

THE MUNICIPALITY OF CANDIJAY, BOHOL, ACTING THROUGH ITS SANGUNIANG BAYAN AND MAYOR, PETITIONER, VS. COURT OF APPEALS AND THE MUNICIPALITY OF ALICIA, BOHOL, RESPONDENTS.

G.R. No. 116702. December 28, 1995

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

This is a petition for review on certiorari of the Decision of the Court of Appeals[1] promulgated on June 28, 1994, reversing the judgment[2] of the Regional Trial Court (Branch I) of the City of Tagbilaran, Bohol.

The lower court's decision, among other things, declared "barrio/barangay Pagahat as within the territorial jurisdiction of the plaintiff municipality of Candijay, Bohol, therefore, said barrio forms part and parcel of its territory, therefore, belonging to said plaintiff municipality", and further permanently enjoined defendant municipality of Alicia "to respect plaintiff's control, possession and political supervision of barangay Pagahat and never to molest, disturb, harass its possession and ownership over the same barrio" (RTC decision, p. 4; Rollo, p. 86).

On appeal, the respondent Court stated that "(S)crutiny of the conflicting claims and the respective evidence of the parties lead to the conclusion that the trial court committed an error in declaring that Barrio Pagahat is within the territorial jurisdiction of plaintiff-appellee (municipality of Candijay)." Said Court, rejected the boundary line being claimed by petitioner based on certain exhibits, since it would in effect place "practically all of Barrio Pagahat x x x, part of Barrio Cagongcagong and portions of Barrio Putlongcam and La Hacienda and all of Barrio Mahayag and Barrio del Monte within the territorial jurisdiction of plaintiff-appellee Candijay." Added the respondent Court, "As aptly pointed out by defendant-appellant in its appeal brief, 'the plaintiff municipality will not only engulf the entire barrio of Pagahat, but also of the barrios of Putlong-cam, Mahayag, Del Monte, Cagongcagong, and a part of the Municipality of Mabini. Candijay will eat up a big chunk of territories far exceeding her territorial jurisdiction under the law creating her. Her claim opens the floodgate of controversies over boundaries, including with Mabini.'" (Decision, p. 4; rollo, p. 35.) The respondent Court concluded that "the trial court erred in relying on Exh. X-Commissioner [exhibit for petitioner], because, in effect, it included portions of Barrios Putlongcam and La Hacienda within the jurisdiction of appellee Candijay when said barrios are undisputedly part of appellant's (Alicia) territory under Executive Order No. 265 creating the latter" (Decision, p. 6, rollo, p. 37).

The respondent Court also found, after an examination of the respective survey plans of petitioner and respondent submitted as exhibits, that "both plans are inadequate insofar as identifying the monuments of the boundary line between [petitioner] and the Municipality of Mabini (which is not a party to this case) as declared by the Provincial Board of Bohol. Neither plan shows where Looc-Tabasan, Lomislis Island, Tagtang Canlirong, mentioned in the afore-quoted boundary line declared by the Provincial Board of Bohol, are actually located."

(Decision, p., 4; rollo, p. 35.) The respondent Court, after weighing and considering the import of certain official acts, including Executive Order No. 265 dated September 16, 1949 (which created the municipality of Alicia from out of certain barrios of the municipality of Mabini), and Act No. 968 of the Philippine Commission dated October 31, 1903 (which set forth the respective component territories of the municipalities of Mabini and Candijay), concluded that "Barrio Bulawan from where barrio Pagahat originated is not mentioned as one of the barrios constituted as part of defendant-appellant Municipality of Alicia. Neither do they show that Barrio Pagahat forms part of plaintiff-appellant Municipality of Candijay."

On that basis, the respondent Court held that:

"Clearly, from the foregoing, there is equiponderance of evidence. The Supreme Court has ruled:

'Equiponderance of evidence rule states:

'When the scale shall stand upon an equi-poise and there is nothing in the evidence which shall incline it to one side or the other, the court will find for the defendant.

'Under said principle, the plaintiff must rely on the strength of his evidence and not on the weakness of defendant's claim. Even if the evidence of the plaintiff may be stronger than that of the defendant, there is no preponderance of evidence on his side if such evidence is insufficient in itself to establish his cause of action.

(Sapu-an, et al. v. Court of Appeals, Oct. 19, 1992, 214 SCRA 701, 705-706.)'

"WHEREFORE, the appealed judgment is reversed and set aside. Another judgment is hereby entered dismissing the complaint in Civil Case No. 2402. No costs." (Decision, p. 6, rollo, p. 37.)

Petitioner's motion for reconsideration having been rejected by the respondent Court, petitioner came to this Court, alleging (i) improper application by the respondent Court of Appeals of the so-called principle of "equiponderance of evidence", for having based its ruling against petitioner on documentary evidence which, petitioner claims, are void, (ii) the respondent municipality's purported lack of juridical personality, as a result of having been created under a void executive order, and (iii) that the challenged Decision "does not solve the problem of both towns but throws them back again to their controversy." (Petition, p. 6, rollo, p. 21.)

After deliberating on the petition, comment and reply, this Court is not persuaded to grant due course to the petition.

With respect to the first and third grounds, we find that the issues of fact in this case had been adequately passed upon by respondent Court in its Decision, which is well-supported by the evidence on record. The determination of equiponderance of evidence by the respondent Court involves the appreciation of evidence by the latter tribunal, which will not be reviewed by this Court unless shown to be whimsical or capricious; here, there has been no such showing.

In connection with the foregoing, that the assailed Decision, in dismissing the complaint in Civil Case No. 2402, may leave the parties where they are or may not resolve their problem one way or the other, is of no moment. The fact remains that, as correctly evaluated by the respondent Court, neither party was able to make out a case; neither side could establish its cause of action and prevail with the evidence it had. They are thus no better off than before they proceeded to litigate, and, as a consequence thereof, the courts can only leave them as they are. In such cases, courts have no choice but to dismiss the complaints/petitions.

On the second issue, we noted that petitioner commenced its collateral attack on the juridical personality of respondent municipality on 19 January 1984 (or some thirty five years after respondent municipality first came into existence in 1949) during the proceedings in the court a quo. It appears that, after presentation of its evidence,

herein petitioner asked the trial court to bar respondent municipality from presenting its evidence on the ground that it had no juridical personality. Petitioner contended that Exec. Order No. 265 issued by President Quirino on September 16, 1949 creating respondent municipality is null and void ab initio, inasmuch as Section 68 of the Revised Administrative Code, on which said Executive Order was based, constituted an undue delegation of legislative powers to the President of the Philippines, and was therefore declared unconstitutional, per this Court's ruling in *Pelaez vs. Auditor General*[3].

In this regard, we call to mind the ruling of this Court in *Municipality of San Narciso, Quezon vs. Mendez, Sr.*[4], which will be found very instructive in the case at bench. Therein we stated:

"While petitioners would grant that the enactment of Republic Act No. 7160 [Local Government Code of 1991] may have converted the Municipality of San Andres into a de facto municipality, they, however, contend that since the petition for quo warranto had been filed prior to the passage of said law, petitioner municipality had acquired a vested right to seek the nullification of Executive Order No. 353, and any attempt to apply Section 442 of Republic Act 7160 to the petition would perforce be violative of due process and the equal protection clause of the Constitution.

"Petitioner's theory might perhaps be a point to consider had the case been seasonably brought. Executive Order No. 353 creating the municipal district of San Andres was issued on 20 August 1959 but it was only after almost thirty (30) years, or on 05 June 1989, that the municipality of San Narciso finally decided to challenge the legality of the executive order. In the meantime, the Municipal district, and later the Municipality of San Andres, began and continued to exercise the powers and authority of a duly created local government unit. In the same manner that the failure of a public officer to question his ouster or the right of another to hold a position within a one-year period can abrogate an action belatedly filed, so also, if not indeed with greatest imperativeness, must a quo warranto proceeding assailing the lawful authority of a political subdivision be timely raised. Public interest demands it.

"Granting that Executive Order No. 353 was a complete nullity for being the result of an unconstitutional delegation of legislative power, the peculiar circumstances obtaining in this case hardly could offer a choice other than to consider the Municipality of San Andres to have at least attained a status uniquely of its own closely approximating, if not in fact attaining, that of a de facto municipal corporation. Conventional wisdom cannot allow it to be otherwise. Created in 1959 by virtue of Executive Order No. 353, the Municipality of San Andres had been in existence for more than six years when, on 24 December 1965, *Pelaez vs. Auditor General* was promulgated. The ruling could have sounded the call for a similar declaration of the unconstitutionality of Executive Order No. 353 but it was not to be the case. On the contrary, certain governmental acts all pointed to the State's recognition of the continued existence of the Municipality of San Andres. Thus, after more than five years as a municipal district, Executive Order No. 174 classified the Municipality of San Andres as a fifth class municipality after having surpassed the income requirement laid out in Republic Act No. 1515. Section 31 of *Batas Pambansa Blg. 129*, otherwise known as the *Judiciary Reorganization Act of 1980*, constituted as municipal circuits, in the establishment of Municipal Circuit Trial Courts in the country, certain municipalities that comprised the municipal circuits organized under Administrative Order No. 33, dated 13 June 1978, issued by this court pursuant to Presidential Decree No. 537. Under this administrative order, the Municipality of San Andres had been covered by the 10th Municipal Circuit Court of San Francisco-San Andres for the province of Quezon.

"At the present time, all doubts on the de jure standing of the municipality must be dispelled. Under the Ordinance (adopted on 15 October 1986) apportioning the seats of the House of Representatives, appended to the 1987 Constitution, the Municipality of San Andres has been considered to be one of the twelve (12) municipalities composing the Third District of the province of Quezon. Equally significant is Section 442 (d) of the Local Government Code to the effect that municipal districts "organized pursuant to presidential issuances or executive orders and which have their respective sets of elective municipal officials holding office

at the time of the effectivity of (the) Code shall henceforth be considered as regular municipalities." No pretension of unconstitutionality per se of Section 442(d) of the Local Government Code is proffered. It is doubtful whether such a pretext, even if made, would succeed. The power to create political subdivisions is a function of the legislature. Congress did just that when it has incorporated Section 442(d) in the Code. Curative laws, which in essence are retrospective, and aimed at giving "validity to acts done that would have been invalid under existing laws, as if existing laws have been complied with," are validly accepted in this jurisdiction, subject to the usual qualification against impairment of vested rights.

"All considered, the de jure status of the Municipality of San Andres in the province of Quezon must now be conceded."

Respondent municipality's situation in the instant case is strikingly similar to that of the municipality of San Andres. Respondent municipality of Alicia was created by virtue of Executive Order No. 265 in 1949, or ten years ahead of the municipality of San Andres, and therefore had been in existence for all of sixteen years when *Pelaez vs. Auditor General* was promulgated. And various governmental acts throughout the years all indicate the State's recognition and acknowledgment of the existence thereof. For instance, under Administrative Order No. 33 above-mentioned, the Municipality of Alicia was covered by the 7th Municipal Circuit Court of Alicia-Mabini for the province of Bohol. Likewise, under the Ordinance appended to the 1987 Constitution, the Municipality of Alicia is one of twenty municipalities comprising the Third District of Bohol.

Inasmuch as respondent municipality of Alicia is similarly situated as the municipality of San Andres, it should likewise benefit from the effects of Section 442 (d) of the Local Government Code, and should henceforth be considered as a regular, de jure municipality.

WHEREFORE, the instant petition for review on certiorari is hereby DENIED, with costs against petitioner.

SO ORDERED.

Romero, (Acting Chairman), Melo, and Vitug, JJ., concur.

[1] Thirteenth Division, composed of Justice Ma. Alicia Austria-Martinez, ponente, and JJ. Alfredo M. Marigomen and Ruben T. Reyes.

[2] In Civil Case No. 2402, for settlement of boundary dispute and quiet-ing of title over Barrio Pagahat.

[3] G. R. No. L-23825, December 24, 1965, 15 SCRA 569. In said case, this Court ruled:

"(W)hereas the power to fix (a) common boundary, in order to avoid or settle conflicts of jurisdiction between adjoining municipalities, may partake of an administrative nature -- involving, as it does, the adoption of means and ways to carry into effect the law creating said municipalities — the authority to create municipal corporations is essentially legislative in nature.

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"Section 68 of the Revised Administrative Code [inso-far as it grants to the President the power to create municipalities] does not meet (the) well-settled requirements for a valid delegation of the power to fix the details in the enforcement of a law. It does not enunciate any policy to be carried out or implemented by the President.

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"In short, even if it did entail an undue delegation of legislative powers, as it certainly does, said Section 68, as part of the Revised Administrative Code, approved on March 10, 1917, must be deemed repealed by the

subsequent adoption of the Constitution in 1935, which is utterly incompatible and inconsistent with said statutory enactment."

In another case, *Municipality of San Joaquin vs. Nicanor Siva, et al.*, G.R. No. L-19870, March 18, 1967, 19 SCRA 599, this Court held that Executive Order No. 436 of the President of the Philippines, creating the municipality of Lawigan out of twenty-one (21) barrios theretofore form-ing parts of the municipality of San Joaquin, is void ab inito on the ground that Section 68 of the Revised Administrative Code, on which said Executive Order was based, constitutes an undue delegation of legislative powers to the President of the Philippines, hence, unconstitutional.

[4] G.R. No. 103702, December 6, 1994, 239 SCRA 11, 18-21; J. Jose C. Vitug, ponente.

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