

## THIRD DIVISION

[ G.R. No. 157714, June 16, 2009 ]

**MUNICIPALITY OF PATEROS, PETITIONER, VS. THE HONORABLE  
COURT OF APPEALS, THE MUNICIPALITY OF MAKATI, THE  
DIRECTOR OF LANDS, AND THE DEPARTMENT OF ENVIRONMENT  
AND NATURAL RESOURCES, RESPONDENTS.**

### DECISION

**NACHURA, J.:**

Before this Court is a Petition<sup>[1]</sup> for Review on *Certiorari* under Rule 45 of the Rules of Civil Procedure, seeking the reversal of the Court of Appeals (CA) Decision<sup>[2]</sup> dated January 22, 2003, which denied the appeal of petitioner Municipality of Pateros (Pateros) for undertaking a wrong mode of appeal. Subject of the appeal was the Order<sup>[3]</sup> of the Regional Trial Court (RTC) of Makati City, Branch 139, dated June 14, 1996, which dismissed petitioner's complaint for lack of jurisdiction.

#### *The Facts*

The property subject of this case consists of portions of then Fort William McKinley, now known as Fort Bonifacio (subject property), currently comprising *Barangays* Cembo, South Cembo, West Rembo, East Rembo, Comembo, Pembo, and Pitogo (entire property). The subject property is allegedly situated within the territorial jurisdiction of respondent Municipality (now City) of Makati (Makati) per Proclamation No. 2475<sup>[4]</sup> issued on January 7, 1986 (Proclamation No. 2475) by former President Ferdinand E. Marcos (President Marcos). Subsequently, on January 31, 1990, former President Corazon C. Aquino (President Aquino) issued Proclamation No. 518,<sup>[5]</sup> amending Proclamation No. 2475. Parenthetically, it may be noted that a similar boundary dispute over the entire property exists between the Municipality (now City) of Taguig and Makati, docketed as Civil Case No. 63896 and pending before the RTC of Pasig City, Branch 153.

As Proclamation Nos. 2475 and 518 respectively stated that the entire property is situated in Makati, Pateros, on January 18, 1991, filed an action<sup>[6]</sup> for Judicial Declaration of the Territorial Boundaries of Pateros against Makati before the RTC of Pasig City, Branch 154 (Pasig RTC). The case was, however, dismissed for lack of jurisdiction inasmuch as the subject property is located in Makati and it should have been filed before the Makati RTC.<sup>[7]</sup> Heeding the directive of the Pasig RTC, Pateros, on December 8, 1993, filed with the RTC of Makati a Complaint<sup>[8]</sup> against Makati and co-respondents, Director of Lands and the Department of Environment and Natural Resources (DENR), for the Judicial Declaration of the Territorial Boundaries of Pateros with a prayer for the issuance of a writ of Preliminary Injunction and Temporary Restraining Order (TRO). Pateros claimed that, based on historical and official records, it had an original area of one thousand thirty-eight (1,038) hectares,

more or less. However, when a cadastral mapping was conducted by the Bureau of Lands in 1978, Pateros was appalled to learn that its territorial boundaries had been substantially reduced to merely one hundred sixty-six (166) hectares. Pateros opined that this disparity was brought about by the issuance of Proclamation Nos. 2475 and 518. Thus, Pateros prayed that the RTC judicially declare the territorial boundaries of Pateros based on supporting pieces of evidence, and that it nullify Proclamation No. 2475.

Makati filed a Motion to Dismiss,<sup>[9]</sup> contending that the issue was not the nullification of Proclamation No. 2475; that the RTC had no jurisdiction over the subject matter of the action because original jurisdiction to resolve boundary disputes among municipalities situated in Metro Manila is vested in the Metropolitan Manila Authority (MMA); that the RTC's jurisdiction is merely appellate; that the complaint failed to state a cause of action as Pateros failed to exhaust administrative remedies by failing to settle the dispute amicably; and that Pateros' claims had already been barred by laches because Makati, throughout the years, had already developed the subject property and had spent millions on such development.

Makati also filed a Motion to Suspend Proceedings,<sup>[10]</sup> arguing that the bill converting Makati into a city was pending approval before the Senate and portions of the subject property are included in the proposed charter. Makati, thus, opined that the continuation of the RTC proceedings would create a conflict between the judicial and the legislative branches. In its Order<sup>[11]</sup> dated October 21, 1994, the RTC granted Makati's Motion.

On July 19, 1994, Republic Act No. 7854<sup>[12]</sup> was enacted into law, converting Makati into a highly urbanized city. Pateros then moved for the revival of the proceedings before the RTC,<sup>[13]</sup> which it granted in its Order<sup>[14]</sup> dated March 17, 1995. However, due to the pending Motion to Dismiss earlier filed by Makati, the RTC required the parties to submit their respective Memoranda.

### ***The RTC's Ruling***

On June 14, 1996, the RTC issued an Order, dismissing the case on the ground of lack of jurisdiction. The RTC held that Proclamation No. 2475 specifically declared that the subject property is within the territorial jurisdiction of Makati and, inasmuch as the Proclamation was not declared unconstitutional, the same is a valid and subsisting law. In the main, citing

Sections 10<sup>[15]</sup> and 11,<sup>[16]</sup> Article X of the 1987 Constitution, and pursuant to this Court's ruling in *Municipality of Sogod v. Rosal*,<sup>[17]</sup> the RTC held that the modification or substantial alteration of boundaries of municipalities can be done only through a law enacted by Congress which shall be subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected. Hence, the RTC opined that it is without jurisdiction to fix the territorial boundaries of the parties. Pateros filed a Motion for Reconsideration<sup>[18]</sup> which was, however, denied by the RTC in its Order<sup>[19]</sup> dated August 30, 1996. Aggrieved, Pateros appealed to the CA.<sup>[20]</sup>

### ***The CA's Ruling***

On January 22, 2003, the CA denied Pateros' appeal. The CA held that the RTC did not make any findings of fact but merely applied various provisions of law and jurisprudence. Thus, the case presented a pure question of law, which Pateros should have brought directly to the Supreme Court, pursuant to Section 5(2),<sup>[21]</sup> Article VIII of the 1987 Constitution and Section 2,<sup>[22]</sup> Rule 41 of the Revised Rules of Civil Procedure. The CA also held that it would amount to grave abuse of discretion amounting to lack of jurisdiction if the CA insisted on resolving the issues raised therein. Thus, by undertaking a wrong mode of appeal and citing Section 2,<sup>[23]</sup> Rule 50 of the Revised Rules of Civil Procedure, the CA denied Pateros' appeal. Pateros filed a Motion for Reconsideration,<sup>[24]</sup> which the CA denied in its Resolution<sup>[25]</sup> dated March 27, 2003.

### ***The Issue***

Hence, this Petition based on the sole ground that the CA committed grave abuse of discretion in dismissing the appeal for lack of jurisdiction.<sup>[26]</sup>

Pateros asseverates that the issues raised before the CA involved mixed questions of fact and law, because Pateros sought the determination of its territorial boundaries and the nullification of Proclamation No. 2475; that Pateros does not seek the alteration, modification, or creation of another or a new local government unit (LGU), but is concerned only with its territorial boundaries which, according to existing records, consisted of 1,038 hectares; that non-presentation of evidence before the RTC does not make the appeal purely a question of law, because the parties were prevented from presenting any evidence due to the RTC's erroneous dismissal of the case based on lack of jurisdiction; that Proclamation Nos. 2475 and 518 suffer from Constitutional infirmity; that the alteration or modification of the boundaries of municipalities or cities can only be made by a law enacted by Congress and approved by the majority of the votes cast in a plebiscite in the political units directly affected; that Proclamation No. 2475, although issued by then President Marcos during the Marcos era, was not a legislative enactment, pursuant to Section 6 of the 1976 Amendment to the Constitution; and granting, without admitting, that Proclamation No. 2475 is a law, it should be subject to approval by the majority of the votes cast in a plebiscite in the political units directly affected. Thus, Pateros prays that the assailed CA Decision be reversed and set aside, and that the RTC be directed to proceed with the trial of the instant case.<sup>[27]</sup>

On the other hand, Makati claims that the sole issue in Pateros' appeal before the CA is jurisdiction and as the question of jurisdiction is a question of law and as the CA lacks jurisdiction over pure questions of law, therefore, Pateros resorted to a wrong mode of appeal. The issues raised by Pateros do not consist of questions of fact as the RTC rendered the assailed Order based on Makati's Motion to Dismiss and no trial on the merits was ever conducted. Makati points out that the CA quoted the decision of the RTC's discourse in order to show that only a question of law was involved in Pateros' appeal. Thus, Makati posits that Pateros defies the rules on trial, evidence, and jurisdiction in a desperate bid to extricate itself from its mistake in taking a wrong mode of appeal, *i.e.*, by notice of appeal to the CA rather than a petition for review on *certiorari* under Rule 45 of the Revised Rules of Civil Procedure filed before this Court. Makati submits that the dismissal of Pateros' appeal was

proper, as mandated by Section 2, Rule 50 of the said Rules. Due to the availment of the wrong mode of appeal, the RTC's Order dismissing the case already attained finality.<sup>[28]</sup>

The Director of Lands and the DENR, through the Office of the Solicitor General (OSG), share the stand and arguments of Makati. The OSG stresses that the parties never presented any evidence before the RTC which resolved the case based on the parties' undisputed factual submissions and the application thereto of the pertinent laws, Rules of Civil Procedure, and jurisprudence. Hence, the OSG concludes that the appeal before the CA involved a pure question of law.<sup>[29]</sup>

### ***Our Ruling***

We agree that Pateros indeed committed a procedural infraction. It is clear that the issue raised by Pateros to the CA involves the jurisdiction of the RTC over the subject matter of the case. The jurisdiction of a court over the subject matter of the action is a matter of law; it is conferred by the Constitution or by law. Consequently, issues which deal with the jurisdiction of a court over the subject matter of a case are pure questions of law. As Pateros' appeal solely involves a question of law, it should have directly taken its appeal to this Court by filing a petition for review on *certiorari* under Rule 45, not an ordinary appeal with the CA under Rule 41. The CA did not err in holding that Pateros pursued the wrong mode of appeal.<sup>[30]</sup>

However, in the interest of justice and in order to write *finis* to this controversy, we opt to relax the rules. Our ruling in *Atty. Ernesto A. Tabujara III and Christine S. Dayrit v. People of the Philippines and Daisy Afable*<sup>[31]</sup> provides us with ample justification, *viz.* :

While it is true that rules of procedure are intended to promote rather than frustrate the ends of justice, and while the swift unclogging of the dockets of the courts is a laudable objective, it nevertheless must not be met at the expense of substantial justice.

The Court has allowed some meritorious cases to proceed despite inherent procedural defects and lapses. This is in keeping with the principle that rules of procedure are mere tools designed to facilitate the attainment of justice, and that strict and rigid application of rules which would result in technicalities that tend to frustrate rather than promote substantial justice must always be avoided. It is a far better and more prudent cause of action for the court to excuse a technical lapse and afford the parties a review of the case to attain the ends of justice, rather than dispose of the case on technicality and cause grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.

In those rare cases to which we did not stringently apply the procedural rules, there always existed a clear need to prevent the commission of a grave injustice. Our judicial system and the courts have always tried to maintain a healthy balance between the strict enforcement of procedural laws and the guarantee that every litigant is given the full opportunity for a just and proper disposition of his cause.

The emerging trend in the rulings of this Court is to afford every party litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities. Time and again, we have consistently held that rules must not be applied so rigidly as to override substantial justice.

Given the circumstances surrounding the instant case, we find sufficient reason to relax the rules. Thus, we now resolve the sole issue of whether the RTC has jurisdiction to entertain the boundary dispute between Pateros and Makati.

Apart from the doctrine that the jurisdiction of a tribunal over the subject matter of an action is conferred by law, it is also the rule that the court's exercise of jurisdiction is determined by the material allegations of the complaint or information and the law applicable at the time the action was commenced. Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, by acquiescence, or even by express consent of the parties. Thus, the jurisdiction of a court over the nature of the action and the subject matter thereof cannot be made to depend upon the defenses set up in court or upon a motion to dismiss for, otherwise, the question of jurisdiction would depend almost entirely on the defendant. Once jurisdiction is vested, the same is retained up to the end of the litigation.<sup>[32]</sup>

It is worth stressing that, at the time the instant case was filed, the 1987 Constitution and the Local Government Code (LGC) of 1991 were already in effect. Thus, the law in point is Section 118 of the LGC, which provides:

Section. 118. *Jurisdictional Responsibility for Settlement of Boundary Disputes.* -- Boundary disputes between and among local government units shall, as much as possible, be settled amicably. To this end:

(a) Boundary disputes involving two (2) or more *barangays* in the same city or municipality shall be referred for settlement to the *sangguniang panlungsod* or *sangguniang bayan* concerned.

**(b) Boundary disputes involving two (2) or more municipalities within the same province shall be referred for settlement to the *sangguniang panlalawigan* concerned.**

(c) Boundary disputes involving municipalities or component cities of different provinces shall be jointly referred for settlement to the *sanggunians* of the province concerned.

**(d) Boundary disputes involving a component city or municipality on the one hand and a highly urbanized city on the other, or two (2) or more highly urbanized cities, shall be jointly referred for settlement to the respective *sanggunians* of the parties.**

**(e) In the event the *sanggunian* fails to effect an amicable settlement within sixty (60) days from the date the dispute was referred thereto, it shall issue a certification to that effect.**