

CITY OF PASIG, PETITIONER, VS. THE HONORABLE COMMISSION ON ELECTION AND THE MUNICIPALITY OF CAINTA, PROVINCE OF RIZAL, RESPONDENTS.

G.R. No. 125646. September 10, 1999

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Before us are two (2) petitions which both question the propriety of the suspension of plebiscite proceedings pending the resolution of the issue of boundary disputes between the Municipality of Cainta and the City of Pasig.

G.R. No. 125646 involves the proposed Barangay Karangalan while G.R. No. 128663 involves the proposed Barangay Napico. The City of Pasig claims these areas as part of its jurisdiction/territory while the Municipality of Cainta claims that these proposed barangays encroached upon areas within its own jurisdiction/territory.

The antecedent facts are as follows:

On April 22, 1996, upon petition of the residents of Karangalan Village that they be segregated from its mother Barangays Manggahan and Dela Paz, City of Pasig, and to be converted and separated into a distinct barangay to be known as Barangay Karangalan, the City Council of Pasig passed and approved Ordinance No. 21, Series of 1996, creating Barangay Karangalan in Pasig City.[1] Plebiscite on the creation of said barangay was thereafter set for June 22, 1996.

Meanwhile, on September 9, 1996, the City of Pasig similarly issued Ordinance No. 52, Series of 1996, creating Barangay Napico in Pasig City.[2] Plebiscite for this purpose was set for March 15, 1997.

Immediately upon learning of such Ordinances, the Municipality of Cainta moved to suspend or cancel the respective plebiscites scheduled, and filed Petitions with the Commission on Elections (hereinafter referred to as COMELEC) on June 19, 1996 (UND No. 96-016)[3] and March 12, 1997 (UND No. 97-002), respectively. In both Petitions, the Municipality of Cainta called the attention of the COMELEC to a pending case before the Regional Trial Court of Antipolo, Rizal, Branch 74, for settlement of boundary dispute.[4] According to the Municipality of Cainta, the proposed barangays involve areas included in the boundary dispute subject of said pending case; hence, the scheduled plebiscites should be suspended or cancelled until after the said case shall have been finally decided by the court.

In UND No. 96-016, the COMELEC accepted the position of the Municipality of Cainta and ordered the plebiscite on the creation of Barangay Karangalan to be held in abeyance until after the court has settled with finality the boundary dispute involving the two municipalities.[5] Hence, the filing of G.R. No. 125646 by the City of Pasig.

The COMELEC, however, ruled differently in UND No. 97-002, dismissing the Petition for being moot in view of the holding of the plebiscite as scheduled on March 15, 1997 where the creation of Barangay Napico was ratified and approved by the majority of the votes cast therein.[6] Hence, the filing of G.R. No. 128663 by the

Municipality of Cainta.

The issue before us is whether or not the plebiscites scheduled for the creation of Barangays Karangalan and Napico should be suspended or cancelled in view of the pending boundary dispute between the two local governments.

To begin with, we agree with the position of the COMELEC that Civil Case No. 94-3006 involving the boundary dispute between the Municipality of Cainta and the City of Pasig presents a prejudicial question which must first be decided before plebiscites for the creation of the proposed barangays may be held.

The City of Pasig argues that there is no prejudicial question since the same contemplates a civil and criminal action and does not come into play where both cases are civil, as in the instant case. While this may be the general rule, this Court has held in *Vidad v. RTC of Negros Oriental*, Br. 42,[7] that, in the interest of good order, we can very well suspend action on one case pending the final outcome of another case closely interrelated or linked to the first.

In the case at bar, while the City of Pasig vigorously claims that the areas covered by the proposed Barangays Karangalan and Napico are within its territory, it can not deny that portions of the same area are included in the boundary dispute case pending before the Regional Trial Court of Antipolo. Surely, whether the areas in controversy shall be decided as within the territorial jurisdiction of the Municipality of Cainta or the City of Pasig has material bearing to the creation of the proposed Barangays Karangalan and Napico. Indeed, a requisite for the creation of a barangay is for its territorial jurisdiction to be properly identified by metes and bounds or by more or less permanent natural boundaries.[8] Precisely because territorial jurisdiction is an issue raised in the pending civil case, until and unless such issue is resolved with finality, to define the territorial jurisdiction of the proposed barangays would only be an exercise in futility. Not only that, we would be paving the way for potentially ultra vires acts of such barangays. Indeed, in *Mariano, Jr. v. Commission on Elections*,[9] we held that –

“The importance of drawing with precise strokes the territorial boundaries of a local unit of government cannot be overemphasized. The boundaries must be clear for they define the limits of the territorial jurisdiction of a local government unit. It can legitimately exercise powers of government only within the limits of its territorial jurisdiction. Beyond these limits, its acts are ultra vires. Needless to state, any uncertainty in the boundaries of local government units will sow costly conflicts in the exercise of governmental powers which ultimately will prejudice the people’s welfare.

Moreover, considering the expenses entailed in the holding of plebiscites, it is far more prudent to hold in abeyance the conduct of the same, pending final determination of whether or not the entire area of the proposed barangays are truly within the territorial jurisdiction of the City of Pasig.

Neither do we agree that merely because a plebiscite had already been held in the case of the proposed Barangay Napico, the petition of the Municipality of Cainta has already been rendered moot and academic. The issues raised by the Municipality of Cainta in its petition before the COMELEC against the holding of the plebiscite for the creation of Barangay Napico are still pending determination before the Antipolo Regional Trial Court.

In *Tan v. Commission on Elections*,[10] we struck down the moot and academic argument as follows --

“Considering that the legality of the plebiscite itself is challenged for non-compliance with constitutional requisites, the fact that such plebiscite had been held and a new province proclaimed and its officials appointed, the case before Us cannot truly be viewed as already moot and academic. Continuation of the existence of this newly proclaimed province which petitioners strongly profess to have been illegally born, deserves to be inquired into by this Tribunal so that, if indeed, illegality attaches to its creation, the commission of that error should not provide the very excuse for perpetration of such wrong. For this Court to

yield to the respondents' urging that, as there has been *fait accompli*, then this Court should passively accept and accede to the prevailing situation is an unacceptable suggestion. Dismissal of the instant petition, as respondents so propose is a proposition fraught with mischief. Respondents' submission will create a dangerous precedent. Should this Court decline now to perform its duty of interpreting and indicating what the law is and should be, this might tempt again those who strut about in the corridors of power to recklessly and with ulterior motives, create, merge, divide and/or alter the boundaries of political subdivisions, either brazenly or stealthily, confident that this Court will abstain from entertaining future challenges to their acts if they manage to bring about a *fait accompli*."

Therefore, the plebiscite on the creation of Barangay Karangalan should be held in abeyance pending final resolution of the boundary dispute between the City of Pasig and the Municipality of Cainta by the Regional Trial Court of Antipolo City. In the same vein, the plebiscite held on March 15, 1997 to ratify the creation of Barangay Napico, Pasig City, should be annulled and set aside.

WHEREFORE, premises considered,

1. The Petition of the City of Pasig in G.R. No. 125646 is DISMISSED for lack of merit; while
2. The Petition of the Municipality of Cainta in G.R. No. 128663 is GRANTED. The COMELEC Order in UND No. 97-002, dated March 21, 1997, is SET ASIDE and the plebiscite held on March 15, 1997 to ratify the creation of Barangay Napico in the City of Pasig is declared null and void. Plebiscite on the same is ordered held in abeyance until after the courts settle with finality the boundary dispute between the City of Pasig and the Municipality of Cainta, in Civil Case No. 94-300.

No pronouncement as to costs.

SO ORDERED.

Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing Purisima, Buena, and Gonzaga-Reyes, JJ., concur. Davide, Jr., C.J., on official leave. Pardo, J., no part; was COMELEC Chairman.

[1] Petition, G.R. No. 125646, Annex "A", Rollo, pp. 23-25.1

[2] Petition, G.R. No. 128663, Annex, Rollo, pp. 37-39.2

[3] Petition, G.R. No. 125646, Annex "B", Rollo, pp. 26-31.3

[4] Petition, G.R. No. 125646, Annex "Q", Civil Case No. 94-3006, Rollo, pp. 170-177; Petition, G.R. No. 128663, Annex "J", Rollo, pp. 42-45.4

[5] See Petition, G.R. No. 125646, Annex "D", Order, UND No. 96-016, Rollo, pp. 35-36.5

[6] See Petition, G.R. No. 128663, Annex "M", Order, UND No. 97-002, Rollo, pp. 67-68.6

[7] See *Vidad v. RTC of Negros Oriental*, Br. 42, G.R. No. 98084, 227 SCRA 271, 276 (1993).7

[8] Sec. 386(b), R.A. No. 7160.8

[9] G.R. Nos. 118577 and 118627, 242 SCRA 211, 217 (1995).9

[10] G.R. No. 73155, 142 SCRA 727, 741-742 (1986).10

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