

# FIRST DIVISION

[ G.R. No. 216092, December 09, 2020 ]

**MUNICIPALITY OF ISABEL, LEYTE, PETITIONER, VS.  
MUNICIPALITY OF MERIDA, LEYTE, RESPONDENT.**

## DECISION

**GAERLAN, J.:**

### The Case

This is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court against the August 20, 2014 Decision<sup>[1]</sup> and the November 17, 2014 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R SP No. 05255, which reversed the Decision of the Regional Trial Court (RTC) of Ormoc City, Leyte, and reinstated Resolution No. 08-327 of the *Sangguniang Panlalawigan* of Leyte. The said resolution was an adjudication of the boundary dispute between petitioner Municipality of Isabel (Isabel) and respondent Municipality of Merida (Merida), both located in and under the jurisdiction of the Province of Leyte.

### The Facts

The Municipality of Isabel was created out of eight barrios of the Municipality of Merida, pursuant to Republic Act (R.A.) No. 191, which was enacted on June 22, 1947. R.A. No. 191 reads as follows:

#### REPUBLIC ACT NO. 191

#### AN ACT CREATING THE MUNICIPALITY OF ISABEL, PROVINCE OF LEYTE

SECTION 1. The barrios of Quiot, Sta. Cruz, Libertad, Matlang, Tolingan, Bantigue, Apale and Jonan are separated from the municipality of Merida, Province of Leyte, and constituted into a new and separate municipality to be known as the municipality of Isabel, Province of Leyte, with the seat of government at the barrio of Quiot.

SECTION 2. The municipal mayor, vice-mayor, and councilors of the new municipality shall be appointed by the President of the Philippines to hold office until their successors are elected and qualified.

SECTION 3. The municipality herein established shall begin to exist on the date fixed in a proclamation to said effect by the President of the Philippines and upon the appointment and qualification of its officers.

SECTION 4. This Act shall take effect upon its approval.

In accordance with Section 3 of said law, the creation of the Municipality of Isabel was formalized by President Manuel Roxas on January 15, 1948, through Presidential Proclamation No. 49.<sup>[3]</sup>

At about the same time, the boundary between Isabel and Merida was delineated. To mark the boundary line, the governments of both municipalities placed stone monuments at designated areas along the line. According to Merida, these monuments had dimensions of six by six inches and had the following markings: "1947", the apparent date of their installation; "M", for Merida, placed on one side of the monuments; and "I", for Isabel, placed on the other side.<sup>[4]</sup> The present controversy pertains to two of these monuments which were placed along a dead creek named Doldol: one that was placed shoreward thirty meters from the highway, which was lost after the lapse of time, and another one that was placed near an ancient *doldol*<sup>[5]</sup> tree.<sup>[6]</sup> Merida claims that when the Isabel local government unit (LGU) installed new boundary monuments in 1981, the latter failed to find the monument by the old *doldol* tree, and instead placed a new monument along the Benabaye River, which was marked as Municipal Boundary Monument (MBM) No. 5.<sup>[7]</sup> The placement of MBM No. 5 changed the boundary line and created a disputed area of 162.3603 hectares which is now claimed by both Merida and Isabel.<sup>[8]</sup>

The dispute was further aggravated by the erection of structures within the disputed area by entities from Isabel, such as a welcome monument installed across the highway from MBM No. 5 by the Yellow Ladies of Isabel in 1988; and a waiting shed built by *barangay* Apale, Isabel. The Isabel LGU likewise exercised jurisdiction over the disputed area by conducting highway clearing activities therein,<sup>[9]</sup> prompting the *barangay* council of the adjoining *barangay* Benabaye, Merida, to seek the assistance of the *Sangguniang Bayan* of Merida.<sup>[10]</sup>

Acting on the requests of *barangay* Benabaye, then Mayor Bernardino Solana organized a fact-finding committee<sup>[11]</sup> (the Merida boundary committee) to look for the boundary monuments that were placed when Isabel was created.<sup>[12]</sup> The Merida committee submitted a report of its findings to the Office of the Mayor.<sup>[13]</sup> On April 6, 1990, the *Sangguniang Bayan* of Merida adopted the findings of the Merida boundary committee and resolved to construct new boundary monuments in place of the lost ones.<sup>[14]</sup> On the other hand, Isabel conducted its own investigation and maintained that MBM No. 5 and the other monuments it installed were accurate and legitimate, based on affidavits of the area's residents, tax declarations, and cadastral maps.<sup>[15]</sup>

In separate resolutions,<sup>[16]</sup> the municipal councils of Merida and Isabel agreed to submit the boundary dispute to the *Sangguniang Panlalawigan* of Leyte.<sup>[17]</sup>

### **Ruling of the *Sangguniang Panlalawigan***

The *Sangguniang Panlalawigan* of Leyte unanimously adopted the findings of its Committee on Boundary Disputes and adjudicated the boundary dispute in favor of Merida. The dispositive portion of its resolution<sup>[18]</sup> reads as follows:

WHEREFORE, PREMISES CONSIDERED, Municipal Resolution 2004-091 of the Municipality of Isabel and Municipal Resolution No. 96-183 of the Municipality of Merida are hereby resolved as follows:

1. The true and accurate boundary between the Municipalities of Merida and Isabel is the one planted along the dead Doldol creek near the Doldol tree and the highway;
2. The local government of Isabel, Leyte is hereby ordered to remove the Municipal Boundary Monument (MBM) No. 5 installed by former Mayor Cruz Centino of the Municipality of Isabel sometime in 1981 as well as Welcome Boundary Marker constructed by the Yellow Ladies Club of Isabel, Leyte sometime in 1988.
3. The local government of Merida, Leyte, is hereby ordered to install another Municipal Boundary Monument along the dead Doldol creek near the Doldol tree and the highway in accordance with the laws and the Barangay Boundary and Index Maps and political boundary maps of the two (2) [sic] municipalities.

SO ORDERED.<sup>[19]</sup>

The *Sangguniang Panlalawigan* explained that the specific enumeration in R.A. No. 191 of the eight barrios which comprise Isabel does not include barangay Benabaye, which is a part of Merida. Consequently, the provincial board refused to consider the tax declarations presented by Isabel which list the location of some properties within the disputed area as being within "Benabaye, Isabel, Leyte".<sup>[20]</sup> Furthermore, even the barangay boundary and index maps of the Isabel Cadastre show that the said properties are actually located in Benabaye, Merida.<sup>[21]</sup>

The Leyte provincial board also gave more credence to Merida's assertion that the true boundary is demarcated by the monument placed shoreward along the highway and the dead Doldol Creek, as this was supported not only by the committee reports submitted by Merida but also by positive testimonies of witnesses, including Isabel's first mayor, Galicano Ruiz, and by the monument located near the ancient *doldol* tree along Doldol Creek.<sup>[22]</sup>

Dissatisfied, Isabel appealed from the resolution of the *Sangguniang Panlalawigan*, pursuant to Section 119 of the Local Government Code.<sup>[23]</sup>

### **Ruling of the RTC**

In a Decision dated September 29, 2009,<sup>[24]</sup> the trial court ruled in favor of Isabel and reversed the *Sangguniang Panlalawigan* Resolution, viz.:

WHEREFORE, premises considered, judgment is hereby rendered, in favor of appellant and against appellee, REVERSING and SETTING ASIDE the a sailed Resolution of the Honorable Sangguniang Panlalawigan ng Leyte and a new one is hereby entered, DECLARING that the contested tract of land of 162.3603 hectares as appearing in the cadastral survey records of Cad 661-D properly belong to the Municipality of Isabel, Leyte.

Upon the finality of this decision, the appellee is hereby further ordered to immediately remove the billboard it erected during the pendency of the appeal at its expense.

SO ORDERED.<sup>[25]</sup>

In so ruling, the RTC held that the true boundary between barangay Apale, Isabel, and *barangay* Benabaye, Merida, is the Benabaye River. The trial court gave more weight to the testimonies of three witnesses presented by Isabel who all testified that the true boundary between Apale and Benabaye was the "brook/creek located near the poblacion of *barangay* Benabaye".<sup>[26]</sup> According to the trial court, the witnesses presented by Isabel were "*very old men nearing the end of their lives x x x who are not expected to lie or concoct tales*".<sup>[27]</sup> Moreover, the presiding judge himself conducted an ocular inspection of Benabaye River and was able to see MBM No. 5 which was installed by the Isabel LGU, which to him appeared to have been installed "*many, many years ago*" and was compliant with the standards set by the Manual for Land Surveys in the Philippines.<sup>[28]</sup> The testimonies of Isabel's witnesses were likewise corroborated by the *Barangay* Boundary and Index Map which was duly approved on December 11, 1987, by the Regional Director of the Land Management Service of the Department of Environment and Natural Resources. On the contrary, the trial court concluded that the statements of Merida's witnesses were either hearsay or self-serving. Likewise, the trial court did not consider the tax declarations submitted by both parties because the tax declarations all referred to incidents after 1948, and were therefore not determinative of conditions obtaining during the creation of Isabel.<sup>[29]</sup>

Merida filed a motion for new trial dated October 27, 2009,<sup>[30]</sup> on the ground that the trial court failed to consider the existence of the 1947 monument near the ancient *doldol* tree. Merida argues that the monument could not have been inspected by the trial court because the same was unearthed only after the trial court had rendered its decision. Merida likewise offered sworn statements of the persons who located and unearthed the said monument,<sup>[31]</sup> along with photographs thereof.<sup>[32]</sup>

The RTC denied Merida's motion for new trial in an Omnibus Order dated July 5, 2010.<sup>[33]</sup> According to the trial court, the recent unearthing of the monument near the ancient *doldol* tree did not place such monument under the ambit of newly discovered evidence, since photographs of the monument already formed part of the evidence considered by the *Sangguniang Panlalawigan* and the trial court.<sup>[34]</sup> The trial court also stated that the remedy of new trial was not available because it was trying the case under its appellate jurisdiction, and thus it may only remand the case to the *Sangguniang Panlalawigan*.<sup>[35]</sup>

### **Ruling of the CA**

On appeal by Merida, the CA reversed the RTC Decision and reinstated the *Sangguniang Panlalawigan* Resolution. On the issue of the proper mode of review, the CA held that Merida correctly availed of an appeal *via* Rule 42, which covers appeals from decisions of the RTCs in the exercise of their appellate jurisdiction.

The CA gave little probative value to the tax declarations of properties within the disputed area, on the following grounds: (1) an LGU must first prove territorial jurisdiction in order to collect realty taxes from a certain property; and (2) Isabel failed to submit a tax declaration history to show that it has exercised taxation powers over the area since its establishment in 1948. The appellate court likewise examined the tax declarations submitted by Isabel, some of which indicate the location of the properties as "Benabaye, Isabel, Leyte".<sup>[36]</sup> The Court ratiocinated that if these properties were actually under Isabel's jurisdiction, the tax declarations should have indicated Apale as the location of the properties instead of Benabaye, since Isabel claims the disputed area as part of Apale, and Benabaye is undisputedly located in and associated with Merida.<sup>[37]</sup>

The CA likewise agreed with the assertion that the disputed area is within the territory of Merida because some elective *barangay* officials of its constituent *barangay* Benabaye reside within the disputed area, as the Local Government Code requires elective *barangay* officials to be residents and registered voters of the LGU where they intend to serve as such.<sup>[38]</sup>

In order to determine the true and accurate boundary marker, the CA weighed the evidentiary support for Merida's Doldol Creek monuments as against Isabel's MBM No. 5, *viz.*:

Merida is adamant that the disputed area is within its territorial jurisdiction. Starting at the level of the *Sangguniang Panlalawigan* of Leyte, it made mention of stone monuments with markings of "1947", to represent the year that label was created and the year it was laid down on the ground; "M", to represent the side for Merida; and "I", to represent the side demarcating the line for Isabel. However, Merida alleged that these 1947 stone monuments cannot be located despite diligent efforts.

On the other hand, Isabel claims that the boundary was demarcated by MBM No. 5 and which marker was placed along the Benabaye River, which was also the natural boundary between Barangay Benabaye of Merida and Barangay Apale of Isabel. This MBM No. 5 was given great weight by the RTC, bolstered by the affidavits of septuagenarians (or older) who were knowledgeable about the "true" boundaries between said barangays. In addition, the RTC opined that MBM No. 5 appeared to have been placed many years ago and complied with monument standards for municipal boundary monuments provided under Section 221 of the Manual for Land Surveys in the Philippines.

Foremost to consider is the fact that the basis made, by the RTC, that is, the Manual for Land Surveys in the Philippines, is of recent vintage. In fact, if the law creating Municipality of Isabel will be revisited, which law was passed in 1947, its territorial jurisdiction was not delineated by metes and bounds but it merely made mention of the barrios (now known as barangays) that were separated from Merida.

Moreover, the 1947 stone monument, while already mentioned by