

**PROVINCE OF ANTIQUE AND MUNICIPALITY OF CALUYA,
PETITIONERS, VS. HON. RECTO A. CALABOCAL, JUDGE-DESIGNATE,
REGIONAL TRIAL COURT, BRANCH 43, ROXAS, ORIENTAL MINDORO,
PROVINCE OF ...**

G.R. No. 209146. June 08, 2016

Ponente: CARPIO, ACTING C.J.

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CARPIO, ACTING C.J.:

Before this Court is a Petition for Certiorari and Prohibition with Prayer for Preliminary Injunction and Temporary Restraining Order^[1] filed by the Province of Antique and the Municipality of Caluya (petitioners) against Judge Recto A. Calabocal (Judge Calabocal), Judge-Designate of the Regional Trial Court (RTC) of Roxas, Oriental Mindoro, Branch 43, and the Province of Oriental Mindoro and the Municipality of Bulalacao, Oriental Mindoro (respondents).

The case before the Court stems from a dispute between the Province of Antique and the Province of Oriental Mindoro for "territorial jurisdiction, dominion, control and administration"^[2] over Liwagao Island,^[3] a 114-hectare island located between the two provinces.^[4] This dispute led to Civil Case No. C-566, a petition for "Recovery and Declaration of Political Jurisdiction/Dominion and Mandamus"^[5] filed by respondents against petitioners before the RTC of Roxas, Oriental Mindoro. Assailed in this petition are the Orders issued by Judge Calabocal on 23 April 2013,^[6] denying petitioners' affirmative defense of lack of jurisdiction, and on 17 July 2013,^[7] denying their subsequent motion for reconsideration.

The Facts

Based on the petition filed by respondents before the RTC, sometime between the years 1978 and 1979, Dolores Bago (Mayor Bago), then Mayor of the Municipality of Bulalacao, Oriental Mindoro, agreed to lend the administration of Liwagao Island to Oscar Lim (Mayor Lim), then Mayor of the Municipality of Caluya, Antique.^[8] The agreement was made orally and without executing any formal documents to this effect. The condition attached to the agreement was that the island would be returned upon termination of either party's terms in office.

The terms of both mayors ended in 1987. Mayor Lim allegedly returned Liwagao Island to the Municipality of Bulalacao. However, the Municipality of Caluya continued to exercise administration over the island.^[9]

On 15 April 2002, the Sangguniang Panlalawigan of Oriental Mindoro passed a resolution confirming its jurisdictional rights and dominion over Liwagao Island.^[10] However, according to respondents, the Municipality of Caluya and the Province of Antique continued to claim and exercise authority over Liwagao Island.^[11]

Respondents claim that despite the fact that it is the Province of Oriental Mindoro and the Municipality of Bulalacao that provide government services to the island, petitioners "continued collecting real property taxes" from Liwagao's inhabitants.^[12]

On 20 February 2012, the Sangguniang Panlalawigan of Oriental Mindoro passed Resolution No. 1454-2012 entitled Resolution Calling for the Conduct of a Joint Session between the Sangguniang Panlalawigan of the Province of Oriental Mindoro and the Sangguniang Panlalawigan of the Province of Antique for the Settlement of Jurisdictional Claim over the Island of Liwagao.[13]

Upon receiving a copy of Resolution No. 1454-2012, the Vice Governor of Antique wrote the Sangguniang Panlalawigan of Oriental Mindoro of her willingness to conduct a joint session to settle the boundary dispute. However, on 25 May 2012, the Sangguniang Panlalawigan of Antique issued Resolution No. 142-2012 informing Oriental Mindoro that it was not amenable to any form of settlement over the jurisdiction of Liwagao Island and asserted that the same rightfully belongs to their province.[14]

Thereafter, the Sangguniang Panlalawigan of Oriental Mindoro issued a resolution directing the Provincial Legal Office to file the necessary legal action to claim Liwagao Island.[15]

Thus, on 12 September 2012, respondents filed their petition before the RTC of Roxas, Oriental Mindoro.

On the other hand, in their Answer before the RTC, petitioners claimed that "the maps of [NAMRIA] and DENR show Liwagao Island to be part of Caluya, Antique." [16] Petitioners asserted that "all national agencies of the government have always considered the island to be part of Caluya." Likewise, the people living there have always recognized Caluya's jurisdiction over the island as evidenced by the fact that they have "registered their births, paid real property taxes and voted in Caluya, Antique." [17]

In the same Answer, petitioners set up the defense of lack of jurisdiction of the RTC. They argued that "under Section 118, paragraph (c) of the Local Government Code, jurisdiction over boundary disputes between municipalities of different provinces is vested on the Sangguniang Panlalawigans of the provinces involved." [18]

The Orders of the RTC

The RTC issued the first of its assailed orders on 23 April 2013 ruling on the special and affirmative defenses invoked by the Province of Antique and the Municipality of Caluya. Specifically, petitioners argued that the case involved a boundary dispute that should have first been brought to the Sangguniang Panlalawigan concerned for settlement.[19]

The RTC disagreed:

The respondent claimed that the subject government unit is a part of its territory. Clearly, the issue revolves and gravitates on who between the petitioner and respondent is the owner of sitio Liwagao, barangay Maasim, and not merely a boundary dispute because both parties claim the whole government unit of sitio Liwagao and not merely a part thereof to constitute it as boundary dispute to fall under Section 118, paragraph c of the Local Government Code.

The respondent claims that it should have been brought first to the Sangguniang Panlalawigan concern (sic) for settlement. The court is not in accord with such contention because the Sanggunian of Antique already issued Resolution No. 142-2012 dated May 25, 2012 to the effect that it categorically declared that the Sangguniang Panlalawigan of Antique is not amenable to any form of settlement on the alleged dispute of jurisdiction or dominion over the Island of Liwagao. Such resolution of the Sangguniang Panlalawigan of Antique absolutely slammed or closed the door to any amicable settlement with the petitioners. Hence, the court believes that it would be an exercise in futility for the petitioners to agree with respondents' argument.

As correctly pointed out by Atty. Kristine Grace L. Suarez in her memorandum, that there is no law precluding a party to a case from availing of any legal remedies available. In this case, the petitioners logically opted to institute this case which is an action for recovery and declaration of jurisdiction/dominion.

ACCORDINGLY, the instant affirmative defense of lack of jurisdiction is hereby DENIED. x x x.[20]

Petitioners filed a Motion for Reconsideration. The RTC denied the motion in its second assailed Order of 17 July 2013, holding that:

x x x The real issue in this case is not a boundary dispute between the petitioners and respondents but whether or not the former can recover back what it had lent to the latter. The respondents were just trying to complicate the issue by making it appear that it is a boundary dispute which it had already closed the door for any settlement.

Since time immemorial, Liwagao Island was under the peaceful and exclusive territorial and political jurisdiction by the Municipality of Bulalacao, Oriental Mindoro. In fact, voluminous documents clearly show that Liwagao is within the Municipality of Bulalacao, Oriental Mindoro. This alone strongly indicates that the issue in this case is not a boundary dispute because these documents indicate that Liwagao Island is within the Municipality of Bulalacao, Oriental Mindoro. If it is true as claimed by the respondents that Liwagao Island is within its territorial and political jurisdiction, why would then Mayor Lim of Caluya, Antique still need to secure the consent of the then Mayor Bago of Bulalacao, Oriental Mindoro to temporarily exercise jurisdiction over the Island of Liwagao. To the mind of this court, this is an admission on the part of the respondent that the subject island is within the Municipality of Bulalacao, Oriental Mindoro.[21]

Petition for Certiorari and Prohibition with Prayer for Preliminary Injunction and TRO

Petitioners subsequently filed the present petition praying for:

- a) A temporary restraining order and writ of preliminary injunction be immediately issued enjoining all proceedings of the court a quo and of the respondent judge during the pendency of the case;
- b) A writ of certiorari be issued, reversing the questioned Orders of the respondent judge dated April [23], 2013 and July 17, 2013 in Civil Case No. C-566, and dismissing Civil Case No. C-566, and
- c) A writ of prohibition be issued permanently enjoining respondent judge from taking cognizance of this case[.][22]

The Court, in a Resolution dated 14 October 2013, issued a temporary restraining order "enjoining the respondents, the RTC, Branch 43, Roxas, Oriental Mindoro, their representatives, agents or other persons acting on their behalf from further proceeding with the enforcement of the Orders dated 23 April 2013 and 17 July 2013 of the RTC, Branch 43, Roxas, Oriental Mindoro in Civil Case No. C-566 during the pendency of the instant case." [23]

Petitioners' Arguments

In the case at bar, petitioners aver that, first, the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled that the case does not involve a boundary dispute.[24] Petitioners insist that the case involves a boundary dispute, which simply refers to when "two entities disagree as to where the boundary between them lies." [25] They further assert that "it does not matter whether what is involved in said dispute is the whole or only a part of a local government unit. What determines whether there is a boundary dispute is that there is disagreement as to whether the boundary lies between two territories." [26]

Second, petitioners assert that the RTC erred in assuming jurisdiction over respondents' petition because "the Sangguniang Panlalawigans of both the provinces of Antique and Oriental Mindoro, sitting jointly, have primary, original and exclusive jurisdiction over this boundary dispute." [27] They contend that under the Local Government Code, "a boundary dispute between municipalities of different provinces shall be referred first for settlement to the sanggunians of the provinces jointly" and if no settlement is reached, the case shall be jointly

tried by the sanggunians concerned.[28] After trial, the aggrieved party may appeal the decision to the RTC having jurisdiction over the area.

Third, petitioners argue that the "RTC only has jurisdiction over an appeal from the decision of the Sangguniang Panlalawigans in a boundary dispute in accordance with Sec. 119 of the Local Government Code." They aver that the petition filed with the RTC was not an appeal but an original complaint,[29] which alleges that the parties concerned failed to settle the dispute. It is clear, petitioners claim, that "the respondents brought this action in the RTC as a result of the failure of settlement between the parties, not as an appeal from a decision of both the Sangguniang Panlalawigans of Antique and Oriental Mindoro." [30]

Lastly, the RTC "cannot exercise appellate jurisdiction over [respondents' petition] since there was no petition [for the adjudication of the boundary dispute] that was filed and decided by the Sangguniang Panlalawigans of Antique and Oriental Mindoro." [31] Such petition should be in the form of a resolution and filed with either of the two sanggunians. Resolution No. 1454-2012 of the Province of Oriental Mindoro x x x "did not qualify as such petition because it only called for the conduct of a joint session between the two sanggunians x x x. The resolution did not lay claim over Liwagao Island x x x. Much less did it state the grounds, reasons or justification for a claim, as required by the Implementing Rules and Regulations (IRR) of the Local Government Code." [32]

Respondents' Arguments

In their Comment,[33] respondents initially argue for the dismissal of the petition on technical grounds. Specifically, respondents allege that (1) the instant case was filed one day after the lapse of the 60-day reglementary period to file a petition for certiorari/prohibition; (2) petitioners also failed to attach a certified true copy of the assailed RTC orders and to file the required number of copies of the petition; and (3) petitioners failed to pay the filing fee within the reglementary period.

Next, respondents argue that petitioners failed to adhere to the doctrine of hierarchy of courts.[34] Citing past decisions of this Court, respondents assert that following said doctrine, a special civil action assailing the order of the RTC should be filed with the Court of Appeals and not with this Court.[35]

Respondents contend that the RTC has jurisdiction over their petition because the same is not an appeal but an "an original legal action to recover and get back the Island of Liwagao." [36] They emphasize that the petition they filed before the RTC is not one for settlement of boundary dispute but for "recovery of jurisdiction/dominion over a property." [37] According to respondents, the two actions differ from each other in that in the action they filed, they seek to "RECOVER possession, jurisdiction and dominion over a property whose ownership had previously been vested to them" while in case of settlement of boundary dispute, "what is being prayed for is to CLAIM a property whose ownership is in question." [38]

Respondents insist that "there is no boundary dispute" [39] in this case. They argue that the boundary lines between the Province of Oriental Mindoro and the Province of Antique "[have] long been set forth and known to the parties" and that the "issue on the possession of Liwagao Island x x x only cropped up when the Municipality of Bulalacao lent the island to the Municipality of Caluya in the late 1970s." [40]

Likewise, respondents aver that "there is no law precluding a party from availing of any legal remedies available to him/her under the law." [41] Citing previous Court decisions, respondents insist that a party may resort to an original action to affirm its rights over what it claims to be its territory. [42]

Finally, respondents argue that even "assuming it is the Sangguniang Panlalawigans of the Provinces of Oriental Mindoro and Antique that have jurisdiction over the[ir] petition x x x the factual circumstances rendered it impossible for these legislative bodies to resolve the issue involving the Island of Liwagao." [43] Respondents

point out that, prior to filing the petition before the RTC, it had already made several attempts to "amicably discuss the issue on jurisdictional claim."^[44] However, the Sangguniang Panlalawigan of Antique categorically proclaimed that it was not amenable to any form of settlement.^[45]

The Issue

The sole issue in this case is whether the RTC has jurisdiction over the respondents' petition for recovery of property and declaration of territorial and political jurisdiction/dominion over Liwagao Island.

The Court's Ruling

The petition is dismissed for lack of merit. Contrary to petitioners' claim, the RTC has jurisdiction over the dispute. However, the RTC's ruling that the case does not involve a boundary dispute is incorrect.

The Case Involves a Boundary Dispute

Respondents insist that this case stems from an original action for "recovery/declaration of territorial and political jurisdiction/dominion" and not a boundary dispute; hence, it is not within the purview of Section 118 of the Local Government Code.

Respondents' argument is erroneous.

A boundary dispute involving different local government units is defined in the Implementing Rules and Regulations (IRR)^[46] of the Local Government Code.^[47] Specifically, Rule III, Article 15 states:

RULE III

Settlement of Boundary Disputes

ARTICLE 15. Definition and Policy. — There is a boundary dispute when a portion or the whole of the territorial area of an LGU is claimed by two or more LGUs. Boundary disputes between or among LGUs shall, as much as possible, be settled amicably. (Emphasis supplied)

Based on this definition, a boundary dispute may involve "a portion or the whole" of a local government unit's territorial area. Nothing in this provision excludes a dispute over an island. So long as the island is being claimed by different local government units, there exists a boundary dispute.

The allegations in the complaint filed before the RTC point to a boundary dispute, as defined under the Local Government Code.

Respondents are asserting their lawful jurisdiction over Liwagao Island as against another local government unit that currently has jurisdiction over the same. Therefore, whether the case is denominated as recovery of possession or claim of ownership, respondents' objective is the same: for respondents to regain their alleged territorial jurisdiction over Liwagao Island.

Respondent Province of Oriental Mindoro itself acknowledges that the conflict is a "boundary row" between itself and the Province of Antique.^[48] As stated in Resolution No. 1454-2012, the Province of Oriental Mindoro claims to "adhere to the basic principle of amicably settling said boundary dispute, as laid down in the provision of the Local Government Code of 1991[.]"^[49]

Thus, they are bound by their own assertions and cannot now claim that the conflict does not involve a boundary dispute.

Settlement of Boundary Disputes Governed By Local Government Code of 1991

Having established that the case involves a boundary dispute, the procedure to resolve the same is that established under the Local Government Code. Under the said law, "the respective legislative councils of the contending local government units have jurisdiction over their boundary disputes." [50] Sections 118 and 119 of the Local Government Code state:

SECTION 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:

(a) Boundary disputes involving two (2) or more Barangays in the same city or municipality shall be referred for settlement to the Sangguniang Panlungsod or Sangguniang Bayan concerned.

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

(c) Boundary disputes involving municipalities or component cities of different provinces shall be jointly referred for settlement to the Sanggunians of the provinces concerned.

(d) Boundary disputes involving a component city or municipality on the one hand and a highly urbanized city on the other, or two (2) or more highly urbanized cities, shall be jointly referred for settlement to the respective Sanggunians of the parties.

(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.

SECTION 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. (Emphasis supplied)

The specific procedure in settling boundary disputes is outlined in Rule III of the IRR of the Local Government Code:

RULE III

Settlement of Boundary Disputes

x x x x

ARTICLE 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.

x x x

(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 panlalawigans shall be heard by the Regional Trial Court of the province which first took cognizance of the dispute.

As the Court has previously ruled, it is "only upon the failure of these intermediary steps will resort to the RTC follow, as specifically provided in Section 119 of the [Local Government Code.]"[51]

The RTC has Jurisdiction Over the Case

Respondents' resort to filing a case before the RTC was warranted under the circumstances of this case.

It must be emphasized that respondents followed the procedure laid down in the Local Government Code. They took all the necessary steps to settle the dispute within the procedure set out in the law, and by all indication, was prepared to see the matter thru in order to lay the issue to rest.

However, petitioners failed to perform their concomitant responsibility under the same law, leaving respondents with no other recourse but to bring the matter to court. Petitioners cannot demand that respondents now follow the procedure when they themselves have made it impossible for any party to follow the same. The Province of Antique's Resolution No. 142-2012 dated 25 May 2012, stating that the Province of Antique was not amenable to any form of settlement, effectively blocked any way to continue following the steps in the IRR.

As such, respondents' petition before the RTC must be upheld. Otherwise, they will be left without any recourse or legal remedy to assert their claim over Liwagao Island. Such uncertainty is unacceptable, as the fate of the island's residents rests in the immediate resolution of the dispute.

WHEREFORE, the petition is DISMISSED. The Orders dated 23 April 2013 and 17 July 2013 issued by the Regional Trial Court of Roxas, Oriental Mindoro, Branch 43, in Civil Case No. C-566 are AFFIRMED. The temporary restraining order issued by the Court in its Resolution dated 14 October 2013 is LIFTED. The RTC is ORDERED to hear and decide the case with dispatch.

SO ORDERED.

Del Castillo, Mendoza, and Leonen, JJ., concur.

Brion, J., on official leave.

[1] Rollo, pp. 10-33. Under Rule 65 of the Rules of Court.

[2] Id. at 39.

[3] Also called Libago Island. Id. at 43.

[4] Id.

[5] Id. at 38-59.

[6] Id. at 34-35.

[7] Id. at 36-37.

[8] Id. at 39.

[9] Id. at 48.

[10] Id. at 50.

[11] Id. at 50-51.

[12] Id. at 52.

[13] Id. at 60.

[14] Id. at 54.

[15] Id.

[16] Id. at 14.

[17] Id.

[18] Id.

[19] Id. at 34.

[20] Id. at 34-35.

[21] Id. at 37.

[22] Id. at 29.

[23] Id. at 78.

[24] Id. at 16.

[25] Id.

[26] Id. at 17.

[27] Id. at 18.

[28] Id. at 19.

[29] Id. at 20.

[30] Id. at 21.

[31] Id.

[32] Id.

[33] Id. at 97-117.

[34] Id. at 104.

[35] Id.

[36] Id. at 106.

[37] Id. at 107.

[38] Id. at 108.

[39] Id.

[40] Id.

[41] Id. at 109.

[42] Id.

[43] Id. at 111.

[44] Id. at 112.

[45] Id.

[46] Administrative Order No. 270. Issued on 21 February 1992.

[47] Republic Act No. 7160.

[48] Rollo, p. 60.

[49] Id.

[50] NHA v. Commission on the Settlement of Land Problems, 535 Phil. 766, 773 (2006).

[51] See Municipality of Pateros v. Court of Appeals, 607 Phil. 104, 119 (2009).

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