

EIGHTEENTH DIVISION

[CA-G.R. CV. NO. 02183, January 30, 2015]

**ARTURO T. TERCENCIO AND DESIDERIO R. TERCENCIO,
PETITIONERS-APPELLANTS, VS. WAYNE T. MALILAY, IN HIS
CAPACITY AS THE MUNICIPAL MAYOR OF MAKATO; NELSON T.
TAPUZ, IN HIS CAPACITY AS MUNICIPAL VICE MAYOR OF
MAKATO; NERLI F. DELA CENA; DINO PATRICK V. TA-AY;
RENATO T. TORDICILLAS; ROGER R. LUMBRE; HERMINIGILDO C.
TABANG; MARCOSA T. RUSIA; APOLINARIO M. ROLDAN;
GRACITA V. DEZA; ERMITO T. TABIGUE AND LANNI LEE T.
TORRE, IN THEIR CAPACITY AS MEMBERS OF THE
SANGGUNIAN BAYAN OF MAKATO, RESPONDENTS-APPELLEES.**

D E C I S I O N

INGLES, G. T., J.:

This is an appeal from the Decision dated February 6, 2007 rendered by the Regional Trial Court of Kalibo, Aklan, Branch 9 dismissing the petition for declaratory relief docketed as Civil Case No. 6613.

Factual and Procedural Antecedents

The case below is a petition for Declaratory Relief.

Petitioners (now appellants) alleged that on July 25, 1994, Congress passed Republic Act No. 8035 separating the Calimbajan-Tina Barangay High School Annex in Barangay Cayangwan, Makato, Aklan from the Calimbajan Barangay High School in Barangay Calimbajan and converting it into an independent national high school to be known as the Cayangwan National High School.

On April 12, 2000, the municipal government of Makato, Aklan passed Resolution No. 2000-130 approving the petition of the Barangay Council of Cayangwan, the PTCA, and the Student Council of Cayangwan National High School as indorsed by the Municipal School Board to change the name pf Cayangwan National High School to Anselmo B. Legaspi National High School.

Petitioners aver that the aforementioned Resolution is unconstitutional as the Sangguniang Bayan of Makato, Aklan has no authority to legislate by amending the laws passed by Congress. Moreover, the passage of the questioned Resolution has created disagreement and confusion among the constituents of Barangay Cayangwan.

Petitioners, therefore, prayed that the court determine the validity of Resolution No. 2000-130 and to declare the lawful name of the school as well as its rights and duties under Republic Act No. 8035.

Respondents contend that when Congress passed the Local Government Code of 1991, it delegated some of its powers to the municipal government such as the one authorizing the school board to recommend changes in the name of the school for enactment by the Sanggunian concerned. Hence, the questioned resolution is not unconstitutional.

The trial court conducted pre-trial conference on November 18, 2002^[1]. The parties voluntarily agreed to submit as they in fact did their simultaneous memorandum in support of their respective positions on the matter^[2].

Ruling of the Regional Trial Court

On February 6, 2007, the trial court rendered its Decision^[3] dismissing the petition for declaratory relief for failure of the petitioners to satisfy the requisites for such action and it appearing that the assailed municipal resolution is not unconstitutional. The *ratio decidendi* and the dispositive portion of the assailed decision are as follows:

"The first requisite of an action for declaratory relief is that the subject matter of the controversy is a deed, will, contract or other written instrument, statute, executive order or regulation, or ordinance. In the instant case, the subject matter is the Sangguniang Bayan Resolution No. 2000-130. A resolution, however, is not among the subject matter of the first requisite.

The relief sought in declaratory relief is the declaration of the petitioners' rights and duties under the subject matter of the controversy. In the instant case, the petition prays the court to declare the lawful name of the school as well as its rights and duties under Republic Act No. 8035. In other words, it prays for a declaration of the rights and duties of the school under Republic Act No. 8035. In short, instead of seeking the declarations of petitioners' rights and duties under Sangguniang Bayan Resolution 2000-130, the petition seeks the declaration of the rights and duties, not of the petitioners but of the school, and not from Sangguniang Bayan Resolution 2000-130 which is the subject matter of the controversy but from Republic Act No. 8035

Furthermore, Congress has the power to delegate some of its functions to Local Government Units and one of the functions delegated under the Local Government Code of 1991 is the authority by the Local School Board to recommend changes in the name of a public school. It will appear, therefore, that the questioned Resolution is not unconstitutional.

It appearing, therefore, that the petition, denominated as declaratory relief, does not satisfy the requisites of such action and that the questioned Resolution does not appear to be unconstitutional, the petition is hereby DISMISSED.

SO ORDERED."

Aggrieved by the trial court's decision, the appellants filed a Motion for Reconsideration^[4], which was denied by the Trial Court in its Order dated June 14, 2007^[5].

Undaunted, the petitioners-appellants then filed a Notice of Appeal^[6], which was given due course by the trial court per its Order dated July 25, 2007^[7].

This Court received the records of this case on July 9, 2007^[8]. However, this case languished in the completion stage after several portions of the records were found to be incomplete^[9]. Then on November 29, 2012, after having completed the missing portions of the records of this case, this Court issued a Notice to File Brief^[10]. The appellants submitted their brief on February 5, 2013^[11].

On August 20, 2013, the Judicial Records Division of this Court reported that no brief has been filed by the plaintiffs-appellees despite the lapse of the period to file the same.^[12] Thus, on March 26, 2014, this case was declared submitted for decision sans appellees' brief^[13].

Assignment of Error

In their brief, the appellants raise this lone assigned error:

"The Regional Trial Court of Kalibo, Aklan, Branch 9 committed grave abuse of discretion when it declared the Resolution No. 2000-130 dated 12 April 2000 renaming the school from Cayangwan National High School to Anselmo B. Legaspi National High School as valid notwithstanding that a resolution cannot amend or supplement the act of the Philippine Congress under Republic Act No. 8035."^[14]

The appellants' contention

The petitioners-appellants argue that contrary to the findings of the trial court, the petition raises a justiciable controversy which is the legality or constitutionality of Municipal Resolution No. 2000-130 dated April 12, 2000 renaming Cayangwan National High School to Anselmo B. Legaspi National High School, thus effectively amending an act of Congress, Republic Act No. 8035.

The appellants likewise argue that they have the legal right and substantive interest to challenge the validity of Municipal Resolution No. 2000-130 dated April 12, 2000 *"because as a taxpayer of the said municipality, the elected municipal officials must comply with their oath of office and obey the laws of the Republic of the Philippines x x x."*^[15]

The Ruling of this Court

The appeal is devoid of merit.

An action for declaratory relief should be filed by a person interested under a deed,