

EN BANC

[G.R. No. 168781, September 14, 2007]

CITY OF MAKATI, PETITIONER, VS. THE HON. JUDGE BRICCIO C. YGAÑA, PRESIDING JUDGE, REGIONAL TRIAL COURT, PASIG CITY, BRANCH 153, AND MUNICIPALITY OF TAGUIG, RESPONDENTS.

DECISION

GARCIA, J.:

Via this petition for review on certiorari under Rule 45 of the Rules of Court, herein petitioner City of Makati seeks the reversal and setting aside of the following issuances of the Court of Appeals (CA) in *CA-G.R. SP No. 79825*, to wit:

(1) Decision^[1] dated January 31, 2005 which affirmed the Orders of the Regional Trial Court of Pasig City, Branch 153, denying petitioner's prayer to declare the preliminary injunction over the area known as the "Inner Fort" *functus officio* or for the same to be dissolved; and

(2) Resolution^[2] dated July 1, 2005 denying its motion for reconsideration.

Involved in the present controversy are parcels of land located inside Fort Andres Bonifacio (hereinafter referred to as Fort Bonifacio) identified as portions of Parcels 3 and 4, Psu-2031, which together comprise what is known as the "Inner Fort" or the military camp proper.

As culled from the record, the antecedent facts are as follows:

On November 22, 1993, herein private respondent Municipality (now City) of Taguig, filed with the Regional Trial Court (RTC) of Pasig City, a *Complaint for Judicial Confirmation of the Territory and Boundary Limits of Taguig and Declaration of the Unconstitutionality and Nullity of Certain provisions of Presidential Proclamations 2475 and 518 with Prayer for a Writ of Preliminary Injunction and Temporary Restraining Order* against herein petitioner City of Makati (Makati), then Executive Secretary Teofisto Guingona, then Department of Environment and Natural Resources (DENR) Secretary Angel Alcala and Lands Management Bureau (LMB) Director Abelardo Palad, Jr. The case was docketed as Civil Case No. 63896 and initially raffled to Branch 164 of the court.

In the complaint, the Municipality, now City, of Taguig (Taguig, hereinafter) described its territory as having a total area of 4,520.6913 hectares, more or less, bounded on the Northwest, by Makati along the Maricaban Creek and the San Jose Creek; on the North, by the Pasig River, the Municipality of Pateros and the Municipality of Pasig; on the East, by the Municipality of Taytay; on the South, by

the Municipality of Muntinlupa; and on the West, by the Municipality of Parañaque. It is asserted that part of its territory included the Fort Bonifacio military reservation (formerly known as Fort William McKinley), as evidenced by documents, among which are:

"2.4.1. General Order No. 104 dated October 3, 1902 of Elihu Root, Secretary of War of the United States of America [USA], announcing the acquisition of a vast tract of land for the establishment of a military reservation, which tract of land is a part of the Hacienda de Maricaban;

2.4.2 Plan Psu-2031 covering Parcels 1,2,3 and 4 of the Hacienda de Maricaban, showing that Parcels 3 and 4 which presently comprise the Fort, with the exception of a small portion, are within the plaintiff (Taguig) Municipality xxx;

2.4.3 Plan BSD-10178 which is a subdivision plan of Parcel 4, Psu-2031, xxx showing that Parcel 4-A xxx and Parcel 4-B covering the National Battle Monuments Cemetery both situated in Barrio Ususan, Municipality of Taguig;

2.4.4 Presidential Proclamation No. 423 issued by then President Carlos P. Garcia on July 12, 1957, reserving for military purposes the parcels of land identified as Parcel No. 2, Parcel No. 3 and Parcel No. 4, Psu-2031, on which parcels of land excluding Parcel No. 2, the present Fort was established for the Republic of the Philippines, and stating that the Fort is situated in the plaintiff (Taguig) and that the boundary of Parcel 3 on the North is the Guadalupe Estate;

2.4.5 Transfer Certificate of Title No. 61524 of the Register of Deeds of Rizal which is the latest title covering Parcel 3, Psu-2031, showing that the parcel of land covered thereby is situated in the plaintiff (Taguig) and the boundary of the property on the North is the San Pedro Makati estate of Pedro P. Roxas. ^[3]

The complaint further averred that despite the foregoing documents, and allegedly by virtue of Presidential Proclamation Nos. 2475 and 518, dated January 7, 1986 and January 31, 1990, respectively, the nullity of which is sought in the said complaint, certain parcels of land inside Fort Bonifacio were erroneously declared as situated within Makati. It is also alleged that, in accordance with said proclamations, Makati, through its officials at that time, included in its territorial boundary about **74 hectares** of wide open space consisting of farmlands in its existing *barangays* (brgy.), namely, Brgy. Cembo, Brgy. South Cembo, Brgy. West Rembo, Brgy. Comembo, Brgy. Pembo and Brgy. Pitogo, over all of which Makati has, since 1985, been unlawfully exercising jurisdiction; that thereafter, Makati allowed the occupation and development of the said 74-hectare area into residential communities; that Makati is expanding its jurisdiction by annexing portions of the "Inner Fort" or the military camp proper of Fort Bonifacio and by the introduction of improvements therein; and that demands on Makati to cease and desist from occupying, usurping jurisdiction over and annexing the aforementioned areas all proved futile.

Upon the foregoing allegations, Taguig sought, as an ancillary prayer, the issuance

of a temporary restraining order (TRO) and a writ of preliminary injunction to enjoin DENR and LMB from disposing of or executing deeds of conveyance and titles over lots covered by the subject proclamations, and restrain Makati from expanding its territory by exercising jurisdiction over (1) the 74-hectare farmland area within the coverage of Presidential Proclamation Nos. 2475 and 518; and (2) the "Inner Fort."

On November 23, 1993, the trial court issued a 20-day TRO against then Secretary Alcala, Director Palad and Makati. Thereafter, an Order^[4] dated July 15, 1994, Branch 23 of the court, then presided by Judge Armie B. Elma, to which the case was subsequently raffled, granted Taguig's plea for a preliminary injunctive writ on the basis of documentary and testimonial evidence that defendant Makati is indeed threatening Taguig's rights over the 74-hectare farmland and attempting to annex the "Inner Fort." Wrote the court in said order:

xxx the Court is convinced that the usurpation, invasion and trespasses by defendant Makati are not only repeated and continuing but also willful and that grave and irreparable injury will be caused to the plaintiff unless the former is enjoined from continuing to do said acts, as plaintiff will necessarily be deprived of the right to exercise political jurisdiction over the subject land and the right to collect taxes and earn revenues from the said land and residents therein.^[5]

In part, the dispositive portion^[6] of the July 15, 1994 Order reads:

WHEREFORE, as prayed for, let a writ of preliminary injunction issue:

a) enjoining defendants Secretary Alcala and Director Palad from disposing of, executing deeds of conveyance over and issuing titles over lots covered by Proclamation [2475]; and

b) enjoining [Makati] from exercising jurisdiction over, making improvements on, or otherwise treating as part of its territory, (1) the area of seventy-four (74) hectares which xxx consisted of farmlands or wide open spaces before the issuance of Proclamation 2475 in 1986 as depicted in the consolidated plan, Exhibit "K" and specifically segregated and indicated by the parallel lines drawn over the area and marked Exhibit "K-1," and (2) the remaining portion of Parcel 4, Psu-2031, and the part of Parcel 3, Psu-2031, which together constitute the "Inner Fort" or military camp proper of Fort Bonifacio.

Makati's motion for reconsideration of the aforesaid Order was denied by the trial court in its subsequent Order of November 18, 1994.

Hence, alleging grave abuse of discretion amounting to lack or excess of jurisdiction on the part of Judge Elma in issuing the injunctive writ, Makati went to the CA on a petition for *certiorari* with prayer for a TRO, in CA-G.R. SP No. 35857.

Confining its judgment to the writ of preliminary injunction thus issued against Makati, the CA, through Justice Godardo A. Jacinto,^[7] rendered a Decision^[8] (*Jacinto Decision*, hereinafter) on April 27, 1995, granting the petition and thereby nullifying the preliminary injunction issued by the trial court. Explained the CA in its decision:

In harping on the fact that petitioner's [Makati's] act of extending its jurisdiction over the additional area of 74 hectares was done "through its officials at that time," respondent Taguig can only mean that said expansionist move was undertaken not by the present administration of Makati but by its previous municipal officials, thereby implying that this occurred at some time in the past or during the term of its previous municipal officials. And since, x x x the latter failed to contest and prevent [Makati's] former officials from effectively asserting political authority over the additional area of 74 hectares, it follows that that was the last peaceable uncontested status insofar as the aforesaid area is concerned.

Additionally, it is sine qua non to the grant of preliminary injunction that the plaintiff is probably entitled to the principal relief demanded in the complaint xxx. This procedural precondition cannot be credited to respondent Taguig in Civil Case No. 63896. For one, [Makati's] exercise of jurisdiction over the controverted area is founded upon Presidential Proclamations 2475 and 518, both of which official acts of the President are entitled to the presumption of regularity and/or validity. Hence, until such time that such presidential proclamations are set-aside by a competent court, all acts performed by [Makati] pursuant to or on the authority thereof must perforce enjoy the same presumption of validity. In this context it is untenable for [Taguig], xxx to claim that it is entitled to the issuance of preliminary injunction at this point in time.

In conclusion, the Court finds that far from preserving the status quo ante, the preliminary injunction issued against [Makati] in Civil Case No. 63896 actually subverts such status, and further, that on account of the presumed validity of the presidential issuances sought to be nullified, respondent Taguig is not entitled to such an injunctive writ until after the merits of the case shall have been finally determined.^[9] (Words in brackets supplied.)

However, on Taguig's motion for reconsideration, the CA, in a Resolution^[10] dated September 11, 1995 (*Jacinto Resolution*), modified its earlier decision and reinstated the preliminary injunction against Makati but only with respect to the "Inner Fort," ratiocinating:

xxx the Court finds merit in the said Motion, but only insofar as the area known as the "Inner Fort" is concerned. As pointed out by movant, Makati did make the following admissions in its Answer to the complaint, to wit:

18. Paragraph 4.6 and annex "L" is admitted only insofar as it is an adequate replica of the municipal boundaries on the Municipality of Makati based on Makati Cadastre Mcad. 571-D, Annex "1" hereof. **It is denied where it claims that Makati is attempting to annex an additional area known as the "Inner Fort" although it has no Proclamation or Presidential issuances to anchor its move, the truth being that there is no attempt to annex as much as the "basis" therefor**

is simply none other than the Bureau of Lands' approved cadastre map of Makati.

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20. Paragraph 4.8 is denied for being misleading considering that it has previously been explained that the introduction of improvements and the exercise of jurisdiction over the areas covered by the Proclamation is precisely by authority duly given and is confirmed by the said Proclamations. **There is also no attempt to exercise jurisdiction over the "Inner Fort" where it has already been shown that the same are still within the jurisdiction of the National Government.**

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2.5 Paragraph 5.2 and 5.3 are denied where it states that Makati is unlawfully exercising jurisdiction over the said areas, by among others, introducing improvements thereon, the truth of the matter being that Makati's exercise of jurisdiction thereon is based on the legal mandate as confirmed by Proclamation Nos. 2475 and 518. **Further, Makati has never attempted to usurp the authority of the National Government over the "Inner Fort" considering that the same remain reserved for military purposes.**

In the face of Makati's categorical admission that it has not really exercised jurisdiction over the area denominated as the "Inner Fort," movant is right in contending that the preliminary injunctive writ issued by the trial court against Makati will not disturb any the status quo insofar as the said area is concerned. Hence, it was unnecessary or perhaps superfluous for this Court to have nullified the said writ in its entirety.^[11] (Emphasis supplied)

The *Jacinto Resolution* **became final and executory on July 2, 1996** and the corresponding Entry of Judgment thereon was made on January 13, 1997.

Meanwhile, on October 23, 1996, Makati filed with the trial court, now presided by the herein respondent judge, Judge Briccio C. Ygaña, a motion for leave to admit amended answer together with the Amended Answer itself. The Amended Answer^[12] essentially contained allegations that, while Makati does not exercise full jurisdiction over the areas situated within Fort Bonifacio as the same were subject to the jurisdiction of the National Government, it however, legally exercises jurisdiction over certain portions therein. In particular and for the first time, Makati referred to Brgys. Southside and Northside situated inside the "Inner Fort."

The trial court initially granted Makati's motion to admit Amended Answer, but later reversed itself upon Taguig's motion for reconsideration. In its reversal Order of July 30, 1997, the trial court stated that the proposed amendments would substantially alter Makati's defense as contained in its original Answer.

Its motion for reconsideration having been denied by the trial court on February 10,