Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

MUNICIPALITY OF MAKATI (NOW CITY OF MAKATI), Petitioner,	**G.R. No. 235316**
	Present:
-versus-	LEONEN, *J.*, *Chairperson*, CARANDANG, ZALAMEDA, ROSARIO, and MARQUEZ, *JJ.*
MUNICIPALITY OF TAGUIG (NOW CITY OF TAGUIG), Respondent.	Promulgated:
	December 1, 2021

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DECISION

ROSARIO, *J.*:

This resolves the Petition for Review on *Certiorari*[1] assailing the Resolution dated March 8, 2017 and the Resolution dated October 3, 2017 (collectively, the Assailed Resolutions) of the Court of Appeals (CA) in CA G.R. CV No. 98377.

THE ANTECEDENTS

On November 22, 1993, the Municipality of Taguig, now City of Taguig, (Taguig) filed a Complaint before the Regional Trial Court (RTC) of Pasig against the City of Makati (Makati), former Executive Secretary Teofisto P. Guingona, Jr., former Department of Environment and Natural Resources Secretary Angel Alcala, and former Land Management Bureau Director Abelardo Palad, Jr., docketed as Civil Case No. 63896 and denominated as "*Judicial Confirmation of the Territory and Boundary Limits of [Taguig] and Declaration of the Unconstitutionality and Nullity of Certain*

[1] *Rollo*, pp. 151-191.

Provisions of Presidential Proclamations 2475 and 518, with Prayer for Writ of Preliminary Injunction and Temporary Restraining Order."[2]

The complaint arose from Taguig's territorial dispute with Makati over the areas comprising the Enlisted Men's Barangays (EMBOs) and the entirety of Fort Andres Bonifacio.

In said complaint, Taguig averred, among others, that the areas comprising the Enlisted Men's Barangays (EMBOs) and the Inner Fort in Fort Andres Bonifacio (Fort Bonifacio), formerly known as Fort William McKinley (Fort McKinley), were within its territory and jurisdiction. It also alleged that Presidential Proclamation Nos. 2475, s. 1986, and 518, s. 1990, were unconstitutional because they altered Taguig's boundaries without the required plebiscite pursuant to Article XI, Section 3[3] of the 1973 Constitution and Article X, Section 10[4] of the 1987 Constitution.

Makati filed its Answer[5] and Amended Answer[6] thereto, specifically denying Taguig's allegations and claimed jurisdiction over the disputed areas.

Thereafter, trial on the merits ensued.

Version of Taguig

Taguig's claim may be summarized as follows:[7]

Taguig has been in existence for over 400 years, initially as a *pueblo* of the Province of Manila during the Spanish colonization period. It later became a municipality of the Province of Rizal during the American colonial era.

With the enactment of Act No. 942 in 1903, the Municipality of Pateros absorbed Taguig and Muntinlupa. However, by virtue of Act No. 1308 enacted in 1905, the Municipality of Pateros was changed to Taguig. Taguig reacquired its former area and absorbed the territories of Pateros and Muntinlupa.

In 1902, the United States Government (US Government) established Fort McKinley on the northern portion of Hacienda Maricaban, which it acquired from Doña Dolores Vda. de Casal (Doña Casal). The site was mainly

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[2] *Rollo*, pp. 1323-1335.
[3] Article XI, Section 3. No province, city, municipality, or barrio 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 the approval by a majority of the votes cast in a plebiscite in the unit or units affected.
[4] Article X, Section 10. 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.
[5] *Rollo*, pp. 1372-1403.
[6] *Id.* at 1408-1431.
[7] *Id.* at 2249-2254.

situated in Taguig, with the exception of "Malapad na Bato" which was located in Pasig.

In 1908, the US Government purchased the remaining portion of the hacienda, which it utilized to expand Fort McKinley. By then, this portion had become a titled property under the Land Registration Act with the issuance of Original Certificate of Title (OCT) No. 291 in the name of Doña Casal. Consequently, OCT No. 291 was cancelled and Transfer Certificate of Title (TCT) No. 1219 was issued in the name of the US Government. With the 1902 and 1908 acquisitions, the US Government acquired the entirety of Hacienda Maricaban.

The following year, the US Government engaged Ramon Pertierra (Pertierra) to survey Fort McKinley, comprising the 1902 and 1908 acquisitions. Pertierra prepared Survey Plan Psu-2031 (Psu-2031), which Director of Lands C.H. Sleeper thereafter approved. Under Psu-2031, Fort McKinley was divided into four parcels, namely, Parcel 1 located in Pasay; Parcel 2 situated in Pasay and Parañaque; Parcel 3 found in Taguig; and Parcel 4, the untitled portion acquired in 1902, located in Taguig and Pasig. Notably, Psu-2031 did not mention Makati as the situs of the property.

Psu-2031 shows that Fort McKinley was bordered on the north and northwest by Pasay, with the Guadalupe Estate and San Pedro de Macati Estate appearing as located within Pasay's territory.

When the Philippines regained its independence, the US Government ceded Fort McKinley to the Republic. As a result, Transfer Certificate of Title No. 61524, covering Parcels 1, 2, and 3, was issued in the name of the Republic.

On July 12, 1957, President Carlos P. Garcia (President Garcia) issued Proclamation No. 423, establishing Fort Bonifacio on what was formerly Fort McKinley. The proclamation's title notably states that the military reservation was located in Pasig, Taguig, Parañaque, and Pasay. Nowhere in Proclamation No. 423, s. of 1957, was it stated that the military reservation was located in Makati.

Specifically, Proclamation No. 423, s. of 1957 established Fort Bonifacio on a portion of Parcel 2, the whole of Parcel 3, and a portion of Parcel 4. The proclamation excluded Parcel 1 and the portions reserved for the U.S. Military Cemetery, the Traffic Circle, and the Diplomatic/Consular Area.

From February 28 to August 6, 1977, Makati engaged Rolando E. Bagnes as contractor, with Dominador P. Santos as Chief of Party, to conduct a survey in connection with Makati's cadastral mapping. The survey resulted in Makati's Cadastral Mapping, MCadm 571-D, which was approved on May 24, 1979. The portion of MCadm 571-D bordering Fort McKinley bore the

designation "MCadm 590-D," which refers to the Cadastral Mapping of Taguig.

For the first time, Makati's cadastral mapping incorporated the Guadalupe Estate and the San Pedro Macati Estate, as both estates were not included in the Pasay Cadastre, Cad 259.

When Makati's cadastral mapping MCadm-571-D was approved, only twenty-three barangays were listed and depicted therein. The cadastral map did not include the military barangays of Cembo, South Cembo, Comembo, East Rembo, West Rembo, Pembo, and Pitogo.

From April 1978 to July 1979, Taguig engaged the services of M.P Atienza Surveying Office, with Marcelino P. Atienza as contractor and Teresita D. Sontillanosa as Chief of Party, to conduct a survey in relation to Taguig's cadastral mapping. The result was the Boundary and Index Map of Taguig, MCadm 590-D, which was approved on January 20, 1983.

MCadm 571-D, Case 3, which is a portion of Makati's Cadastral Mapping, covered Barangay Guadalupe Nuevo. This map indicates that past San Jose Creek that straddles Guadalupe Nuevo is not another barangay of Makati but Fort Bonifacio, which is under the purview of Case 17 of the Taguig Cadastral Mapping, MCadm-590-D. In fact, the Taguig Cadastral Mapping includes all of Parcels 3 and 4 or Fort Bonifacio in its entirety.

The Taguig Boundary and Index Map, MCadm 590-D conformed to the municipal or city barangay maps of the five adjoining local government units, namely: Pasig Cadastre MCad-579-D, Makati Cadastral Mapping MCadm-571-D, Pateros Cadastral Mapping MCadm-594-D, Pasay Cadastre Cad 259, and Parañaque Cadastre Cad-299. These cadastral mappings exclude the disputed areas thereby confirming that they fall within Taguig's territory.

When the Bases Conversion and Development Authority (BCDA) was established in 1992, it caused the reconstitution of Psu-2031, which resulted in "Compilation Map of Approved Survey Plans inside Parcels 1, 2, 3, and 4, Psu-2031." The reconstituted map was approved by the Department of Environment and Natural Resources, National Capital Region (DENR-NCR) Regional Director on September 12, 1995. It indicates that all of Fort Bonifacio, particularly including Parcel 4, is within Taguig's territorial jurisdiction.

On January 20, 1995, President Fidel V. Ramos (President Ramos) issued Special Patent No. 3595, stating therein that it conveyed a large tract of land situated in Taguig in favor of BCDA. On even date, President Ramos issued Special Patent No. 3596, which also conveyed parcels of land within Taguig in favor of the Fort Bonifacio Development Corporation (FBDC).

Pursuant to Special Patent No. 3596, the Register of Deeds of Rizal issued OCT SP-001 in favor of FBDC, described as portions of Parcel 4, Psu-2031, situated in Taguig.

Version of Makati

Makati's claim may be summarized as follows:[8]

The disputed areas were once part of a large estate named Hacienda Maricaban, owned by Doña Casal. The hacienda was so large that it fell under the jurisdictions of several towns, namely, San Pedro Macati, Pasig, Taguig, Pateros, Pineda, Parañaque, and Malibay.

On August 5, 1902, Doña Casal sold the northeastern portion of the hacienda to the US Government. This parcel of land was within the jurisdiction of San Pedro Macati, Pasig, and Pateros. Within this portion is Fort McKinley, which lay within San Pedro Macati's territory.

Subsequently, Doña Casal registered the unsold portion of Hacienda Maricaban. On October 1, 1906, the Court of Land Registration issued Decreto No. 1368. The resulting title was OCT No. 291 in the name of Doña Casal. The land covered by OCT No. 291 fell under the jurisdictions of Taguig, Pasay, and Parañaque. This portion did not include Fort McKinley.

OCT No. 291 could not have included the land sold in 1902, which is said to be Fort McKinley. A sketch plan prepared by Makati's expert witness, Engr. Francisco Almeda, Jr. (Engr. Almeda), shows that Fort McKinley lies outside and to the north of the property registered in Doña Casal's name under OCT No. 291.

This sketch plan was certified by the DENR-NCR as to the correctness of the plotting of the map. The sketch plan also matches the map obtained by Engr. Almeda from the United States National Archives named "Map of Land in Rizal Province known as Maricaban Hacienda, June 1907, Proposed Extension of Fort William McKinley Military Reservation." The said map shows that the disputed areas are within the jurisdiction of Makati.

Moreover, the derivative titles of OCT No. 291, namely, TCT Nos. 1219, 1688, 2288 (registered in the name of the US Government), and TCT No. 61524 (registered in the name of the Philippine Government) do not mention Parcel 4, where the disputed areas are located.

Engr. Almeda also prepared another sketch map of Hacienda Maricaban using as reference the "Plano de la Hacienda de Maricaban dated 1891" and the "Map of Fort Wlliam McKinley Military Reservation (General Order No. 104, October 3rd 1902)." The sketch map was certified correct by

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[8] *Id.* at 157–160; 2992-3000.

the DENR-NCR and confirms that that the entire area of Hacienda Maricaban that is under Makati's jurisdiction falls within the portion sold to the US Government. This portion later became Fort McKinley.

Additionally, in the 1918 and 1948 censuses conducted by the US Government in the Philippines, Fort McKinley was specifically included as one of the *barrios* of Makati.

When the Philippines gained independence from the United States, Fort McKinley was ceded to the Republic of the Philippines. Fort McKinley was renamed Fort Bonifacio and was under the direct authority of the Armed Forces of the Philippines (AFP).

In the 1960s, the families of AFP's enlisted men were allowed to occupy areas within the military camp. They eventually established the Enlisted Men's Barrios (EMBOs), namely, Barangays Cembo, South Cembo, Comembo, East Rembo, West Rembo, Pembo, and Pitogo.

At around the same time, the Inner Fort Barangays, consisting of Barangays Post Proper Northside and Post Proper Southside, were also established. These barrios eventually became barangays by virtue of Presidential Decree No. 557, issued on September 21, 1974. Since 1975, the Inner Fort Barangays have been participating in the national and local political exercises as barangays of Makati.

In addition, the census conducted by the National Census and Statistics Office (NCSO) for the years 1970, 1975, and 1980 listed the EMBO and the Inner Fort Barangays as under the jurisdiction of Makati.

On January 7, 1986, President Marcos issued Presidential Proclamation No. 2475, which withdrew a portion of Fort Bonifacio as a military reservation and declared it open to disposition for entitled residents therein. This portion comprised the EMBO barangays and was situated in Makati.

On January 31, 1990, President Corazon C. Aquino issued Presidential Proclamation No. 518, which amended Presidential Proclamation No. 2475. In the same year, the National Statistics Office conducted another census, which reflected the EMBO and Inner Fort Barangays as within the jurisdiction of Makati.

In 1992, the Philippine Bases Conversion and Development Authority (BCDA) was created. Subsequently, Fort Bonifacio was turned over to the BCDA pursuant to the privatization program of the government.

It was only in 1993 that Taguig filed its claim over Fort Bonifacio and the Inner Fort Barangays. Taguig's delayed claim was merely in anticipation of the privatization of Fort Bonifacio, which would generate billions of pesos in local government taxes.

On February 14, 1994, the numerical cadastral survey plan of Makati, MCAD-571-D, was approved by the DENR-NCR. This survey plan superseded the 1979 cadastral mapping and shows that the disputed barangays fall under the jurisdiction of Makati.

RTC Decision

In a Decision[9] dated July 8, 2011, RTC Pasig City Branch 153, through Hon. Briccio C. Ygaña (Judge Ygaña), ruled in favor of Taguig. The dispositive portion of the Decision reads:

> **WHEREFORE**, premises considered, judgment is hereby rendered in favor of plaintiff Municipality, now City of Taguig and against all defendants, as follows:
>
> 1. Fort Bonifacio Military Reservation consisting of Parcels 3 and 4, Psu-2031, is confirmed part of the territory of the plaintiff City of Taguig;
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> 2. Proclamation No. 2475, Series of 1986 and [Proclamation] No. 518, Series of 1990 are hereby declared UNCONSTITUTIONAL and INVALID, insofar as they altered boundaries and diminished the areas of territorial jurisdiction of the City of Taguig without the benefit of a plebiscite as required in Section 10, Article X of the 1987 Constitution.
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> 3. Making the Writ of Preliminary Injunction dated August 2, 1994 issued by this Court, explicitly referring to Parcels 3 and 4, Psu-2031 comprising Fort Bonifacio, be made PERMANENT, to wit:
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>   a) Enjoining defendants Secretary of the Department of Environment and Natural Resources and Director of Land Management Bureau, from disposing of, executing deeds of conveyances over, issuing titles, over the lots covered by Proclamation Nos. 2475 and 518; and
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>   b) Enjoining defendant Municipality, now City of Makati, from exercising jurisdiction over, making improvements on, or otherwise treating as part of its territory, Parcels 3 and 4, Psu-2031 comprising Fort Bonifacio.
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> 4. Ordering defendants to pay the cost of the suit.

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[9] *Id.* at 1457-1477.

SO ORDERED.[10]

Subsequent Proceedings

Aggrieved, Makati filed a Motion for Reconsideration *Ad Cautelam*[11] dated July 28, 2011. At the same time, Makati filed a Petition for Annulment of Judgment[12] dated July 28, 2011 before the CA, docketed as CA-G.R. SP No. 120495 (hereinafter referred to as the Annulment Case), questioning the RTC Decision on the ground that it was rendered after Judge Ygaña had already retired from office.

In the meantime, RTC Branch 153's pairing judge, Hon. Leili Cruz Suarez (Judge Suarez), heard Makati's Motion for Reconsideration *Ad Cautelam*.

In an Order[13] dated December 19, 2011, Judge Suarez denied the motion. She ruled that it was not improper or illegal for Judge Ygaña to adopt in his Decision Taguig's narratives and arguments in its memorandum. Judge Ygaña had also been at the helm of the case since its pre-trial stage until its conclusion, thereby affording him the advantage of familiarity with the case. Moreover, the Decision stated sufficient findings of fact and conclusions of law. Lastly, Judge Suarez held that Makati was guilty of forum shopping.

On January 5, 2012, Makati filed a Notice of Appeal *Ad Cautelam*[14] questioning the RTC's Decision and Order dated December 19, 2011. This appeal was eventually docketed as CA-G.R. CV No. 98377 (hereinafter referred to as the Territorial Dispute Case).

On October 5, 2012, Makati filed its Appellant's Brief *Ad Cautelam*.[15] In response thereto, on January 23, 2013, Taguig filed a Motion to Dismiss Appeal[16] on the ground of forum shopping. Following the filing of their respective submissions, Makati's appeal was deemed submitted for decision and Taguig's Motion to Dismiss Appeal was deemed submitted for resolution.

Meanwhile, proceedings in the Annulment Case before the CA Seventh (7th) Division ensued. On August 11, 2011, Taguig filed a Motion to Dismiss Petition for Annulment of Judgment.[17]

In a Resolution[18] dated May 16, 2012, the CA Seventh (7th) Division denied Taguig's Motion to Dismiss. The CA agreed with Makati's assertion

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[10] *Id.* at 1477.
[11] *Id.* at 1478-1523.
[12] *Id.* at 1524-1543.
[13] *Id.* at 1567-1580.
[14] *Id.* at 1581-1582.
[15] *Id.* at 1583-1666.
[16] *Id.* at 1824-1833.
[17] *Id.* at 1549-1556.
[18] *Id.* at 1557-1559. This Resolution was penned by Associate Justice Hakim S. Abdulwahid, with the concurrence of Associate Justices Marlene B. Gonzales-Sison and Leoncia Real-Dimagiba.

that Judge Ygaña's Decision dated July 8, 2011 may be assailed at any time as this Decision was void for having been issued without jurisdiction. It also noted that, contrary to Taguig's allegation, a Verification and Certification of Non-forum Shopping was attached to the Petition. Lastly, it held that the Petition for Annulment of Judgment and Motion for Reconsideration *Ad Cautelam* were based on different causes of action, raised different issues, and sought different remedies.

On June 4, 2012, Taguig moved for reconsideration.[19] Taguig asserted that the RTC's Orders dated December 19, 2011 and February 13, 2012, penned by Judge Suarez, "stand on their own, independently of the assailed judgment as the final resolution of the [territorial dispute] case at the RTC level." It emphasized that a Petition for Annulment of Judgment was the wrong remedy as the assailed Decision was not yet final and executory. Lastly, Taguig insisted that Makati engaged in forum shopping and emphasized that Judge Suarez made this finding in the Order dated December 19, 2011.

In a Resolution[20] dated December 18, 2012, the CA Former Seventh (7th) Division granted Taguig's Motion for Reconsideration and dismissed the Petition for Annulment of Judgment (1) for being *functus officio* and/or moot; (2) for being premature; and (3) for forum shopping. The CA likewise ruled that in filing a Motion for Reconsideration and Petition for Annulment of Judgment, Makati effectively split a single cause of action and thereby engaged in forum shopping. Aggrieved, Makati filed a Motion for Reconsideration[21] on January 21, 2013.

In a Resolution[22] dated April 30, 2013, the CA Former Seventh (7th) Division denied Makati's Motion for Reconsideration. It abandoned its conclusions in the Resolution dated December 18, 2012 that the Petition for Annulment of Judgment had become *functus officio* and/or moot and that Makati engaged in forum shopping. However, it maintained that the Petition for Annulment of Judgment was premature and unnecessary, hence, it still dismissed the same.

This prompted Taguig to file a Motion for Clarification[23] praying that "the Resolution dated April 30, 2013 be reinforced with clarificatory pronouncements that the instant petition was rendered moot by the subsequent orders of the lower court through Hon. Leili Cruz Suarez as Pairing Judge and that petitioner Makati did commit forum shopping."

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[19] *Rollo* (G.R. No. 208393), pp. 25-34.
[20] *Rollo*, pp. 1834-1841. This Resolution was penned by Associate Justice Hakim S. Abdulwahid, with the concurrence of Associate Justices Marlene B. Gonzales-Sison and Leoncia Real-Dimagiba.
[21] *Rollo* (G.R. No. 208393), pp. 66-78.
[22] *Rollo*, pp. 1560-1562. This Resolution was penned by Associate Justice Hakim S. Abdulwahid, with the concurrence of Associate Justices Marlene B. Gonzales-Sison and Leoncia Real-Dimagiba.
[23] *Rollo* (G.R. No. 208393), pp. 85-87.

In a Resolution[24] dated July 25, 2013, the CA Former Seventh (7th) Division clarified that:

> Relative to respondent City of Taguig's Motion for Clarification filed on May 22, 2013 and by way of clarification, the phrase "for being unnecessary and/or premature" appearing in the dispositive portion of the April 30, 2013 Resolution, means that the filing of the appeal docketed as CA-G.R. CV No. 98377 now pending with the Sixth Division of this Court has rendered the petition for annulment of judgment in the above-entitled case moot and academic, hence, unnecessary.

Construing the above Resolution as a "denial of relief sought," Taguig filed a Petition for Review on *Certiorari*[25] before this Court, questioning the CA Resolutions dated April 30, 2013 and July 25, 2013, and praying that these be modified by including a declaration that Makati is guilty of willful and deliberate forum shopping and that appropriate sanctions be imposed.

In the meantime, the CA Special Former Sixth (6th) Division rendered a Decision[26] dated July 30, 2013 in the Territorial Dispute Case in favor of Makati. The CA held that the RTC erred in admitting Taguig's evidence which supposedly were not properly identified and authenticated. According to the CA, the admission of said evidence led to the erroneous conclusion of the court *a quo* that the disputed areas were parts of the territory of Taguig. Finally, the CA took the RTC to task for declaring Presidential Proclamation Nos. 2475 and 518 as unconstitutional and invalid, concluding that said proclamations did not in fact alter the boundaries of the disputed areas but instead merely confirmed the same to be under Makati's territory and jurisdiction.

The dispositive portion of the Decision reads:

> **WHEREFORE**, premises considered, this Court **GRANTS** the instant appeal, **REVERSES** and **SETS ASIDE** the assailed decision and order rendered by the Regional Trial Court of Pasig City, Branch 153 dated 08 July 2011 and 19 December 2011 respectively and **RENDERS** a new Decision as follows:
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> 1) Dismissing the Complaint of Taguig for lack of merit and confirming that the Disputed Area comprising of the EMBO Barangays and Inner Fort Barangays (Barangay Post Proper Northside and Barangay Post Proper Southside) in Fort Bonifacio are within the territorial jurisdiction of Makati City;

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[24] *Rollo*, pp. 1564-1565. This Resolution was penned by Associate Justice Hakim S. Abdulwahid, with the concurrence of Associate Justices Marlene B. Gonzales-Sison and Leoncia Real-Dimagiba.
[25] *Rollo* (G.R. No. 208393), pp. 100-130.
[26] *Rollo*, pp. 217-253. This Decision was penned by Associate Justice Marlene B. Gonzales-Sison, with the concurrence of Associate Justices Hakim S. Abdulwahid and Edwin D. Sorongon.

2) Lifting the injunction issued by the lower court against Makati;

3) Declaring Presidential Proclamation Nos. 2475 and 518 as constitutional and valid;

4) Ordering Taguig to immediately cease and desist from exercising jurisdiction within the disputed area and return the same to Makati; and

5) Ordering Taguig to pay the cost of suit.

SO ORDERED.[27]

With regard to the issue of forum shopping, the CA deferred to the ruling of the CA Former Seventh (7th) Division in its Resolution dated April 30, 2013 in CA-G.R. SP No. 120495, pertinently holding, to wit:

> However, said issue has been resolved by this Court's Seventh (7th) Division in a Resolution dated 30 April 2013 rejecting the ground of forum shopping as basis for dismissal of Makati's petition for annulment of judgment, hence the issue of forum shopping has been rendered moot.

Aggrieved, on September 3, 2013, Taguig filed, among others, its Motion for Reconsideration[28] assailing the Decision dated July 30, 2013. This was opposed by Makati in an Opposition[29] dated October 21, 2013. We note that, per the records of the case, Taguig's Motion for Reconsideration was never resolved.

Subsequently, We rendered a Decision on Taguig's appeal in the Annulment Case. In a Decision dated June 15, 2016 in *City of Taguig v. City of Makati*,[30] this Court found Makati guilty of willful and deliberate forum shopping for pursuing two (2) simultaneous remedies—a Petition for Annulment of Judgment under Rule 47 of the Revised Rules of Civil Procedure, and a Motion for Reconsideration *Ad Cautelam* (later docketed as an Appeal in CA-G.R. CV No. 98377). The dispositive portion of the Decision reads:

> **WHEREFORE**, the Petition is **GRANTED**. The assailed Resolutions dated April 30, 2013 and July 25, 2013 of the Court of Appeals Seventh Division in CA-G.R. SP No. 120495 are **MODIFIED**. Respondent City of Makati is declared to have engaged in forum shopping in simultaneously pursuing a Petition for Annulment of Judgment before the Court of Appeals and a Motion for

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[27] *Id.* at 252.
[28] *Id.* at 1842-2000.
[29] *Id.* at 2001-2070.
[30] G.R. No. 208393, 787 Phil. 367-402 (2018); penned by Associate Justice Marvic M.V.F. Leonen, with the concurrence of Senior Associate Justice Antonio T. Carpio and Associate Justice Jose Catral Mendoza.

> Reconsideration before Branch 153 of the Regional Trial Court of Pasig City, and later, an Appeal before the Court of Appeals.
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> We find respondent City of Makati, through its counsels Atty. Pio Kenneth I. Dasal, Atty. Glenda Isabel L. Biason, and Atty. Gwyn Gareth T. Mariano, **GUILTY** of direct contempt, and **FINE** Atty. Pio Kenneth I. Dasal, Atty. Glenda Isabel L. Biason and Atty. Gwyn Gareth T. Mariano ₱2,000.00 each.
>
> **SO ORDERED.**[31]

Pursuant to the above Decision, Taguig filed in the Territorial Dispute Case a Motion to Dismiss for Forum Shopping,[32] raising the following grounds:

a) The Motion for Reconsideration before the RTC Pasig and the Petition for Annulment of Judgment before the CA should be dismissed considering that Makati engaged in willful and deliberate forum shopping;

b) Through this appeal, the acts of willful and deliberate forum shopping by Makati were continued and perpetuated;

c) Considering that the Supreme Court ruled that Makati engaged in willful and deliberate forum shopping, the penalty should be summary dismissal of the petition;

d) Considering that the Supreme Court ruled that Makati engaged in willful and deliberate forum shopping, the RTC Decision had already attained finality. Consequently, as an effect of a final and executory judgment, it is as if this petition was not filed before the CA.

Taguig alleged that Makati handled the territorial dispute in bad faith in view of the fact that in a previous Supreme Court Decision,[33] Makati was also found to have violated the rule on forum shopping. Invoking Supreme Court Administrative Circular No. 04-94, Taguig asserts that Makati's willful and deliberate act of forum shopping warrants the dismissal of this appeal.[34]

In its Comment/Opposition,[35] Makati countered that the Decision in *City of Taguig v. City of Makati*[36] was not yet final and executory as its motion for reconsideration and its former counsel's own motion for partial reconsideration were still pending resolution before this Court. It insisted that the CA would not transgress any Supreme Court ruling should it resolve this

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[31] *Id.* at 79-80.
[32] *Id.* at 2100-2126.
[33] *City of Makati v. Municipality (now City) of Taguig*, 578 Phil. 773-784 (2008).
[34] *Rollo*, p. 198.
[35] *Id.* at 2160-2185.
[36] Supra note 30.

case on the merits because the Supreme Court did not rule that the appeal before it should be dismissed.

Makati further argued that Taguig's prayer to defer and hold in abeyance the resolution of this case should be denied considering that no injunctive relief was issued in connection with the case. Assuming without admitting that the elements of forum shopping were present, Makati contended that the same was not willful and deliberate. Lastly, Makati maintained that, considering the grave public interest involved, and in the interest of substantial justice, the CA should look beyond the technical rules of procedure and allow the issue on the ownership of the disputed areas to be decided on the merits even if the Supreme Court denies Makati's and its previous counsel's respective motions for reconsideration.[37]

In the first assailed Resolution[38] dated March 8, 2017, the CA Special Former Sixth (6th) Division granted Taguig's Motion to Dismiss for Forum Shopping. The CA quoted heavily Our Decision in *City of Taguig v. City of Makati.*[39]

The CA further held that in its Decision dated July 30, 2013, it brushed aside the issue of forum shopping for being moot as it gave way to the ruling of the CA Seventh (7th) Division in the Annulment Case. However, it also pointed out that since this Court had already spoken and laid to rest the issue of whether or not Makati had committed willful and deliberate forum shopping in these cases, it no longer had any option but to adhere thereto.

The appellate court then proceeded to dismiss Makati's appeal with prejudice.

Aggrieved, Makati filed a Motion for Reconsideration[40] which was denied in the second assailed Resolution dated October 3, 2017.

Hence, this Petition.

ARGUMENTS OF THE PARTIES

Makati submits that the doctrine of transcendental importance should apply in this case. According to Makati, the CA erred in ruling that there was absent in its appeal any underlying consideration that would have compelled it to disregard procedural technicalities and decide the case based on its merits. Makati contends that the CA, in dismissing its appeal exclusively on the ground of forum shopping, deviated from well-settled jurisprudence giving primacy to substantial justice over rules of procedure, especially in cases the subject matter of which were of considerable importance.

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[37] *Id.* at 199.
[38] *Id.* at 193-209.
[39] Supra note 30.
[40] *Rollo*, pp. 254-266.

Makati also argues that the CA cannot modify the Decision in G.R. No. 208393 where this Court, notwithstanding the finding of forum shopping, deemed it prudent not to order the dismissal of the case but merely chose to fine the lawyers of Makati.[41] It asserts that had the Supreme Court really wanted to dismiss the instant case to sanction Makati, it would have expressly done so. However, it made no such order.[42]

Makati further asserts that Presidential Proclamation Nos. 2475 and 518 are constitutional. These Proclamations did not alter boundaries but merely confirmed that the disputed areas are under Makati's jurisdiction.[43]

Lastly, Makati submits that the CA Decision dated July 30, 2013 should be revived. To recall, the CA Decision reversed and set aside the RTC's Decision on the merits by expressly declaring that Makati has jurisdiction over the disputed areas and by upholding the constitutionality of the assailed Presidential Proclamations.[44] The CA also ruled therein that, contrary to the findings of the RTC, Taguig failed to present the greater weight of evidence to merit a favorable decision. Moreover, according to Makati, the rationale of the CA Decision was based on applicable rules, laws and jurisprudence.[45]

In its Comment,[46] Taguig argues that only questions of law may be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court. Considering that Makati's Petition raised factual issues, it must be dismissed. Taguig adds that the CA did not commit any reversible error because it dismissed Makati's appeal strictly in accordance with the law and the applicable decisions of this Court. Indeed, the CA correctly dismissed the appeal pursuant to this Court's finding that Makati committed willful and deliberate forum shopping. Lastly, Taguig claims that Makati cannot now be allowed to usurp the disputed areas considering that, among others, the remaining evidence on record sufficiently prove Taguig's entitlement to, and jurisdiction over, the disputed areas.[47]

In its Reply,[48] Makati argues that Taguig's contention that Makati is raising questions of fact is untenable. It must be emphasized that Makati only invoked the conclusions of facts as found by the CA. Moreover, the appeal filed by Makati should not have been dismissed on the ground of forum shopping. Technicalities must be disregarded in view of the transcendental importance of the case. Lastly, Makati reiterates that it has jurisdiction over the disputed areas considering that the purported "historical and official recognition" relied upon by Taguig is self-serving and baseless. Most of the

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[41] *Id.* at 174.
[42] *Id.* at 175.
[43] *Id.* at 176.
[44] *Id.* at 177.
[45] *Id.* at 178.
[46] *Id.* at 2216-2314.
[47] *Id.* at 2262-2263.
[48] *Id.* at 2982-3014.

pieces of evidence Taguig relied upon are questionable, if not spurious, and were correctly disregarded by the CA. Lastly, Taguig is in bad faith, considering that it introduced new allegations and issues in its Comment/Opposition which were never raised nor presented before the RTC and the CA.[49]

OUR RULING

We deny the petition on substantial grounds. While We agree with Makati on its assertions that the CA erred in dismissing its appeal because of forum shopping, We find that in the end, Taguig was able to prove its cause of action by the requisite preponderance of evidence.

We are not at all faulting the CA for dismissing the case. After all, the rules on forum shopping and abundant jurisprudence relative thereto would tend to support the action that it had taken. As there was in fact a declaration coming from this Court that Makati had committed forum shopping, the CA appears to be justified in dismissing the case before it, sans any final determination or evaluation of the evidence and the respective merits of Makati's petition and Taguig's opposition thereto.

However, it should be noted that when We held Makati guilty of forum shopping, We already took into consideration all the arguments raised by it and by Taguig. Notwithstanding the complete deliberations on the issues involved, and despite finding Makati's attorneys guilty of direct contempt for having wilfully engaged in forum shopping and imposing a fine upon them, the Court refrained from dismissing Makati's appeal. In short, the Court passed upon the dismissal of Makati's appeal *sub silentio*.

The legal concept of *sub silentio* finds basis in Rule 131, Section 3(o) of the Revised Rules of Court:

> Sec. 3. *Disputable presumptions.* - The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:
>
> x x x x
>
> (o) That ***all the matters within an issue raised in a case were laid before the court and passed upon by it***; and in like manner that all matters within an issue raised in a dispute submitted for arbitration were laid before the arbitrators and passed upon by them[.]

Thus, even if the ruling of the Court is silent as to a particular matter – in this case, the dismissal of Makati's appeal – for as long as said matter was within the issues raised in the case, it can be presumed, subject to evidence to

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[49] *Id.* at 2983-2984.

the contrary, that the matter in question was already laid before the Court and passed upon by it.[50] ***The Court considered it, but decided against it.***

If Taguig had doubted the sufficiency of the sanctions imposed by the Court, it should have filed a motion for reconsideration before Our ruling became immutable. Instead, Taguig filed a motion to dismiss Makati's appeal in the CA, citing Our decision finding that Makati had committed forum shopping. The CA granted the motion, but in doing so, it overstepped the clear directive of Our *fallo*, which reads –

> **WHEREFORE**, the Petition is **GRANTED**. The assailed Resolutions dated April 30, 2013 and July 25, 2013 of the Court of Appeals Seventh Division in CA-G.R. SP No. 120495 are **MODIFIED**. Respondent City of Makati is declared to have engaged in forum shopping in simultaneously pursuing a Petition for Annulment of Judgment before the Court of Appeals and a Motion for Reconsideration before Branch 153 of the Regional Trial Court of Pasig City, and later, an Appeal before the Court of Appeals.
>
> We find respondent City of Makati, through its counsels Atty. Pio Kenneth I. Dasal, Atty. Glenda Isabel L. Biason, and Atty. Gwyn Gareth T. Mariano, **GUILTY** of direct contempt, and **FINE** Atty. Pio Kenneth I. Dasal, Atty. Glenda Isabel L. Biason and Atty. Gwyn Gareth T. Mariano P2,000.00 each.
>
> **SO ORDERED.**

In its motion to dismiss Makati's appeal before the CA, Taguig highlighted Our finding that Makati had committed forum shopping, and devoted many pages citing jurisprudence to the effect that the consequence of forum shopping is the dismissal of the cases filed simultaneously. While that usually holds true in other cases, the same cannot be applied to Makati's appeal.

The dispositive portion or the fallo of Our decision in G.R. No. 208393 limited Makati's sanction to a fine. That *fallo* is Our decisive resolution of the case. Even if the body of that decision mentioned a finding of forum shopping, the opinion contained in the body of the decision may be resorted to only to determine the *ratio decidendi* for the disposition. It should not be taken out of context in order to add to or amend the clear words of the *fallo*.

In the recent case of *BBB vs. People*,[51] the Court, through Justice Amy C. Lazaro-Javier, had occasion to reiterate the well-settled rule that when there is a conflict between the dispositive part and the opinion of the court contained in the text or body of the decision, the former must prevail over the latter on

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[50] *HGL Development Corp. vs. Hon. Penuela*, 786 Phil. 329, 366-367 (2016).

[51] G.R. No. 249307, August 27, 2020.

the theory that the dispositive portion is the final order, while the opinion is merely a statement, ordering nothing.

Citing *Florentino v. Rivera*,[52] the Court in *BBB* explained –

> It is settled rule that 'the operative part in every decision is the dispositive portion or the *fallo*, and where there is conflict between the *fallo* and the body of the decision, the *fallo* controls. This rule rests on the theory that the *fallo* is the final order while the opinion in the body is merely a statement, ordering nothing.' We expounded on the underlying reason behind this rule in *Republic v. Nolasco* where, reiterating the earlier pronouncements made in *Contreras v. Felix*, we said:
>
> > More to the point is another well-recognized doctrine that the final judgment of the court as rendered in the judgment of the court irrespective of all seemingly contrary statements in the decision. "A judgment must be distinguished from an opinion. The latter is the informal expression of the views of the court and cannot prevail against its final order or decision. While the two may be combined in one instrument, the opinion forms no part of the judgment. So, ... there is a distinction between the findings and conclusions of a court and its Judgment. While they may constitute its decision and amount to the rendition of a judgment, they are not the judgment itself. They amount to nothing more than an order for judgment, which must, of course, be distinguished from the judgment." (1 Freeman on Judgments, p. 6). At the root of the doctrine that the premises must yield to the conclusion is perhaps, side by side with the needs of writing finis to litigations, the recognition of the truth that "***the trained intuition of the judge continually leads him to right results for which he is puzzled to give unimpeachable legal reasons***." "***It is an everyday experience of those who study judicial decisions that the results are usually sound, whether the reasoning from which the results purport to flow is sound or not***." (The Theory of Judicial Decision, Pound, 36 Harv. Law Review, pp. 9, 51). It is not infrequent that the grounds of a decision fail to reflect the exact views of the court, especially those of concurring justices in a collegiate court. We often encounter in judicial decisions, lapses, findings, loose statements and generalities which do not bear on the issues or are apparently opposed to the otherwise sound and considered result reached by the court as expressed in the dispositive part, so called, of the decision.
>
> Succinctly stated, '***where there is a conflict between the dispositive portion of the decision and the body thereof, the dispositive portion controls irrespective of what appears in the body of the decision***.' While the body of the decision, order or resolution might create some ambiguity in the manner the court's reasoning preponderates, it is the dispositive portion thereof that finally invests rights upon the parties, sets conditions for the exercise of those rights, and imposes the corresponding duties or obligations.
>
> More emphatically, *Light Rail Transit Authority v. Court of Appeals* declares that 'it is the dispositive part of the judgment that actually settles

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[52] 515 Phil 494 (2006).

> and declares the rights and obligations of the parties, finally, definitively, and authoritatively, notwithstanding the existence of inconsistent statements in the body that may tend to confuse.' In this regard, it must be borne in mind 'that execution must conform to that ordained or decreed in the dispositive part of the decision; consequently, ***where the order of execution is not in harmony with and exceeds the judgment which gives it life, the order has pro-tanto no validity***.' (citations omitted)[53]

On this note, We hold that the CA overstepped its bounds and thus erred in dismissing the case based on forum shopping. But then again, We cannot blame the CA for deciding in the manner that it did as We are also aware of the sanctions that should have ordinarily been imposed in cases of forum shopping. However, We have already laid down our ruling on the forum shopping case involved herein, and the CA should have simply respected our decision and the resultant penalties imposed on Makati, which did not include the dismissal of its CA appeal in the Territorial Dispute Case.

Moreover, the imperatives of judicial economy dictate that the present case be resolved on the merits. Judicial economy mandates that litigation be "with the least cost to the parties and to the courts' time, effort, and resources."[54] This controversy has dragged on for almost two decades, requiring both parties to expend incalculable resources. They presented expert witnesses, scoured historical records, and retained the services of private counsel to prove their respective claims. The courts too have dedicated time, effort, and resources to study voluminous records and research complex factual and legal issues. It would be a disservice to all and an unsatisfactory conclusion to a decades-long lawsuit to insist on its technical dismissal.

Indeed, dismissal on procedural grounds would only foment doubt on the definiteness of Our verdict. There is a chance that the same issues would be relitigated in the future because of the perceived inconclusiveness of such a ruling.

At any rate, We have the complete records of the case. The parties have presented their evidence and arguments in support of their respective positions. In the interest of judicial economy, the better course of action is to resolve the territorial dispute on the merits.

However, Makati, despite presenting a valid ground to set aside the procedural lapse committed by the CA, cannot as yet lay claim over the disputed territory as it appears that the contested areas, based on historical, documentary, and testimonial evidence, indeed fall within the territorial jurisdiction of Taguig.

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[53] *Id.* at 501-503.
[54] *Malixi v. Baltazar*, 821 Phil. 423, 452 (2017).

In justifying a favorable ruling for Taguig, the Court will have to delve into the factual assertions of the parties. Taguig is unyielding in its stand that factual issues are outside the province of a petition for review on certiorari, but the general rule that only questions of law are entertained in petitions of this nature admits of several exceptions. In *Medina vs. Asistio, Jr.*,[55] the Court enumerated these exceptions as follows:

> (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.[56]

The factual findings of the Court *a quo* and the CA are so diametrically opposed to each other that there is a need to revisit the respective evidence of the parties to come up with a judicious determination of Makati and Taguig's respective claims. The present controversy involves much public interest and its importance is not lost on both local government units. Their respective economic lifeblood is at stake, and it would be too simplistic and downright unfair if technicalities are allowed to decide their fate. If this Court is to afford justice to the constituents of the affected local government units, We must look deeper into the factual milieu involved herein and settle, once and for all, this long-running border dispute based on the merits of the case.

A rule that has long been recognized in this jurisdiction is that substantial justice should take precedence over rules of procedure. As We held in the case of *Curammeng vs. People*,[57] "if a rigid application of the rules of procedure will tend to obstruct rather than serve the broader interests of justice in light of the prevailing circumstances of the case, such as where strong considerations of substantive justice are manifest in the petition, the Court may relax the strict application of the rules of procedure in the exercise of its equity jurisdiction."[58]

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[55] 269 Phil. 225 (1990).
[56] *Id.* at 232.
[57] 799 Phil. 575 (2016).
[58] *Id.* at 581.

With the end in view of serving substantial justice to the residents of Taguig and Makati, the Court, for the meantime and in this particular petition, has decided to do away with the requisites of Rule 45 and proceed to evaluate the facts surrounding their dispute.

Moreover, the instant petition involves a boundary issue between two local government units. That alone, to the mind of the Court, suffices to sidestep procedural rules. Boundaries determine the geographic scope and limits of a local government unit's jurisdiction, and a local government unit can only exercise its powers within the confines of its borders. Their importance cannot be denied, as We once held in the case of *Mariano, Jr. v. Commission on Elections*,[59] thus:

> The importance of drawing with precise strokes the territorial boundaries of a local unit of government cannot be overemphasized. The boundaries must be clear for they define the limits of the territorial jurisdiction of a local government unit. It can legitimately exercise powers of government only within the limits of its territorial jurisdiction. Beyond these limits, its acts are ultra vires. Needless to state, any uncertainty in the boundaries of local government units will sow costly conflicts in the exercise of governmental powers which ultimately will prejudice the people's welfare. This is the evil sought to be avoided by the Local Government Code in requiring that the land area of a local government unit must be spelled out in metes and bounds, with technical descriptions.[60]

When a local government unit exercises powers outside the limits of its territorial jurisdiction, the acts are considered void for being *ultra vires*. Thus, in *City of Tagaytay v. Guerrero*,[61] We censured the City of Tagaytay for levying taxes outside its territorial jurisdiction:

> In this case, it is basic that before the City of Tagaytay may levy a certain property for sale due to tax delinquency, the subject property should be under its territorial jurisdiction. The city officials are expected to know such basic principle of law. The failure of the city officials of Tagaytay to verify if the property is within its jurisdiction before levying taxes on the same constitutes gross negligence.[62]

When disputes in territorial boundaries are not resolved on the merits, more serious problems might possibly arise, affecting the operations of the local government units concerned and ultimately, bringing untold misery on their constituents. One possible predicament would relate to the payment of taxes, such as what transpired in the case of *Sta. Lucia Realty & Development, Inc. v. City of Pasig*.[63] Therein, Sta. Lucia was caught in the middle of a boundary dispute between the Municipality of Cainta, Rizal and Pasig City.

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[59] 312 Phil. 259 (1995).
[60] *Id.* at 267.
[61] *City Government of Tagaytay v. Guerrero*, 616 Phil. 28 (2009).
[62] *Id.* at 57.
[63] 667 Phil. 171 (2011).

It was paying real property taxes to Cainta when Pasig filed a collection suit against it also for real property taxes.[64]

Relaxing the rules in favor of substantial justice is acceptable in territorial disputes, given their consequences on the lives of the residents of the involved local government units. In *Municipality of Pateros v. Court of Appeals*,[65] the appellate court dismissed the appeal of Pateros for being an improper remedy. At issue in that case is the jurisdiction of the RTC over the boundary dispute between what was then the Municipalities of Makati and Pateros. Since the issue of the RTC's subject matter jurisdiction is a pure question of law, Pateros should have appealed the case to this Court via a petition for review on *certiorari* under Rule 45, instead of an ordinary appeal under Rule 41 of the Rules of Court. Nevertheless, We opted to brush aside procedural rules to settle the controversy on the merits:

> 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.
>
> 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* 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

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[64] *Id.* at 176.

[65] *Municipality of Pateros v. Court of Appeals*, 607 Phil. 104 (2009).

> 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. x x x[66]

Indeed, even Congress reposed on the courts the duty to settle boundary disputes, such as in the present Petition. In the instant controversy, the charters of Makati and Taguig contain similarly worded provisos mandating the resolution of boundary disputes by the appropriate agency or forum, which in this case is the courts. In particular, Section 2 of the Charter of the City of Makati[67] provides:

> SECTION 2. The City of Makati. — The Municipality of Makati shall be converted into a highly urbanized city to be known as the City of Makati, hereinafter referred to as the City, which shall comprise the present territory of the Municipality of Makati in Metropolitan Manila Area over which it has jurisdiction bounded on the northeast by Pasig River and beyond by the City of Mandaluyong and the Municipality of Pasig; on the southeast by the municipalities of Pateros and Tagig; on the southwest by the City of Pasay and the Municipality of Tagig; and, on the northwest, by the City of Manila.
>
> **The foregoing provision shall be without prejudice to the resolution by the appropriate agency or forum of existing boundary disputes or cases involving questions of territorial jurisdiction between the City of Makati and the adjoining local government units.** (Emphasis supplied.)

Section 2 of the Charter of the City of Taguig[68] likewise states:

> SECTION 2. The City of Taguig. — The Municipality of Taguig is hereby converted into a highly urbanized city to be known as the City of Taguig, hereinafter referred to as the City, which shall comprise the present territory of the Municipality of Taguig in the Metropolitan Manila area over which it has jurisdiction, bounded on the north by the City of Makati; on the northeast by the City of Pasig and the Municipality of Pateros; on the east by Laguna de Bay and the Municipality of Taytay; on the southeast by Laguna de Bay; on the south by the City of Muntinlupa; on the southwest by the City of Muntinlupa and the Municipality of Parañaque; on the west by Pasay City and the Municipality of Parañaque; and on the northwest by the City of Makati.
>
> **The foregoing provision shall be without prejudice to the resolution by the appropriate agency or forum of existing boundary disputes or cases involving questions of territorial jurisdiction between the City of Taguig and the adjoining local government units.** (Emphasis supplied.)

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[66] *Id.* at 114-115.
[67] REPUBLIC ACT NO. 7854, July 19, 1994.
[68] REPUBLIC ACT NO. 8487, February 11, 1998.

In *Mariano v. Commission on Elections*,[69] We took judicial notice of the fact that Congress refrained from delineating by metes and bounds Makati's territory to give way for the courts to settle its existing boundary dispute with Taguig:

> The deliberations of Congress will reveal that there is a legitimate reason why the land area of the proposed City of Makati was not defined by metes and bounds, with technical descriptions. At the time of the consideration of R.A. No. 7854, the territorial dispute between the municipalities of Makati and Taguig over Fort Bonifacio was under court litigation. Out of a becoming sense of respect to a co-equal department of government, the legislators felt that the dispute should be left to the courts to decide. They did not want to foreclose the dispute by making a legislative finding of fact which could decide the issue. This would have ensued if they defined the land area of the proposed city by its exact metes and bounds, with technical descriptions. We take judicial notice of the fact that Congress has also refrained from using the metes and bounds description of land areas of other local government units with unsettled boundary disputes.
>
> We hold that the existence of a boundary dispute does not per se present an insurmountable difficulty which will prevent Congress from defining with reasonable certitude the territorial jurisdiction of a local government unit. In the cases at bench, Congress maintained the existing boundaries of the proposed City of Makati but as an act of fairness, made them subject to the ultimate resolution by the courts.[70]

It would thus be an abdication of Our duty if We would not look into all facets of the present dispute in coming up with a judicious adjudication of Makati and Taguig's conflicting factual claims. We have to resolve, with finality, the territorial dispute that has gripped both cities for decades, bearing in mind the best interest of the constituents of the affected government units. This resolution should not be based on the operation of some procedural rules, but rather on the merit of the causes of action and defenses presented by Makati and Taguig on behalf of their respective citizens.

II.

The creation of local government units is an inherently legislative function.[71] Somewhat similar to a state, a local government unit is defined by its territorial boundaries, composed of a population as its constituency, and led by a government of its own that is endowed with local autonomy and local self-determination. It follows then that the power to create local government units necessarily includes the power to define their boundaries. It is a broad power, limited only by constitutional restrictions.[72]

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[69] 312 Phil. 259 (1995).
[70] Id. at 261.
[71] *Pelaez v. Auditor General*, 122 Phil. 965 (1965).
[72] *Mendenilla v. Onandia*, 115 Phil. 534 (1962).

Under various organic laws, this power has evolved from a severely unrestricted form to its present incarnation, where it is subordinated to the right of the people to concur with or reject any proposed changes.

At this juncture, We find it necessary to trace the constitutional history of the power to create local government units and alter their territorial boundaries.

Under the Philippine Bill of 1902, the power to create local government units and alter their territorial boundaries was unlimited. The organic law did not provide for any constraints. Consequently, the legislature back then could create, abolish, merge, and transfer local government units at will.

However, under the Revised Administrative Code of 1917, the prerogative to create and set the boundaries of local government units was delegated to the Chief Executive. Thus:

> SECTION 68. *General authority of (Governor-General) President of the Philippines to fix boundaries and make new subdivisions.* — The (Governor-General) President of the Philippines may by executive order define the boundary, or boundaries, of any province, subprovince, municipality, [township] municipal district, or other political subdivision, and increase or diminish the territory comprised therein, may divide any province into one or more subprovinces, separate any political division other than a province, into such portions as may be required, merge any of such subdivisions or portions with another, name any new subdivision so created, and may change the seat of government within any subdivision to such place therein as the public welfare may require: Provided, That the authorization of the (Philippine Legislature) National Assembly of the Philippines shall first be obtained whenever the boundary of any province or subprovince is to be defined or any province is to be divided into one or more subprovinces. When any action by the (Governor-General) President of the Philippines in accordance herewith makes necessary a change of the territory under the jurisdiction of any administrative officer or any judicial officer, the (Governor-General) President of the Philippines, with the recommendation and advice of the head of the Department having executive control of such officer, shall redistrict the territory of the several officers affected and assign such officers to the new districts so formed.
>
> Upon the changing of the limits of political divisions in pursuance of the foregoing authority, an equitable distribution of the funds and obligations of the divisions thereby affected shall be made in such manner as may be recommended by the (Insular Auditor) Auditor General and approved by the (Governor-General) President of the Philippines.

The 1935 Constitution did nothing to change this paradigm. It was only with the advent of the 1973 Constitution that the requirement of plebiscite was introduced. Thus, under Article XI, Section 3 of the 1973 Constitution, "[n]o province, city, municipality, or barrio 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 the approval by a majority of the votes cast in a plebiscite in the unit or units affected."

The plebiscite requirement was likewise adopted by the 1987 Constitution. In particular, Article X, Section 10 of the current basic law provides that "[n]o 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."

Consequently, any change in the boundaries of local government units before the effectivity of the 1973 Constitution may be validly effected without the need for a plebiscite. In *Ceniza v. Commission on Elections*,[73] We held:

> Petitioners assail the charter of the City of Mandaue as unconstitutional for not having been ratified by the residents of the city in a plebiscite. This contention is untenable. The Constitutional requirement that the creation, division, merger, abolition, or alteration of the boundary of a province, city, municipality, or barrio should be subject to the approval by the majority of the votes cast in a plebiscite in the governmental unit or units affected is a new requirement that came into being only with the 1973 Constitution. It is prospective in character and therefore cannot affect the creation of the City of Mandaue which came into existence on June 21, 1969.[74]

Conversely, any substantial alteration in territorial boundaries from the effectivity of the 1973 Constitution to the present, to be valid, must be approved by a majority of the votes cast in a plebiscite in the political units directly affected thereby.

Since the creation of local government units is essentially legislative in nature, We generally do not consider historical claims. It is the delimitation in the charters that have primacy in the resolution of boundary disputes as they reflect the will of Congress *vis-à-vis* the limits of the local government units' territorial jurisdiction.

Indeed, in resolving boundary disputes, Our duty is merely to carry legislative intent into effect. We do not fix the territories of the local government units Ourselves as such would be judicial legislation, which is improper in Our constitutional paradigm. In *Municipality of Jimenez v. Baz*,[75] We explained:

> 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

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[73] 184 Phil. 597 (1980).
[74] *Id.* at 608.
[75] *Municipality of Jimenez v. Baz, Jr.*, G.R. No. 105746, December 2, 1996, 333 Phil. 1-19.

> 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.

Similarly, in *Municipality of Nueva Era, Ilocos Norte v. Municipality of Marcos, Ilocos Norte*,[76] We ruled:

> A[s] the law creating a municipality fixes its boundaries, settlement of boundary disputes between municipalities is facilitated by carrying into effect the law that created them.
>
> 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, which only the Congress can do.

The problem in this case is that at no point in the charters of both Makati and Taguig were their territorial limits expressed in metes and bounds.

We elaborate.

Both cities existed during the Spanish colonization. Their juridical existence was formalized under the Municipal Code of 1901,[77] which recognized existing *pueblos* as municipal corporations with the same boundaries as they historically possessed before the American occupation:

> SECTION 1. (a) The *pueblos* of the Philippine Islands shall be recognized as municipal corporations with the same boundaries as now existing de jure or de facto, upon organization under the provisions of this Act.
>
> (b) This Act shall not apply to the city of Manila, for which special legislation shall be enacted.
>
> (c) This Act shall not apply to the settlement of non-Christian tribes, for which special legislation shall be enacted.
>
> SECTION 2. (a) *Pueblos* incorporated under this Act shall be designated as municipalities (*municipios*), and shall be known respectively by the names heretofore adopted. Under such names they may sue and be sued, contract and be contracted with, acquire and hold real and personal property for the general interests of the municipality, and exercise all the powers hereinafter conferred upon them.
>
> (b) All property and property rights vested in any pueblo under its former organization shall continue to be vested in the same municipality after its incorporation under this Act.

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[76] *Municipality of Nueva Era, Ilocos Norte v. Municipality of Marcos, Ilocos Norte*, 570 Phil. 395-420 (2008).
[77] Act No. 82, January 31, 1901.

By virtue of Act No. 137,[78] Makati and Taguig were incorporated into the newly created Province of Rizal.

On October 12, 1903, Act No. 942 was enacted, which reduced the number of municipalities comprising Rizal from 32 to 15. Taguig was merged with Muntinlupa and Pateros to form the Municipality of Pateros. Makati, which was known then as the Municipality of San Pedro Macati, preserved its existing boundaries.

Just over a month later, on November 24, 1903, Act No. 1008 transferred Muntinlupa from the Province of Rizal to the Province of Laguna. At this point, the Municipality of Pateros comprised the territories of Pateros and Taguig.

On March 22, 1905, the legislature again changed its mind. Through the promulgation of Act No. 1308, Muntinlupa reverted to the Province of Rizal and was merged with the Municipality of Pateros. The Municipality of Pateros was renamed the Municipality of Taguig and the seat of government was likewise transferred to Taguig.

From 1908 to 1918, Taguig, Pateros, and Muntinlupa were separated into three distinct municipalities.[79] On February 28, 1914, San Pedro Macati, Province of Rizal was renamed Makati, by which it is still known at present.[80]

By virtue of Presidential Decree No. 824,[81] Makati and Taguig, along with other municipalities and cities, were carved out from the Province of Rizal to form the Metropolitan Manila area.

Makati[82] and Taguig[83] were subsequently converted into highly urbanized cities. However, as stated earlier, Congress declined to categorically state in metes and bounds the extent of each city's territorial jurisdiction.

Thus, the statutes from the American colonial period up to the present merely adopted the cities' historical boundaries without denoting their specific territories. This being the case, resort to other kinds of evidence is necessary to settle the present boundary dispute.

III.

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[78] June 11, 1901.
[79] Executive Order 20, s. of 1908; Executive Order No. 36 s. of 1909; and Executive Order No. 108, s. of 1918.
[80] Act No. 2390, *Changing the Names of Certain Municipalities, Townships and Barrios*, February 28, 1914.
[81] Creating the Metropolitan Manila and the Metropolitan Manila Commission and for Other Purposes, November 7, 1975.
[82] Republic Act No. 7854, July 19, 1994.
[83] Republic Act No. 8487, February 11, 1998.

Taguig, as the plaintiff in the case before the RTC of Pasig, must prove by preponderance of evidence that it has a better claim to the disputed areas. Simply put, Taguig must prove that its claim aligns more with the intent of the legislature than that of Makati.

Preponderance of evidence is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of evidence" or "greater weight of the credible evidence."[84] It is determined by considering all the facts and circumstances of the case, culled from the evidence, regardless of who actually presented it.[85]

Preponderance of evidence also refers to the probability to truth of the matters intended to be proven as facts. As such, it concerns a determination of the truth or falsity of the alleged facts based on the evidence presented by a party.[86]

In other words, preponderance of evidence, in the final analysis, means probability of truth.[87] It is that evidence which is more convincing to the Court as worthier of belief than that which is offered in opposition thereto.[88]

In assessing the evidence presented by the parties, it goes without saying that We can only consider those that were formally offered.[89] However, in addition to the formally offered evidence, We can take judicial notice of the official acts of the legislative, executive and judicial branches of the government,[90] and take them into account in resolving the case, regardless if they were raised by the parties.

Since We are dealing here with mostly historical evidence, We also apply by analogy the concept of "critical date" from public international law. A doctrine often used in resolving territorial disputes, critical date means that point in time when the dispute has crystallized. The critical date acquires much significance in that acts performed by the parties after the critical date to bolster their respective claims are accorded little to no probative value, unless they are a normal continuation of prior acts and not undertaken merely to improve their legal position.[91]

The reason for this is simple. Such acts would lack any evidentiary weight as they were executed in bad faith merely to reinforce a party's theory of the case or cure whatever weakness exists in their claim.

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[84] *Spouses Garcia v. Northern Islands Co., Inc.*, G.R. No. 226495, February 5, 2020.
[85] *Supreme Transliner Inc. v. Court of Appeals*, 421 Phil. 692-700 (2001).
[86] *Caranto v. Caranto*, G.R. No. 202889, March 2, 2020.
[87] *Tan, Jr. v. Hosana*, 780 Phil. 258-272 (2016).
[88] *BP Oil and Chemicals International Philippines, Inc. v. Total Distribution & Logistics Systems, Inc.*, 805 Phil. 244-246 (2017).
[89] RULES OF COURT, Rule 132, Section 34.
[90] RULES OF COURT, Rule 129, Section 1.
[91] See *Indonesia v. Malaysia*, Sovereignty over Pulau Ligitan and Pulau Sipadan, Judgment, ICJ Reports 2002, p. 682, para. 135.

Here, We fix the critical date on January 31, 1990, the date when Proclamation No. 518, s. of 1990 was issued. While the territorial row has been brewing prior to this date, it can be said that the territorial dispute crystallized when President Aquino issued the second assailed proclamation. At this moment, both parties were put on notice regarding their contending claims over the disputed areas, the culmination of which was the filing of Taguig's complaint on November 22, 1993.

IV.

After sifting through the voluminous records and the numerous issues raised by both parties, We are convinced that Taguig was able to prove by preponderance of evidence its claim over the disputed area.

In arriving at this decision, We considered historical evidence, maps, cadastral surveys, and the contemporaneous acts of lawful authorities.[92]

IV. A.
Historical evidence, maps, and cadastral surveys

Taguig anchors its claim on Survey Plan Psu-2031,[93] which the US Government purportedly caused to be prepared and subsequently approved in 1909.

According to Psu-2031, Fort McKinley was bounded on the northern and northwestern side by the Guadalupe Estate and the San Pedro de Macati Estate. Both estates appear to be located in the territory of Pasay, which was known then as Malibay.

It was only in 1979, with the approval of the Makati Municipal Boundary Map, that these estates were included in Makati. However, Taguig claims that no part of Parcel 4 was ever located within the Makati Municipal Boundary Map.

Taguig likewise maintains that Psu-2031 was mentioned in various government issuances, bolstering its status as the authoritative mapping of the parties' territorial boundaries. Taguig adds that Psu-2031 has been used as the basis for the cadastral mapping of Pasig, Pasay, Taguig, and even that of Makati.

Makati, for its part, argues that Psu-2031, which was marked as Exhibit "C", was never identified during the trial and is fake and spurious. At any rate, Psu-2031 was a mere private land survey and was not meant to reflect existing political boundaries.

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[92] *Barangay Sangalang v. Barangay Maguihan*, G.R. No. 159792, December 23, 2009, 623 Phil. 711-729.
[93] Exhibit "C".

To oppose Taguig's historical claim, Makati additionally presented three documents:

a) Certified true copy of a 1891 document titled "Cuaderno Suppletorio del Registro de Anotaciones de Titulos de Propriedad de Terrenos Espedidos por la Direccion General de Administracion Civil"[94] (Cuaderno Suppletorio) or Spanish book of registry of real properties, obtained from the National Archives of the Philippines. The Cuaderno Suppletorio was translated by Professor Emmanuel Luis A. Romanillos (Prof. Romanillos), a professor of foreign languages at the University of the Philippines Diliman;

b) The Spanish contract of sale[95] over Hacienda Maricaban, which was also translated by Prof. Romanillos. This document allegedly contained a clear description of the entire Hacienda Maricaban and depicted which portions of the Hacienda fell under the jurisdictions of San Pedro Macati, Pasig, Taguig, Pateros, Parañaque, and Malibay; and

c) A certified true copy of the "Map of Fort William McKinley Military Reservation (General Order No. 104 October 3rd 1902), obtained by Engr. Almeda from the United States National Archives.[96]

Based on these documents, Engr. Alameda, one of Makati's expert witnesses, plotted and drew a map of the portion said to be under the jurisdiction of Makati.

From the sketch map, Makati concludes that the portion sold by Doña Casal to the US Government in 1902 was the northern portion of Hacienda Maricaban, which eventually became Fort McKinley under General Order No. 104 of the United States. In addition, Makati claims this portion falls under its jurisdiction.

The remaining portion of Hacienda Maricaban was eventually registered in 1906 through Decreto No. 1368[97] issued by the Court of Land Registration in the name of Doña Pascual, the resulting title being OCT No. 291. The land covered by OCT No. 291[98] was located within the jurisdictions of Taguig, Pasay, and Parañaque. This area allegedly was outside Fort McKinley, which was earlier established through General Order No. 104 on the parcel sold in 1902.

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[94] Exhibit "21".
[95] Exhibit "22".
[96] Exhibit 64
[97] Professor Romanillos's translation of the Decreto No. 1368 was marked as Exhibit "42".
[98] Exhibit "24".

We find the evidence presented by Taguig more credible.

At the outset, We rule that Psu-2031 (Exhibit "C") is admissible in evidence.

Evidence is admissible when it is relevant and competent.[99] Relevancy of evidence is assessed in terms of its relation to the fact in issue as to induce belief in its existence or non-existence.[100] Evidence is competent if it is not excluded by the Constitution, laws, or the Rules of Court.[101]

The admissibility of evidence should not be equated with weight of evidence. Relevance and competence determine the admissibility of evidence, while weight of evidence presupposes that the evidence has already been admitted and pertains to its tendency to convince and persuade.[102]

In other words, admissibility determines whether a piece of evidence should be considered at all. However, admission in evidence does not automatically mean that it will be accorded weight. The assessment of the probative value of evidence is still addressed to the sound discretion of the courts.

Under the Rules on Evidence which governed the trial of the present case, documents are either public or private. Private documents are those that do not fall under any of the enumerations in Section 19, Rule 132 of the Rules of Court. Section 20 of the same Rule, in turn, provides that before any private document is received in evidence, its due execution and authenticity must be proved either by anyone who saw the document executed or written, or by evidence of the genuineness of the signature or handwriting of the maker.[103]

Here, Taguig submitted Psu-2031 as Exhibit "C" during the hearing on its application for the issuance of a writ of preliminary injunction and was identified by DENR Regional Technical Director Eriberto V. Almazan and Taguig Municipal Assessor Esmeraldo Ramos. Exhibit "C" was compared with a certified true copy of Psu-2031 and was determined to be a true and faithful reproduction thereof.

Exhibit "C" is also substantially similar to Taguig's Exhibits "XX" and "AAA" since they were both based on Psu-2031. They only differ in that Exhibits "XX" and "AAA" contained the latest subdivision surveys, land information, and proclamations at the time of their preparation. Exhibits "XX" and "AAA" were duly admitted in evidence.[104]

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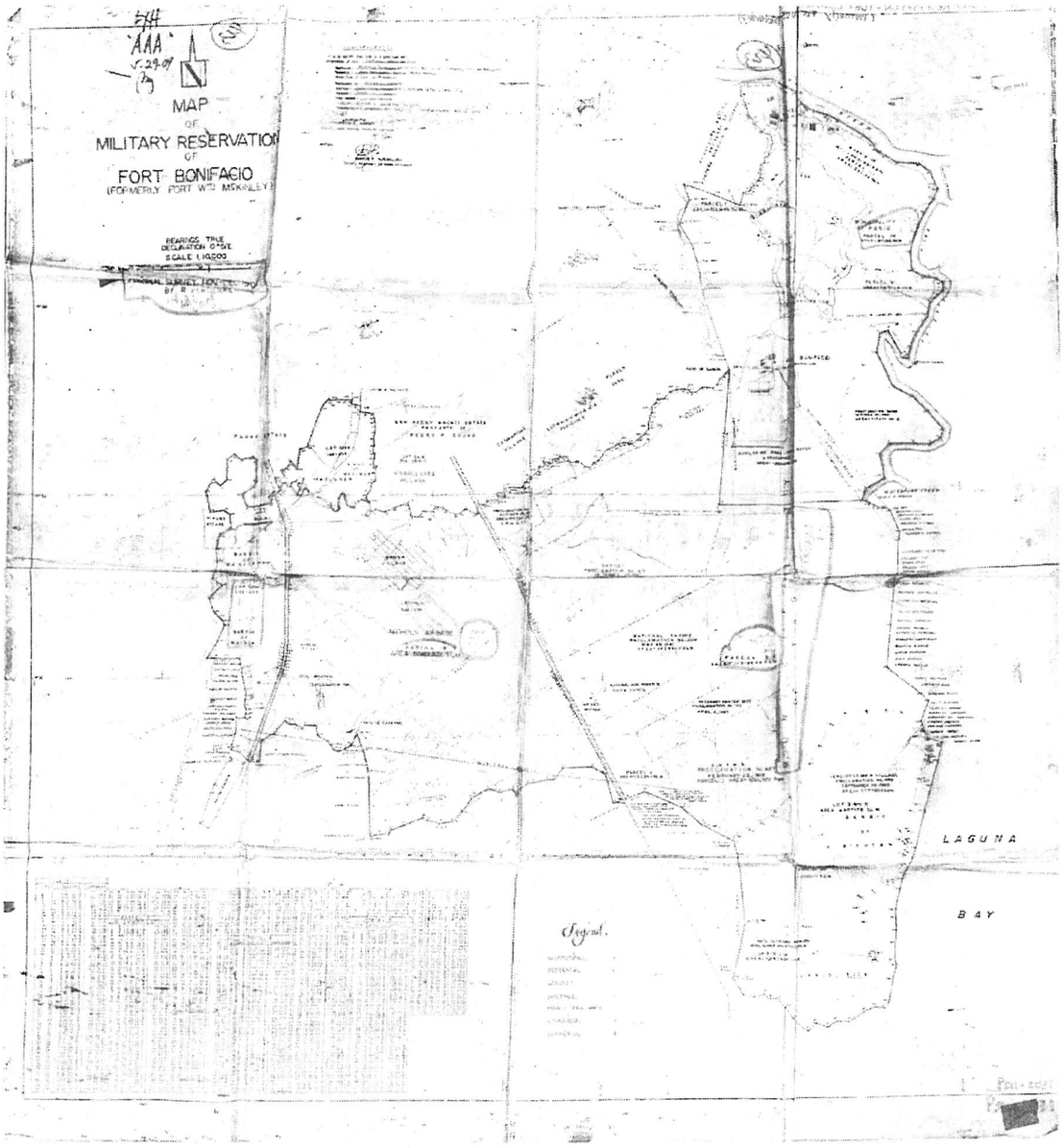
[99] RULES OF COURT, Rule 128, Section 3.
[100] RULES OF COURT, Rule 128, Section 4.
[101] RULES OF COURT, Rule 128, Section 3.
[102] *Martires v. Heirs of Somera*, G.R. No. 210789, December 3, 2018.
[103] *Franco v. People*, 780 Phil. 36-54 (2016).
[104] Records, Vol. XIV, pp. 60-81.



There is sufficient proof that Psu-2031 was prepared at the instance of the US Government to draw a survey plan of Fort McKinley. This may be inferred from the testimony of Eduardo Santos, Jr. (Santos), the Chief of the Vault Section of the Docket Division of the Land Registration Authority (LRA). During the hearing on April 3, 2009, Santos testified that Psu-2031 is the map of Fort McKinley, now the Fort Bonifacio, in the records of the LRA:[105]

ATTY. CORVERA:

Q- Now, in the subpoena duces tecum ad testificandum, we requested that you bring a copy of the original map of Fort William McKinley and to bring a certified true copy thereof, did you bring that, Mr. Witness?

A- I was able to bring the original copy of the Plan…

[105] TSN, April 3, 2009, pp. 10-15.

ATTY. CORVERA:

Psu 2031

A- Map of Military Reservation of Fort McKinley under Psu No. 2031.

ATTY. CORVERA: Witness producing the print copy, which is found in the Records of the Land Registration Authority.

A- And also the Petition of Zoilo Castrillo dated November 9, 1955.

Q- Now, apart from this original print copy of Psu-2031, do you recall having issued a certified true copy of the same?

A- Yes, sir.

Q- I am showing to you this copy of Psu-2031 map of Fort William Reservation Fort William McKinley.

A- Yes, sir. This is my signature.

ATTY. CORVERA:

We request that the document which is a certified true copy identified by the witness be marked as Exhibit "XX", your Honor.

COURT:

Mark it.

ATTY. CORVERA:

And the signature identified by the witness below certifying its correctness be marked as Exhibit "XX-1".

COURT:

Mark it.

ATTY. CORVERA:

We would like also to request the counsel to compare the certified true copy, which was produced and identified by the witness with the original print copy found in the records of the Land Registration Authority.

The map is too aged, Your Honor and full of tapes. Psu-2031, Map of Military Reservation (Fort William MacKinley [*sic*]).

ATTY. MARIANO:

We stipulate, your Honor.

COURT:

This Fort MacKinley (*sic*) is now the Fort Bonifacio?

ATTY. CORVERA:

Yes, your Honor. It used to be US Military Reservation.

COURT:

What is your pleasure counsel?

ATTY. MARIANO:

We stipulate, your Honor that the attached true copy appears to be a faithful reproduction of the print copy map brought by the witness.

The authenticity of Psu-2031 as a map of Fort McKinley is reinforced by the testimony of Henry Abonitalla (Abonitalla) of the Office of the Regional Technical Director for Lands of the DENR. Abonitalla testified that Exhibit "AAA," the updated version of Psu-2031, was the map of Fort McKinley or Fort Bonifacio in the records of the DENR-NCR, to wit:[106]

ATTY. CORVERA:

We are offering this witness to testify on behalf of the Chief of the Technical Records Section, Ms. Judith Poblete and he has been authorized by the said chief to bring the original copy of Psu 2031 for comparison with the certified true copy previously issued by Judith Poblete and also to testify on the contents thereof, your Honor.

COURT:

Any comment?

ATTY. MARIANO:

Your Honor, we have no comment on the offer but we would like to make of record that this is the second time that the witness has been called to the witness stand.

ATTY. CORVERA:

Yes, your Honor, that's why we manifested that the witness will be testifying under the same oath.

COURT:

Manifestation noted.

ATTY. CORVERA:

With the kind permission of the Honorable Court.

COURT:

Proceed.

DIRECT EXAMINATION ON THE WITNESS, MR. HENRY ABONITALLA BY ARTURO CORVERA.

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[106] TSN, June 19, 2009, pp. 4-13.

ATTY. CORVERA:
Q- Mr. Witness, are you here in court by virtue of any subpoena that you received?

WITNESS:
A- Yes, sir.

Q- Who authorized you to appear.

A- There was an Order given by the Director, sir.

Q- When you say "director", what is the name of this director?

A- Arturo Fadriquela. Officer-in-Charge, Regional Technical director (*sic*) for Lands, Department of Environment and Natural Resources-National Capital Region, sir.

ATTY. CORVERA:
Q- And there was a subpoena issued to Judith Poblete, chief (*sic*) Technical Records Section regarding the map of military reservation of Fort Bonifacio formerly Fort William McKinley Psu 2031, did you bring the original of the said map.

A- Yes, sir.

ATTY. CORVERA:
Witness producing the original copy of the said map Psu-2031, your Honor.

COURT:
Manifestation noted.

ATTY. CORVERA:
Q- Now, there is a certified true copy of the said map which was marked during the last hearing as Exhibit "AA", will you tell the Court of this certified true copy was issued by your office at the DENR-NCR?

WITNESS:
A- Yes, sir.

Q- Do you recognize the signatures appearing in the certification?

A- Yes, sir.

Q- And, will you please tell the Court who signed the Certification?

WITNESS:

A- Judith Poblete, Chief Technical Records Section and Ignacio Almira, Jr. Chief Regional Survey Division sir.

ATTY. CORVERA:
Q- Who are these persons that you mentioned, this Judith Poblete?

A- She is our section chief, sir.

Q- Land Survey Record Section?

A- Yes, sir.

Q- And to what section do you belong?

A- Survey and Land Records, sir.

ATTY. CORVERA:
Q- And is that under the Land Survey Section?

WITNESS:
A- Yes, sir.

Q- What about Ignacio R. Almira, Jr., who is he in the DENR-NCR?

A- Chief of Survey Division, sir.

Q- Would you examine the signatures of these persons you identified and tell the Court if these are the signatures of Poblete and Almira?

A- Yes, sir.

ATTY. CORVERA:
Q- What is the relation of this certified true copy to the original map you produced before this Court?

WITNESS:
A: It is a reproduction copy, sir.

Q- In layman's term, it is the certified true copy of the original?

A- Yes, sir.

ATTY. CORVERA:

May we ask counsel to compare the original map produced by the witness with the certified true copy previously marked as Exhibit "AAA".

ATTY. MARIANO:

> We stipulate, your Honor that the document marked as Exhibit "AAA", is a faithful reproduction of the original brought by the witness.
>
> COURT:
>
> Manifestation noted.

Furthermore, several government issuances covering the former Hacienda Maricaban, promulgated prior to the effectivity of the 1973 Constitution, mentioned or used Psu-2031 as their basis. These issuances include:

a) Proclamation No. 423, issued on July 12, 1957;

b) Proclamation No. 81, issued on February 12, 1963;

c) Proclamation No. 246, issued on May 26, 1964;

d) Proclamation No. 461, issued on September 29, 1965;

e) Proclamation No. 462, issued on September 29, 1965;

f) Proclamation No. 481, issued on October 27, 1965;

g) Proclamation No. 192, issued on April 4, 1967;

h) Proclamation No. 208, issued on May 28, 1967;

i) Proclamation No. 469, issued on September 30, 1968;

j) Proclamation No. 653, issued on February 13, 1970;

k) Proclamation No. 684, issued on April 20, 1970;

l) Proclamation No. 1041, issued on June 29, 1970; and

m) Proclamation No. 1217, issued on January 3, 1973.

If Psu-2031 is spurious and fake, as Makati would have Us believe, it would not have been referenced in various government issuances. However, the fact that several government documents mentioned or used it as their basis lends credence to Taguig's claim that its preparation has been duly sanctioned and approved by the authorities.

Moreover, in several decisions of this Court involving parcels of land within the former Hacienda Maricaban, We considered evidence that mentioned Psu-2031.[107] While findings of fact in previous cases do not

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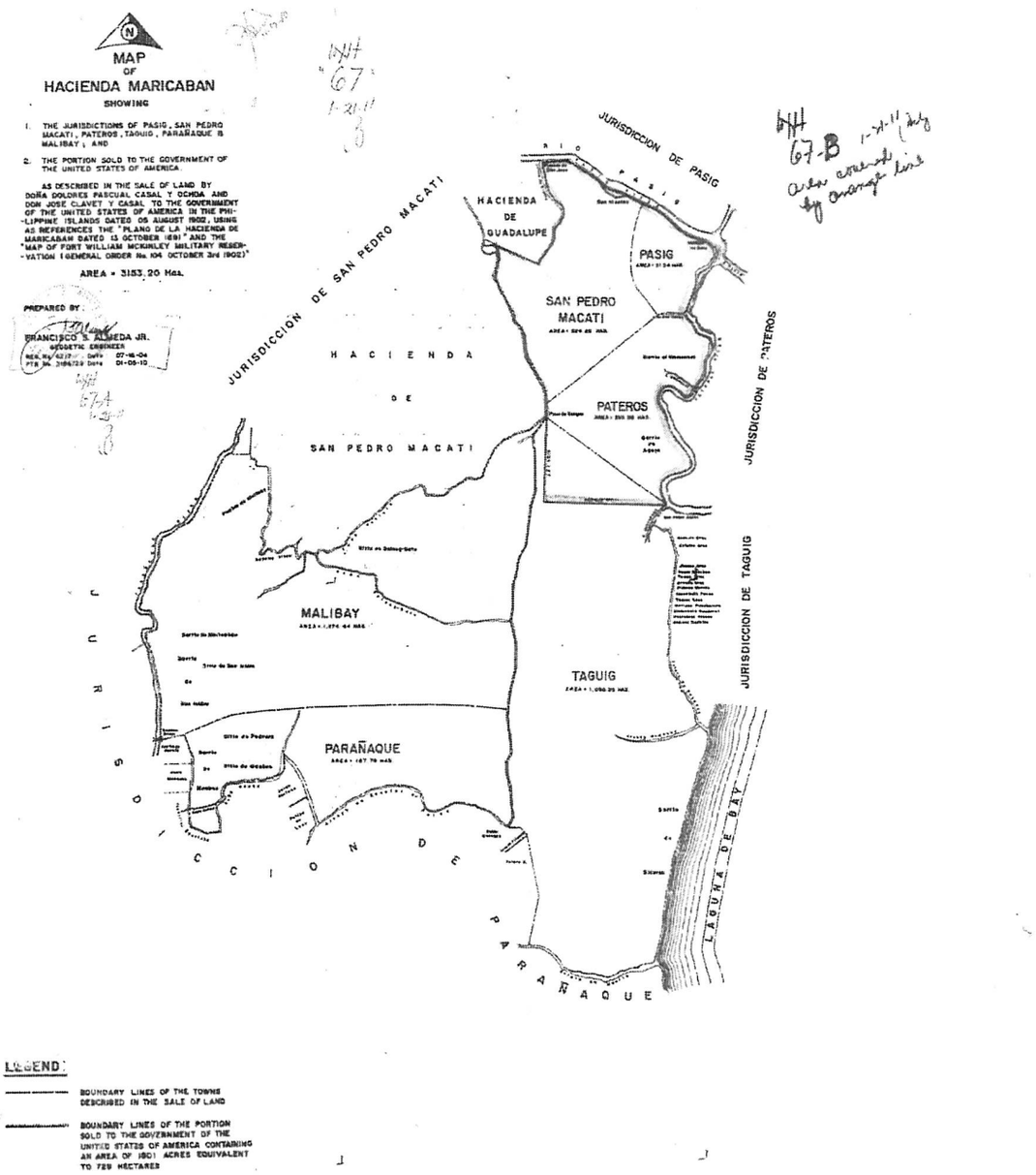
[107] See, e.g., *Spouses Modesto v. Urbina*, G.R. No. 189859, October 18, 2010, 647 Phil. 706-728; *Republic v. Southside Homeowners Association, Inc.*, G.R. Nos. 156951 & 173408, September 22, 2006, 534 Phil. 8-

constitute factual precedents that must be adhered to, We can at least take judicial notice that they cited or referred to Psu-2031. These decisions bolster the fact that Psu-2031 exists and that it has been used as reference for other survey plans.

By contrast, Makati's historical claim is anchored on a survey map produced by one of its expert witnesses using details from the *Cuaderno Suppletorio*, the Spanish contract of sale of Hacienda Maricaban, and a Map of Fort William McKinley Military Reservation obtained from the United States National Archives. The survey map, however, is based mainly on a private contract and an entry from property registry dating back to the Spanish colonization period.



34; *Acting Registrars of Land Titles and Deeds of Pasay City v. Regional Trial Court, Branch 57, Makati*, G.R. No. 81564, 90176, April 26, 1990, 263 Phil. 568-584; and *De la Cruz v. Cruz*, G.R. No. L-27759, April 17, 1970, 143 Phil. 230-236.

Between Psu-2031, which has been repeatedly recognized by duly constituted authorities, and a map, which was prepared at the instance of a party to the case, based on documents evidencing private proprietary interests, it is clear that the former carries more weight, impressed as it is with the approval of or adoption by the sovereign itself.

In addition, the "Map of Fort William McKinley Military Reservation" obtained from the United States National Archives depicted only the lot purchased in 1902, and not the entire Hacienda Maricaban. This is Makati's basis for repeatedly asserting that Fort McKinley did not cover the 1908 acquisition.[108] In other words, Makati remains firm in its claim that only Parcel 4 eventually became Fort McKinley.

However, the abovementioned proclamations belie this allegation. The proclamations consistently referred to the other portions, most notably Parcels 2 and 3, as part of Fort McKinley. Parcels 2 and 3, as admitted by Makati, was included in the 1908 transaction and covered by OCT No. 291.[109]

Since the proclamations declare Parcels 2 and 3 as part of Fort McKinley, there is sufficient basis to conclude that Fort McKinley spanned both the 1902 and 1908 acquisitions, contrary to Makati's claim. This renders the "Map of Fort William McKinley Military Reservation" and the sketch map prepared by Makati's expert witness untenable.

Considering the foregoing, We hold that Psu-2031 is the more authoritative basis for resolving the parties' historical claims. With this in mind, We now proceed to examine Psu-2031.

Psu-2031 shows that Parcel 4, where the disputed areas are located, is within the jurisdiction of Taguig. In point is the testimony of Abonitalla, as he declared that Fort McKinley could be found outside the jurisdiction of Makati based on Psu-2031 and the Makati Cadastral Survey, thus:[110]

ATTY CORVERA:
Q- Now, Mr. witness, you stated in your previous testimony as a witness that you are a Geodetic Engineer by profession, is that right?

WITNESS:
A- Yes, sir.

Q- As a Geodetic Engineer, would you be able to read or interpret this map of military reservation of Fort Bonifacio?

WITNESS:

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[108] *Rollo*, p. 157. CA *rollo*, pp. 2517-2518.
[109] *Id.*
[110] TSN, June 19, 2009, pp. 13-25.

A- What am I going to read?

Q- Would you be able to read what is contained in the map?

A- All I can say, sir, is that this map represents the boundary of Psu 2031 of Fort William McKinley, now Fort Bonifacio.

Q- When you say boundary, boundary of what, Mr. Witness, between what place?

A- Kabuuan ng apat na parsela ng Fort Bonifacio, sir.

ATTY CORVERA:
Q- Would you please point out where is Parcel 1?

WITNESS:
A- Here, sir.

INTERPRETER:
Witness is pointing to a portion which is part of Barrio Maricaban.

ATTY CORVERA:
Q- Is there any description in the portion that you pointed as Parcel 1, is there a designation in the map?

WITNESS:
A- There is, sir Barrio of Maricaban and Bario of Maubon.

ATTY CORVERA:
We request, your Honor that the portion identified by the witness as Barrio Maricaban and Barrio Maubon be bracketed and marked as Exhibit "AAA-1", your Honor.

COURT:
Mark it.

ATTY. CORVERA:
Q- What about Parcel 2 which you mentioned earlier, where is this located?

WITNESS:
A- Here, sir.

INTERPRETER:
Witness pointed to the word Parcel "2', appearing in the map.

ATTY. CORVERA:

May we request that the words "Parcel 2", be encircled and marked as Exhibit "AAA-2", you Honor.

COURT:

Mark it.

ATTY. CORVERA:

What about Parcel 3?

WITNESS:
A- Here, sir.

ATTY. CORVERA:

Witness is pointing the words "Parcel 3", appearing on the right portion of the map and we request that the same be marked as Exhibit "AAA-3", your Honor.

COURT:

Mark it.

ATTY. CORVERA:
Q- And the last, Parcel 4 where is it located?

WITNESS:
A- Here, sir.

ATTY. CORVERA:

Witness is pointing the words "Parcel 4" printed on the right portion of the map, your Honor.

COURT:

Manifestation noted.

ATTY. CORVERA:

And may we request that the same be bracketed and marked as Exhibit "AAA-4", your Honor.

COURT:

Mark it.

ATTY. CORVERA:

In this map, will you point out also the respective municipalities where these parcels that you identified are located.

ATTY. MARIANO:

Objection, your Honor, no basis, your Honor.

ATTY. CORVERA:

In this map?

ATTY. MARIANO:

The witness only stated that the map is only a boundary of fort (*sic*) Bonifacio, there was no mentioned (*sic*) that there are municipalities, your Honor.

ATTY. CORVERA:

If he knows and if he has seen the map, that's the question, your Honor.

Q- Is it designated in the map the municipalities that is covered by this parcels that you identified?

COURT:

Witness may answer.

WITNESS:

A- Yes, there is indicated here, sir.

ATTY. CORVERA:

Q- Will you point out where in that map?

WITNESS:

A- At the bottom there states the word "Municipality of Taguig".

ATTY. CORVERA:

May we request that the words "Municipality of Taguig" across parcels 3 and 4 be bracketed and marked as Exhibit "AAA-5", your Honor.

COURT:

Mark it.

ATTY. CORVERA:

Q- Will you please also tell us the boundary of this Fort Bonifacio Parcels 3 and 4 of fort Bonifacio, where is the boundary between Fort Bonifacio on the left side and the City of Makati?

WITNESS:

A- I cannot pinpoint because there is no plotting in the boundaries, sir.

ATTY. CORVERA:

Q- There is a portion here marked Guadalupe Estate property of Kompanya Agrikola de Ultarama, would you know what municipality or city does it covered?

A- The Guadalupe Estate is outside Psu 2031, sir.

Q- What municipalities are inside Psu 2031?

WITNESS:

A- As appearing in the map, municipality of Pasig, Municipality of Pasay, sir.

ATTY. CORVERA:
Q- What else?

A- Here in the South, Municipality of Taguig, sir.

Q- What is the municipality adjacent to Fort Bonifacio?

A- Will you please clarify the question, sir if it is in the east, on the west, or in the North, or south, sir.

Q- On the west there are areas with a label "Damarinas Villages, Forbes Park, what municipality are these areas located?

WITNESS:
A- Based on the plan it is stated as to which municipality the belong, sir. But if you are going to research Makati Cadastral survey, it is within Makati, sir.

Q- In this map, there is also a label Municipal boundary, will you please go over this and tell us what is that boundary of?

A- There is a municipal boundary but it is not identified in the map, sir.

Q- In what map are these boundaries identified?

WITNESS:
A- Boundaries of Cadastral survey and Index of Cadastral map, sir.

ATTY. CORVERA:
That would be all, your Honor.

Abonitalla's testimony is corroborated by the cadastral surveys of Makati and Taguig.

Makati's Municipal Boundary Map[111] (Mcadm-571-D Makati Multi-Purpose Cadastre), which was approved by the Land Management Bureau in 1979, shows that Parcel 4 is outside Makati's territorial jurisdiction.

The Boundary and Index Map of Makati Cadastral Mapping[112] (Mcadm 571-D, Case 3) likewise shows that Barangay Guadalupe Nuevo, Makati is the boundary of Taguig on the north. Fort Bonifacio Military Reservation was

[111] Exhibit "H".
[112] Exhibit "Q".

inscribed on Mcadm 571-D, Case 3 on the righthand side of the plan and was shown to be within the territory of Taguig.

Moreover, Taguig's Municipal Boundary Map,[113] which was approved in 1983, depicts Parcel 4 in its entirety as part of the territory of Taguig.

Makati counters that the cadastral maps submitted by Taguig are not political boundary surveys, which indicate the extent of a local government unit's territory. Rather, the most significant example of a political boundary survey in this case is the numerical cadastral survey of Makati,[114] approved by the DENR-NCR Regional Technical Director on February 14, 1994.

We are not persuaded.

The numerical cadastral survey of Makati was prepared and approved after the critical date on January 31, 1990. Indeed, it was executed after Taguig commenced the present territorial dispute case on November 22, 1993. Common sense dictates that such has been drawn precisely to improve Makati's claim over the disputed area, especially since previous cadastral surveys undoubtedly show that Fort Bonifacio was situated outside its territorial jurisdiction. It is thus of scarce probative value.

All told, Taguig's historical evidence, coupled with the cadastral surveys of both cities prepared and approved before the critical date, preponderates over the evidence presented by Makati.

IV. B.
Contemporaneous acts of lawful authorities

In addition to the abovementioned evidence adduced by the parties, We can also consider the contemporaneous acts of lawful authorities.[115] We can take judicial notice of such contemporaneous acts even without the introduction of evidence.[116] These acts may include laws, proclamations, issuances, as well as the decisions of this Court so long as they are official acts of the executive, legislative, and judicial branches of government.[117]

An appraisal of the issuances and laws pertaining to Fort McKinley and later, Fort Bonifacio, reveals that most refer to the disputed areas as either within the jurisdiction of Taguig or outside the jurisdiction of Makati. Only a few mentioned Fort McKinley or Fort Bonifacio as within the jurisdiction of Makati.

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[113] Exhibit "A".
[114] Exhibit "1" or the Barangay Boundary and Section Index Map MCAD 571-D.
[115] *Municipality of Isabel, Leyte v. Municipality of Merida, Leyte*, G.R. No. 216092, December 9, 2020.
[116] RULES OF COURT, Rule 129, Section 1.
[117] Id.

Under Section 503 of Revised Administrative Code of 1917, Fort McKinley was described as "near Macati, Province of Rizal," to wit:

> SECTION 503. *Sale of liquor near posts and camps prohibited.* — Except as provided in the next succeeding section hereof, no license shall be granted by a municipal council or other local or provincial authority for the sale of any intoxicating liquors, beer, or wine, at any place or on any premises situated within a distance of two miles of land now used or hereafter to be used by the United States for military purposes at Camp Stotsenburg, in the municipality of Mabalacat, Province of Pampanga; Camp Morrison, municipality of Salomague, Province of Ilocos Sur; Camp Jossman, municipality of Guimaras, Province of Iloilo; Camp Gregg, municipality of Bayambang, Province of Pangasinan; in or near the municipality of Los Baños, Province of Laguna; in or near the municipality of Iligan, Province of Lanao; in or near the municipality of Batangas, Province of Batangas; in or near the municipality of Legaspi, Province of Albay; in or near the municipality of Sorsogon, Province of Sorsogon; in or near the municipality of Santo Tomas, Province of Batangas; at **Fort William McKinley, near Macati, Province of Rizal**; or within a distance of one and one-half miles of land used or to be used by the United States for military purposes at Camp Wallace, in the municipality of San Fernando, Province of La Union; at Pasay barracks, municipality of Pasay, Province of Rizal; in or near the municipality of Naga, Province of Camarines Sur; in or near the municipality of Lucena, Province of Tayabas; in or near the municipality of Calamba, Province of Laguna; on the Isand of Talim, Laguna de Bay, or within a distance of three miles of the Island of Malahi, reserved for military purposes in the Laguna de Bay; or within a distance of one mile of land used by the United States for military purposes at Santa Mesa in the City of Manila; or within distance of three-quarters of a mile of land used by the United States for military purposes near the town of Calbayog, in the Province of Samar. x x x (Emphasis supplied.)

What is most distinctive in this provision is that the other military camps were described as either "in" or "in or near" municipalities. However, for Fort McKinley in particular, the law specifically stated that it was located "near Macati, Province of Rizal."

To be near Makati means to be located in proximity to, but not necessarily in, Makati. It likewise negates any overlap since the law would have used "in or near" to indicate that parts of Fort Bonifacio intersected with Makati's territorial jurisdiction. From this, We gather that even as early as 1917, the American colonial government considered Fort McKinley as being entirely outside the jurisdiction of Makati.

What is more, on July 12, 1957, President Carlos P. Garcia issued Proclamation No. 423, which reserved for military purposes parcels of land situated in the Municipalities of Pasig, Parañaque, and Taguig and the City of Pasay:

> Upon the recommendation of the Secretary of Agriculture and National Resources and pursuant to the authority vested in me by law, I,

> CARLOS P. GARCIA, President of the Philippines, do hereby withdraw from sale or settlement and reserve for military purposes, under the administration of the Chief of Staff of the Armed Forces of the Philippines, subject to private rights, if any there be, and other conditions stated hereunder the following **parcels of the public domain, situated in the Municipalities of Pasig, Taguig, Parañaque, Province of Rizal and Pasay City, Island of Luzon**, and more particularly described as follows:
>
> xxx xxx xxx
>
> PARCEL 4 — A parcel of land (Parcel 4 as shown on the plan Psu 2031) **situated in Fort Wm McKinley, bounded on the N. by Guadalupe Estate** and Pasig River; on the E. by Pateros River; on the S. by Parcel 3, Psu 2031. Beginning at point marked "1" on the plan, beginning S. 36 deg. 32' E., 5629 meters from B.L.L.M. No. 1, Maricaban x x x. (Emphasis supplied.)

Notable is the mention of Parcel 4, which was described as being bounded on the north by the Guadalupe Estate. Again, Fort McKinley was deemed to be outside Makati's territory.

Proclamation No. 423 (1957) has been modified over the years by subsequent presidential proclamations. Among these, the following proclamations excluded Makati as the situs of Fort McKinley or Fort Bonifacio or a portion thereof:

a) Proclamation No. 246, issued by President Diosdado P. Macapagal (President Macapagal) on May 26, 1964, wherein Fort McKinley was described as situated within Pasig, Taguig, Parañaque, and Pasay.

b) On September 29, 1965, President Macapagal issued Proclamation No. 461, which excluded a parcel of land from Fort Bonifacio and declared the same as the AFP Officers' Village. The excluded portion is said to be located in Taguig, Parañaque, and Pasay. Additionally, Fort Bonifacio was described therein as situated in Taguig, Parañaque, and Pasay.

c) Proclamation No. 481, issued by President Macapagal on October 27, 1965, described Fort Bonifacio as being situated in Pasig, Taguig, Parañaque, Pateros, and Pasay.

d) By virtue of Proclamation No. 208, issued on May 28, 1967, President Ferdinand E. Marcos (President Marcos) reserved portions of Fort Bonifacio as the proposed site for the Libingan ng mga Bayani. Again, Fort Bonifacio was described as situated within Pasig, Taguig Parañaque, and Pasay.

e) On January 3, 1973, under Proclamation No. 1217, certain portions of the AFP Enlisted Men's Village Reservation said to

be situated in Taguig was declared by President Marcos as the site of Maharlika Village and was opened for disposition.

f) In Proclamation No. 2476, issued on January 7, 1986 by President Marcos, a portion of Fort Bonifacio identified as Barangays Lower Bicutan, Upper Bicutan, and Signal Village, all within Taguig, was declared open for disposition. Fort Bonifacio was said to be situated in Pasig, Taguig, Parañaque, and Pasay.

g) On October 16, 1987, President Corazon C. Aquino (President Aquino) issued Proclamation No. 172, which described Pasig, Taguig, Pateros, Parañaque, and Pasay as the location of Fort Bonifacio.

In contrast to these issuances, Makati was mentioned as the situs of Fort Bonifacio starting only in 1972 in the following proclamations:

a) In Proclamation No. 1041, issued on June 29, 1972, Fort Bonifacio was said to be situated in Pasig, Taguig, Parañaque, Makati and Pasay.

b) In Proclamation No. 2165, issued on February 22, 1982 by President Marcos, certain portion of Fort Bonifacio, described as situated in Pasig, Taguig, Parañaque, Pasay, reserved a parcel of land located in Makati to serve as the basis for the National Cartography Authority. Notably, the proclamation seems to contradict itself in that Fort Bonifacio was described to be situated in Pasig, Taguig, Parañaque, and Pasay but the reserved area for the National Cartography Authority was simultaneously located in Makati.

c) The assailed Proclamation No. 2475, s. of 1986 likewise included Makati as one of the locations of Fort Bonifacio.

However, Makati further supports its claim by presenting results from censuses conducted in years 1918, 1948, 1970, 1975, 1980, 1990, 1995, 2000, and 2007, which showed Fort McKinley or Fort Bonifacio, the EMBO Barangays, and Inner Fort Barangays to be within Makati.

Makati also submitted certifications from the Commission on Elections (COMELEC) that as far back as 1975, the Inner Fort Barangays, consisting of Barangays Post Proper Northside and Southside, participated in political exercises conducted in Makati.

Other documents introduced by Makati include a certification from its Acting City Accountant showing that the Inner Fort barangays receive their share in the real property taxes from Makati, and certificates of live birth

indicating that the Army General Hospital within Fort Bonifacio is located in Makati.

On this score, We rule that between the laws and presidential proclamations, on the one hand; and the census results, certifications from the COMELEC, and certificates of live birth, on the other hand; it is the former that preponderates in terms of probative value.

As earlier discussed, before the 1973 Constitution, the legislature exercised absolute discretion in fixing territorial boundaries. It did delegate this power to the Chief Executive under the 1917 Revised Administrative Code. This scheme remained unchanged until the effectivity of the 1973 Constitution.

Thus, the acts of the legislature and the chief executive prior to the 1973 Constitution carry great weight in ascertaining the boundaries of local government units. Although the laws and proclamations cited above do not directly fix the boundaries of Taguig and Makati, they reveal a common understanding on which local government unit exercised jurisdiction over the disputed areas.

The census results cannot supplant the declarations of the two government branches that controlled the boundaries of local government units pre-1973 Constitution. At any rate, census results only reflect general statistics and trends regarding the country's population. They do not, by any stretch of imagination, determine or fix territorial boundaries.

We also cannot give credence to the COMELEC certifications submitted by Makati. As Makati admits, these certifications can only prove political participation of the residents in the disputed areas since 1975.

At that point, a plebiscite would have been required to approve any change in boundaries. No plebiscite, however, occurred in the interim, except those that approved the conversion of Makati and Taguig to highly urbanized cities. However, as stated earlier, the laws converting Makati and Taguig to highly urbanized cities contained similar provisos regarding the present boundary dispute. Accordingly, even the residents of Makati and Taguig consented to the courts' final determination of the territorial boundaries of the contending cities.

From an examination of the contemporaneous acts of the legislature and the chief executive before the 1973 Constitution, two conclusions become apparent. First, Fort McKinley or Fort Bonifacio was situated in Pasig, Taguig, Parañaque, Pasay, and sometimes Pateros. Second, Fort McKinley or Fort Bonifacio lay outside the jurisdiction of Makati.

Indeed, it was only in 1972, during the administration of President Marcos, that Makati was included as a situs of Fort Bonifacio, together with

Pasig, Taguig, Parañaque, Pasay, and sometimes Pateros. But even the subsequent proclamations did not consistently declare that Fort Bonifacio lies within Makati.

Clearly, the greater weight of evidence, consisting in contemporaneous acts by lawful authorities, favors the position of Taguig.

IV. C.

Considering the historical evidence adduced, cadastral surveys submitted, and the contemporaneous acts of lawful authorities, We find that Taguig presented evidence that is more convincing and worthier of belief than that proffered by Makati. Consequently, We rule that Taguig has a superior claim to the disputed areas.

V.

Under the present organic law, the creation, division, merger, abolition, or substantial alteration of boundaries of local government units must be 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.[118]

At the core of the plebiscite requirement is the consent of the governed. Thus, the constituents of the political units affected must consent to the proposed changes pursuant to their right of local self-determination. The right to approve or reject material changes in one's political and economic rights through a plebiscite is an added constitutional mechanism to prevent any arbitrary exercise of the power to create, merge, abolish or alter the boundaries of local government units. As We explained in *Miranda v. Aguirre*:[119]

> A close analysis of the said constitutional provision will reveal that the creation, division, merger, abolition or substantial alteration of boundaries of local government units involve a common denominator—material change in the political and economic rights of the local government units directly affected as well as the people therein. It is precisely for this reason that the Constitution requires the approval of the people in the political units directly affected. x x x Thus, the consent of the people of the local government unit directly affected was required to serve as a checking mechanism to any exercise of legislative power creating, dividing, abolishing, merging or altering the boundaries of local government units. It is one instance where the people in their sovereign capacity decide on a matter that affects them—direct democracy of the people as opposed to democracy thru people's representatives. x x x

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[118] CONSTITUTION, Article X, Section 10.
[119] G.R. No. L-17803, June 30, 1962.

Taguig claims that Presidential Proclamation Nos. 2475, s. 1986, and 518, s. 1990 violate this constitutional guarantee when they altered Taguig's boundaries without complying with the plebiscite requirement.

We note, however, that both the assailed proclamations did not expressly alter Taguig's boundaries. Rather, they merely opened to disposition certain portions of the military reservation covered by Proclamation No. 423, s. of 1957 and amendments thereto. The assailed proclamations' only error lies in their declarations that the disputed areas are within the jurisdiction of Makati.

We thus reiterate Our policy of constitutional avoidance, that is, if the controversy on the constitutionality of a statute can be settled on other grounds, this Court stays its hand from ruling on the constitutional issue.[120]

This conforms with Our ruling in *Francisco v. House of Representatives*,[121] where We enumerated six pillars of limitation that guide Our exercise of the power of judicial review:

> 1.that there be absolute necessity of deciding a case
> 2. that rules of constitutional law shall be formulated only as required by the facts of the case
> **3. that judgment may not be sustained on some other ground**
> 4. that there be actual injury sustained by the party by reason of the operation of the statute
> 5. that the parties are not in estoppel
> 6. that the Court upholds the presumption of constitutionality. (Emphasis supplied.)

The theory of constitutional avoidance is underpinned by the democratic character of constitutional interpretation. This Court, while being the final arbiter of actual cases and controversies, does not possess the exclusive competence to read and interpret the organic law. Indubitably, We share this power and duty with the other branches of government and the people themselves. Accordingly, We exercise the power of judicial review only in petitions that present narrowly framed and well-defined constitutional issues, sufficient to decide an actual case:

> The basic democratic foundation of our constitutional order necessarily means that all organs of government, and even the People, read the fundamental law and are guided by it. When competing viable interpretations arise, a justiciable controversy may ensue requiring judicial intervention in order to arrive with finality at which interpretation shall be sustained. To remain true to its democratic moorings, however, judicial involvement must remain guided by a framework or deference and constitutional avoidance. This same principle underlies the basic doctrine that courts are to refrain from issuing advisory opinions. Specifically as

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[120] *Palencia v. People*, G.R. No. 219560, July 1, 2020.
[121] 460 Phil. 830-1126 (2003).

> regards this Court, only constitutional issues that are narrowly framed, sufficient to resolve an actual case, may be entertained.[122]

In addition, the principle of constitutional avoidance is anchored on the requisites of judicial review. In particular, it is underscored by the requirement that the issue of constitutionality be the very *lis mota* of the case. In *Parcon-Song v. Parcon*,[123] We explained:

> Before this Court may determine the constitutionality of a government act, the requisites for judicial review must be satisfied. In *In Re: Save the Supreme Court Judicial Independence and Fiscal Autonomy Movement*:
>
> > The power of judicial review, like all powers granted by the Constitution, is subject to certain limitations. Petitioner must comply with all the requisites for judicial review before this court may take cognizance of the case. The requisites are:
> >
> > (1) there must be an actual case or controversy calling for the exercise of judicial power;
> >
> > (2) the person challenging the act must have the standing to question the validity of the subject act or issuance; otherwise stated, he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement;
> >
> > (3) the question of constitutionality must be raised at the earliest opportunity; and
> >
> > (4) the issue of constitutionality must be the very lis mota of the case.
>
> The fourth requisite is relevant here. Courts are obligated to presume that the acts of Congress are valid, unless the contrary is clearly shown. **Thus, courts avoid resolving the constitutionality of a law if the case can be ruled on other grounds. The question of constitutionality will only be passed upon if it is indispensable to the resolution of the case, but it cannot be raised collaterally**. x x x (Emphasis supplied, citations omitted.)

In the present case, We can resolve, as We have resolved, the boundary dispute without resorting to constitutional adjudication of the assailed proclamations.

Furthermore, We note that the Office of the Solicitor General (OSG) has not entered its appearance on behalf of the Republic in this petition. The State, as a litigant, is also entitled to due process.[124] Without even a comment from the OSG, as the statutory counsel of the Republic, We cannot rule on the constitutionality or validity of the assailed proclamations.

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[122] *Falcis III v. Civil Registrar General*, G.R. No. 217910, September 3, 2019, citing *David v. Senate Electoral Tribunal*, G.R. No. 221538, September 20, 2016.
[123] G.R. No. 199582, July 7, 2020.
[124] *Galman v. Sandiganbayan*, 228 Phil. 42-102 (1986).

However, We do understand that the assailed proclamations precipitated the present boundary dispute. We rule that henceforth, the assailed proclamations should be read in a manner consistent with Our present decision—that the disputed areas are within the territorial jurisdiction of Taguig, and not Makati.

WHEREFORE, the Petition is **DENIED**. The RTC Decision dated July 8, 2011 is **REINSTATED** with **MODIFICATION** as follows:

1. Fort Bonifacio Military Reservation, consisting of Parcels 3 and 4, Psu-2031, is confirmed to be part of the territory of the City of Taguig;

2. The Writ of Preliminary Injunction dated August 2, 1994 issued by the RTC of Pasig, explicitly referring to Parcels 3 and 4, Psu-2031, comprising Fort Bonifacio, be made PERMANENT insofar as it enjoined the Municipality, now City of Makati, from exercising jurisdiction over, making improvements on, or otherwise treating as part of its territory, Parcels 3 and 4, Psu-2031, comprising Fort Bonifacio.

3. Ordering City of Makati to pay the costs of the suit.

SO ORDERED.

RICARDO R. ROSARIO
Associate Justice

WE CONCUR:

MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson

ROSMARI D. CARANDANG
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice