

34 Phil. 518

[ G.R. No. 10202. March 29, 1916 ]

**THE GOVERNMENT OF THE PHILIPPINE ISLANDS EX REL. THE MUNICIPALITY OF CARDONA, PLAINTIFF, VS. THE MUNICIPALITY OF BINANGONAN ET AL., DEFENDANTS.**

**D E C I S I O N**

**MORELAND, J.:**

This is an action by the municipality of Cardona to prohibit perpetually the municipality of Binangonan from exercising municipal authority over the barrios of Tatala, Balatik, Nambug, Tutulo, Mahabang Parang, Nagsulo, and Bonot.

The complaint alleges that the municipality of Binangonan is now exercising governmental authority over the barrios named, to the exclusion of the municipality of Cardona; that such authority is exercised by the municipality of Binangonan by reason of Executive Order No. 66, series of 1914, issued by the Governor-General of the Philippine Islands on the 1st day of July, 1914, which reads as follows:

“Pursuant to the provisions of section one of Act Numbered seventeen hundred and forty-eight, the boundary line between the municipalities of Binangonan and Cardona, in the Province of Rizal, is hereby defined and fixed as follows, viz:

“On the mainland, beginning on the north at the inter-section of the Morong River and the existing Binangonan boundary, thence in a southerly and westerly direction to Mapulanglupa (otherwise called Santol), where a partially destroyed monument now exists; thence in a direct south-easterly line to the summit of Mountain Tutulo; and thence to the Laguna de Bay; thus embracing within the limits of the municipality of Binangonan the *barrios* or *sitios* of Tatala, Balatik, Mambug, Tutulo, Mahabang Parang, Nagsulo, Sam pad, and Bonot.

“On the Island of Talim, that portion of the island embraced within points known as Kaymaralina and Virgen-Bato, on the eastern coast and extending to the summits of the range of hills geographically dividing the land, is hereby confirmed as being embraced within the jurisdiction of the municipality of Cardona; and the remainder of the island, including the small off-lying islands of Bunga, Olahipan, and Malake, as being embraced within the jurisdiction of the municipality of Binangonan.

“Action will at once be taken to survey the boundary line herein fixed and to establish monuments demarcating same.”

The plaintiff further alleges that the executive order referred to and above quoted and the Act under which it was issued are “unconstitutional” in that said Act confers on the Governor-General legislative authority; and that the Governor-General in promulgating said order usurped legislative functions. Plaintiff also claims that the order is void because it does not contain a statement that the change in the division line between the said municipalities was required by the public good; and that it does not appear in said order itself that there was a present urgency requiring the promulgation of such an order.

The defendant municipality demurred to the complaint on<sup>1</sup> the ground that it did not state facts sufficient to constitute a cause of action. The question before us is that presented by the demurrer.

We do not think that plaintiff’s objections are well founded. No reason has been given why the Act is unconstitutional and no argument or citation of authorities has been presented on that subject. Every Act of the legislature is presumed to be constitutional until the contrary is clearly shown; and no showing of unconstitutionality having been made in this case, the objection to the order of the Governor-General based on that ground must be overruled. The other two objections are frivolous. Although it be admitted, for the sake of argument, that the Governor-General ought not to make such an order unless the public good requires it, that fact need not be stated in the order. The same may be said with regard to its urgency. The Governor-General having full authority to promulgate such an order this court will assume, if it should act on the matter at all, that there was public necessity therefor and that the matter was of such urgency as properly to evoke action by the Chief Executive.

The demurrer to the complaint is sustained and unless an amendment thereof is made within five days from the service of a copy of this order eliminating the objections stated in this decision, the action will be dismissed on the merits. So ordered.

*Torres, Trent, and Araullo, JJ., concur.*

*Johnson, J., concurs in the result.*

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