

CITY OF MAKATI, PETITIONER, VS. THE HON. JUDGE BRICCIO C. YGAÑA, PRESIDING JUDGE, REGIONAL TRIAL COURT, PASIG CITY, BRANCH 153, AND MUNICIPALITY OF TAGUIG, RESPONDENTS.

G.R. No. 168781. September 14, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

Via this petition for review on certiorari under Rule 45 of the Rules of Court, herein petitioner City of Makati seeks the reversal and setting aside of the following issuances of the Court of Appeals (CA) in CA-G.R. SP No. 79825, to wit:

(1) Decision[1] dated January 31, 2005 which affirmed the Orders of the Regional Trial Court of Pasig City, Branch 153, denying petitioner's prayer to declare the preliminary injunction over the area known as the "Inner Fort" functus officio or for the same to be dissolved; and

(2) Resolution[2] dated July 1, 2005 denying its motion for reconsideration.

Involved in the present controversy are parcels of land located inside Fort Andres Bonifacio (hereinafter referred to as Fort Bonifacio) identified as portions of Parcels 3 and 4, Psu-2031, which together comprise what is known as the "Inner Fort" or the military camp proper.

As culled from the record, the antecedent facts are as follows:

On November 22, 1993, herein private respondent Municipality (now City) of Taguig, filed with the Regional Trial Court (RTC) of Pasig City, a Complaint for Judicial Confirmation of the Territory and Boundary Limits of Taguig and Declaration of the Unconstitutionality and Nullity of Certain provisions of Presidential Proclamations 2475 and 518 with Prayer for a Writ of Preliminary Injunction and Temporary Restraining Order against herein petitioner City of Makati (Makati), then Executive Secretary Teofisto Guingona, then Department of Environment and Natural Resources (DENR) Secretary Angel Alcala and Lands Management Bureau (LMB) Director Abelardo Palad, Jr. The case was docketed as Civil Case No. 63896 and initially raffled to Branch 164 of the court.

In the complaint, the Municipality, now City, of Taguig (Taguig, hereinafter) described its territory as having a total area of 4,520.6913 hectares, more or less, bounded on the Northwest, by Makati along the Maricaban Creek and the San Jose Creek; on the North, by the Pasig River, the Municipality of Pateros and the Municipality of Pasig; on the East, by the Municipality of Taytay; on the South, by the Municipality of Muntinlupa; and on the West, by the Municipality of Parañaque. It is asserted that part of its territory included the Fort Bonifacio military reservation (formerly known as Fort William McKinley), as evidenced by documents, among which are:

"2.4.1. General Order No. 104 dated October 3, 1902 of Elihu Root, Secretary of War of the United States of America [USA], announcing the acquisition of a vast tract of land for the establishment of a military reservation, which tract of land is a part of the Hacienda de Maricaban;

2.4.2 Plan Psu-2031 covering Parcels 1,2,3 and 4 of the Hacienda de Maricaban, showing that Parcels 3 and 4 which presently comprise the Fort, with the exception of a small portion, are within the plaintiff (Taguig) Municipality xxx;

2.4.3 Plan BSD-10178 which is a subdivision plan of Parcel 4, Psu-2031, xxx showing that Parcel 4-A xxx and Parcel 4-B covering the National Battle Monuments Cemetery both situated in Barrio Ususan, Municipality of Taguig;

2.4.4 Presidential Proclamation No. 423 issued by then President Carlos P. Garcia on July 12, 1957, reserving for military purposes the parcels of land identified as Parcel No. 2, Parcel No. 3 and Parcel No. 4, Psu-2031, on which parcels of land excluding Parcel No. 2, the present Fort was established for the Republic of the Philippines, and stating that the Fort is situated in the plaintiff (Taguig) and that the boundary of Parcel 3 on the North is the Guadalupe Estate;

2.4.5 Transfer Certificate of Title No. 61524 of the Register of Deeds of Rizal which is the latest title covering Parcel 3, Psu-2031, showing that the parcel of land covered thereby is situated in the plaintiff (Taguig) and the boundary of the property on the North is the San Pedro Makati estate of Pedro P. Roxas.[3]

The complaint further averred that despite the foregoing documents, and allegedly by virtue of Presidential Proclamation Nos. 2475 and 518, dated January 7, 1986 and January 31, 1990, respectively, the nullity of which is sought in the said complaint, certain parcels of land inside Fort Bonifacio were erroneously declared as situated within Makati. It is also alleged that, in accordance with said proclamations, Makati, through its officials at that time, included in its territorial boundary about 74 hectares of wide open space consisting of farmlands in its existing barangays (brgy.), namely, Brgy. Cembo, Brgy. South Cembo, Brgy. West Rembo, Brgy. Comembo, Brgy. Pembo and Brgy. Pitogo, over all of which Makati has, since 1985, been unlawfully exercising jurisdiction; that thereafter, Makati allowed the occupation and development of the said 74-hectare area into residential communities; that Makati is expanding its jurisdiction by annexing portions of the "Inner Fort" or the military camp proper of Fort Bonifacio and by the introduction of improvements therein; and that demands on Makati to cease and desist from occupying, usurping jurisdiction over and annexing the aforementioned areas all proved futile.

Upon the foregoing allegations, Taguig sought, as an ancillary prayer, the issuance of a temporary restraining order (TRO) and a writ of preliminary injunction to enjoin DENR and LMB from disposing of or executing deeds of conveyance and titles over lots covered by the subject proclamations, and restrain Makati from expanding its territory by exercising jurisdiction over (1) the 74-hectare farmland area within the coverage of Presidential Proclamation Nos. 2475 and 518; and (2) the "Inner Fort."

On November 23, 1993, the trial court issued a 20-day TRO against then Secretary Alcala, Director Palad and Makati. Thereafter, an Order[4] dated July 15, 1994, Branch 23 of the court, then presided by Judge Armie B. Elma, to which the case was subsequently raffled, granted Taguig's plea for a preliminary injunctive writ on the basis of documentary and testimonial evidence that defendant Makati is indeed threatening Taguig's rights over the 74-hectare farmland and attempting to annex the "Inner Fort." Wrote the court in said order:

xxx the Court is convinced that the usurpation, invasion and trespasses by defendant Makati are not only repeated and continuing but also willful and that grave and irreparable injury will be caused to the plaintiff unless the former is enjoined from continuing to do said acts, as plaintiff will necessarily be deprived of the right to exercise political jurisdiction over the subject land and the right to collect taxes and earn revenues from the said land and residents therein.[5]

In part, the dispositive portion[6] of the July 15, 1994 Order reads:

WHEREFORE, as prayed for, let a writ of preliminary injunction issue:

a) enjoining defendants Secretary Alcala and Director Palad from disposing of, executing deeds of conveyance over and issuing titles over lots covered by Proclamation [2475]; and

b) enjoining [Makati] from exercising jurisdiction over, making improvements on, or otherwise treating as part of its territory, (1) the area of seventy-four (74) hectares which xxx consisted of farmlands or wide open spaces before the issuance of Proclamation 2475 in 1986 as depicted in the consolidated plan, Exhibit "K" and specifically segregated and indicated by the parallel lines drawn over the area and marked Exhibit "K-1," and (2) the remaining portion of Parcel 4, Psu-2031, and the part of Parcel 3, Psu-2031, which together constitute the "Inner Fort" or military camp proper of Fort Bonifacio.

Makati's motion for reconsideration of the aforesaid Order was denied by the trial court in its subsequent Order of November 18, 1994.

Hence, alleging grave abuse of discretion amounting to lack or excess of jurisdiction on the part of Judge Elma in issuing the injunctive writ, Makati went to the CA on a petition for certiorari with prayer for a TRO, in CA-G.R. SP No. 35857.

Confining its judgment to the writ of preliminary injunction thus issued against Makati, the CA, through Justice Godardo A. Jacinto,[7] rendered a Decision[8] (Jacinto Decision, hereinafter) on April 27, 1995, granting the petition and thereby nullifying the preliminary injunction issued by the trial court. Explained the CA in its decision:

In harping on the fact that petitioner's [Makati's] act of extending its jurisdiction over the additional area of 74 hectares was done "through its officials at that time," respondent Taguig can only mean that said expansionist move was undertaken not by the present administration of Makati but by its previous municipal officials, thereby implying that this occurred at some time in the past or during the term of its previous municipal officials. And since, x x x the latter failed to contest and prevent [Makati's] former officials from effectively asserting political authority over the additional area of 74 hectares, it follows that that was the last peaceable uncontested status insofar as the aforesaid area is concerned.

Additionally, it is sine qua non to the grant of preliminary injunction that the plaintiff is probably entitled to the principal relief demanded in the complaint xxx. This procedural precondition cannot be credited to respondent Taguig in Civil Case No. 63896. For one, [Makati's] exercise of jurisdiction over the controverted area is founded upon Presidential Proclamations 2475 and 518, both of which official acts of the President are entitled to the presumption of regularity and/or validity. Hence, until such time that such presidential proclamations are set-aside by a competent court, all acts performed by [Makati] pursuant to or on the authority thereof must perforce enjoy the same presumption of validity. In this context it is untenable for [Taguig], xxx to claim that it is entitled to the issuance of preliminary injunction at this point in time.

In conclusion, the Court finds that far from preserving the status quo ante, the preliminary injunction issued against [Makati] in Civil Case No. 63896 actually subverts such status, and further, that on account of the presumed validity of the presidential issuances sought to be nullified, respondent Taguig is not entitled to such an injunctive writ until after the merits of the case shall have been finally determined.[9] (Words in brackets supplied.)

However, on Taguig's motion for reconsideration, the CA, in a Resolution[10] dated September 11, 1995 (Jacinto Resolution), modified its earlier decision and reinstated the preliminary injunction against Makati but only with respect to the "Inner Fort," ratiocinating:

xxx the Court finds merit in the said Motion, but only insofar as the area known as the "Inner Fort" is concerned. As pointed out by movant, Makati did make the following admissions in its Answer to the

complaint, to wit:

- Paragraph 4.6 and annex "L" is admitted only insofar as it is an adequate replica of the municipal boundaries on the Municipality of Makati based on Makati Cadastre Mcad. 571-D, Annex "1" hereof. It is denied where it claims that Makati is attempting to annex an additional area known as the "Inner Fort" although it has no Proclamation or Presidential issuances to anchor its move, the truth being that there is no attempt to annex as much as the "basis" therefor is simply none other than the Bureau of Lands' approved cadastre map of Makati.

xxx xxx xxx

- Paragraph 4.8 is denied for being misleading considering that it has previously been explained that the introduction of improvements and the exercise of jurisdiction over the areas covered by the Proclamation is precisely by authority duly given and is confirmed by the said Proclamations. There is also no attempt to exercise jurisdiction over the "Inner Fort" where it has already been shown that the same are still within the jurisdiction of the National Government.

xxx xxx xxx

2.5 Paragraph 5.2 and 5.3 are denied where it states that Makati is unlawfully exercising jurisdiction over the said areas, by among others, introducing improvements thereon, the truth of the matter being that Makati's exercise of jurisdiction thereon is based on the legal mandate as confirmed by Proclamation Nos. 2475 and 518. Further, Makati has never attempted to usurp the authority of the National Government over the "Inner Fort" considering that the same remain reserved for military purposes.

In the face of Makati's categorical admission that it has not really exercised jurisdiction over the area denominated as the "Inner Fort," movant is right in contending that the preliminary injunctive writ issued by the trial court against Makati will not disturb any the status quo insofar as the said area is concerned. Hence, it was unnecessary or perhaps superfluous for this Court to have nullified the said writ in its entirety.[11] (Emphasis supplied)

The Jacinto Resolution became final and executory on July 2, 1996 and the corresponding Entry of Judgment thereon was made on January 13, 1997.

Meanwhile, on October 23, 1996, Makati filed with the trial court, now presided by the herein respondent judge, Judge Briccio C. Ygaña, a motion for leave to admit amended answer together with the Amended Answer itself. The Amended Answer[12] essentially contained allegations that, while Makati does not exercise full jurisdiction over the areas situated within Fort Bonifacio as the same were subject to the jurisdiction of the National Government, it however, legally exercises jurisdiction over certain portions therein. In particular and for the first time, Makati referred to Brgys. Southside and Northside situated inside the "Inner Fort."

The trial court initially granted Makati's motion to admit Amended Answer, but later reversed itself upon Taguig's motion for reconsideration. In its reversal Order of July 30, 1997, the trial court stated that the proposed amendments would substantially alter Makati's defense as contained in its original Answer.

Its motion for reconsideration having been denied by the trial court on February 10, 1999, Makati then went to the CA by way of a petition for certiorari with prayer for the issuance of a writ of preliminary injunction and/or TRO, in CA-G.R. SP No. 52353, therein seeking a judgment ordering the trial court to admit its Amended Answer.

On the holding that Makati's Amended Answer did not change its defense but merely expounded or elucidated on the averments contained in its original answer, the CA, this time through Justice Renato C. Dacudao, rendered a Decision[13] (Dacudao Decision) on March 31, 2000, granting the petition and directing Judge Ygaña to admit Makati's Amended Answer and to commence trial of the main case on the merits.

Such were the state of things, when, more than two years later, or on August 15, 2002, Makati, prompted by

Taguig's acts of entering and building a police outpost in Barangay Southside inside the "Inner Fort," filed in Civil Case No. 6398 a Motion to Confirm that the Preliminary Injunction Has Become Functus Officio, or Alternatively, Motion to Dissolve the Preliminary Injunction.[14] As Makati argued, the preliminary injunction issued by the trial court over the "Inner Fort" has been dissolved but eventually reinstated in the Jacinto Resolution. As further argued, the dissolution was based solely on the purported admission in its original Answer of non-exercise of jurisdiction thereon as per the Jacinto Resolution. However, the amendment of said Answer by virtue of the Dacudao Decision addressed the matter of the exercise of jurisdiction over certain barangays therein, thus freeing Makati from the effects of its earlier admission of non-exercise. This, to Makati, rendered the preliminary injunction functus officio.

As for the alternative motion to dissolve the preliminary injunction, Makati contended that Taguig's acts of entering and constructing a police outpost in Barangay Southside only shows that the status quo which the preliminary injunction sought precisely to preserve, is not with Taguig but with Makati.

On February 24, 2003, the respondent judge issued an Order[15] denying the aforesaid motion of Makati, the denial being predicated mainly on the postulate that the Dacudao Decision has no bearing on the preliminary injunction. In part, Judge Ygana's Order reads:

The Dacudao ponencia has nothing to do with the writ of preliminary injunction issued by this court and upheld by the Court of Appeals in the Jacinto resolution. A perusal of the [Dacudao] decision in CA-G.R. SP No. 52353 show that the only issue which the Court of Appeals resolved in that case is whether Makati's amended answer should be admitted despite what the Jacinto resolution in CA-G.R. SP No. 35857 considered as admissions of Makati in its Answer. The Dacudao ponencia, specifically on page 14 of the decision even conceded that the decision of the Court of Appeals in CA-G.R. SP No. 35857 was a final adjudication on the propriety of the issuance of the writ of injunction.[16]

To the respondent judge, there was nothing unlawful and improper in the construction by Taguig of a police station in any part of the "Inner Fort," considering that it was only exercising its jurisdiction thereon.

Vis-à-vis the alternative prayer to dissolve the preliminary injunction, the respondent judge denied the same, there being no compliance with the rule in dissolving writs of preliminary injunction under Section 6, Rule 58 of the Rules of Court,[17] with regard to the execution of affidavits by the party enjoined.

Makati's motion for reconsideration was likewise denied by the respondent judge in his subsequent Order[18] of July 18, 2003.

Claiming that grave abuse of discretion attended the issuance by the respondent judge of his orders immediately referred to above, Makati again went to the CA on a petition for certiorari under Rule 65 of the Rules of Court, in CA-G.R. SP No. 79825.

As stated at the outset hereof, the CA, in its decision of January 31, 2005, denied Makati's petition and accordingly affirmed the respondent judge's assailed Orders of February 24, 2003 and July 18, 2003.

Its subsequent motion for reconsideration was likewise denied by the CA in its Resolution dated July 1, 2005.

Hence, Makati's present recourse contending that the CA erred in affirming the aforementioned Orders of the respondent judge.

The issues tendered boil down to whether or not the preliminary injunction, as reinstated, over the "Inner Fort" on the sole strength of Makati's purported admissions in its original Answer in the underlying Civil Case No. 63896 has been rendered functus officio, or, alternatively, should be dissolved in the light of the Dacudao Decision, which had expunged said admissions.

The petition is devoid of merit.

In fine, petitioner contends: The Jacinto Resolution in CA-G.R. SP No. 35857 reinstated the preliminary injunction over the "Inner Fort" solely on the basis of petitioner's alleged admissions in its original Answer of not exercising jurisdiction thereon. But since the Dacudao Decision in CA-G.R. SP No. 52353 obliterated said admissions by allowing the amendment of the Answer to one with the qualification that petitioner is exercising jurisdiction over Barangays Northside and Southside within the "Inner Fort," the preliminary injunction has, therefore, become and should be declared *functus officio*, or considered dissolved.

Respondent Taguig excepts, asserting that the preliminary injunction in question has not been rendered *functus officio* by the amendment of petitioner's Answer, because the Dacudao Decision only decided the issue of whether or not the Amended Answer should be admitted, while the propriety of the preliminary injunction was the issue resolved in the Jacinto Resolution.

With the view we take of the case, there is no sound and cogent reason to declare the writ of preliminary injunction *functus officio* or to grant said writ's dissolution.

To begin with, the amendment of petitioner's Answer by virtue of the Dacudao Decision did not affect the reinstated preliminary injunction over the "Inner Fort."

Obviously, the issues that were respectively resolved in the Dacudao Decision and the Jacinto Resolution were different. The first dealt with the propriety of the admission of petitioner's Amended Answer, while the second involved the correctness of the issuance of the writ of preliminary injunction. Indeed, the Dacudao Decision, on the rationalization that "the amended answer merely sought to cure whatever perceived ambiguities there were in the original answer to the end that, given sufficient clarity, [petitioner] would be able to adequately prepare for trial," only allowed the admission of petitioner's amended answer "in order to afford the trial court a thorough and exhaustive evaluation of the entire factual milieu of the controversy." Clearly, the Dacudao Decision did not allow the amendment of the original answer for the purpose of invalidating a previous judgment, in this case, the Jacinto Resolution, which, to stress, has already become final with regard to the matter it resolved therein. Notably, the Dacudao Decision even conceded this fact when it ruled that the decision of the CA in CA-G.R. SP No. 35857 (referring to the Jacinto Resolution) was a final adjudication of the propriety of the issuance of the writ of injunction, nothing more. Undeniably, then, the issues in the Dacudao Decision and Jacinto Resolution being entirely separate and distinct from each other, the resolution of one cannot operate to extinguish or dissolve the other.

Thus, the amendment of the original Answer could not have plausibly obliterated the admissions made therein in the sense that the preliminary injunction which said admissions support would necessarily be affected. As aptly held by the CA in the herein assailed decision:

xxx Clearly, the net effect of the Dacudao Decision and the Jacinto Resolution should stay simply as this: What the Court of Appeals perceived as admissions in the Jacinto Resolution should remain and stay insofar as they support the preliminary injunction but following the Dacudao Decision, the Jacinto Resolution should not preclude the allowance of Makati's Amended Answer for consideration on the trial on the merits of the main case.[19]

The Jacinto Resolution had achieved finality as per Entry of Judgment dated January 13, 1997 by the Clerk of Court of the CA. Accordingly, said Resolution is to be viewed as the final determination of the propriety of the issuance of the preliminary injunction. In fine, the Jacinto Resolution is the "law of the case" between the parties herein insofar as the issue resolved therein is concerned.

"Law of the case" has been defined as the opinion delivered on a former appeal.[20] It is a term applied to an established rule that when an appellate court passes on a question and remands the case to the lower court for further proceedings, the question there settled becomes the law of the case upon subsequent appeal.[21] More specifically, it means that whatever is once irrevocably established as the controlling legal rule or decision between the same parties in the same case continues to be the law of the case, whether correct on general principles or not, so long as the facts on which such decision was predicated continue to be the facts of the case before the court. [22]

Petitioner, however, points out that the law-of-the case doctrine finds no application herein precisely because the facts on which the Jacinto Resolution was predicated have changed, i.e., from Makati's alleged admissions in the original Answer of not exercising jurisdiction over the "Inner Fort," to its allegation in the Amended Answer that it is holding territorial and political jurisdiction over Barangays Northside and Southside inside the "Inner Fort."

We cannot subscribe to petitioner's posture.

For one, and as earlier held, the amendment of petitioner's Answer did not affect the reinstatement of the preliminary injunction over the "Inner Fort." Verily, the propriety of the preliminary injunction which was established in the Jacinto Resolution as the controlling legal rule cannot be affected by the "fact" laid out by petitioner, which is petitioner's exercise of jurisdiction over certain barangays inside the "Inner Fort." More so, when said "fact" is yet to be proven as a factual conclusion.

For another, there was no change of facts at all. Need we point out that what was changed were the allegations in the original Answer? Surely, a mere change or amendment in the allegations of an Answer is not the change of facts contemplated under the law-of-the case doctrine so as to warrant non-adherence thereto.

Besides, the basis of a decision cannot be erased by the simple expedient of amending one's pleading, especially when the judgment has already attained finality. For, as a rule, a decision on a prior appeal of the same case is the law of the case whether that decision is right or wrong, the remedy of the party deeming himself aggrieved being to seek a rehearing.[23] Courts must adhere thereto, whether the legal principles laid down were correct on general principles or not, or whether the decision is right or wrong, because public policy, judicial orderliness and economy require such stability in the final judgments of court or tribunals of competent jurisdiction.[24]

Here, petitioner would urge a re-litigation over the settled issue of the propriety of the preliminary injunction over the "Inner Fort." This is contrary to the "law-of-the-case" doctrine, for, thereunder, the court reviewing the succeeding appeal will not re-litigate the case but instead apply the ruling in the previous appeal, enabling said appellate court to perform its duties satisfactorily and efficiently which would be impossible if a question, once considered and decided by it, were to be litigated anew in the same case and upon any subsequent appeal.[25]

In any event, petitioner's thesis that the preliminary injunction over the "Inner Fort" was reinstated on the sole basis of its admissions in the original Answer is, to say the least, misleading.

The Jacinto Resolution reinstated the preliminary injunction over the "Inner Fort" on its finding that petitioner was not exercising jurisdiction thereon, hence, the conclusion therein reached that "the preliminary injunctive writ issued by the trial court against Makati will not disturb [the] status quo insofar as the said area is concerned." [26]

It may be that these admissions were taken into account in arriving at the finding of petitioner's non-exercise of jurisdiction over the "Inner Fort." Nonetheless, it cannot be said that such admissions were the sole foundation of the reinstatement of the preliminary injunction. For, as aptly posited by private respondent, the admission was only alluded to for the purpose of highlighting the patent error brought about by the Jacinto Decision when the "Inner Fort" was included in the coverage of Presidential Proclamation Nos. 2475 and 518, when the only

disputed area covered under said Proclamations was the 74-hectare expanse consisting of farmland. As can readily be gleaned from the Jacinto Decision, the preliminary injunctive writ was dissolved -initially - in its entirety on the assumption that it is the petitioner which exercised jurisdiction over the areas in dispute on the strength of Presidential Proclamation Nos. 2475 and 518, the validity of which is presumed.

At most, therefore, the admissions were counted upon only as conclusive proof of petitioner's non-exercise of jurisdiction over the "Inner Fort" so as to eliminate any impression that the preliminary injunction would subvert rather than preserve the status quo. Significantly, the preservation of the status quo ante was likewise what impelled the trial court to grant the application for a writ of preliminary injunction in the first place.

The CA correctly observed that the writ of preliminary injunction was issued not merely on the basis of petitioner's admissions in its original answer, but the numerous documentary evidence presented by respondent in tandem with the declarations of witnesses Esmeraldo Ramos and Eriberto V. Almazan. The trial court in its Order of July 15, 1994 made that quite clear:

Since there is no contradictory evidence to what plaintiff Municipality has presented, the same should be given credence at this stage, and therefore, this Court finds and so holds that plaintiff's application of injunction is impressed with merit.

From the allegations of the plaintiff in its verified Complaint as well as those contained in the affidavits of Esmeraldo Ramos and Eriberto V. Almazan, it is clear to this Court that the injunction being sought by plaintiff covers only the 74 hectares which was uninhabited or consisted of farmlands/wide open spaces before the issuance of Proclamation No. 2475 in 1986, and the "Inner Fort."xxx

From all the foregoing documentary evidence and assertions by plaintiff's two (2) witnesses, this Court is convinced that defendant Makati is indeed threatening plaintiff's right over the 74 hectares of farmlands subject of this controversy and also threatening to include in its territory and expand its jurisdiction to the "Inner Fort" or military camp proper, the areas over which the injunctive relief is being sought for. xxx

Furthermore all the evidence so far presented by plaintiff have sufficiently established its right over the disputed portion of the land subject of the application for injunction, most especially since defendant Makati has not controverted the same.[27]

We now come to petitioner's final contention that the CA, in its herein assailed decision, should not have relied on the reasons laid down by the trial court in its aforesaid Order of July 15, 1994,[28] granting private respondent's prayer for the issuance of a writ of preliminary injunction in view of the fact that said Order has been overturned by the Jacinto Decision when said decision dissolved the preliminary injunctive writ.

Again, we disagree.

Be it remembered that the Jacinto Decision was already modified by the Jacinto Resolution in that the preliminary injunction was reinstated over the "Inner Fort." Such reinstatement carries with it the affirmance of the propriety of the issuance of the writ by the trial court, and necessarily, the grounds in support thereof, albeit only with respect to the "Inner Fort."

Thus, in denying petitioner's motion to confirm the preliminary injunction as functus officio or dissolve the same, the CA is entirely blameless for banking on the trial court's findings and rationalizations in issuing the preliminary injunctive writ regarding the "Inner Fort."

All told, we rule and so hold that the CA did not err when it affirmed the trial court's denial of petitioner's motion to confirm the preliminary injunction functus officio, or, in the alternative, to dissolve the same.

This disposition, lest it be understood, resolves only an incident in Civil Case No. 63896, a suit which appears to involve the boundary conflict between the Cities of Makati and Taguig.

WHEREFORE, the petition is DENIED and the Court of Appeal's Decision dated January 31, 2005 and Resolution dated July 1, 2005 in CA-G.R. SP No. 79825 are AFFIRMED.

Costs against the petitioner.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Chico-Nazario, Velasco, Jr., Nachura, and Reyes, JJ., concur.
Tinga, J., no part. Former counsel of a party.

[1] Penned by Associate Justice Edgardo F. Sundiam and concurred in by Associate Justices Vicente Q. Roxas and Japar B. Dimaampao; rollo, pp. 8-27.

[2] Id. at 29.

[3] Id. at 10-11.

[4] Id. at 69-75.

[5] Id. at 73.

[6] Id. at 75.

[7] Now retired.

[8] Id. at 77-85.

[9] Id. at 83-84.

[10] Id. at 87-92.

[11] Id. at 89-90 & 91-92.

[12] Dated October 10, 1996; id. at 93-116.

[13] Id. at 123-139.

[14] Id. at 140-152.

[15] Id. at 167-184.

[16] Id. at 181.

[17] Section 6. Grounds for objection to, or for motion of dissolution of, injunction or restraining order. - The application for injunction or restraining order may be denied, upon a showing of its insufficiency. The injunction or restraining order may also be denied, or, if granted, may be dissolved, on other grounds upon affidavits of the party or person enjoined, which may be opposed by the applicant also by affidavits. It may further be denied, or, if granted, may be dissolved, if it appears after hearing that although the applicant is entitled to the injunction or restraining order, the issuance or continuance thereof, as the case may be, would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer, and the former files a bond in an amount fixed by the court conditioned that he will pay all damages which the applicant

may suffer by the denial or the dissolution of the injunction or restraining order. If it appears that the extent of the preliminary injunction or restraining order granted is too great, it may be modified.

[18]Id. at 242-253.

[19] Rollo, p. 21.

[20]Suarez-de Leon v. Estrella, A.M. No. RTJ-05-1935, July 29, 2005, 465 SCRA 37.

[21] Id.

[22]Id.

[23] Banes v. Lutheran Church in the Philippines, G.R. No. 142308, November 15, 2005, 475 SCRA 13.

[24] Id.

[25] Ariola v. Philex Mining Corporation, G.R. No. 147756, August 9, 2005, 466 SCRA 152.

[26]Rollo, p. 90.

[27] Supra note 4.

[28] Ibid.

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