

BARANGAY SALIAN, PLAINTIFF – APPELLANT, VS. THE SANGGUNIANG BAYAN OF ABUCAY, BATAAN, DEFENDANT – APPELLEE.

Ponente: VIDAL, M.D., J.

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VIDAL, M.D., J.:

This is an appeal from the Decision[1] dated 14 March 2002 of the Regional Trial Court, Branch I of Balanga City, Bataan in Case No. CV-7291, involving the settlement of boundary disputes between Barangays Gabon and Salian, Abucay, Bataan.

THE FACTS

On 12 August 1972, the Sangguniang Bayan of Abucay, Bataan enacted Kapasiyahan Blg. 82, S. 1972[2] delineating the boundary between Barangay Gabon and Barangay Salian, both located in Bataan, a copy of which was furnished the Sangguniang Panlalawigan of Bataan[3].

On 22 August 1994, the Sangguniang Bayan of Abucay, Bataan passed Kapasiyahan Bilang 77-94[4] enacting Kautusang Bayan Blg. 6-94[5] which provides for the naming of a street traversing from MacArthur Highway all the way up to the Roman Superhighway as “Daang Kapitan Apolinar Decena (Kapt. A. Decena St.)”. The said street traverses both Barangays Salian and Gabon[6].

When the COMELEC officials of Abucay implemented its precinct mapping project by virtue of Republic Act 8189, they used as basis Resolution No. 77-94 and Kautusang Bayan Blg. 6-94, supra. By reason of this precinct mapping project, the leadership and several residents of Barangay Salian[7] felt that their land area was decreased.

On 17 January 2001, Plaintiff-Appellant Barangay Salian (hereinafter Appellant), filed a Petition[8] for amendments and re-boundaries between Barangays Gabon and Salian with the Office of the Sangguniang Bayan of Abucay, Bataan questioning the validity of Resolution No. 77-94 and Kautusang Bayan Blg. 6-94 contending that the street, which was named Kapt. A Decena St., is part of Barangay Salian’s territorial jurisdiction. The Appellant likewise sought the correction of the alleged overlapping of territorial limits among the barangays concerned.

Acting on the aforesaid Petition, Defendant-Appellee, the Sangguniang Bayan of Abucay, Bataan (hereinafter Appellee), denied the Petition as embodied in its 26 January 2001 Resolution No. 12-2001[9], upholding the validity of Sangguniang Bayan Kapasiyahan Blg. 82 s. 1972 which delineates the boundaries between Barangays Salian and Gabon. Aggrieved thereby, Appellant filed an “Urgent Motion for Reconsideration”[10] on 15 March 2001 with the Appellee.

On 17 April 2001, before the Appellee could resolve the Appellant’s “Urgent Motion for Reconsideration”, herein Appellant filed a Petition for Review[11] before the Regional Trial Court of Bataan which was docketed as Case No. CV-7291 and raffled to the RTC - Branch 1, of Balanga, Bataan, presided by Judge BENJAMIN T. VINZON.

In its Petition for Review before the court a quo, Appellant claimed that the Appellee patently erred in having enacted and promulgated Kapasiyahan Blg. 77-94 / Kautusang Blg. 6 – 94 dated 22 August 1994 and Resolution No. 12-2001 dated 26 January 2001 for being contrary to Article 10, Section 10 of the 1987 Constitution[12] and the Local Government Code[13] regarding substantial alteration of boundaries of barangays. Appellant further averred that the questioned Resolutions be declared null and void, hence, is unenforceable[14] for having been enacted contrary to law.

In its “Opposition”[15] filed with the court a quo on 20 July 2001, Appellee averred that the Petition for Review should be dismissed since Appellant failed to exhaust all the available administrative remedies. Appellee further alleged that Sangguniang Bayan’s Kapasiyahan Blg. 82 s. 1972 may no longer be questioned by the Appellant since it is already barred by laches. On 25 July 2001, the Appellant filed its “Comment on the Respondent’s Reply to Petition for Review”[16].

On 16 October 2001, the Appellant filed its Position Paper[17] with the court a quo while the Appellee, on 22 October 2001[18].

In its 12 March 2002 Decision, the court a quo dismissed[19] the Appellant’s Petition for Review for “Lack of Merit” holding that since the Appellant filed the Petition for Review even before the Sangguniang Bayan of Abucay could act on its Urgent Motion for Reconsideration, the Appellant failed to exhaust all the available administrative remedies. By reason thereof, the court a quo ruled that the filing of the petition is pre-mature[20]. Likewise, in the assailed Decision, the court a quo took into consideration the provisions of the Implementing Rules and Regulation of the Local Government Code of 1991 (RA 7160) particularly Art. 110 paragraphs “a” and “d” relative to the Review of Municipal Ordinance or Resolution by the Sangguniang Panlalawigan[21]. The court a quo further ruled that the delineation of boundaries between Saliang and Gabon was made in 1972 or the lapse of thirty (30) years, hence, may no longer be questioned as it is already barred by prescription[22]. The dispositive portion[23] of the Decision reads as follows:

“WHEREFORE, for lack of merit and for being pre-maturely filed, the instant petition for review is hereby ordered dismissed.

SO ORDERED.”

Dissatisfied with the Judgment of the court a quo, Appellant filed its Motion for Reconsideration[24] on 18 April 2002 which was denied in its 27 August 2002 Order[25] for “Lack of Merit”.

On 16 September 2002, Appellant seasonably filed a Notice of Appeal[26] “on the ground that the assailed Decision is contrary to law and not supported by evidence”[27], which was given due course by the court a quo[28].

ISSUES

In substance Appellant raises the following issues for our consideration:[29]

I

Whether or not the Trial Court erred when it upheld the validity of the Municipal Council of Abucay’s Kapasiyahan Blg. 82 series of 1972 and the validity of Kapasiyahan Blg. 77-94 and 12-2001 which altered the boundaries of Barangays Gabon and Saliang without complying with the rules or laws on alteration of boundaries;

II

Whether or not the Trial Court erred when it dismissed the Petition on the grounds, inter alia, of non-exhaustion of administrative remedies and prescription.

Our Ruling

This instant Petition is devoid of merit.

Anent the first issue, this Court finds no merit with the Appellant's contention that although Sangguniang Bayan Resolution 82, series of 1972 was submitted to the Provincial Board of Bataan for appropriate action, the said Resolution sought to be considered is "null and void ab initio and therefore bereft of any legality"[30] since there was "no official acceptance or denial of the Resolution as required by the Local Government Code or RA 7160"[31].

The aforecited argument deserves scant consideration.

The pertinent legal provision applicable in the instant case is Art. 110 paragraphs "a" and "d" of the Implementing Rules and Regulation of the Local Government Code of 1991 (RA 7160), which provides;

"ART. 110 : Review of Municipal Ordinance or Resolution by Sangguniang Panlalawigan.a.) Within three (3) days after approval, the Secretary to the Sangguniang Bayan shall transmit to the Sangguniang Panlalawigan for review copies of the approved ordinances and resolution.

xxx

d.) If no action has been taken by the Sangguniang Panlalawigan within thirty (30) days after submission of such an ordinance or resolution, the same shall be presumed consistent with law and therefore valid.

xxx"

The Appellant's argument that "the said Municipal Board Resolution, Kapasiyahan Blg. 82 series of 1972 dated August 12, 1972 endorsed to the Provincial Board was not acted upon or remained dormant"[32] does not hold water. Applying the aforequoted provision in the case at bar, the Kapasiyahan Blg. 82 series of 1972 is presumed to be consistent with law and therefore valid since no action was taken by the Sangguniang Panlalawigan of Bataan regarding the same within thirty (30) days after it was submitted to its office by the Sangguniang Bayan of Abucay, Bataan for review.

Furthermore, We believe that the contention of the Appellant that Kapasiyahan Blg. 82 series of 1972 caused the alleged substantial alteration of boundaries between Barangay Salian and Barangay Gabon is a question of fact which may be properly ventilated and resolved by the Sangguniang Bayan of Abucay, Bataan and not by this Court.

In view of the foregoing, this Court finds no cogent reason to depart from the court a quo's findings and conclusion.

Re the second issue, We hold that the court a quo did not err when it dismissed the Petition for Review filed by the Appellant for non-exhaustion of administrative remedies.

It's Brief, Appellant evidently admitted having filed an "Urgent Motion for Reconsideration" with the Sangguniang Bayan of Abucay dated 15 March 2001 and since the Motion "was not acted upon within the reasonable reglamentary period allowed by the law" the Appellant concluded that "the motion is deemed denied"[33].

The contention is clearly misplaced.

The Appellant's act of filing the Petition for Review with the court a quo, notwithstanding the pendency of their "Urgent Motion for Reconsideration" with the Sangguniang Bayan of Abucay, Bataan, constitutes a blatant disregard to exhaust all the administrative remedies available under the premises. A fortiori, the filing of the petition for review by the Appellant before the court a quo, was premature since the Appellee had yet to resolve the motion pending before them.

Jurisprudence is profuse with decisions applying the doctrine of exhaustion of administrative remedies holding that "wherever there is an available administrative remedy provided by law, no judicial recourse can be made until all such remedies have been availed of and exhausted"[34].

The reason for this doctrine was elucidated by the Supreme Court in the case of Hon. Bartolome C. Carale, et. al. vs. Hon. Pampio A. Abarintos, et. al.,[35] in this wise;

"xxx

Observance of the mandate regarding exhaustion of administrative remedies is a sound practice and policy. It ensures an orderly procedure which favors a preliminary sifting process, particularly with respect to matters peculiarly within the competence of the administrative agency, avoidance of interference with functions of the administrative agency by withholding judicial action until the administrative process had run its course, and prevention of attempts to swamp the courts by a resort to them in the first instance. The underlying principle of the rule rests on the presumption that the administrative agency, if afforded a complete chance to pass upon the matter, will decide the same correctly. There are both legal and practical reasons for this principle. The administrative process is intended to provide less expensive and more speedy solutions to disputes. Where the enabling statute indicates a procedure for administrative review, and provides a system of administrative appeal, or reconsideration, the courts, for reasons of law, comity and convenience, will not entertain a case unless the available administrative remedies have been resorted to and the appropriate authorities have been given an opportunity to act and correct the errors committed in the administrative forum.

xxx"

In the same line, the Supreme Court emphatically ruled in *Lopez v. City of Manila*[36], thus:

". . . Therefore, where a remedy is available within the administrative machinery, this should be resorted to before resort can be made to the courts, not only to give the administrative agency the opportunity to decide the matter by itself correctly, but also to prevent unnecessary and premature resort to courts. . . .(Underscoring, supplied)"

Accordingly, the Appellant should have waited for the Resolution of their "Urgent Motion for Reconsideration" pending with the Sangguniang Bayan of Abucay, Bataan before instituting the Petition for Review with the court a quo. The premature filing of the Petition before the court a quo abruptly deprived the Appellee of an opportunity to completely pass upon and decide the matter before it correctly which eventually resulted to the premature resort to the courts of law.

As succinctly held by the Supreme Court in the case of *Paat vs. Court of Appeals*[37], the exhaustion of administrative remedies is a doctrine of long standing and the courts have clear guidelines on the matter. Thus:

"xxx

This Court in a long line of cases has consistently held that before a party is allowed to seek the intervention of the court, it is a pre-condition that he should have availed of all the means of administrative processes afforded him. Hence, if a remedy within the administrative machinery can still be resorted to by giving the

administrative officer concerned every opportunity to decide on a matter that comes within his jurisdiction then such remedy should be exhausted first before court's judicial power can be sought. The premature invocation of court's intervention is fatal to one's cause of action. (Underscoring, supplied)

xxx"

Concededly, the application of the doctrine of exhaustion of administrative remedies is not a hard and fast rule. Several exceptions to the doctrine was laid down by the Supreme Court in the case of Quisumbing vs. Judge Gumban[38] where it was held that the doctrine shall not apply in cases (1) where the question in dispute is purely legal one; (2) when the controverted act is patently illegal or was performed without or in excess of jurisdiction; (3) where the respondent is a department secretary whose acts as an alter ego of the President bears the implied or assumed approval of the latter; (4) where there are circumstances indicating the urgency of judicial intervention; (5) where the respondent has acted in utter disregard of due process; (6) where insistence on its observance would result in nullification of the claim being asserted; (7) and when the rule does not provide a plain, speedy and adequate remedy.

As viewed from the recorded evidence, the case at bar does not fall to any in the exceptions cited above.

In the light of the foregoing factual and legal backdrop, the court a quo correctly dismissed Appellant's Petition for Review.

In fine, this Court sustains the court a quo's dismissal of the Petition for Review for being prematurely filed due to Appellant's premature resort to the courts of law.

In view of Our ruling on the assignment of errors, supra, this Court believes that We need not to belabor the issue of prescription[39].

WHEREFORE, premises considered, the instant Petition is hereby DISMISSED for lack of merit. Accordingly, the assailed Decisions and Order are hereby AFFIRMED in toto.

SO ORDERED.

Reyes, and Lampas Peralta, JJ., concur.

[1] Rollo, pp. 7-9

[2] Records, p. 30

[3] Id.

[4] Id., pp. 21-22

[5] Id.

[6] Rollo, p. 20

[7] Records, pp. 23-25

[8] Id., pp. 16-20

[9] Id., p. 32

[10] Id., pp. 33-35

[11] Id., pp. 4-13

[12] Id., p. 7

[13] Id., p. 8

[14] Id., p. 18

[15] Id., pp 78-83

[16] Id., p. 88

[17] Id., pp. 122-127

[18] Id., pp. 150-156

[19] Rollo, pp. 7-9

[20] Id., p 8

[21] Records, p. 8

[22] Id., p. 9

[23] Rollo, p. 9

[24] Records, pp. 163-165

[25] Id., p. 175

[26] Id., p. 176

[27] Id.

[28] Id., p. 181

[29] Rollo, pp. 23-24,

[30] Rollo, p. 27

[31] Id., p. 26

[32] Rollo, p. 21

[33] Id., p 21

[34] See Aquino vs. Mariano, 129 SCRA 532; National Development Company vs. Hervilla, 151 SCRA 200; Union Bank vs. Court of Appeals, 290 SCRA 198.

[35] See G.R. No. 120704, March 3, 1997

[36] See G.R. NO. 127139, 19 February 1999

[37] See G.R. No. 111107, January 10, 1997; 266 SCRA 167, pp. 175-177

[38] See 193 SCRA 520

[39] Rollo, p. 19

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