Qualification and Interest as a Condition for Accepting Civil Claims."

¹⁰ Irianto Tiranda, Fenty Puluhalawa, and Johan Jasin, "Konsep Ideal Penanganan Perkara Tindak Pidana Korupsi Pungutan Liar Berdasarkan Asas Peradilan," *Jambura Law Review* 1, no. 2 (July 29, 2019): 120–43, <https://doi.org/10.33756/jalrev.v1i2.2119>.

requirements that interests must meet to ensure the suit is legally fit for the court to hear and decide upon.¹¹

2. Problem Statement

This research is an attempt to answer the following considerations: 1). How important is the criterion of interest in the admissibility of civil and administrative lawsuits? 2). How does the burden of cases lacking the interest criterion impact judicial productivity? 3). Can prioritizing legal, legitimate, and actual interests improve judicial efficiency and integrity?

3. Methods

This study employed a normative research methodology, a legal research approach that focuses on evaluating legal norms, rules, and legislation. It emphasized the use of primary legal sources, including laws, regulations, and court rulings, alongside secondary legal sources such as documents, literature, and articles relevant to the research topic. The analysis concentrated on existing laws regarding the requirement of interest for initiating a lawsuit and examined pertinent court judgments on this issue.

4. Interest as a Prerequisite for Filing a Lawsuit

A dominant perspective in jurisprudence holds that having a vested interest is essential for initiating legal proceedings.¹² For a right to be actionable, certain conditions must be met: the right or legal status must exist, and there must be a violation of these. Additionally, legal capacity is required.¹³ Fulfillment of these conditions grants the right to pursue legal action. Moreover, the absence of any grounds for the extinguishment of this right creates an interest in seeking judicial protection against the violation. If any of these conditions are unmet, the right to legal action does not arise.¹⁴ Therefore, no

¹¹ Ben Zoubir Omar, "The Qualification and Interest as a Condition for Accepting Civil Claims."

¹² Ahmad Wijaya and Nasran Nasran, "Comparison Of Judicial Review: A Critical Approach To The Model In Several Countries," *Jurnal Legalitas* 14, no. 2 (October 31, 2021): 85–106, <https://doi.org/10.33756/jelta.v14i2.11809>.

¹³ Nabilah Rezkyna, Pupung Faisal, and Purnama Trisnamansyah, "Legal Analysis Of The Implementation Of Risk Allocation In Cooperation Schemes With The Government And Business Entities In Infrastructure Provision In Indonesia," *Jurnal Legalitas* 14, no. 2 (October 29, 2021): 162–78, <https://doi.org/10.33756/jelta.v14i2.11828>.

¹⁴ Nabil Ismail Omar, *The Mediator in Civil and Commercial Procedure Law* (Alexandria: Dar Al-Jamea Al-Jadeeda for Publishing, 2006).

lawsuit or plea can proceed without a vested interest, as the interest represents the practical benefit sought through the legal action.

4.1. Interest must e Legal:

The law abstractly protects legitimate legal interests, focusing primarily on safeguarding rights or legal statuses. An interest is deemed legitimate if it acknowledges a right, a legal status, a license, or releases the plaintiff from an obligation. This legitimacy is not necessarily financial or material; it can be legal, ethical, or moral ¹⁵ The law should support it so that the plaintiff can benefit from legal protection.¹⁶

When determining whether the conditions of legal interest are met, the judge assumes the validity of the alleged facts. If the legal rules protect the type of interest being pursued, the judge considers the lawsuit valid. Otherwise, the court will deem it inadmissible. This implies that not every interest is protected by law. Consequently, not all interests can be defended through a lawsuit. An individual may have a practical benefit that does not align with a legal principle, and thus, this benefit may not constitute a right protected by legal action¹⁷. As a result, if an interest does not fall under a legal rule, it is merely a factual status and, therefore, is not protected by a lawsuit.¹⁸

The legal interest in a lawsuit arises at the moment of the offense, affecting the right or legal status, or through any action that directly impedes the full benefits one should receive. In other words, the holder of the right or legal status cannot be deprived of their right or status at the discretion of others due to a violation, regardless of its form, even if it is based merely on doubt about the legal status.

Considering legal interest as a condition for a lawsuit's admissibility depends on the existence of a subjective right or a legal status. This necessitates distinguishing

¹⁵ Mohammed Sheta Abu El Saad, *The Plea of Non-Acceptance in Civil, Commercial, Administrative, and Constitutional Contexts in Light of Law No. 81 of 1996* (Alexandria: Dar Al-Jamea Al-Jadeeda for Publishing, 1997).

¹⁶ Zaka Firma Aditya and Sholahuddin Al-Fatih, "The Legal Protection System of Indigenous Peoples in Southeast Asia," *Legality: Jurnal Ilmiah Hukum* 31, no. 2 (September 21, 2023): 285–309, <https://doi.org/10.22219/ljih.v31i2.27619>.

¹⁷ Omar, *The Mediator in Civil and Commercial Procedure Law*. P.73

¹⁸ Hind Belkhir, "The Concept of Jurisprudence in Algerian," in *Research Association for Interdisciplinary Studies (RAIS) Conference Proceedings*, 2021, 120, <https://doi.org/10.5281/zenodo.5701669>.

between the plaintiff's claims and the actual facts. In other words, it is incumbent upon the judge to ensure the legitimacy of the claim its legality without delving into the examination of the facts upon which the plaintiff bases their request¹⁹.

For instance, if a concubine files a lawsuit seeking compensation for the death of her partner, the judge will only examine whether a legal rule protects the concubine's rights or status. If it becomes apparent that the law does not abstractly protect her right to compensation, the judge will dismiss the claim without delving into the facts or assessing whether she deserves compensation. Thus, the judge's role is primarily limited to a purely legal matter: determining the existence of a legal basis that grants protection to the claimed right.

4.2. Interest must be valid and current:

Another characteristic of the interest required when filing a lawsuit is that it must be both existent and current. This means the plaintiff, or the holder of the legal status seeking protection through the lawsuit, has suffered an actual assault or is involved in a dispute, thereby confirming the harm that justifies resorting to the judiciary²⁰.

The nature of the harm suffered by the holder of the subjective right or legal status is irrelevant; even mere doubt about it can place the holder in the position of a victim. This entitles them to the right to file a lawsuit to dispel the uncertainty surrounding their rights or legal status. Therefore, claiming a debt as the agreed-upon terms approach makes the interest valid due to its connection to the specified deadline..²¹ Similarly, a wife's request for divorce establishes interest if one of the legally stipulated reasons is met. However, the interest is not valid if the wife files a lawsuit to annul her husband's actions during his lifetime before she becomes an heir. Likewise, if an heir immediately claims ownership of someone else's property and seeks to annul a testimony issued by their deceased relative regarding the ownership, the interest is not valid.

¹⁹ Ibid.

²⁰ Saad, *The Plea of Non-Acceptance in Civil, Commercial, Administrative, and Constitutional Contexts in Light of Law No. 81 of 1996*. P 86

²¹ Lamine Larit, "Administrative and Judicial Supervision of the Real Estate Investigation Process in the Algerian Legislation," *Russian Law Journal* XI, no. 6 (2023): 21–27.

However, if the claimed interest is invalid and not currently active, it does not establish a legal interest; it remains merely potential. If the plaintiff cannot obtain the required legal protection until a later date, the interest is considered a future interest rather than a current one. As is well known and agreed upon, resorting to the judiciary should not be arbitrary or based on potential interests; it must be founded on certainty. Even if the law allows it, such cases are considered exceptions.

5. Pleas of Inadmissibility For Lack of Interest

The plaintiff primarily uses the plea of inadmissibility, citing the absence of interest, to challenge their right to seek judicial protection. Nullity, as defined by legal doctrine, is a legal categorization for an action that diverges from its legal framework, resulting in the action failing to produce the effects intended by law. When a lawsuit is deemed inadmissible due to lack of interest, it classifies the judicial request submitted to the court as invalid, thereby preventing the court from examining the claim and addressing the allegations within the request.

5.1. Pleas of Inadmissibility For Lack of Interest Are Deemed a Penalty

A penalty is a legal consequence imposed when procedural conduct violates the law. Penalties are imposed to maintain respect for the law and demonstrate the effectiveness of legal norms. The concept of a penalty, as a basic principle in positive law, symbolizes the result of incorrect legal activity. The core of this consequence is the recognition that such a defective action cannot produce the same results that would have occurred if it were valid.²²

Before this plea is addressed by the court, which involves a preliminary assessment of the existence or absence of a subjective right in the lawsuit, it is important to note that the penalty of nullity pertains to the validity of the judicial request itself. In contrast, inadmissibility concerns whether the necessary conditions for accepting the judicial request are met, with the ultimate goal of determining whether the plaintiff is entitled to judicial protection.²³ As long as the interest is one of the conditions for accepting the judicial request, which is the technical tool for performing the right in the lawsuit, it

²² Omar, *The Mediator in Civil and Commercial Procedure Law*. P 143

²³ Ibid. p 144

can be said that the plea of inadmissibility due to the absence of interest is one of the procedural penalties stipulated in the case of its availability.

5.2. Pleas of Inadmissibility For Lack Of Interest Are Deemed a Part of Public Order

A lawsuit is an intentional right that arises for an individual as a result of an infringement on their subjective right, granting the holder the right to judicial protection.²⁴ Thus, it differs from the right protected by this lawsuit. The plea that denies the right in the lawsuit differs from the plea that denies the subjective right. As we have seen before, the plea of inadmissibility generally aims to deny the right in the lawsuit. Pleading inadmissibility due to the absence of interest serves two functions: it can deny the right in the lawsuit itself or be directed at its subject matter, such as the plea of preclusion due to the absence of the element of judicial protection over the substantive right subject to the claim.

In this context, a functional relationship arises between the subjective right and the right in the lawsuit. Denying this functional relationship would cause the right in the lawsuit to lose its function. If legal protection over the subjective right is absent, the right in the lawsuit does not arise because legal protection is considered an objective prerequisite for the emergence of the right in the lawsuit.²⁵ Similarly, in the context of judicial protection, if it falls away from the subjective right, it does not lead to the emergence of the right in the lawsuit.

A lawsuit can only be initiated if there is an infringement, which validates and makes the interest current. This infringement must concern a legitimate right or legal status, thereby rendering the claimed interest legal. One characteristic of this interest that needs examination is whether it falls under public order. Specifically, is the plea of inadmissibility due to lack of interest considered part of public order?

²⁴ D. Amin, "Conditions for Accepting the Case in Light of the Amendment of the Algerian Civil Procedure Code" (Universitas Ali Lounici, 2018).

²⁵ Abdul Kadir Jaelani et al., "Legal Protection of Employee Wage Rights in Bankrupt Companies: Evidence from China," *Legality: Jurnal Ilmiah Hukum* 31, no. 2 (August 22, 2023): 202–23, <https://doi.org/10.22219/ljih.v31i2.25874>.

If it is, the judge must automatically address the issue and declare the case inadmissible due to the lack of interest. However, if it is not, it is up to the parties involved to raise the issue and insist on it for the judge to make a ruling.

While the legislator explicitly empowers courts to rule cases inadmissible due to lack of capacity or failure to meet legal conditions for filing lawsuits, it remains silent on provisions regarding inadmissibility due to lack of interest. This silence suggests it may not fall under public order, and the court may not be obligated to raise it automatically.

However, the plaintiff's interest in filing a lawsuit contradicts this interpretation. If this condition isn't met, the judge must address it and consider ruling the case inadmissible due to lack of interest. As previously discussed, the interest must be legal, valid, and current.

In this case for instance, the appellant challenged the contested decision on the grounds that the initial defendant lacks a legal interest in bringing the lawsuit, as they are merely a neighbor to the second party, each owning separate apartments. Therefore, they have no interest in voiding the sales contract in which they were not a party. The appellant relied on Article 101 of the Civil Code, which states that the right to void a contract is granted only to one of the contracting parties and not to an external party. The judges in the case did not clarify the interest of the initial defendant in voiding the contract when accepting their plea. Additionally, the initial defendant cannot claim the right of preemption because they are not among the preemptive right holders as stipulated by Article 795 of the Civil Code, rendering their claim devoid of legal interest.

6. Inadmissibility of the Lawsuit on the Grounds That the Interest Is Illegal

The The illegality of the interest stems from the absence of the subjective right or the absence of the conditions for the right in the lawsuit. It arises from the lack of a subjective right, whether through a plea after admissibility or a subjective inadmissibility. In this situation, the interest isn't valid because the law doesn't recognize it. This means that the other side can either stick to subjective inadmissibility

because there isn't a subjective right or inadmissibility because there isn't any interest.²⁶

In detail, the illegitimacy of the interest arises either due to the forfeiture of legal protection for the subjective right or the absence of the element of judicial protection.²⁷ In both cases, if the plea of inadmissibility for the illegitimacy of the interest is attributed to the non-existence of the subjective right in the legal realm or the absence of legal protection for it, the subjective right lacks legal protection. In these situations, the inadmissibility of lack of interest aligns with the subjective inadmissibility and is always considered part of the public order. It is the judge's responsibility to raise it automatically, as long as it pertains to this matter.

If the inadmissibility based on the illegitimacy of the interest is due to the delay of the judicial protection condition, such as filing a challenge outside the legal timeframe, or if the case has been previously adjudicated, the arising inadmissibility may or may not be related to the public order, depending on the specific circumstances.²⁸ This is because the legislator may pre-determine the outcome of such situations, such as filing a challenge outside the legal timeframe, where it becomes the judge's responsibility to verify the timeliness of the challenge. In some cases, the judge may not have the opportunity to confirm this, such as when a decision has already been rendered. If the opposing party does not raise this issue and the party with interest does not insist on it, the judge cannot determine it. The exercise of judicial protection may sometimes serve the public order, but other times the interests of the parties and the judge cannot prioritize one over the other.

²⁶ Omar Zouda, *Lectures Delivered to the Students of Judges at the Higher School of Judiciary* (Algeria: France, 2005).

²⁷ Aan Eko Widiarto, Muhammad Dahlan, and Ria Casmi Arrsa, "The Construction of Legal Basis Relevant to the State of Law in the Event of Pandemic Emergency: A Lesson from Indonesia," *Legality: Jurnal Ilmiah Hukum* 30, no. 2 (December 22, 2022): 283–97, <https://doi.org/10.22219/ljih.v30i2.23553>.

²⁸ Martinez-Pujalte A., "Legal Capacity and Supported Decision-Making: Lessons from Some Recent Legal Reforms," *Laws* 8, no. 1 (2019): 4, <https://doi.org/10.3390/laws8010004>.

7. Inadmissibility of the Lawsuit on the Grounds That the Interest Is Neither Valid Nor Current

In this case, the inadmissibility is directed towards the interest, considering it based on potentiality. This potentiality may be due to either the absence of a violation of the right or legal status in the first place or the fact that the harm will inevitably occur in the future. Accordingly, if someone files a lawsuit without the case being based on a valid and existing interest, the judge has no choice but to rule on its inadmissibility.

For instance, claiming the execution of an obligation before its deadline results in a lack of valid interest, leading to the rejection of the lawsuit. An example of that is the Decision number 0912413 dated 2015/03/12 by the Real Estate Chamber of the Supreme Court (unpublished). The decision revealed that the appellant failed to adhere to the contract's stipulations regarding price review procedures. According to the contract clause, an inspection report must be prepared by a notary in the presence of both parties before claiming owed amounts. Consequently, the appellant's request for a review prior to the possession report's issuance was deemed invalid by the appellate judges, as the appellant's right had not expired. The appellant can file a lawsuit only after the payment deadline expires, per the contract terms, which prohibit requesting a price review until after the possession report is issued. Thus, the judges have declared the claim inadmissible and rejected it²⁹.

Courts were created to satisfy people's needs for judicial protection. If a violation occurs against an individual's rights or legal status, the individual cannot take justice into their own hands or establish the justice they deem appropriate.³⁰ Instead, individuals must turn to this judicial institution, which is considered a public service and created to serve the public. However, Accepting potential interest cases each time would burden the institution with cases that do not serve either the plaintiff or the institution, as judgments on these potential interests lack a subject for enforcement. In such cases, if the judge sees that the interest is potential or based on future facts, the

²⁹ Decision number 0912413 dated 2015/03/12 by the Real Estate Chamber of the Supreme Court (unpublished).

³⁰ Sidik Sunaryo, "The Philosophy of Social Injustice for All Indonesian Laborers Set Forth in Job Creation Law," *Legality: Jurnal Ilmiah Hukum* 31, no. 1 (May 5, 2023): 112–23, <https://doi.org/10.22219/ljih.v31i1.25330>.

judge should automatically rule on rejecting the claim. This is considered part of the public order in all cases unless the legislator makes a specific and explicit exception, as the default in a lawsuit is for the interest to be valid and existing. If the legislator deviates from this rule through a specific provision, the judge must suspend the application of the general rule and apply the specific rule, as long as the legislator's intent is clear in that direction.

If the claim raised by the plaintiff meets the legal requirements necessary to be considered valid, current, and valid, the court recognizes the existence of sufficient grounds to proceed with further examination of the substantive aspects of the lawsuit.

In the legal context, this decision carries significant implications. First, it indicates that the court has conducted an in-depth evaluation of the interest aspect of the case and found that the argument about the lack of interest is not strong enough to impede legal proceedings. The court's careful consideration of the conditions necessary to recognize the validity of the lawsuit includes evaluating the direct link between the plaintiff and the subject matter of the dispute, as well as the actuality and relevance of the issue brought to court.

Secondly, the decision to accept the application signals that the court is ready to delve deeper into the questions of law and facts raised in the lawsuit. The court will analyze and consider everything from evidence to legal arguments to determine the truth and justice in the case. Thus, this decision opens up an opportunity for the plaintiff to prove their claims, while at the same time giving the defendant the opportunity to defend himself.

In case of an appeal against this ruling, it's vital for the opposing party to recognize their right to challenge any decision made by the court, including procedural matters. This underscores the principle that every stage and ruling in the legal process is subject to review by a higher court, ensuring transparency and fairness. This ensures equal footing for all parties to present arguments and contest decisions they find unsuitable. Hence, this ruling not only evaluates the legal aspects of interests but also facilitates a comprehensive review of all legal facets and case-related facts.

If the court deems the plea of inadmissibility for lack of interest well-founded, it will rule in favor of accepting this plea and render a judgment rejecting the lawsuit due to the lack of interest. This leads to the removal of litigation procedures and the elimination of all legal consequences resulting from their initiation. As a result, the parties revert to their pre-lawsuit state, as if the lawsuit had never been initiated. In this case, the court does not exhaust its jurisdiction by considering the subject matter of the lawsuit.

An example of this is the decision number 0885778 dated 2014/11/13, issued by the Real Estate Chamber of the Supreme Court, "Unpublished". In this case, the appellant challenged the contested decision for violating the provisions of Article 211 of the Family Law, which stipulates that revoking a gift should be done before a notary and not before a court. When the judges in the first place accepted the application to revoke the gift, they violated the law, rendering their judgment subject to appeal. The appellant's objection to the contested decision is regarding their right to revoke the gift. The right to revoke a gift is a testamentary right exercised by the donor through declaring their intention to revoke the gift, which the notary receives and authenticates. The court is not competent to authenticate individuals' intentions when entering into legal transactions. Therefore, when the donor exercises their right to revoke the gift, they are not infringing on anyone, and thus the court only intervenes if there is an infringement on rights or legal positions. However, when the judges in the case accepted the donor's declaration of their right to revoke the gift, they acted beyond their jurisdiction, as this falls under the purview of other officials.

Therefore, if interest is proven after the initial dismissal of the lawsuit due to lack of interest, the party with the interest has the right to file the lawsuit again and assert the same initial claim. However, this raises the same issue as before: whether the plea of inadmissibility due to lack of interest still applies.

This characterization can sometimes fall under formal pleas and sometimes under subjective pleas. Consequently, the effect of the court's judgment rejecting the lawsuit due to a lack of interest varies depending on the characterization of the interest in the subject matter of the case.

Pleas for inadmissibility can also be rejected if the interest is not well-founded. For example, consider Decision No. 0879467 dated 16/10/2014, issued by the Real Estate Chamber of the Supreme Court. According to the case facts, the appellant lent 900,000 DZD to an individual named B.A. based on a loan contract dated 08/01/2001, secured by a mortgage on the borrower's house, as per the official contract registered at the Land Registry on 26/11/2002, Volume 29, Number 48. Subsequently, the mortgagor transferred the property to the second respondent, who then transferred it to the first respondent.

Upon referring to the provisions of Article 894 of the Civil Code, it states the following: "The mortgagor is allowed to dispose of the mortgaged property, provided that any disposal does not affect the right of the mortgagee creditor." Therefore, the law does not prevent the mortgagor (debtor) from disposing of the mortgaged property, and the property can be transferred to another party holder of the mortgage. The mortgagee creditor has the right to foreclose on the mortgaged property from the hands of the holder of the property when the debt is due.

The mortgagee creditor enjoys the right of pursuit and preference over the mortgaged property in the hands of the holder to whom the property has been transferred. The mortgagee creditor can foreclose on the mortgaged property from the holder when the debt is due and cannot challenge the disposal made by the mortgagor.

Since the lawsuit filed by the appellant brings him no legal benefit or advantage, the appeal against the decision rejecting his claim to annul the sale contract issued by the respondent brings him no benefit. Therefore, this appeal should be dismissed due to the lack of interest³¹.

In all cases, if the lack of interest renders the lawsuit inadmissible due to the illegality of the claimed interest, the situation remains unchanged. The plaintiff cannot return to the same court to refile the same request on the same subject matter, whether the

³¹ See Decision No. 0879467 dated 16/10/2014, issued by the Real Estate Chamber of the Supreme Court, which is unpublished.

characterization of the illegality is due to the absence of legal protection for the subjective right or the absence of judicial protection for the latter.

However, if the reason for the lawsuit's inadmissibility for lack of interest is attributed to the interest being potential, it is possible, with a complete description of this interest, to accept the lawsuit. The plea of preclusion in a lawsuit cannot be raised since there is a new situation and a new element in the lawsuit. For instance, if someone files a lawsuit to claim future debts because the debtor is in a state of insolvency and the lawsuit is initially dismissed, the person can file a new lawsuit, which may be accepted when the debt falls due.

If the conciliation procedures are not followed and a lawsuit is filed without conciliation, the plaintiff has the right to initiate the conciliation process and file a new lawsuit in case the court rejects the lawsuit.

8. Conclusion

This study highlights the crucial role of interest as a prerequisite for determining the validity of a lawsuit. A legal, valid, and actual interest is essential for a lawsuit to be accepted by the court, ensuring that only those based on such interests are heard and decided upon. The counterparty can apply for the lawsuit's inadmissibility if it lacks interest or the necessary characteristics. This principle helps maintain the judicial process's integrity and effectiveness by rejecting cases without enforceable interests and preventing frivolous claims from burdening the courts.

The concept of interest serves as a foundation for initiating a lawsuit and safeguards the judicial system's fairness and efficiency. It ensures that only cases with genuine and justifiable interests are entertained, preventing misuse of the legal system for personal vendettas or harassment. The requirement of valid interest promotes efficiency by screening out baseless lawsuits, allowing courts to allocate resources effectively and prioritize cases with substantial impact or broader societal significance. It also encourages alternative dispute resolution methods before resorting to litigation.

Upholding the requirement of a valid interest maintains the principle of equal treatment and ensures that all parties have a legitimate stake in the lawsuit's outcome.

This study recommends raising awareness about the criteria for determining lawsuit validity, enhancing legal education on the significance of interests, and conducting further research on the role of interests in civil lawsuits. Clear guidelines for filing lawsuits, educational workshops, and seminars can help legal professionals and the public understand the importance of legitimate interests in initiating legal action.

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