

MUNICIPALITY OF STA. FE, PETITIONER, VS. MUNICIPALITY OF ARITAO, RESPONDENT.

G.R. No. 140474. September 21, 2007

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is an appeal by petition for review on certiorari under Rule 45 of the Rules of Court of the September 30, 1999 Decision[1] of the Court of Appeals (CA) affirming in toto the August 27, 1992 Order[2] of the Regional Trial Court (RTC) of Bayombong, Nueva Vizcaya, Branch 28, which dismissed Civil Case No. 2821 for lack of jurisdiction.

On October 16, 1980, petitioner Municipality of Sta. Fe, in the Province of Nueva Vizcaya, filed before the RTC of Bayombong, Nueva Vizcaya, Branch 28, Civil Case No. 2821 for the Determination of Boundary Dispute involving the barangays of Bantinan and Canabuan. As the parties failed to amicably settle during the pre-trial stage, trial on the merits ensued.

The trial was almost over, with petitioner's rebuttal witness already under cross-examination, when the court, realizing its oversight under existing law, ordered on December 9, 1988, the suspension of the proceedings and the referral of the case to the Sangguniang Panlalawigan of Nueva Vizcaya.[3] In turn, the Sanggunian concerned passed on the matter to its Committee on Legal Affairs, Ordinances and Resolutions, which recommended adopting Resolution No. 64 dated September 14, 1979 of the former members of its Provincial Board.[4] Said resolution previously resolved to adjudicate the barangays of Bantinan and Canabuan as parts of respondent's territorial jurisdiction and enjoin petitioner from exercising its governmental functions within the same. Subsequently, as per Resolution No. 357 dated November 13, 1989, the Sangguniang Panlalawigan approved the Committee's recommendation but endorsed the boundary dispute to the RTC for further proceedings and preservation of the status quo pending finality of the case.

Back in the RTC, respondent moved to consider Resolution No. 64 as final and executory. In its Order dated February 12, 1991,[5] the trial court, however, resolved to deny the motion ruling that since there was no amicable settlement reached at the time the Provincial Board had exceeded its authority in issuing a "decision" favoring a party. The court held that, under the law in force, the purpose of such referral was only to afford the parties an opportunity to amicably settle with the intervention and assistance of the Provincial Board and that in case no such settlement is reached, the court proceedings shall be resumed.

Subsequently, respondent again filed a motion on June 23, 1992,[6] this time praying for the dismissal of the case for lack of jurisdiction. The ground relied upon was that under the prevailing law at the time of the filing of the motion, the power to try and decide municipal boundary disputes already belonged to the Sangguniang Panlalawigan and no longer with the trial court, primarily citing the doctrine laid down by this Court in *Municipality of Sogod v. Rosal*. [7]

On August 27, 1992, the trial court resolved to grant the motion, thus:

A close study of the decision of the Honorable Supreme Court in the Municipality of Sogod case in relation to this case palpably shows that, contrary to the claim of respondent Municipality of Sta. Fe, through counsel, it involves boundary dispute as in this case.

As to the applicable law on the question of which agency of the Government can take cognizance of this case or whether or not this Court should proceed in exercising jurisdiction over this case, the same [had] been squarely resolved by the [Honorable] Supreme Court in the Municipality of Sogod case in this wise: "It is worthy to note, however, that up to this time, the controversy between these two Municipalities has not been settled. However, the dispute has already been overtaken by events, namely, the enactment of the 1987 Constitution and the New Local Government Code x x x which imposed new mandatory requirements and procedures on the fixing of boundaries between municipalities. The 1987 Constitution now mandates that [']no province, city, municipality or barangay may be created, divided, merged, abolished or its boundary substantially altered except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.['] x x x Hence, any alteration or modification of the boundaries of the municipalities shall only be by a law to be enacted by Congress subject to the approval by a majority of the votes cast in a plebiscite in the barrios affected (Section 134, Local Government Code). Thus, under present laws, the function of the provincial board to fix the municipal boundaries are now strictly limited to the factual determination of the boundary lines between municipalities, to be specified by natural boundaries or by metes and bounds in accordance with laws creating said municipalities."

In view of the above ruling, this Court can do no less but to declare that this case has been overtaken by events, namely, the enactment of the 1987 Constitution and the Local Government Code of 1991. The Constitution requires a plebiscite, whereas the Local Government Code of 1991 provides, as follows: "Sec. 6. Authority to Create Local Government Units. - A local government unit may be created, divided, merged, abolished, or its boundaries substantially altered either by law enacted by Congress in the case of a province, city, municipality, or any other political subdivision, or by ordinance passed by the [s]angguniang [p]anlalawigan, or sangguniang panglungsod concerned in the case of a barangay located within its territorial jurisdiction, subject to such limitations and requirements prescribed in this Code." [8]

The motion for reconsideration of the aforesaid Order having been denied, [9] an appeal was elevated by petitioner to the CA. The CA, however, affirmed in toto the assailed Order, holding that:

We are not unmindful of the rule that where a court has already obtained and is exercising jurisdiction over a controversy, its jurisdiction to proceed to the final determination of the case is not affected by new legislation placing jurisdiction over such proceedings in another tribunal or body. This rule, however, is not without exception. It is not applicable when the change in jurisdiction is curative in character. As far as boundary disputes are concerned, the 1987 Constitution is the latest will of the people, therefore, the same should be given retroactive effect on cases pending before courts after its ratification. It mandates that "no province, city, municipality or barangay may be created, divided, merged, abolished or its boundary substantially altered except in accordance with the criteria established in the Local Government Code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected."

On the other hand, the Local Government Code of 1991 provides that "[a] local government unit may be created, divided, merged, abolished, or its boundaries substantially altered either by law enacted by Congress in the case of a province, city, municipality, or any other political subdivision, or by ordinance passed by the [s]angguniang [p]anlalawigan or [s]angguniang [p]anglungsod concerned in the case of a barangay located within its territorial jurisdiction, subject to such limitations and requirements prescribed in this Code (Book I, Title One, Chapter 2, Section 6, Local Government Code).

Section 118, Title Nine, Book I of the same Code likewise provides:

"SEC 118. Jurisdictional Responsibility for Settlement of Boundary Dispute. - Boundary disputes between and among local government units shall, as much as possible, be settled amicably. To this end:

x x x

a.) Boundary disputes involving two (2) or more municipalities within the same province shall be referred for settlement to the sangguniang panlalawigan concerned;

x x x"

Since the Local Government Code of 1991 is the latest will of the people expressed through Congress on how boundary disputes should be resolved, the same must prevail over previous ones. It must be emphasized that the laws on the creation of local government units as well as settling boundary disputes are political in character, hence, can be changed from time to time and the latest will of the people should always prevail. In the instant case, there is nothing wrong in holding that Regional Trial Courts no longer have jurisdiction over boundary disputes.[10]

Before this Court, petitioner submits that the CA erred when it affirmed the dismissal of the case for lack of jurisdiction by upholding the RTC's application of the doctrine enunciated in the Municipality of Sogod, namely, that being political in character, this case has been overtaken by different laws which should now prevail. Petitioner also claims that the CA erred in relying on the provisions of the 1987 Constitution and the Local Government Code (LGC) of 1991 on the creation, division, merger, abolition, and alteration of boundaries of political units instead of the specific provisions on the settlement of boundary disputes.[11]

The petition fails.

As early as October 1, 1917, the procedure for the settlement of municipal boundary disputes was already set forth when Act No. 2711 or the Revised Administrative Code (RAC) took into effect.[12] At that time, Section 2167 of the law provided:

"SEC. 2167. Municipal boundary disputes - How settled. - Disputes as to jurisdiction of municipal governments over places or barrios shall be decided by the provincial boards of the provinces in which such municipalities are situated, after an investigation at which the municipalities concerned shall be duly heard. From the decision of the provincial board appeal may be taken by the municipality aggrieved to the Secretary of the Interior, whose decision shall be final x x x." [13]

On June 17, 1970,[14] Republic Act (R.A.) No. 6128[15] was approved amending the afore-quoted section of the RAC, Sec. 1 thereof stated:

SECTION 1. Section Two thousand one hundred sixty-seven of the Revised Administrative Code, as amended, is hereby further amended to read as follows:

"SEC. 2167. Municipal Boundary Disputes. - How Settled. - Disputes as to jurisdiction of municipal governments over places, or barrios shall be heard and decided by the Court of First Instance of the Province where the municipalities concerned are situated x x x: Provided, That after joinder of issues, the Court shall suspend proceedings and shall refer the dispute to the Provincial Board x x x concerned for the purpose of affording the parties an opportunity to reach an amicable settlement with the intervention and assistance of the said Provincial Board x x x; Provided, further, That in case no amicable settlement is reached within sixty days from the date the dispute was referred to the Provincial Board x x x concerned, the court proceedings shall be resumed. The case shall be decided by the said Court of First Instance within one year from resumption of the court proceedings, and appeal may be taken from the said decision within the time and in the manner prescribed in Rule 41 or Rule 42, as the case may be, of the Rules of Court x x x"

Subsequently, however, with the approval of Batas Pambansa (B.P.) Blg. 337 (otherwise known as the Local

Government Code of 1983) on February 10, 1983,[16] Sec. 2167, as amended, was repealed.[17] In particular, Sec. 79 of the Code read:

SEC. 79. Municipal Boundary Disputes. - Disputes as to the jurisdiction of municipal governments over areas or barangays shall be heard and decided by the sangguniang panlalawigan of the province where the municipalities concerned are situated x x x in case no settlement is reached within sixty days from the date the dispute was referred to the sangguniang panlalawigan concerned, said dispute shall be elevated to the Regional Trial Court of the province which first took cognizance of the dispute. The case shall be decided by the said court within one year from the start of proceedings and appeal may be taken from the decision within the time and in the manner prescribed by the Rules of Court.[18]

Almost a decade passed and R.A. No. 7160 or the LGC of 1991 was signed into law on October 10, 1991 and took effect on January 1, 1992.[19] As the latest law governing jurisdiction over the settlement of boundary disputes, Sections 118 and 119 of the Code now mandate:

SEC. 118. Jurisdictional Responsibility for Settlement of Boundary Dispute. - Boundary disputes between and among local government units shall, as much as possible, be settled amicably. To this end:

x x x

(b) Boundary disputes involving two (2) or more municipalities within the same province shall be referred for settlement to the sangguniang panlalawigan concerned.

x x x

(e) In the event the sanggunian fails to effect an amicable settlement within sixty (60) days from the date the dispute was referred thereto, it shall issue a certification to that effect. Thereafter, the dispute shall be formally tried by the sanggunian concerned which shall decide the issue within sixty (60) days from the date of the certification referred to above.

SEC. 119. Appeal. - Within the time and manner prescribed by the Rules of Court, any party may elevate the decision of the sanggunian concerned to the proper Regional Trial Court having jurisdiction over the area in dispute. The Regional Trial Court shall decide the appeal within one (1) year from the filing thereof. Pending final resolution of the disputed area prior to the dispute shall be maintained and continued for all legal purposes.[20]

This Court agrees with petitioner's contention that the trial court had jurisdiction to take cognizance of the complaint when it was filed on October 16, 1980 since the prevailing law then was Section 2167 of the RAC, as amended by Sec. 1 of R.A. No. 6128, which granted the Court of First Instance (now RTC) the jurisdiction to hear and decide cases of municipal boundary disputes. The antecedents of the Municipality of Sogod case reveal that it dealt with the trial court's dismissal of cases filed for lack of jurisdiction because at the time of the institution of the civil actions, the law in force was the old provision of Sec. 2167 of the RAC, which empowered the provincial boards, not the trial courts, to hear and resolve such cases.

The main point of inquiry, however, is whether the CA erred in affirming the trial court's dismissal of the instant case for lack of jurisdiction on the ground that at the time of the filing of the motion to dismiss the original jurisdiction to hear and decide, the case had been vested on the Sangguniang Panlalawigan and no longer on the RTC.

The Court rules that the appellate court did not err. The difference in the factual setting notwithstanding, Municipality of Sogod still applies in the sense that similar thereto the pendency of the present case has also been overtaken by events - the ratification of the 1987 Constitution and the enactment of the LGC of 1991.

As shown above, since the effectivity of R.A. No. 6128, the Sangguniang Panlalawigan has been the primary tribunal responsible in the amicable settlement of boundary disputes between or among two or more municipalities located in the same province. With the LGC of 1991, however, a major change has been introduced - that in the event the Sanggunian fails to effect a settlement, it shall not only issue a certification to that effect but must also formally hear and decide the case within the reglementary period. Rule III of the Rules and Regulations Implementing the LGC of 1991[21] outlines the procedure for the settlement of boundary disputes as follows:

ART. 17. Procedures for Settling Boundary Disputes. - The following procedures shall govern the settlement of boundary disputes:

(a.) Filing of petition - The sanggunian concerned may initiate action by filing a petition, in the form of a resolution, with the sanggunian having jurisdiction over the dispute.

(b.) Contents of petition - The petition shall state the grounds, reasons or justifications therefore.

(c.) Documents attached to petition - The petition shall be accompanied by:

(1) Duly authenticated copy of the law or statute creating the LGU or any other documents showing proof of creation of the LGU;

(2) Provincial, city, municipal or barangay map, as the case may be, duly certified by the LMB;

(3) Technical description of the boundaries of the LGUs concerned;

(4) Written certification of the provincial, city, or municipal assessor, as the case may be, as to territorial jurisdiction over the disputed area according records in custody;

(5) Written declarations or sworn statements of the people residing in the disputed area; and

(6) Such other documents or information as may be required by the sanggunian hearing the dispute.

(d.) Answer of adverse party - Upon receipt by the sanggunian concerned of the petition together with the required documents, the LGU or LGUs complained against shall be furnished copies thereof and shall be given fifteen (15) working days within which to file their answers.

(e.) Hearing - Within five (5) working days after receipt of the answer of the adverse party, the sanggunian shall hear the case and allow the parties concerned to present their respective evidences.

(f.) Joint hearing - When two or more sanggunians jointly hear a case, they may sit en banc or designate their respective representatives. Where representatives are designated, there shall be an equal number of representatives from each sanggunian. They shall elect from among themselves a presiding officer and a secretary. In case of disagreement, selection shall be by drawing lot.

(g.) Failure to settle - In the event the sanggunian fails to amicably settle the dispute within sixty (60) days from the date such dispute was referred thereto, it shall issue a certification to that effect and copies thereof shall be furnished the parties concerned.

(h.) Decision - Within sixty (60) days from the date the certification was issued, the dispute shall be formally tried and decided by the sanggunian concerned. Copies of the decision shall, within fifteen (15) days from the promulgation thereof, be furnished the parties concerned, DILG, local assessor, Comelec, NSO, and other NGAs concerned.

(i.) Appeal - Within the time and manner prescribed by the Rules of Court, any party may elevate the decision of the sanggunian concerned to the proper Regional Trial Court having jurisdiction over the dispute by filing therewith the appropriate pleading, stating among others, the nature of the dispute, the decision of the sanggunian

concerned and the reasons for appealing therefrom. The Regional Trial Court shall decide the case within one (1) year from the filing thereof. Decisions on boundary disputes promulgated jointly by two (2) or more sangguniang panlalawigan shall be heard by the Regional Trial Court of the province which first took cognizance of the dispute.

ART. 18. Maintenance of Status Quo. - Pending final resolution of the dispute, the status of the affected area prior to the dispute shall be maintained and continued for all purposes.

ART. 19. Official Custodian. - The DILG shall be the official custodian of copies of all documents on boundary disputes of the LGUs.

Notably, unlike R.A. No. 6128 and B.P. 337, the LGC of 1991 grants an expanded role on the Sangguniang Panlalawigan concerned in resolving cases of municipal boundary disputes. Aside from having the function of bringing the contending parties together and intervening or assisting in the amicable settlement of the case, the Sangguniang Panlalawigan is now specifically vested with original jurisdiction to actually hear and decide the dispute in accordance with the procedures laid down in the law and its implementing rules and regulations. This situation, in effect, reverts to the old rule under the RAC, prior to its amendment by R.A. No. 6128, under which the provincial boards were empowered to investigate, hear the parties and eventually decide the case on the basis thereof. On the other hand, under the LGC of 1991, the trial court loses its power to try, at the first instance, cases of municipal boundary disputes. Only in the exercise of its appellate jurisdiction can the proper RTC decide the case, on appeal, should any party aggrieved by the decision of the Sangguniang Panlalawigan elevate the same.

Considering the foregoing, the RTC correctly dismissed the case for lack of jurisdiction. Under the rules, it was the responsibility of the court to dismiss an action "whenever it appears that [it] has no jurisdiction over the subject matter." [22] Indeed, the RTC acted accordingly because at the time of the filing of the motion to dismiss its want of jurisdiction was evident. It was duty-bound to take judicial notice of the parameters of its jurisdiction as the choice of the proper forum was crucial - for the decision of a court or tribunal without jurisdiction is a total nullity and may be struck down at any time by this Court as it would never become final and executory. [23] Likewise, the standing rule is that dismissal of a case for lack of jurisdiction may be raised at any stage of the proceedings since jurisdiction is conferred by law and lack of it affects the very authority of the court to take cognizance of and to render judgment on the action; [24] otherwise, the inevitable consequence would make the court's decision a "lawless" thing. [25] As correctly pointed out by the RTC:

x x x It will be a futile act for the Court to rule on the case concerning a boundary dispute if its decision will not after all be followed by the people concerned because the decision is totally unacceptable to them. How then can the Court enforce its decision? x x x. [26]

Petitioner, however, contends that the provisions of the 1987 Constitution and the LGC of 1991 on the settlement of municipal boundary disputes should be applied prospectively. The Court is not unmindful of the rule that where a court has already obtained and is exercising jurisdiction over a controversy, its jurisdiction to proceed to the final determination of the case is not affected by new legislation placing jurisdiction over such proceedings in another tribunal. [27] An exception to this rule, however, lies where the statute either expressly provides or is construed to the effect that it is intended to operate on actions pending before its enactment. [28] Hence, this Court has held that a law may be given retroactive effect if it so provided expressly or if retroactivity is necessarily implied therefrom and no vested right or obligation of contract is impaired and it does not deprive a person of property without due process of law. [29]

It is readily apparent from the provisions of the 1987 Constitution and the LGC of 1991 that their new provisions and requirements regarding changes in the constitution of political units are intended to apply to all existing

political subsidiaries immediately, i.e., including those with pending cases filed under the previous regime, since the overarching consideration of these new provisions is the need to empower the local government units without further delay.

Furthermore, the RTC can still review the decision of the Sanguniang Panlalawigan under the new set-up, in the exercise of its appellate jurisdiction, so no substantial prejudice is caused by allowing retroactivity.

The Court, therefore, sees no error, much less grave abuse of discretion, on the part of the CA in affirming the trial court's dismissal of petitioner's complaint.

WHEREFORE, the petition is DENIED for lack of merit.

No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

[1] Penned by Associate Justice Demetrio G. Demetria, with Associate Justices Ramon A. Barcelona and Mercedes Gozo-Dadole concurring.

[2] Penned by Judge Jose B. Rosales.

[3] Records, pp. 173-174.

[4] Rollo, pp. 140-143.

[5] Id. at 26.

[6] Records, pp. 219-220.

[7] G.R. Nos. 38204-5, September 24, 1991, 201 SCRA 632.

[8] Rollo, p. 27.

[9] Id. at 28-29.

[10] Id. at 23-24.

[11] Id. at 104-105.

[12] See *Province of Camarines Norte v. Province of Quezon*, G.R. No. 80796, November 8, 1989, 179 SCRA 233, 235.

[13] Emphasis provided.

[14] Sec. 4 of R.A. No. 6128 provides that it shall take effect upon its approval. The Act, however, was published in the Official Gazette (66 O.G. 34, 7796-7798) on August 24, 1970.

[15] AN ACT PRESCRIBING THE PROCEDURE FOR THE SETTLEMENT OF MUNICIPAL OR BARRIO BOUNDARY DISPUTES.

[16] Sec. 234 of the Code stated that it shall take effect one month after its publication in the Official Gazette, which was on February 14, 1983 (79 O.G. 7).

[17] Sec. 233 of B.P. Blg. 337.

[18] Underscoring provided.

[19] Sec. 536 of the Local Government Code of 1991. See also *Mathay v. Court of Appeals*, G.R. No. 124374, December 15, 1999, 320 SCRA 703, 710; *Angobung v. COMELEC*, G.R. No. 126576, March 5, 1997, 269 SCRA 245, 255; *Ty v. Trampe*, G.R. No. 117577, December 1, 1995, 250 SCRA 500, 510; *Garcia v. COMELEC*, G.R. No. 111511, October 5, 1993, 227 SCRA 100, 110; and *Evardone v. COMELEC*, G.R. No. 94010, December 2, 1991, 204 SCRA 464, 470.

[20] Underscoring provided.

[21] Administrative Order No. 270 issued on February 21, 1992.

[22] Sec. 2, Rule 9 of the Rules of Court.

[23] *BPI v. ALS Management & Development Corp.*, G.R. No. 151821, April 14, 2004, 427 SCRA 564, 574; *AFP Mutual Benefit Association, Inc. v. NLRC*, G.R. No. 102199, January 28, 1997, 267 SCRA 47, 63; and *Duero v. Court of Appeals*, 424 Phil. 12, 24 (2002).

[24] *Francel Realty Corp. v. Sycip*, G.R. No. 154684, September 8, 2005, 469 SCRA 424, 431.

[25] *Duero v. Court of Appeals*, 424 Phil. 12, 24 (2002).

[26] *Rollo*, p. 29.

[27] *Philippine Long Distance Telephone Company v. Dulay*, G.R. No. 53446, April 12, 1989, 172 SCRA 31, 41.

[28] *Atlas Fertilizer Corporation v. Navarro*, No. L-72074, April 30, 1987, 149 SCRA 432, 436 citing *Bengzon v. Inciong*, 91 SCRA 248, 256.

[29] *Commissioner of Internal Revenue v. Marubeni Corporation*, G.R. No. 137377, December 18, 2001, 372 SCRA 576, 587-588 and *Camacho v. Court of Industrial Relations*, 80 Phil. 848, 855 (1948).

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