

## EN BANC

[ G.R. No. 163175, June 27, 2008 ]

**CITY OF MAKATI, JEJOMAR BINAY AND ERNESTO S. MERCADO,  
PETITIONERS, VS. MUNICIPALITY (NOW CITY) OF TAGUIG,  
METROPOLITAN MANILA, THE EXECUTIVE SECRETARY, BASES  
CONVERSION AND DEVELOPMENT AUTHORITY, FORT  
BONIFACIO DEVELOPMENT CORPORATION, REGISTER OF DEEDS  
VICENTE A. GARCIA AND THE LAND MANAGEMENT BUREAU  
DIRECTOR, RESPONDENTS.**

### DECISION

#### QUISUMBING, J.:

This is a petition for review on certiorari of the Decision <sup>[1]</sup> dated June 6, 2003 and Resolution <sup>[2]</sup> dated March 26, 2004 of the Court of Appeals in CA-G.R. SP No. 54692 affirming the September 25, 1998 Order <sup>[3]</sup> of the Regional Trial Court (RTC) of Makati, Branch 141, dismissing petitioners' petition for prohibition with a prayer for temporary restraining order and/or preliminary injunction.

The facts are as follows:

On March 13, 1992, then President Corazon C. Aquino approved Republic Act No. 7227 <sup>[4]</sup> creating the Bases Conversion and Development Authority (BCDA). Section 4 (a) of Rep. Act No. 7227 provides that one of the purposes of the BCDA is "to own, hold and/or administer the military reservations of John Hay Air Station, Wallace Air Station, O'Donnell Transmitter Station, San Miguel Naval Communications Station, Mt. Sta. Rita Station (Hermosa, Bataan) and those portions of Metro Manila military camps which may be transferred to it by the President."

On December 8, 1992, pursuant to Section 4 (a) of Rep. Act No. 7227, then President Fidel V. Ramos issued Executive Order No. 40 <sup>[5]</sup> placing under the administration of the BCDA portions of Fort Bonifacio which are identified and described in Plans Swo-00-001265 <sup>[6]</sup> and Swo-00-001266. <sup>[7]</sup> Per Plans Swo-00-001265 and Swo-00-001266, said portions of Fort Bonifacio are located in the Municipality of Taguig, Metro Manila.

On November 22, 1993, the Municipality of Taguig (Taguig) filed in the RTC of Pasig City, Branch 153, an action for judicial confirmation of its territory and boundary limits against the Municipality (now City) of Makati (Makati), Teofisto P. Guingona in his capacity as Executive Secretary, Angel Alcala in his capacity as Secretary of the Department of Environment and Natural Resources, and Abelardo Palad, Jr. in his capacity as Director of the Land Management Bureau. The complaint was docketed as Civil Case No. 63896. <sup>[8]</sup>

In its complaint, Taguig prayed for the declaration of the unconstitutionality and nullity of Presidential Proclamations Nos. 2475 and 518,<sup>[9]</sup> which transferred to the City of Makati certain parts of Fort Bonifacio that were allegedly within the boundary of the Municipality of Taguig, despite the absence of authority on the part of the President and without the benefit of a plebiscite as required by applicable provisions of the Constitution. Taguig likewise sought a temporary restraining order and writ of preliminary injunction to restrain Secretary Alcala and Director Palad, Jr. from disposing of the lots covered by Proclamation No. 518, and to restrain the Municipality (now City) of Makati from exercising jurisdiction over, making improvements on, or otherwise treating as part of its territory: (1) the area of 74 hectares that was uninhabited or otherwise consisted of farmlands or wide open spaces before the issuance of Proclamation No. 2475 in 1986; and, (2) the remaining portion of Parcel 4, Psu-2031, and a part of Parcel 3, Psu-2031 which together constitute the "Inner Fort" or military camp proper of Fort Bonifacio. The Municipality of Taguig also prayed that after due hearing, the injunction be made final and permanent and that judgment be rendered confirming the Fort Bonifacio military reservation, which consists of Parcels 3 and 4, Psu-2031, to be part of the Municipality of Taguig.<sup>[10]</sup>

On January 20, 1995, then President Ramos issued Special Patent No. 3595 <sup>[11]</sup> conveying to the BCDA "the tracts of land of the public domain situated in Barangay Fort Bonifacio, Municipality of Taguig, Metro Manila, identified and more particularly described as Lot Nos. 1 to 4 and 6, Swo-00-001265, containing an area of 877,318 square meters, and Lot Nos. 1 to 23 and 25, Swo-00-001266, containing an area of 2,344,300 square meters."

On February 7, 1995, then President Ramos issued Special Patent No. 3596 <sup>[12]</sup> canceling Special Patent No. 3595 and granting to the Fort Bonifacio Development Corporation (FBDC) "the tracts of land of the public domain situated in Barangay Fort Bonifacio, Municipality of Taguig, Metro Manila, identified and more particularly described as Lot Nos. 1, 2 and 6, Swo-00-001265, containing an area of 673,979 square meters, and Lot Nos. 17, 21, 22 and 23, Swo-00-001266, containing an area of 1,497,837 square meters."

On February 10, 1995, Original Certificate of Title (OCT) No. SP-001 covering the tracts of land mentioned in Special Patent No. 3596 was issued to FBDC.<sup>[13]</sup>

On April 18, 1996, the City of Makati, together with its mayor, vice mayor, members of its city council, the congressional representative for the first district of Makati, the Barangay Captains of Barangays Post Proper Northside and Post Proper Southside and a concerned citizen, filed a petition for prohibition and mandamus (with prayer for temporary restraining order and/or preliminary injunction) against the respondents herein before the RTC of Makati, Branch 141. The case was docketed as Civil Case No. 96-554.<sup>[14]</sup>

In its complaint, the City of Makati, et al. prayed that a temporary restraining order be issued directing the Municipality of Taguig to cease and desist from requiring and accepting payment of real estate taxes and other taxes or fees on lands located in Fort Bonifacio or Barangays Post Proper Northside and Post Proper Southside; from requiring business permits and licenses; and from imposing on, collecting and

accepting permit/license fees from the residents of said Barangays or Fort Bonifacio. The City of Makati, et al. likewise prayed that the BCDA and FBDC be directed to cease and desist from paying to the Municipality of Taguig realty taxes and other municipal taxes and permit/license fees in connection with or for the tracts of land granted to them or either of them under Special Patent No. 3596 dated February 7, 1995, and respondent Register of Deeds to cease and desist from further acting on OCT No. SP-001.

On May 23, 1996, the Municipality of Taguig moved to dismiss Civil Case No. 96-554 on the grounds that the RTC-Makati has no jurisdiction over the nature of the action; there is another action pending between the same parties for the same cause; the petition violates the rule on forum shopping, the petition states no cause of action; and the venue is improperly laid.<sup>[15]</sup>

FBDC also filed a motion to dismiss on May 24, 1996, citing as bases thereof that petitioners have no cause of action against FBDC; the RTC has no jurisdiction over the petition; the petition is not the appropriate remedy for the annulment of Special Patent No. 3596 and Original Certificate of Title No. SP-001; there is another action pending between the same parties for the same cause; and the petition constitutes a violation of Administrative Circular No. 04-94 of the Supreme Court.<sup>[16]</sup> BCDA likewise filed a motion to dismiss on the grounds that the petition does not state a cause of action against it, and that BCDA was improperly impleaded as respondent in the case.<sup>[17]</sup>

On September 25, 1998, the RTC of Makati City, Branch 141, issued an Order dismissing Civil Case No. 96-554. The RTC-Makati held:

x x x x

After a careful evaluation and study of the arguments adduced by both parties, this Court finds and so holds that this case must be dismissed on at least two grounds, namely: *litis penden[t]ia* and violation of the anti[-]forum shopping circular.

Undisputedly, Civil Case No. 63896 earlier filed with and still pending before the Pasig RTC involved the tracts of land covered by Special Patent No. 3596 and O.C.T. No. SP-001. In said case, respondent Taguig sought to recover them or that the same be declared within its territorial jurisdiction. ...

x x x x

All the foregoing requisites of *litis penden[t]ia* are herein obtaining. While it may [be] true that of 20 petitioners in this case only the City of Makati is a party to Civil Case No. 63896, the 19 others represent the same interest as petitioner City of Makati over the disputed tracts of land. The fact that the position of the parties was [reversed], the plaintiff in the first case being the defendants in the second case and *vice versa* does not negate identity of parties for the purpose of *litis penden[t]ia*. In both cases[,] the factual issue is the location of the subject tracts of land, and the resolution of the first case, that is, the

Pasig case, would constitute *res judicata* to the instant case.

x x x x

It being that *litis penden[t]ia* is herein obtaining, petitioners have violated Administrative Circular No. 09-94 of the Supreme Court, prohibiting forum shopping. ...

The Court finds no merit in the other grounds interposed by the movants. There is no need to discuss them in view of the foregoing ruling.

WHEREFORE, let this [case] be dismissed without pronouncement as to costs.

SO ORDERED. <sup>[18]</sup>

On June 6, 2003, the Court of Appeals affirmed the RTC-Makati ruling. The Court of Appeals held:

The requisites of *litis pendentia* having concurred, petitioners-appellants clearly violated the rule on forum-shopping when they filed Civil Case No. 96-554. The established rule is that forum-shopping exists where the elements of *litis pendentia* are present.

With this finding and conclusion, We see no necessity to dwell on the other issues raised in this appeal. It suffices to recapitulate that the Makati Regional Trial Court was right in dismissing the duplicitous suit lodged before it due to *litis pendentia* and forum-shopping.

**WHEREFORE**, the appealed Order is hereby **AFFIRMED**.

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

Hence, this petition.

Petitioners raise the following issues:

I.

WHETHER OR NOT PETITIONERS VIOLATED THE RULES ON FORUM SHOPPING[;]

II.

WHETHER OR NOT THERE IS *LITIS PENDENTIA* BETWEEN THE MAKATI CITY RTC PETITION AND THE TAGUIG CITY RTC CASE[;]

III.

THE COURT OF APPEALS COMMITTED GRAVE ERROR IN DECIDING THE