

MUNICIPALITY OF KAPALONG, THRU ITS MAYOR, PORFIRIO F. ROYO, VICE MAYOR, TOMAS D. MANZANO, MUNICIPAL COUNCILORS VALERIANO CLARO, CARIDAD A. DORONIO, FELICULO ESTRADA, GEORGE EXAL...

G.R. No. L-41322. September 29, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for certiorari and prohibition with preliminary injunction seeking: (a) the reversal (annulment) of the February 17, 1975 Order of the then Court of First Instance of Davao denying the motion to dismiss Civil Case No. 475; and the March 17, 1975 and July 10, 1975 Orders of the same Court denying petitioner's motions for reconsideration; and (b) the issuance of a writ of prohibition directing respondent Judge to desist from taking cognizance of Civil Case No. 475.

From portions of the Municipality of Kapalong, President Carlos P. Garcia created respondent Municipality of Santo Tomas, and the latter now asserts jurisdiction over eight (8) barrios of petitioner. For many years and on several occasions, this conflict of boundaries between the two municipalities was brought, at the instance of private respondent, to the Provincial Board of Davao for it to consider and decide. However, it appears that no action was taken on the same. Private respondent then filed a complaint with the then Court of First Instance of Davao, presided over by herein public respondent Judge Felix L. Moya against the Municipality of Kapalong, for settlement of the municipal boundary dispute, recovery of collected taxes and damages, docketed therein as Civil Case No. 475.

On March 7, 1974, petitioner filed its Answer (Rollo, pp. 14-17).

On November 22, 1974, petitioner filed a Motion to Dismiss on the ground of lack of jurisdiction of the lower court and lack of legal personality of the Municipality of Santo Tomas (*Ibid.*, pp. 18-22), which was opposed by private respondent (*Ibid.*, pp. 23-26). On December 12, 1974, petitioner filed its reply to the opposition (*Ibid.*, pp. 27-30), after which respondent Judge, in an Order dated February 17, 1975, denied the motion to dismiss (*Ibid.*, pp. 34-36).

On March 3, 1975, petitioner filed a Motion for Reconsideration (*Ibid.*, pp. 37-40), but in an Order dated March 17, 1975, the same was denied by respondent Judge and so was the Second Motion for Reconsideration (*Ibid.*, pp. 42-43), in an Order dated July 10, 1975 (*Ibid.*, p. 44). Hence, the instant petition (*Ibid.*, pp. 1-10).

The Second Division of this Court, in a Resolution dated September 10, 1975, resolved to require the respondents to answer and to issue a temporary restraining order (*Ibid.*, p. 49). In compliance therewith, private respondent filed its Answer on October 28, 1975 (*Ibid.*, pp. 53-57). In the Resolution dated November 3, 1975, the parties were required to file their respective memoranda (*Ibid.*, p. 65). Petitioner filed its Memorandum on December 10, 1975 (*Ibid.*, pp. 68-76), and private respondent on January 5, 1975 (*Ibid.*, pp. 77-85).

Petitioner raised four (4) issues, to wit:

- WHETHER OR NOT PRIVATE RESPONDENT HAS LEGAL PERSONALITY TO SUE;
- WHETHER OR NOT THE MATTER OF SETTLEMENT OF BOUNDARY DISPUTE IS A POLITICAL QUESTION;
- WHETHER OR NOT PRESIDENTIAL DECREE NO. 242 SUPERSEDED REPUBLIC ACT NO. 6128; AND
- WHETHER OR NOT THE ACTION HAS ALREADY PRESCRIBED.

The instant petition is impressed with merit.

The pivotal issue in this case is whether or not the Municipality of Santo Tomas legally exists.

Petitioner contends that the ruling of this Court in *Pelaez v. Auditor General* (15 SCRA 569) is clear that the President has no power to create municipalities. Thus, there is no Municipality of Santo Tomas to speak of. It has no right to assert, no cause of action, no corporate existence at all, and it must perforce remain part and parcel of Kapalong. Based on this premise, it submits that respondent judge should have dismissed the case.

On the ground of jurisdiction, petitioner argues that the settlement of boundary disputes is administrative in nature and should originate in the political or administrative agencies of the government, and not in the courts whose power is limited to judicial review on appropriate occasions (*Ibid.*, pp. 73-74).

Rule 3, Section 1 of the Rules of Court expressly provides that only “entities authorized by law may be parties in a civil action.” Now then, as ruled in the *Pelaez* case *supra*, the President has no power to create a municipality. Since private respondent has no legal personality, it can not be a party to any civil action, and as such, respondent Judge should have dismissed the case, since further proceedings would be pointless.

PREMISES CONSIDERED, the petition is GRANTED; the Orders of February 17, 1975, March 17, 1975 and July 10, 1975 of respondent Judge are SET ASIDE; and Civil Case No. 475 is DISMISSED. The restraining order previously issued by this Court is made permanent.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

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