FIRST DIVISION

[G.R. No. 216092. December 9, 2020]

MUNICIPALITY OF ISABEL, LEYTE, *Petitioner, v.* **MUNICIPALITY OF MERIDA LEYTE,** *Respondents*.

APPEARANCES OF COUNSEL

Fernandez & Associates for petitioner.
Redula Sanchez Montealegre Bauzon & Danlag-Luig Law Offices for respondent.

D E C I S I O N

GAERLAN, *J.*:

The Case

This is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court against the August 20, 2014 Decision[1] and the November 17, 2014 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 05255, which reversed the Decision of the Regional Trial Court (RTC) of Ormoc City, Leyte, and reinstated Resolution No. 08-327 of the *Sangguniang Panlalawigan* of Leyte. The said resolution was an adjudication of the boundary dispute between petitioner Municipality of Isabel (Isabel) and respondent Municipality of Merida (Merida), both located in and under the jurisdiction of the Province of Leyte.

The Facts

The Municipality of Isabel was created out of eight barrios of the Municipality of Merida, pursuant to Republic Act (R.A.)

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[1] *Rollo*, pp. 15-37; penned by Associate Justice Ramon Paul L. Hernando (now a Member of this Court), with Associate Justices Marilyn B. Lagura-Yap and Marie Christine Azcarraga-Jacob concurring.

[2] Id. at 38-39.

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No. 191, which was enacted on June 22, 1947. R.A. No. 191 reads as follows:

REPUBLIC ACT NO. 191

AN ACT CREATING THE MUNICIPALITY OF ISABEL, PROVINCE OF LEYTE

SECTION 1. The barrios of Quiot, Sta. Cruz, Libertad, Matlang, Tolingan, Bantigue, Apale and Jonan are separated from the municipality of Merida, Province of Leyte, and constituted into a new and separate municipality to be known as the municipality of Isabel, Province of Leyte, with the seat of government at the barrio of Quiot.

SECTION 2. The municipal mayor, vice-mayor, and councilors of the new municipality shall be appointed by the President of the Philippines to hold office until their successors are elected and qualified.

SECTION 3. The municipality herein established shall begin to exist on the date fixed in a proclamation to said effect by the President of the Philippines and upon the appointment and qualification of its officers.

SECTION 4. This Act shall take effect upon its approval.

In accordance with Section 3 of said law, the creation of the Municipality of Isabel was formalized by President Manuel Roxas on January 15, 1948, through Presidential Proclamation No. 49.[3]

At about the same time, the boundary between Isabel and Merida was delineated. To mark the boundary line, the governments of both municipalities placed stone monuments at designated areas along the line. According to Merida, these monuments had dimensions of six by six inches and had the following markings: "1947," the apparent date of their installation; "M", for Merida, placed on one side of the monuments; and "I", for Isabel, placed on the other side.[4]

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[3] Accessed 1 September 2020 at https://www.officialgazette.gov.ph/downloads/1948/01jan/19480108-PROC-0049-ROXAS.pdf.

[4] *Rollo,* p. 16.

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The present controversy pertains to two of these monuments which were placed along a dead creek named Doldol: one that was placed shoreward thirty meters from the highway, which was lost after the lapse of time, and another one that was placed near an ancient *doldol*[5] tree.[6] Merida claims that when the Isabel local government unit (LGU) installed new boundary monuments in 1981, the latter failed to find the monument by the old *doldol* tree, and instead placed a new monument along the Benabaye River, which was marked as Municipal Boundary Monument (MBM) No. 5.[7] The placement of MBM No. 5 changed the boundary line and created a disputed area of 162.3603 hectares which is now claimed by both Merida and Isabel.[8]

The dispute was further aggravated by the erection of structures within the disputed area by entities from Isabel, such as a welcome monument installed across the highway from MBM No. 5 by the Yellow Ladies of Isabel in 1988; and a waiting shed built by *barangay* Apale, Isabel. The Isabel LGU likewise exercised jurisdiction over the disputed area by conducting highway clearing activities therein,[9] prompting the barangay council of the adjoining *barangay* Benabaye, Merida, to seek the assistance of the *Sangguniang Bayan* of Merida.[10]

Acting on the requests of *barangay* Benabaye, then Mayor Bernardino Solana organized a fact-finding committee[11] (the Merida boundary committee) to look for the boundary

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[5] More commonly known as *kapok*; scientific name *Ceiba pentandra (L.).*

[6] *Rollo,* p. 16.

[7] Id. at 16, 45.

[8] Id. at 13.

[9] Id. at 198.

[10] Id. Resolution No. 62, s. 1996 of Barangay Benabaye, Merida, Leyte.

[11] Id. at 184. The committee was headed by then Vice Mayor Silvestra M. Maradan, and was made up mostly of municipal officials and officials of Barangay Benabaye.

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monuments that were placed when Isabel was created.[12] The Merida committee submitted a report of its findings to the Office of the Mayor.[13] On April 6, 1990, the *Sangguniang Bayan* of Merida adopted the findings of the Merida boundary committee and resolved to construct new boundary monuments in place of the lost ones.[14] On the other hand, Isabel conducted its own investigation and maintained that MBM No. 5 and the other monuments it installed were accurate and legitimate, based on affidavits of the area's residents, tax declarations, and cadastral maps.[15]

In separate resolutions,[16] the municipal councils of Merida and Isabel agreed to submit the boundary dispute to the *Sangguniang Panlalawigan* of Leyte.[17]

Ruling of the *Sangguniang Panlalawigan*

The *Sangguniang Panlalawigan* of Leyte unanimously adopted the findings of its Committee on Boundary Disputes and adjudicated the boundary dispute in favor of Merida. The dispositive portion of its resolution[18] reads as follows:

WHEREFORE, PREMISES CONSIDERED, Municipal Resolution 2004-091 of the Municipality of Isabel and Municipal Resolution No. 96-183 of the Municipality of Merida are hereby resolved as follows:

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[12] Id. at 42.

[13] Id.

[14] Id.

[15] Id. at 43.

[16] Id. at 43-44. Resolution No. 96-183 of the Sangguniang Bayan of Merida, passed on December 4, 1996, Id. 202; and Resolution No. 2004-091 of the Sangguniang Bayan of Isabel, passed on August 2, 2004.

[17] Id. at 43.

[18] Id. at 50; signed by Board Members Florante M. Cayunda (Chairperson of the Committee on Boundary Disputes), Evangeline L. Esperas, Simeon O. Ongbit, Jr., and Rolando C. Piamonte, Sr. Board Members Antonio C. Jabilles (Vice-Chairperson) and Debora G. Bertulfo inhibited, while Board Member Carlo P. Loreto did not sign. The Resolution was attested by Vice-Governor Ma. Mimietta S. Bagulaya and approved by Governor Carlos Jericho L. Petilla.

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1. The true and accurate boundary between the Municipalities of Merida and Isabel is the one planted along the dead Doldol creek near the Doldol tree and the highway;

2. The local government of Isabel, Leyte is hereby ordered to remove the Municipal Boundary Monument (MBM) No. 5 installed by former Mayor Cruz Centino of the Municipality of Isabel sometime in 1981 as well as Welcome Boundary Marker constructed by the Yellow Ladies Club of Isabel, Leyte sometime in 1988.

3. The local government of Merida, Leyte, is hereby ordered to install another Municipal Boundary Monument along the dead Doldol creek near the Doldol tree and the highway in accordance with the laws and the Barangay Boundary and Index Maps and political boundary maps of the two(2) [sic] municipalities.

SO ORDERED.[19]

The *Sangguniang Panlalawigan* explained that the specific enumeration in R.A. No. 191 of the eight barrios which comprise Isabel does not include *barangay* Benabaye, which is a part of Merida. Consequently, the provincial board refused to consider the tax declarations presented by Isabel which list the location of some properties within the disputed area as being within "Benabaye, Isabel, Leyte."[20] Furthermore, even the barangay boundary and index maps of the Isabel Cadastre show that the said properties are actually located in Benabaye, Merida.[21]

The Leyte provincial board also gave more credence to Merida's assertion that the true boundary is demarcated by the monument placed shoreward along the highway and the dead Doldol Creek, as this was supported not only by the committee reports submitted by Merida but also by positive testimonies of witnesses, including Isabel's first mayor, Galicano Ruiz, and by the monument located near the ancient *doldol* tree along Doldol Creek.[22]

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[19] Id. at 49-50.

[20] Id. at 46.

[21] Id.

[22] Id. at 47.

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Dissatisfied, Isabel appealed from the resolution of the *Sangguniang Panlalawigan*, pursuant to Section 119 of the Local Government Code.[23]

Ruling of the RTC

In a Decision dated September 29, 2009,[24] the trial court ruled in favor of Isabel and reversed the *Sangguniang Panlalawigan* Resolution, *viz.*:

> WHEREFORE, premises considered, judgment is hereby rendered, in favor of appellant and against appellee, REVERSING and SETTING ASIDE the assailed Resolution of the Honorable Sangguniang Panlalawigan ng Leyte and a new one is hereby entered, DECLARING that the contested tract of land of 162.3603 hectares as appearing in the cadastral survey records of Cad 661-D properly belong to the Municipality of Isabel, Leyte.
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> Upon the finality of this decision, the appellee is hereby further ordered to immediately remove the billboard it erected during the pendency of the appeal at its expense.
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> SO ORDERED.[25]

In so ruling, the RTC held that the true boundary between *barangay* Apale, Isabel, and *barangay* Benabaye, Merida, is the Benabaye River. The trial court gave more weight to the testimonies of three witnesses presented by Isabel who all testified that the true boundary between Apale and Benabaye was the "brook/creek located near the poblacion of *barangay* Benabaye."[26] According to the trial court, the witnesses presented by Isabel were "*very old men nearing the end of their lives x x x who are not expected to lie or concoct tales.*"[27] Moreover, the presiding judge himself conducted an ocular inspection of Benabaye River and was able to see MBM No. 5 which was installed by the

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[23] Id. at 48.

[24] Id. at 51-68; penned by Acting Presiding Judge Lauro A.P. Castillo, Jr.

[25] Id. at 68.

[26] Id. at 64.

[27] Id. at 65.

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Isabel LGU, which to him appeared to have been installed "*many, many years ago*" and was compliant with the standards set by the Manual for Land Surveys in the Philippines.[28] The testimonies of Isabel's witnesses were likewise corroborated by the *Barangay* Boundary and Index Map which was duly approved on December 11, 1987, by the Regional Director of the Land Management Service of the Department of Environment and Natural Resources. On the contrary, the trial court concluded that the statements of Merida's witnesses were either hearsay or self-serving. Likewise, the trial court did not consider the tax declarations submitted by both parties because the tax declarations all referred to incidents after 1948, and were therefore not determinative of conditions obtaining during the creation of Isabel.[29]

Merida filed a motion for new trial dated October 27, 2009,[30] on the ground that the trial court failed to consider the existence of the 1947 monument near the ancient *doldol* tree. Merida argues that the monument could not have been inspected by the trial court because the same was unearthed only after the trial court had rendered its decision. Merida likewise offered sworn statements of the persons who located and unearthed the said monument,[31] along with photographs thereof.[32]

The RTC denied Merida's motion for new trial in an Omnibus Order dated July 5, 2010.[33] According to the trial court, the recent unearthing of the monument near the ancient *doldol* tree did not place such monument under the ambit of newly discovered evidence, since photographs of the monument already formed part of the evidence considered by the *Sangguniang*

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[28] Id.

[29] Id. at 65-66.

[30] Id. at 118-128.

[31] Id. at 123.

[32] Id. at 124-126, 216-218, 220.

[33] Id. at 112-117.

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Panlalawigan and the trial court.[34] The trial court also stated that the remedy of new trial was not available because it was trying the case under its appellate jurisdiction, and thus it may only remand the case to the *Sangguniang Panlalawigan*.[35]

Ruling of the CA

On appeal by Merida, the CA reversed the RTC Decision and reinstated the *Sangguniang Panlalawigan* Resolution. On the issue of the proper mode of review, the CA held that Merida correctly availed of an appeal *via* Rule 42, which covers appeals from decisions of the RTCs in the exercise of their appellate jurisdiction.

The CA gave little probative value to the tax declarations of properties within the disputed area, on the following grounds: (1) an LGU must first prove territorial jurisdiction in order to collect realty taxes from a certain property; and (2) Isabel failed to submit a tax declaration history to show that it has exercised taxation powers over the area since its establishment in 1948. The appellate court likewise examined the tax declarations submitted by Isabel, some of which indicate the location of the properties as "Benabaye, Isabel, Leyte."[36] The Court ratiocinated that if these properties were actually under Isabel's jurisdiction, the tax declarations should have indicated Apale as the location of the properties instead of Benabaye, since Isabel claims the disputed area as part of Apale, and Benabaye is undisputedly located in and associated with Merida.[37]

The CA likewise agreed with the assertion that the disputed area is within the territory of Merida because some elective *barangay* officials of its constituent *barangay* Benabaye reside within the disputed area, as the Local Government Code requires

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[34] Id. at 114.

[35] Id. at 115-116.

[36] Id. at 32. CA Decision.

[37] Id. at 32-33.

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elective *barangay* officials to be residents and registered voters of the LGU where they intend to serve as such.[38]

In order to determine the true and accurate boundary marker, the CA weighed the evidentiary support for Merida's Doldol Creek monuments as against Isabel's MBM No. 5, *viz.*:

> Merida is adamant that the disputed area is within its territorial jurisdiction. Starting at the level of the *Sangguniang Panlalawigan* of Leyte, it made mention of stone monuments with markings of "1947," to represent the year that Isabel was created and the year it was laid down on the ground; "M", to represent the side for Merida; and "I", to represent the side demarcating the line for Isabel. However, Merida alleged that these 1947 stone monuments cannot be located despite diligent efforts.
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> On the other hand, Isabel claims that the boundary was demarcated by MBM No. 5 and which marker was placed along the Benabaye River, which was also the natural boundary between Barangay Benabaye of Merida and Barangay Apale of Isabel. This MBM No. 5 was given great weight by the RTC, bolstered by the affidavits of septuagenarians (or older) who were knowledgeable about the "true" boundaries between said barangays. In addition, the RTC opined that MBM No. 5 appeared to have been placed many years ago and complied with monument standards for municipal boundary monuments provided under Section 221 of the Manual for Land Surveys in the Philippines.
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> Foremost to consider is the fact that the basis made, by the RTC, that is, the Manual for Land Surveys in the Philippines, is of recent vintage. In fact, if the law creating Municipality of Isabel will be revisited, which law was passed in 1947, its territorial jurisdiction was not delineated by metes and bounds but it merely made mention of the barrios (now known as barangays) that were separated from Merida.
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> Moreover, the 1947 stone monument, while already mentioned by Merida, was not seen during the ocular inspection of the RTC, such that, the trial court did not give probative value to the claim of the *[sic]* Merida that the true demarcating object between Barangays Apale and Benabaye is the 1947 stone monument since it was not

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[38] Id. at 33.

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duly seen, rendering such claims hearsay. However, it cannot be gainsaid that this 1947 stone monument exists. Pictures were submitted, including other evidence showing its existence and location, that it really exists and that it was installed when Isabel was created. It is also clear that Isabel did not completely debunk the existence of this 1947 stone monument but merely attacked the alleged public official who installed such marker, casting doubt as to its veracity. However, as between the testimonial evidence (represented by the affidavits of some residents and public officials) of Isabel and its MBM No. 5 and the 1947 stone monument, We are inclined to give greater weight to the latter as the correct boundary between the Barangays of Apale and Benabaye. For one, the 1947 marker was installed during the creation of Isabel and second, it still exists up to this date, albeit was not seen during the ocular inspection conducted by the RTC.

It should be noted that when RA 191 created the Municipality of Isabel, it did so by mentioning the barrios which will comprise said municipality. However, said law did not mention the exact metes and bounds to delineate its territorial jurisdiction. In this case, the *Sangguniang Panlalawigan* correctly determined by available evidence the extent of the territory that was ceded by Merida to form the Municipality of Isabel.[39]

The CA concluded by reiterating that the substantial alteration of LGU boundaries cannot be left to the will of the residents alone, for Article X, Section 10 of the Constitution lays down the requisites thereof; and consequently, in adjudicating boundary disputes, the function of tribunals has become limited to making a factual determination of the actual boundary lines between LGUs, in accordance with the applicable municipal charters.[40]

The Issue

Isabel moved for reconsideration, which the CA denied in the assailed November 17, 2014 resolution; hence this petition, which raises the sole issue of whether or not the CA erred in reinstating the *Sangguniang Panlalawigan* resolution in favor

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[39] Id. at 34-35. Citations omitted.

[40] Id. at 35-36, citing *Municipality of Sogod v. Judge Rosal*, 278 Phil. 642 (1991).

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of Merida.[41] Isabel argues that: 1) the existence of the monument near the ancient *doldol* tree, upon which the CA decision hinged, was never proven, as it was never inspected by the courts; and 2) the preponderance of evidence shows that the disputed portion is actually part of *barangay* Apale, since the true boundary is demarcated by MBM No. 5.[42]

The Court's Ruling

The petition lacks merit. The appellate court did not err in reinstating the adjudication of the boundary dispute by the *Sangguniang Panlalawigan* of Leyte.

I.

The Constitution regulates *inter alia* the creation, division, merger, and abolition of LGUs, as well as the demarcation of boundaries thereamong. Article X, Section 10 of the basic law requires that substantial alterations in LGU boundaries should be made "*in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.*" In the case of municipalities, the criteria are set forth in Sections 6, 10, and 441 of the Local Government Code:

> Section 6. *Authority to Create Local Government Units*. — A local government unit may be created, divided, merged, abolished, or its boundaries substantially altered either by law enacted by Congress in the case of a province, city, municipality, or any other political subdivision, or by ordinance passed by the sangguniang panlalawigan or sangguniang panlungsod concerned in the case of a barangay located within its territorial jurisdiction, subject to such limitations and requirements prescribed in this Code.
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> Section 10. *Plebiscite Requirement*. — No creation, division, merger, abolition, or substantial alteration of boundaries of local government units shall take effect unless approved by a majority of the votes cast in a plebiscite called for the purpose in the political unit or units directly affected. Said plebiscite shall be conducted by

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[41] Id. at 7-8. Petition for Review.

[42] Id. at 8-9.

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the Commission on Elections (COMELEC) within one hundred twenty (120) days from the date of effectivity of the law or ordinance effecting such action, unless said law or ordinance fixes another date.

Section 441. *Manner of Creation*. — A municipality may be created, divided, merged, abolished, or its boundary substantially altered only by an Act of Congress and subject to the approval by a majority of the votes cast in a plebiscite to be conducted by the COMELEC in the local government unit or units directly affected. Except as may otherwise be provided in the said Act, the plebiscite shall be held within one hundred twenty (120) days from the date of its effectivity.

Consequently, this Court held in the *Municipality of Sogod v. Judge Rosal*[43] that:

The 1987 Constitution now mandates that no province, city, municipality or barangay may be created, divided, merged, abolished or its boundary substantially altered except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected. Hence, any alteration or modification of the boundaries of the municipalities shall only be by a law to be enacted by Congress subject to the approval by a majority of the votes cast in a plebiscite in the barrios affected (Section 134, Local Government Code). Thus, under present laws, the function of the provincial board to fix the municipal boundaries are [sic] now strictly limited to the factual determination of the boundary lines between municipalities, to be specified by natural boundaries or by metes and bounds in accordance with the laws creating said municipalities.[44] (Citations omitted)

Hence, under present laws, the function[45] of tribunals[46] in the adjudication of LGU boundary disputes is limited to the

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[43] Supra note 40.

[44] Id. at 650-651.

[45] In default of an amicable settlement between the disputing LGUs, when the *sanggunian* is required to formally try the case and render a decision. Rule III, Article 17 of the Implementing Rules and Regulations of the Local Government Code. See also *Municipality of Sta. Fe v. Municipality of Aritao*, 560 Phil. 57 (2007).

[46] Original jurisdiction over LGU boundary disputes is vested in the proper *sanggunian*, in accordance with Section 118 of the Local Government Code;

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factual determination of the correct boundary line in accordance with the statutes creating the LGUs involved.[47] As applied to the case at bar, such task ultimately involves the determination of the monuments which mark the true and accurate boundary between Merida and Isabel, in accordance with the charters of both municipalities.[48]

II.

Precision in the delineation of local government unit boundaries is of immense importance because these boundaries determine the spatial extent of the powers of local government units. A local government unit can legitimately exercise governmental powers only within its territorial jurisdiction.

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while appellate jurisdiction is vested in the Regional Trial Courts, subject to review on appeal by the Court of Appeals. See 1 Dante B. Gatmaytan, Local Government Law and Jurisprudence 581-587; *Municipality of Bakun, Benguet v. Municipality of Sugpon, Ilocos Sur*, G.R. No. 224335, March 2, 2020; *Municipality of Pateros v. Court of Appeals*, 607 Phil. 104 (2009); *Municipality of Nueva Era, Ilocos Norte v. Municipality of Marcos, Ilocos Norte*, 570 Phil. 395 (2008); *Municipality of Sta. Fe v. Municipality of Aritao*, supra.

[47] In accordance with this precisely-defined function, Rule III, Article 17 (c) of the Implementing Rules and Regulations of the Local Government Code requires that a petition for resolution of a boundary dispute include the following evidentiary attachments: (1) Duly authenticated copy of the law or statute creating the LGU or any other document showing proof of creation of the LGU; (2) Provincial, city, municipal, or barangay map, as the case may be, duly certified by the LMB; (3) Technical description of the boundaries of the LGUs concerned; (4) Written certification of the provincial, city, or municipal assessor, as the case may be, as to territorial jurisdiction over the disputed area according to records in custody; (5) Written declarations or sworn statements of the people residing in the disputed area; and (6) Such other documents or information as may be required by the sanggunian hearing the dispute.

[48] It must be noted that Merida was created during the Spanish administration of the Philippines (see ABOUT MERIDA LEYTE, Municipal Profile, http://www.merida.gov.ph/site/about. Accessed 5 September 2020), and has been recognized as a municipality of Leyte as early as 1903, without reference to any statute creating the municipality. See Act No. 954 (An Act Reducing the Forty-Nine Municipalities of the Province of Leyte to Thirty-Three [enacted October 22, 1903]), Section 1, Nos. 6 & 7.

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Outside these geographical bounds, the acts of local government units are *ultra vires*.[49] Likewise, it has been observed that:

> [t]he inhabitants residing within [the territorial] area [of a LGU] are invested with certain municipal liberties, rights and privileges. They are also impressed with certain duties and obligations. x x x
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> It is thus obvious that every municipal corporation must have its boundaries fixed, definite and certain as to precise location, in order that they may be identified, and that all may know the exact scope or section of territory or geographical division embraced within the corporate limits, and over which the local corporation has jurisdiction.[50]

To aid the duly designated tribunals in the task of boundary dispute resolution, the Implementing Rules and Regulations of the Local Government Code require the submission *inter alia* of the following: a duly authenticated copy of the law or statute creating the LGU or any other document showing proof of creation of the LGU; a provincial, city, municipal, or *barangay* map, as the case may be, duly certified by the Lands Management Bureau; technical description of the boundaries of the LGUs concerned; written certification of the provincial, city, or municipal assessor, as the case may be, as to territorial jurisdiction over the disputed area according to records in custody; and written declarations or sworn statements of the people residing in the disputed area.[51]

In *Barangay Sangalang v. Barangay Maguihan*,[52] this Court held that in the absence of any other evidence, cadastral maps duly approved by the Director of Lands prevail over tax declarations and provincial assessor's certifications stating that the disputed area is under a particular LGU's jurisdiction.[53]

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[49] *Municipality of Pateros v. Court of Appeals*, supra note 46, citing *Mariano, Jr. v. Commission on Elections*, 312 Phil. 259, 267 (1995).

[50] 1 Eugene McQuillin, A Treatise on the Law of Municipal Corporations 585-586 (1911).

[51] Supra note 47.

[52] 623 Phil. 711 (2009).

[53] Id. at 723.

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In *Municipality of Nueva Era, Ilocos Norte v. Municipality of Marcos, Ilocos Norte, et al.*,[54] this Court used the municipal charters as lodestars in the resolution of the boundary dispute. Marcos was created from seven barrios of the Municipality of Dingras, which were all enumerated in the former's municipal charter. However, the same charter, in defining the new municipality's boundaries, gave the "Ilocos Norte-Mt. Province boundary" (later the Ilocos Norte-Apayao boundary) as its eastern boundary. Consequently, Marcos laid claim to a certain area along the Ilocos Norte-Apayao boundary. This prompted Nueva Era, which also borders Apayao, to claim that Marcos encroached on its territorial jurisdiction. In resolving the conflict between the enumeration of the constituent barrios and the enumeration of the boundary lines in the charter of Marcos, this Court made the following pronouncements:

No part of Nueva Era's territory was taken for the creation of Marcos under R.A. No. 3753.

Only the barrios (now *barangays*) of Dingras from which Marcos obtained its territory are named in R.A. No. 3753. To wit:

> SECTION 1. The barrios of Capariaan, Biding, Escoda, Culao, Alabaan, Ragas and Agunit in the Municipality of Dingras, Province of Ilocos Norte, are hereby separated from the said municipality and constituted into a new and separate municipality to be known as the Municipality of Marcos, with the following boundaries:

Since only the *barangays* of Dingras are enumerated as Marcos' source of territory, Nueva Era's territory is, therefore, excluded.

Under the maxim *expressio unius est exclusio alterius*, the mention of one thing implies the exclusion of another thing not mentioned. If a statute enumerates the things upon which it is to operate, everything else must necessarily and by implication be excluded from its operation and effect. This rule, as a guide to probable legislative intent, is based upon the rules of logic and natural workings of the human mind.

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[54] Supra note 46.

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Had the legislature intended other *barangays* from Nueva Era to become part of Marcos, it could have easily done so by clear and concise language. Where the terms are expressly limited to certain matters, it may not by interpretation or construction be extended to other matters. The rule proceeds from the premise that the legislature would not have made specified enumerations in a statute had the intention been not to restrict its meaning and to confine its terms to those expressly mentioned.

Moreover, since the *barangays* of Nueva Era were not mentioned in the enumeration of barangays out of which the territory of Marcos shall be set, their omission must be held to have been done intentionally. This conclusion finds support in the rule of *casus omissus pro omisso habendus est*, which states that a person, object or thing omitted from an enumeration must be held to have been omitted intentionally.

Furthermore, this conclusion on the intention of the legislature is bolstered by the explanatory note of the bill which paved the way for the creation of Marcos. Said explanatory note mentioned only Dingras as the mother municipality of Marcos.

Where there is ambiguity in a statute, as in this case, courts may resort to the explanatory note to clarify the ambiguity and ascertain the purpose and intent of the statute.

Despite the omission of Nueva Era as a mother territory in the law creating Marcos, the latter still contends that said law included Nueva Era. It alleges that based on the description of its boundaries, a portion of Nueva Era is within its territory.

The boundaries of Marcos under R.A. No. 3753 read:

On the Northwest, by the barrios Biding-Rangay boundary going down to the barrios Capariaan-Gabon boundary consisting of foot path and feeder road; on the Northeast, by the Burnay River which is the common boundary of barrios Agunit and Naglayaan; on the East, by the Ilocos Norte-Mt. Province boundary; on the South, by the Padsan River which is at the same time the boundary between the municipalities of Banna and Dingras; on the West and Southwest, by the boundary between the municipalities of Batac and Dingras.

Marcos contends that since it is "bounded on the East, by the Ilocos Norte-Mt. Province boundary," a portion of Nueva Era formed part of its territory because, according to it, Nueva Era is between the Marcos and Ilocos Norte-Mt. Province boundary. Marcos posits that in order for its eastern side to reach the Ilocos Norte-Mt. Province

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boundary, it will necessarily traverse the middle portion of Nueva Era.

Marcos further claims that it is entitled not only to the middle portion of Nueva Era but also to its northern portion which, as a consequence, was isolated from the major part of Nueva Era.

We cannot accept the contentions of Marcos.

Only Dingras is specifically named by law as source territory of Marcos. Hence, the said description of boundaries of Marcos is descriptive only of the listed *barangays* of Dingras as a compact and contiguous territory.

Considering that the description of the eastern boundary of Marcos under R.A. No. 3753 is ambiguous, the same must be interpreted in light of the legislative intent.

The law must be given a reasonable interpretation, to preclude absurdity in its application. We thus uphold the legislative intent to create Marcos out of the territory of Dingras only.[55] (Citations omitted)

The earlier case of *Municipality of Jimenez v. Hon. Baz, Jr.*,[56] likewise upheld the primacy of the municipal charter in the resolution of boundary disputes, *viz.*:

As held in *Pelaez v. Auditor General*, the power of provincial boards to settle boundary disputes is "of an administrative nature — involving as it does, the adoption of means and ways to carry into effect the law creating said municipalities." It is a power "to fix common boundary, in order to avoid or settle conflicts of jurisdiction between adjoining municipalities." It is thus limited to implementing the law creating a municipality. It is obvious that any alteration of boundaries that is not in accordance with the law creating a municipality is not the carrying into effect of that law but its amendment. If, therefore, Resolution No. 77 of the Provincial Board of Misamis Occidental is contrary to the technical description of the territory of Sinacaban, it cannot be used by Jimenez as basis for opposing the claim of Sinacaban.[57]

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[55] *Municipality of Nueva Era, Ilocos Norte v. Municipality of Marcos, Ilocos Norte*, supra note 46 at 416-419.

[56] 333 Phil. 1 (1996).

[57] Id. at 18-19.

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The foregoing jurisprudence clearly illustrates that in boundary dispute adjudication, tribunals must weigh and interpret the evidence presented in a manner which gives full effect to, and is most consistent with, the statute or statutes creating the LGUs involved in the dispute.

III.

Upon a thorough consideration of the parties' arguments and evidence, viewed in the light of the foregoing laws and jurisprudence, this Court is convinced that the adjudication of the Leyte provincial board is more congruent and consistent with the territorial delimitation set forth in R.A. No. 191. The true and accurate boundary line between Isabel and Merida is the line demarcated by the old shoreward monument and the monument along the old Doldol Creek near the ancient *doldol* tree.

American authorities on municipal corporation law have stated that in the determination of LGU boundaries, "due weight should be given to the contemporaneous interpretation of the courts and other lawful authorities and by the population at large residing therein.[58] Maps published by authority of law may [also] be referred to as evidence."[59]

In the case at bar, the Merida boundary committee was able to obtain statements from Isabel's first municipal mayor, Galicano N. Ruiz, as interspersed with the committee's parenthetical comments, *viz.*:

-Question from the [fact-finding] Team Leader:

Nia kami dinhi sa pagconsulta kanimo Mayor bahin sa tino-od nga otlanan kon boundary between Merida and Isabel. Diin ba gayod Mayor ang dapit?

-Answer of Ex-Mayor Galicano N. Ruiz:

Tua sa daplin sa sapa (dead creek) paingon sa doldol (leading to the old, wild and giant doldol, which is still existing up to the present,

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[58] 1 McQuillin, Municipal Corporations, supra note 50 at 589.

[59] Id.

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about two kilometers from said boundary monument. Ang mga saksi sa paglubong sa monument (sixth-inch size concrete boundary marker) sila anhing consejal Menong Mercadal sa Merida ug si Consejal Abraham sa Matlang, Isabel pulos mga sakop kani-adto sa Consejo Municipal sa Merida nga gipangolohan ni anhing mayor Leodegario Conciliado (incumbency-first Municipal Mayor of Merida after World War II).

Nahisakop sa otlanan sa sitio Benabaye og Barrio Apale.

-Vice Mayor (Team Leader):

Pero Mayor dili na sitio and [sic] Benabaye nga karon osa ka Barangay sakop sa Merida.

-Mr. Gaudioso G. Tangpuz, MGOO/LGO-V, DLC, Merida:

Paminawi lang ninyo ang pulong niya (meaning the Ex-Mayor and Founding Patriarch of Isabel, Galicano N. Ruiz). Nagsulti siya og Barrio Apale or sitio Benabaye, please record (hinting to the ABC President Paciano A. Travero). At this point the Ex-Mayor was hinting that a certain portion belonged to Barrio Apale). I-record lang ang iyang mga pulong (Og dinhe gitolonan ang ABC President Paciano A. Travero (osa ke miembro sa advance consultation team) ug papel sa team leader aron sa pagsulat, labinga bahin sa tinood nga location site sa concrete Municipal Boundary Marker gilubong kani-adto ubos sa mando kon ka-oyonan sa kadagko-an opisyal sa Merida og Isabel, diin ang Ex-Mayor Galicano N. Ruiz osa sa mga saksi.

Diha sa nabisulat sa on the spot/consultative diagram nga gihimo mismo atubangan sa Ex-Mayor og consultation team based on the verbal testimony of the Ex-Mayor Galicano N. Ruiz:

> "From Isabel going to Merida, there is the first creek of sitio Benabaye, on the right side of the road across the creek at the side of sitio Benabaye, the four sided six-inch concrete monument was erected with an engraved letter "M'' facing the municipality of Merida and "I" facing the side of the municipality of Isabel, about 30 meters, more or less, from the road bordering the shoreline Mangroves, on the lot now owned by Ex-Barrio Lieutenant of Barrio Apale Serafin Urbano."
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> x x x x

-Question from SB Floor Leader Agripino G. Gica:

Puede ba imo kami to-oran didto sa lugar diin nabimutang ang tinuod nga boundary marker? Kon mabimo, ubanan ka namo sa pagtultol sa maong dapit.

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-Answer of Ex-Mayor Galicano N. Ruiz

Dili kana mabimo nako, gawas pa angay ko pasabton una si Loloy (incumbent Mayor Priscilo B. Martin of Isabel) og dili ako mahimo nga "mag-trier" sa akong lungsod. Butang kana sa lungsod og ako osa ka opisyal kaniadto sa Isabel. Hain mayo kon moadto kita kang Loloy karon. What I say might not be binding to them (the local officials of Isabel). Dugang tubag sa Vice Mayor Silvestra M. Maradan ug SB Floor leader Agripino G. Gica:

-Dili pa karon dayon, diha na kon masusisi namo ang boundary, sumala sa imong pulong. Ikaw ang among tuyo, agig courtesy call og consultation bahin sa pakisusi sa tino-od nga boundary sa Merida ug Isabel, kamo ikaw ang first appointed Mayor of Isabel when it was separated from Merida in 1948.[60]

As weighed against the statements of residents and municipal employees who lived in the disputed area contemporaneously with the establishment of Isabel which were given credence by the trial court, the testimony of Mayor Ruiz must be given greater weight. Not only was he able to state the location and the circumstances of the installation of the *doldol* monument, his official position as the first mayor of Isabel and manifest apprehension in binding the incumbent officials of Isabel to his statement bolsters the accuracy and reliability of his testimony. Furthermore, Isabel offered no credible rebuttal of Mayor Ruiz's testimony. As regards the maps submitted in evidence, suffice it to state that both the *Sangguniang Panlalawigan* and the RTC cited them in their respective decisions, casting doubt as to their persuasiveness and weight in evidence.

As regards the relative accuracy and genuineness of Isabel's MBM No. 5 as opposed to the *doldol* monument and the lost shoreward monument along Doldol Creek, the CA correctly disregarded Isabel's MBM No. 5 for being based on surveying regulations which are not contemporaneous with the foundation of Isabel. Chapter V, Sections 349, 350, and 355 of the 1947 Manual of Instructions for the Survey of the Public Lands issued

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[60] *Rollo,* pp. 185-186.

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by the United States Bureau of Lands, which was released only two (2) months[61] after the enactment of R.A. No. 191, provide:

349. The terms "corner" and "monument" are used largely in the same sense, though a distinction should be noted to clarify the subject matter of this chapter. The term "corner" is employed to denote a point determined by the surveying process, whereas the "monument" is the physical structure erected for the purpose of marking the corner point upon the earth's surface.

x x x x

The "monuments" of the public land surveys range from the deposit of some durable memorial, a marked wooden stake or post, a marked tablet set in solid rock or in a concrete block, a marked tree, a rock in place marked with a cross (X) at the exact point of the corner, and other special types of markers, some of which are more substantial; any of these are termed "monuments." The several classes of accessories such as bearing trees, bearing objects, mounds of stone, and pits dug in the sod or soil, are aids in the finding and identification, and afford evidence for the perpetuation of the corner position.

The restoration of a lost or obliterated corner has to do with the replacing of a monument that has disappeared so far as this relates to physical evidence, or other means of identification short of a remeasurement of the lines that were surveyed in the establishment of this and the nearest existent corners of that survey in the two or four directions. If there should be acceptable collateral evidence by which the original position may be accurately located, the monument may be regarded as obliterated, but not lost; the point is then referred to as an obliterated corner.

x x x x

350. The rules for the restoration of lost corners are not to be applied until after the development of all evidence, both original and collateral, that may be found acceptable, though the methods of proportionate measurement will aid materially in the recovery of the evidence, and will indicate what the resulting locations may be as based upon the known control.

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[61] The Manual was released on August 5, 1947. Bureau of Land Management, Manual of Instructions for the Survey of the Public Lands of the United States III (1947). Accessed 5 September 2020 at https://www.blm.gov/az/surveys/Library/1947-Manual_searchable.pdf.

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An existent corner is one whose position can be identified by verifying the evidence of the monument, or its accessories, by reference to the description that is contained in the field notes, or where the point can be located by an acceptable supplemental survey record, some physical evidence, or testimony.

Even though its physical existence may have entirely disappeared, a corner will not be regarded as lost if its position can be recovered through the testimony of one or more witnesses who have a dependable knowledge of the original location.

x x x x

355. An obliterated corner is one at whose point there are no remaining traces of the monument, or its accessories, but whose location has been perpetuated or the point for which may be recovered beyond reasonable doubt by the acts and testimony of the interested landowners, competent surveyors, other qualified local authorities, or witnesses, or by some acceptable record evidence.

A position that depends upon the use of collateral evidence can be accepted only as duly supported, generally through proper relation to known corners, and agreement with the field notes regarding distances to natural objects. stream crossings, line trees, and off-line tree blazes, etc., or unquestionable testimony.

A corner will not be considered as lost if its position can be recovered satisfactorily by means of the testimony and acts of witnesses having positive knowledge of the precise location of the original monument. The expert testimony of surveyors who may have identified the original monument prior to its destruction and thereupon recorded new accessories or connections, etc., is by far the most reliable, though landowners are able to furnish valuable testimony.

x x x x[62]

Applying the foregoing guidelines to the case at bar, it becomes clear that the corner marked by the *doldol* monument cannot be considered lost. During the interregnum when the monument cannot be found, the corner it marks can still be considered extant, as Merida was able to proffer sufficient evidence for its location and eventual recovery. At the very least it can only

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[62] Id. at 282-285. Italics in the original.

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be considered an obliterated corner; but, in fact, Merida was able to find the lost monument, as evidenced by the photographic and testimonial evidence it submitted to support its motion for new trial.[63] These pieces of evidence, taken together with Mayor Ruiz's testimony as to its location and installation, and Isabel's failure to adduce evidence to the contrary[64] sufficiently establish the existence of the *doldol* monument.

Regarding Isabel's claim that the disputed area is actually sitio Benabaye of its *barangay* Apale, per the tax declarations and testimonies of its residents, it has been established that *barangay* Benabaye was formerly a *sitio* of *barangay* Calunangan, Merida.[65] If the disputed area was indeed a mere *sitio* of Apale as claimed by Isabel, this should have been indicated in the tax declarations from the area. However, as found by the CA, some of the tax declarations submitted by Isabel merely state the location of the properties as "Benabaye, Isabel, Leyte," presumably to the effect that Benabaye is a *barangay* of Isabel, when in fact Benabaye is a *barangay* which was *carved out of another barangay* that is indisputably part of Merida.

Furthermore, as correctly pointed out by the CA, the fact that some of *barangay* Benabaye's elective officials[66] reside in the disputed area bolsters Merida's claim thereto, for the Local Government Code[67] requires barangay elective officials to be residents and registered voters of the *barangays* they wish to serve in. Indeed, if the disputed area were part of Apale, Isabel, these persons should have run for elected office there, and not in Benabaye; likewise, if these persons had run for

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[63] Joint Affidavit of Berlito L. Sanchez and Venerando L. Gumba, *rollo*, p. 123; Labelled photographs, id. at 124-126, 216-218, 220.

[64] As found by the CA. Id. at 35.

[65] RTC Decision, id. at 63; Petition of Isabel with the RTC, id. at 150.

[66] According to Merida, the residential houses of the Punong Barangay, two (2) kagawads, the Sangguniang Kabataang Chairperson, and some barangay tanods of Barangay Benabaye were located in the disputed area. Id. at 74.

[67] REPUBLIC ACT NO. 7160, Section 39.

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office in Benabaye, the legitimate residents of that barangay could have contested the qualification of these persons to serve as elected officials of Benabaye.

At any rate, both Isabel and Merida agree that the disputed area belongs to a locality known to its inhabitants as Benabaye, regardless of whether it is a sitio or a barangay.[68] As discussed earlier, the evidence adduced by both parties preponderantly demonstrates that the locality of Benabaye is a part of Merida; and R.A. No. 191 does not include Benabaye in the enumeration of the barangays that make up Isabel. There is no indication whatsoever in the records that the locality of Benabaye was divided between Isabel and Merida. Hence, following the ruling in *Municipality of Nueva Era*, this Court must construe R.A. No. 191 to mean that the legislature deliberately excluded Benabaye and, consequently, the disputed area, from the territorial jurisdiction of the Municipality of Isabel. Consequently, the boundary line which more accurately reflects this intention of the legislature is that which is marked by the lost shoreward monument and the monument near the ancient *doldol* tree, both installed along the old Doldol Creek in 1947.

IN VIEW OF THE FOREGOING PREMISES, the present petition is **DENIED**. The August 20, 2014 Decision and the November 17, 2014 Resolution of the Court of Appeals in CA-G.R. SP No. 05255 are hereby **AFFIRMED**.

SO ORDERED.

Peralta, C.J., Caguioa, Carandang, and *Zalameda, JJ.,* concur.

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[68] Petition of Isabel with the RTC, *rollo*, p. 149; Comment to the Petition for Review on *Certiorari* of Merida, id. at 75.