

THIRD DIVISION

[G.R. No. 175064, September 18, 2009]

**PROVINCE OF CAMARINES SUR, REPRESENTED BY GOVERNOR
LUIS RAYMUND F. VILLAFUERTE, JR., PETITIONER, VS.
HONORABLE COURT OF APPEALS; AND CITY OF NAGA,
REPRESENTED BY MAYOR JESSE M. ROBREDO, RESPONDENTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

This Petition for *Certiorari*^[1] under Rule 65 of the Rules of Court seeks to annul and set aside the Decision^[2] dated 28 June 2004 and the Resolution^[3] dated 11 August 2006 of the Court of Appeals in CA-G.R. SP No. 56243. The assailed Decision of the appellate court denied due course the Petition for Review on *Certiorari*^[4] filed by petitioner Province of Camarines Sur (Camarines Sur), while the assailed Resolution denied the Motion for Reconsideration of the earlier Decision.

The property subject of the instant case is a parcel of land, known as Plaza Rizal, situated within the territory of herein respondent City of Naga and with an aggregate area of 4,244 square meters, more or less. Plaza Rizal is located in front of the old provincial capitol building, where the Provincial Government of Camarines Sur used to have its seat, at the time when the then Municipality of Naga was still the provincial capital.

On 18 June 1948, Republic Act No. 305^[5] took effect and, by virtue thereof, the Municipality of Naga was converted into the City of Naga. Subsequently, on 16 June 1955, Republic Act No. 1336^[6] was approved, transferring the site of the provincial capitol of Camarines Sur from the City of Naga to the barrio of Palestina, Municipality of Pili.^[7] The Municipality of Pili was also named as the new provincial capital.^[8]

On 13 January 1997, the City of Naga filed a Complaint^[9] for Declaratory Relief and/or Quieting of Title against Camarines Sur before the Regional Trial Court (RTC) of the City of Naga, Branch 61, which was docketed as Civil Case No. 97-3691.

The City of Naga alleged that, for a considerable length of time, Camarines Sur possessed and claimed ownership of Plaza Rizal because of a tax declaration over the said property in the name of the province. As a result, Camarines Sur had long exercised administrative control and management of Plaza Rizal, to the exclusion of the City of Naga. The City of Naga could not introduce improvements on Plaza Rizal, and its constituents could not use the property without securing a permit from the proper officials of Camarines Sur. The situation had created a conflict of interest between the parties herein and had generated animosities among their respective officials.

The City of Naga stressed that it did not intend to acquire ownership of Plaza Rizal. Being a property of the public domain, Plaza Rizal could not be claimed by any subdivision of the state, as it belonged to the public in general. Instead, the City of Naga sought a declaration that the administrative control and management of Plaza Rizal should be vested in it, given that the said property is situated within its territorial jurisdiction. The City of Naga invoked Section 2, Article I of Republic Act No. 305, the Charter of the City of Naga, which states:

SEC. 2. *Territory of the City of Naga.* -- The city of Naga which is hereby created, shall comprise the present territorial jurisdiction of the municipality of Naga, in the Province of Camarines Sur.

On 21 February 1997, Camarines Sur filed an Answer with Motion to Dismiss.^[10] It argued that it was the legal and absolute owner of Plaza Rizal and, therefore, had the sole right to maintain, manage, control, and supervise the said property. Camarines Sur asserted that the City of Naga was without any cause of action because the Complaint lacked any legal or factual basis. Allegedly, Section 2 of Republic Act No. 305 merely defined the territorial jurisdiction of the City of Naga and did not vest any color of right to the latter to manage and control any property owned by Camarines Sur. Furthermore, the remedy of Declaratory Relief was inappropriate because there was no justiciable controversy, given that the City of Naga did not intend to acquire ownership of Plaza Rizal; and Camarines Sur, being the owner of Plaza Rizal, had the right to the management, maintenance, control, and supervision thereof. There was likewise no actual or impending controversy, since Plaza Rizal had been under the control and supervision of Camarines Sur since time immemorial. The remedy of Quieting of Title was inappropriate, as the City of Naga had no legal or equitable title to or interest in Plaza Rizal that needed protection. Lastly, Camarines Sur stated that Plaza Rizal was not a property of public domain, but a property owned by Camarines Sur which was devoted to public use.

In an Order^[11] dated 28 May 1997, the RTC denied the Motion to Dismiss of Camarines Sur, since the grounds cited therein were legal issues that were evidentiary in nature and could only be threshed out in a full-blown trial.

On 10 March 1999, the RTC rendered a Decision^[12] in favor of the City of Naga, the pertinent portions of which provide:

As understood in the Law of Nations, the right of jurisdiction accorded a sovereign state consists of first, its personal jurisdiction, which in a sense is its authority over its nationals who are in a foreign country and second, territorial jurisdiction, which is its authority over persons and properties within the territorial boundaries x x x.

"The territorial jurisdiction of a state is based on the right of domain. The domain of a State includes normally only the expanse of its territory over which it exercises the full rights of sovereignty." x x x

"Sovereignty, in turn, refers to the supreme power of a State to command and enforce obedience; it is the power, to which, legally speaking all interest[s] are practically subject and all wills subordinate." x x x

Indeed, from the point of view of national law, it is in a sense absolute control over a definite territory. x x x.

In summation therefore from the above-quoted citations, when territorial jurisdiction is being referred to, it means the entire territory over which a State (or any local government unit) can exercise absolute control.

In the instant case, [Camarines Sur] thru (sic) counsel admitted during the pre-trial conference that indeed, the property in question, which is Plaza Rizal, is within the territorial jurisdiction of the [City of Naga]. Thus, applying the above-quoted principles concerning territorial jurisdiction, [Camarines Sur] is barred by its express admission from claiming that it is the Province of Camarines Sur who has the right to administratively control, manage and supervise said Plaza Rizal.

[The contention of Camarines Sur] that [Section 2, Article I] of [Republic Act No.] 305 merely defines [the] territory of the City of Naga has no strong leg to stand on.

The unequivocal and specific import of said provision provides the extent into which the City of Naga can exercise its powers and functions over all its constituents and properties found within its territory. Further, Art. II, Sec. 9, par. b of [Republic Act No.] 305 provides one of the general powers and duties of the City Mayor, to wit:

"To safeguard all the lands, buildings, records, moneys, credits and other property and rights of the city, and subject to the [provisions] of this Charter, have control of all its property."

Considering that the Province [of Camarines Sur] expressly acknowledged that [Section 2, Article I] of [Republic Act No.] 305 merely defines the territory of [the City of Naga], then it is safe to assume that it also accept that the City of Naga as represented by the City Mayor exercises control of all the properties of the City, for properties as used in the above-quoted provision refers to lands, buildings, records, moneys[,], credits and other property and rights of the city. x x x Since [Section 2, Article I] of [Republic Act No.] 305 defines the territory of [the City of] Naga and Plaza Rizal is within its territorial jurisdiction, ergo, it is the City [of Naga] who has the right of administrative control and management of Plaza Rizal.

The RTC thus decreed:

WHEREFORE, premises considered, [Section 2, Article I] of [Republic Act No.] 305 is hereby interpreted and declared in this Court to mean that the administrative control and management of Plaza Rizal is within the City of Naga and not with the Province of Camarines Sur.^[13]

Camarines Sur received a copy of the foregoing Decision on 16 March 1999, and filed a Motion for Reconsideration^[14] of the same on 30 March 1999. The RTC denied the Motion for Reconsideration of Camarines Sur in an Order^[15] dated 1 September 1999. The RTC reiterated that the enactment of Republic Act No. 305, which converted the Municipality of Naga into an independent city, had *ipso facto* ceased the power of administrative control and supervision exercised by Camarines Sur over the property within the territorial jurisdiction of the Municipality of Naga and vested into the City of Naga. The administrative control and supervision exercised by Camarines Sur over Plaza Rizal, since the time of the creation of the City of Naga and up to the time of the filing of the instant case, was by mere tolerance on the part of the said city. Furthermore, the claim of ownership of Plaza Rizal by Camarines Sur was wanting, given that there was no express legislative action therefor. Public streets, squares, plazas and the like, are not the private property of either the City of Naga or Camarines Sur.

Camarines Sur received a copy of the RTC Order dated 1 September 1999, denying its Motion for Reconsideration, on 3 September 1999. On 8 September 1999, Camarines Sur filed with the RTC a Notice of Appeal.^[16] In an Order^[17] dated 13 September 1999, the RTC disapproved the Notice of Appeal for non-compliance with the material data rule, which requires the statement of such data as will show that the appeal was perfected on time.

On 13 September 1999, Camarines Sur filed a second Notice of Appeal,^[18] which was again disapproved by the RTC in an Order^[19] dated 14 September 1999 for having been filed outside of the reglementary period. The RTC noted that Camarines Sur received a copy of the RTC Decision dated 10 March 1999 on 16 March 1999. It thus had a period of 15 days therefrom to file a motion for reconsideration or appeal. Camarines Sur filed its Motion for Reconsideration on 30 March 1999 or on the fourteenth day of the reglementary period. Said Motion for Reconsideration was denied by the RTC in an Order dated 1 September 1999, which was received by Camarines Sur on 3 September 1999. Thereafter, Camarines Sur only had two days left to file its Notice of Appeal, but the province filed said Notice on 8 September 1999, or five days after receipt of the Order denying its Motion for Reconsideration.^[20]

On 18 October 1999, Camarines Sur filed before the Court a Petition for Review on *Certiorari*,^[21] which was docketed as G.R. No. 139838. Camarines Sur questioned in its Petition the act of the RTC of giving due course to the Complaint for Declaratory Relief and/or Quieting of Title and the interpretation of said trial court of Section 2, Article 1 of Republic Act No. 305.

In a Resolution^[22] dated 17 November 1999, the Court referred the Petition for Review filed by Camarines Sur to the Court of Appeals for appropriate action, holding that the latter had jurisdiction concurrent with that of the former over the

case, and no special and important reason was cited for the Court to take cognizance of the case in the first instance. Before the appellate court, the Petition for Review of Camarines Sur was docketed as CA-G.R. SP No. 56243.

On 28 June 2004, the Court of Appeals promulgated the assailed Decision denying the Petition in CA-G.R. SP No. 56243. It pronounced:

We deny the petition.

Where an appeal would have been an adequate remedy but it was lost through petitioner's inexcusable negligence, certiorari is not in order. x x x Certiorari cannot be resorted to as a substitute for the lost remedy of appeal x x x. It is notable that Camarines Sur took this recourse of **petition for certiorari** only after it twice attempted to avail of appeal, but both of which were DISAPPROVED. Because it made these attempts to appeal, it goes without saying that Camarines Sur believed that the errors it claimed were committed by the court *a quo* were correctible only by appeal and not by certiorari. Thus, when it subsequently filed the instant petition, it was availing of it as a disallowed substitute remedy for a lost appeal. Time and again it has been ruled that [the] remedies of appeal and certiorari are mutually exclusive and not alternative or successive x x x.

But disregarding for the nonce the lost appeal and its disallowed substitution by certiorari, still the petition would fail because of the absence of grave abuse of discretion. The court *a quo* had declared that:

The existence of the Municipality of Naga was governed by the provisions of Chapter 57 of the Old Revised Administrative Code, otherwise known as the Regular Municipal Law. A law under which the municipalities in regularly organized provinces like the province of Camarines Sur may be organized. As a consequence of its creation, the Municipality of Naga acquired title to all the property, powers, rights and obligations falling within its territorial limits (62 C.J.S. 193). Being a political subdivision created within an organized province, the administration of the higher political subdivision, the province of Camarines Sur x x x has stood as trustee of all the properties belonging to the State within its territorial limits. This is the legal and logical reason why[,] before the conversion of the municipality of Naga to a City[,] [Camarines Sur] was exercising control and supervision over Plaza Rizal. x x x

This finds support in one of the provisions of the old Administrative Code of the Philippine Islands where it was provided that:

SEC. 2168. Beginning of the corporate existence of new municipality. - x x x.

When a township or other local territorial division is converted or fused